



Procedural Aspects of Bringing the Case to the Court of Justice of the European Union: Preliminary Reference Procedures

Maarja Pild-Freiberg
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Maarja Pild-Freiberg

- Attorney at Law, TRINITI Law Firm, Estonia
- University of Tartu, visiting lecturer, Privacy and Data Protection (GDPR)
- Contact: maarja.pild@triniti.ee
- [LinkedIn](#)

Amendments to the Statute of the Court of Justice of the European Union

- **Article 267**

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings

- **Article 19 (1)**

The Court of Justice of the European Union shall include the **Court of Justice**, the **General Court** and specialized courts.

Since 01.09.2024 jurisdiction is transferred from the Court of Justice to the General Court in cases that exclusively concern questions of EU law within one of the following areas:

- The common system of value added tax
- Excise duties
- The Customs Code
- The tariff classification of goods under the Combined Nomenclature
- Compensation and assistance to passengers in the event of denied boarding or of delay or cancellation of transport services
- The system for greenhouse gas emission allowance trading



How can a national judge be persuaded to submit a request for a preliminary ruling to the Court of Justice of the European Union (CJEU)?



The legal necessity of persuading a national court to make a preliminary reference under Article 267 of the Treaty on the Functioning of the European Union (TFEU) and Article 19 of the Treaty on European Union (TEU).

- Pursuant to Article 267 (2) TFEU (Treaty on the Functioning of the European Union), only a **"court or tribunal"** of a Member State has the right to make a reference for preliminary ruling.



Court or tribunal?

- The CJEU interprets the terms "court or tribunal" as independent terms of Union law, irrespective of how they are construed on a national level.

Abrahamsson (C-407/98):

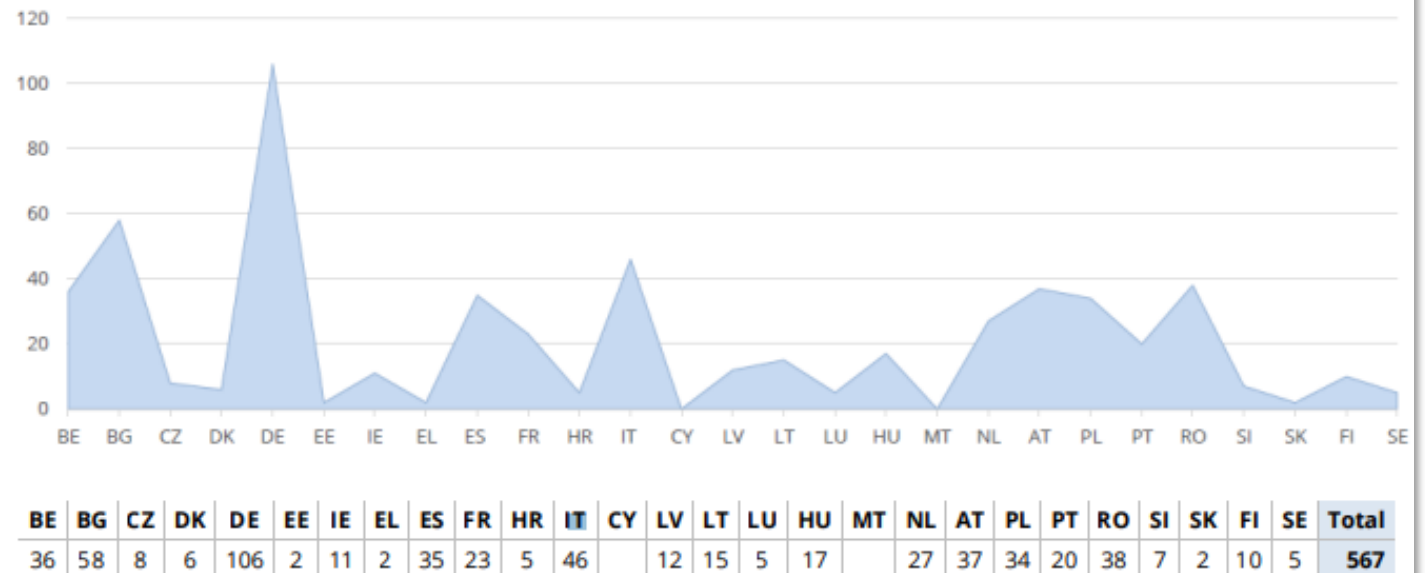
- (1) whether the referring body is **established by law**
- (2) whether the referring body is **permanent**,
- (3) whether the referring body's **jurisdiction is compulsory**;
- (4) whether the referring body **follows an adversarial procedure**;
- (5) whether the referring body **applies rules of law** (as opposed to mere ex aequo et bono adjudication),
- (6) whether **the referring body is independent**.

CJEU does not analyse whether the referring court actually has jurisdiction to hear the case under national law (WWF, C-435/97).

How often do national courts refer questions to the CJEU?

As regards references for a preliminary ruling, the number of cases brought in 2021 increased slightly (567 in 2021 compared to 556 in 2020). Those questions, which are referred from national courts of all the Member States of the European Union, show the excellent cooperation between those courts and the Court of Justice so that the Court of Justice may ensure, in particular, the uniform interpretation and consistent application of EU law throughout the European Union. In 2021, the highest number of requests for a preliminary ruling to the Court of Justice were made, respectively, by the German (106), Bulgarian (58), Italian (46), Romanian (38), Austrian (37), Belgian (36), Spanish (35) and Polish (34) courts. In particular, the increase in the number of references for a preliminary ruling from the courts and tribunals of Bulgaria (58 in 2021 compared to 28 in 2020) and of Romania (38 in 2021 compared to 20 in 2020) was particularly significant.

References for a preliminary ruling to the Court of Justice from the courts of the Member States (2021)



Number of references

References for a preliminary ruling by Member State	2020	2021	2022	2023	2024	Total
Belgium	36	36	30	30	36	168
Bulgaria	28	58	43	51	38	218
Czech Republic	9	8	13	12	14	56
Denmark	6	6	4	5	1	22
Germany	140	106	98	94	66	504
Estonia	3	2	4	4	4	17
Ireland	5	11	14	2	16	48
Greece	2	2	4	6	5	19
Spain	30	35	41	32	30	168
France	21	23	23	19	25	111
Croatia	4	5	4	4	7	24
Italy	44	46	63	43	98	294
Cyprus	0	0	0	1	1	2
Latvia	17	12	4	15	10	58
Lithuania	7	15	6	6	10	44
Luxembourg	3	5	2	2	12	24
Hungary	18	17	20	18	21	94
Malta	0	0	0	2	0	2
Netherlands	18	27	28	21	19	113
Austria	50	37	34	23	39	183
Poland	41	34	39	48	47	209
Portugal	17	20	28	13	16	94
Romania	20	38	29	40	28	155
Slovenia	2	7	0	6	4	19
Slovakia	6	2	7	8	9	32
Finland	7	10	6	5	4	32
Sweden	6	5	2	8	13	34
United Kingdom	17	0	0	0	0	17
Total	557	567	546	518	573	2 761

XXIII. General trend in the work of the Court (1952-2024) –

New references for a preliminary ruling by Member State and by court or tribunal

Member State	Court or tribunal	Number of references	Total
Belgium	Cour constitutionnelle	45	1 095
	Cour de cassation	126	
	Conseil d'État	129	
	Other courts or tribunals	795	
Bulgaria	Върховен касационен съд	12	379
	Върховен административен съд	54	
	Other courts or tribunals	313	
Czech Republic	Nejvyšší soud	19	130
	Nejvyšší správní soud	57	
	Other courts or tribunals	54	
Denmark	Højesteret	39	218
	Other courts or tribunals	179	
Germany	Bundesverfassungsgericht	2	3 145
	Bundesgerichtshof	312	
	Bundesverwaltungsgericht	165	
	Bundesfinanzhof	369	
	Bundesarbeitsgericht	71	
	Bundessozialgericht	78	
	Other courts or tribunals	2 148	
Estonia	Riigikohus	23	47
	Other courts or tribunals	24	
Ireland	Supreme Court	55	173
	High Court	77	
	Other courts or tribunals	41	
Greece	Άρειος Πάγος	14	209
	Συμβούλιο της Επικρατείας	70	
	Ελεγκτικό Συνεδριο	3	
	Other courts or tribunals	122	
Spain	Tribunal Constitucional	1	759
	Tribunal Supremo	133	
	Other courts or tribunals	625	
France	Conseil constitutionnel	1	1 160
	Cour de cassation	176	
	Conseil d'État	183	
	Other courts or tribunals	800	
Croatia	Ustavni sud	1	48
	Vrhovni sud	2	
	Other courts or tribunals	45	

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Member State	Court or tribunal	Number of references	Total
Italy	Corte Costituzionale	9	1 877
	Corte suprema di Cassazione	210	
	Consiglio di Stato	299	
	Other courts or tribunals	1 359	
Cyprus	Ανώτατο Δικαστήριο	4	11
	Other courts or tribunals	7	
Latvia	Satversmes tiesa	10	135
	Augstākā tiesa (Senāts)	86	
	Other courts or tribunals	39	
Lithuania	Konstitucinis Teismas	2	112
	Aukščiausiasis Teismas	33	
	Vyriausiasis administracinis teismas	50	
	Other courts or tribunals	27	
Luxembourg	Cour constitutionnelle	1	126
	Cour de cassation	43	
	Cour administrative	21	
	Other courts or tribunals	61	
Hungary	Kúria	44	301
	Fővárosi Ítéletábla	8	
	Szegedi Ítéletábla	5	
	Other courts or tribunals	244	
Malta	Qorti Kostituzzjonali	1	6
	Other courts or tribunals	5	
Netherlands	Hoge Raad	320	1 184
	Raad van State	152	
	Centrale Raad van Beroep	72	
	College van Beroep voor het Bedrijfsleven	176	
	Tariefcommissie	35	
Austria	Other courts or tribunals	429	776
	Verfassungsgerichtshof	4	
	Oberster Gerichtshof	189	
	Verwaltungsgerichtshof	146	
	Other courts or tribunals	437	
Poland	Trybunał Konstytucyjny	1	406
	Sąd Najwyższy	68	
	Naczelny Sąd Administracyjny	74	
Portugal	Other courts or tribunals	263	297
	Tribunal Constitucional	1	
	Supremo Tribunal de Justiça	22	
	Supremo Tribunal Administrativo	98	
Romania	Other courts or tribunals	176	366
	Curtea Constituțională	1	
	Înalta Curte de Casație și Justiție	37	
	Curtea de Apel	195	
	Other courts or tribunals	133	

Requests for an expedited procedure ¹

Requests for an expedited procedure	2020	2021	2022	2023	2024	Total
References for a preliminary ruling	40	56	35	29	47	207
Direct actions	0	3	0	0	1	4
Appeals	2	1	2	2	1	8
Appeals concerning interim measures or interventions	0	0	1	0	0	1
Total	42	60	38	31	49	220

Requests for an expedited procedure – outcome ²

Outcome	2020	2021	2022	2023	2024	Total
Granted	3	5	0	0	6	14
Not granted	34	57	31	19	26	167
Not acted upon ³	3	2	5	8	4	22
Decision pending	8	4	6	10	23	51
Total	48	68	42	37	59	254

Requests for the urgent preliminary ruling procedure to be applied ¹

Requests for the urgent preliminary ruling procedure to be applied	2020	2021	2022	2023	2024	Total
Judicial cooperation in civil matters	2	1	1	0	0	4
Judicial cooperation in criminal matters	8	8	6	3	8	33
Borders, asylum and immigration	6	8	2	4	19	39
Others	1	14	5	3	0	23
Total	17	31	14	10	27	99

Requests for the urgent preliminary ruling procedure to be applied – outcome ²

Outcome	2020	2021	2022	2023	2024	Total
Granted	11	9	7	2	6	35
Not granted	8	20	8	8	20	64
Not acted upon ³	0	1	0	0	2	3
Decision pending	0	1	0	0	0	1
Total	19	31	15	10	28	103

What are the main arguments for convincing a national court to make a preliminary reference to the CJEU?

In line with Article 267 TFEU, a preliminary reference may be submitted if two premises are met jointly:

- (1) a question of EU law is raised before a national court and
- (2) a decision on that question is necessary for the national court to give judgment on the case at hand



Canva

What are the main arguments for convincing a national court to make a preliminary reference to the CJEU?

Preliminary reference may be a must

CILFIT (283/81). *Acte clair* doctrine. Para 16:

- ¹⁶ Finally, the correct application of Community law may be so obvious as to leave no scope for any reasonable doubt as to the manner in which the question raised is to be resolved. Before it comes to the conclusion that such is the case, the national court or tribunal must be convinced that the matter is equally obvious to the courts of the other Member States and to the Court of Justice. Only if those conditions are satisfied, may the national court or tribunal refrain from submitting the question to the Court of Justice and take upon itself the responsibility for resolving it.



What are the main arguments for convincing a national court to make a preliminary reference to the CJEU?

No need if:

- There is no reasonable doubt about interpretation;
- Question is irrelevant;

CILFIT (283/81), question has been answered/dealt with, para 14:

- ¹⁴ The same effect, as regards the limits set to the obligation laid down by the third paragraph of Article 177, may be produced where previous decisions of the Court have already dealt with the point of law in question, irrespective of the nature of the proceedings which led to those decisions, even though the questions at issue are not strictly identical.



What are the main arguments for convincing a national court to make a preliminary reference to the CJEU?

preliminary reference may be a must

CILFIT (283/81), Lyckeskog (C-99/00):

“Decisions of a national appellate court which can be challenged by the parties before a supreme court are not decisions of a ‘court or tribunal of a Member State against whose decisions there is no judicial remedy under national law’ within the meaning of Article 234 EC. The fact that examination of the merits of such appeals is subject to a prior declaration of admissibility by the supreme court does not have the effect of depriving the parties of a judicial remedy.”



What may encourage a national judge to make a reference to the CJEU?

Bringing up the issue by a representative of one of the parties



What may encourage a national judge to make a reference to the CJEU?

- Quality help to enforce the:

Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings (C/2024/6008)

(2019/C 380/01)



Recommendations to national courts

(C/2024/6008)

ANNEX

The essential elements of a request for a preliminary ruling

Whether transmitted electronically or by post, all requests for a preliminary ruling must mention:

- (1) the identity of the court or tribunal making the reference and, where appropriate, the chamber or formation of the court or tribunal having jurisdiction (see, in that respect, paragraphs 3 to 7);
- (2) the precise identity of the parties to the main proceedings and of anyone representing them before the referring court or tribunal (with regard to the parties to the main proceedings, see, however, paragraphs 21 and 22 of the present recommendations, in relation to the protection of personal data);
- (3) the subject matter of the dispute in the main proceedings and the relevant facts (see paragraph 15);
- (4) the relevant provisions of national law and of EU law (see paragraphs 15 and 16);
- (5) the reasons that prompted the referring court or tribunal to inquire about the interpretation or validity of EU law (see paragraphs 8 to 11 and 15 to 18);
- (6) the questions referred for a preliminary ruling (see paragraph 19) and, if applicable,
- (7) the possible need for specific treatment of the request, related, for example, to the particularly expeditious way in which the request should be dealt with by the Court of Justice or the General Court (see paragraph 40 et seq.).

Note of criteria selected:
Case number = C-340/19

Modify the search

List of results by case		List of documents				
5 document(s)						
Case	Document	Date	Name of the parties	Subject-matter	Curia	EUR-LexAutres Liens
C-340/19	National decision following the preliminary ruling	10/07/2020				
C-340/19	Judgment (OJ)	31/07/2020	Hydro Energo	Free movement of goods - Customs union - Common Customs Tariff		
C-340/19	Judgment (Summary) ECLI:EU:C:2020:488	18/06/2020	Hydro Energo			
C-340/19	Judgment ECLI:EU:C:2020:488	18/06/2020	Hydro Energo	Free movement of goods - Customs union - Common Customs Tariff		
C-340/19	Application (OJ)	14/06/2019	Hydro Energo	Free movement of goods - Customs union - Common Customs Tariff		
C-340/19	Request for a preliminary ruling	29/04/2019	Hydro Energo	Free movement of goods - Customs union - Common Customs Tariff		

Case C-340/19,

Request for a Preliminary Ruling

Date lodged:

29 April 2019

Referring court:

Augstākā tiesa (Senāts) (Supreme Court, (Latvia))

Date of the decision to refer:

18 April 2019

Appellant in the appeal on a point of law:

Valsts ieņēmumu dienests

Respondent in the appeal on a point of law:

SIA 'Hydro Energo'

Latvijas Republikas Senāts (The Supreme Court of the Republic of Latvia)

DECISION

Rīga, 18 April 2019

The Court [...] (composition of the referring court)

has examined, in the written procedure, the administrative proceedings initiated by the action brought by SIA 'Hydro Energo' seeking the annulment of the decision of 10 September 2014 adopted by the Valsts ieņēmumu dienests (State Tax Authority), and which now concern the appeal on a point of law brought by the State Tax Authority challenging the judgement of the Administratīvā apgabaltiesa (Regional Administrative Court) of 13 April 2017.

Background

Factual circumstances

What may encourage a national judge to make a reference to the CJEU?

The referral must be drafted **simply, clearly and precisely** given that it will need to be translated to allow other Member States to submit their observations.



Referral must be drafted “simply, clearly and precisely?” (C-107/23)

44 For those reasons, the Curtea de Apel Braşov (Court of Appeal, Braşov) decided to stay proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

- (1) Should Article 2 TEU, the second [sub]paragraph of Article 19(1) TEU and Article 4(3) TEU, read in conjunction with Article 325(1) TFEU, Article 2(1) of the PFI Convention, Articles 2 and 12 of the PFI Directive and Directive [2006/112], with reference to the principle of effective and dissuasive penalties in cases of serious fraud affecting the financial interests of the European Union, and applying [Decision 2006/928], with reference to the last sentence of Article 49(1) of the [Charter], be interpreted as precluding a legal situation, such as that at issue in the main proceedings, in which the convicted appellants seek, by means of an extraordinary appeal, to set aside a final judgment in criminal proceedings and request the application of the principle of the more lenient criminal law, which they allege was applicable in the course of the substantive proceedings and which would have entailed a shorter limitation period that would have expired before the case was finally concluded, but which was revealed only subsequently, by a decision of the national Constitutional Court which declared unconstitutional legislation on interrupting the limitation period for criminal liability ([judgment No 358/2022 of the Curtea Constituţională (Constitutional Court)]), on the ground that the legislature had failed to act to bring the legislation in question into line with another decision of the same Constitutional Court delivered four years earlier ([judgment No 297/2018 of the Curtea Constituţională (Constitutional Court)]) – by which time the case-law of the ordinary courts formed in application of [that judgment No 297/2018] had already established that the legislation in question was still in force, in the form understood as a result of [that judgment No 297/2018] – with the practical consequence that the limitation period for all the offences in relation to which no final conviction had been handed down prior to [judgment No 297/2018 of the Curtea Constituţională (Constitutional Court)] is reduced by half and the criminal proceedings against the defendants in question are consequently discontinued?
- (2) Should Article 2 TEU, on the values of the rule of law and respect for human rights in a society in which justice prevails, and Article 4(3) TEU, on the principle of sincere cooperation between the European Union and the Member States, applying [Decision 2006/928] as regards the commitment to ensure the efficiency of the Romanian judicial system, with reference to the last sentence of Article 49(1) of the [Charter], which enshrines the principle of the more lenient criminal law, be interpreted, in relation to the national judicial system as a whole, as precluding a legal situation, such as that at issue in the main proceedings, in which the convicted appellants seek, by means of an extraordinary appeal, to set aside a final judgment in criminal proceedings and request the application of the principle of the more lenient criminal law, which they allege was applicable in the course of the substantive proceedings and which would have entailed a shorter limitation period that would have expired before the case was finally concluded, but which was revealed only subsequently, by a decision of the national Constitutional Court which declared unconstitutional legislation on interrupting the limitation period for criminal liability ([judgment No 358/2022 of the Curtea Constituţională (Constitutional Court)]), on the ground that the legislature had failed to act to bring the legislation in question into line with another decision of the same Constitutional Court delivered four years earlier ([judgment No 297/2018 of the Curtea Constituţională (Constitutional Court)]) – by which time the case-law of the ordinary courts formed in application of [that judgment No 297/2018] had already established that the legislation in question was still in force, in the form understood as a result of [that judgment No 297/2018] – with the practical consequence that the limitation period for all the offences in relation to which no final conviction had been handed down prior to [judgment No 297/2018 of the Curtea Constituţională (Constitutional Court)] is reduced by half and the criminal proceedings against the defendants in question are consequently discontinued?
- (3) If [the first and second questions are answered in the affirmative], and only if it is impossible to provide an interpretation in conformity with EU law, is the principle of the primacy of EU law to be interpreted as precluding national legislation or a national practice pursuant to which the ordinary national courts are bound by decisions of the national Constitutional Court and binding decisions of the national supreme court and may not, for that reason and at the risk of committing a disciplinary offence, of their own motion disapply the case-law resulting from those decisions, even if, in light of a judgment of the Court of Justice, they take the view that that case-law is contrary to Article 2 TEU, the second [sub]paragraph of Article 19(1) TEU and Article 4(3) TEU, read in conjunction with Article 325(1) TFEU, in application of [Decision 2006/928], with reference to the last sentence of Article 49(1) of the [Charter], as in the situation in the main proceedings?

Referral must be drafted simply, clearly and precisely? (C-107/23)

On those grounds, the Court (Grand Chamber) hereby rules:

1. **Article 325(1) TFEU and Article 2(1) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, signed in Brussels on 26 July 1995 and annexed to the Council Act of 26 July 1995**

must be interpreted as meaning that the courts of a Member State are not required to disapply the judgments of the constitutional court of that Member State invalidating the national legislative provision governing the grounds for interrupting the limitation period in criminal matters, as a result of a breach of the principle that offences and penalties must be defined by law, as protected under national law, as to its requirements relating to the foreseeability and precision of criminal law, even if, as a consequence of those judgments, a considerable number of criminal cases, including cases relating to offences of serious fraud affecting the financial interests of the European Union, will be discontinued because of the expiry of the limitation period for criminal liability.

However, those provisions of EU law must be interpreted as meaning that the courts of that Member State are required to disapply a national standard of protection relating to the principle of the retroactive application of the more lenient criminal law (*lex mitior*) which makes it possible, including in the context of appeals brought against final judgments, to call into question the interruption of the limitation period for criminal liability in such cases by procedural acts which took place before such a finding of invalidity.

2. **The principle of the primacy of EU law**

must be interpreted as precluding national legislation or a national practice under which the ordinary national courts of a Member State are bound by the decisions of the constitutional court and by those of the supreme court of that Member State and cannot, for that reason and at the risk of incurring the disciplinary liability of the judges concerned, disapply of their own motion the case-law resulting from those decisions, even if they consider, in the light of a judgment of the Court, that that case-law is contrary to provisions of EU law having direct effect.

What may encourage a national judge to make a reference to the CJEU?

CARTESIO (C-210/06):

„the second paragraph of Article 234 EC is to be interpreted as meaning that the jurisdiction conferred by that provision of the Treaty on any national court or tribunal to make a reference to the Court for a preliminary ruling cannot be called into question by the application of those rules, where they permit the appellate court to vary the order for reference, to set aside the reference and to order the referring court to resume the domestic law proceedings.“




What may encourage a national judge to make a reference to the CJEU?

Failure to submit a preliminary reference, when the court was under a duty to do so, constitutes a violation of EU law and may lead to proceedings on the basis of Article 258 TFEU against the Member State!

See also Köbler, C-224/01; Traghetti, C-173/03 about the damages claim.



The background of the slide features a blue-tinted image of a library. On the left, there are several shelves filled with books. In the center, a prominent classical column stands. To the right of the column, more shelves with books are visible. The overall aesthetic is formal and academic.

The urgent preliminary ruling procedure (PPU)

Urgent preliminary ruling procedure (Rules of Procedure the court art 107-114)

- A procedure applying only in cases involving questions relating to freedom, security and justice
- In particular, it limits the number of parties permitted to submit written observations and allows, in cases of extreme urgency, for the written stage of the procedure to be omitted before the CJEU



Urgent preliminary ruling procedure (Rules of Procedure the court art 107-114)

Reasons for the application of the urgent preliminary ruling procedure:

- Risk of deterioration of the parent/child relationship ((Aguirre Zarraga (C-491/10 PPU, EU:C:2010:828); Mercredi (C-497/10 PPU, EU:C:2010:829))
- Deprivation of liberty (Kadzoev (C-357/09 PPU, EU:C:2009:741); Bob-Dogi (C-241/15, EU:C:2016:385))
- Risk of interference with fundamental rights (C. K. and Others (C-578/16 PPU, EU:C:2017:127))



Do not forget about expedited procedure (Rules of Procedure the court art 105-106)

- A procedure where the nature and exceptional circumstances of the case require it to be handled quickly
- An expedited procedure must be sought only when particular circumstances create an emergency that warrants a quick CJEU ruling on the questions referred
- This could arise, for example, if there is a serious and immediate danger to public health or to the environment, which a prompt decision by the CJEU might help to avert, or if particular circumstances require uncertainties concerning fundamental issues of national constitutional law and of EU law to be resolved within a very short time



Expedited procedure (Rules of Procedure the court art 105-106)

Reasons for the application of the expedited preliminary ruling procedure:

- Particular severity of the legal uncertainty to which the reference for a preliminary ruling relates (Wightman and Others (C-621/18, EU:C:2018:851))
- Risk of serious environmental damage



The background of the slide is a blue-tinted image of a library. It features tall bookshelves filled with books, a prominent classical column with a decorative capital, and various other architectural details like cornices and smaller columns. The lighting is soft, creating a scholarly atmosphere.

The written observations

Written observations

- Rules of Procedure of the Court of Justice, Chapter V (*amended 2024*)
- STATUTE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION (*amended 2024*)
- PRACTICE DIRECTIONS TO PARTIES CONCERNING CASES BROUGHT BEFORE THE COURT (*amended 2024*)
- DECISION OF THE COURT OF JUSTICE of 4 September 2024 on the lodging and service of procedural documents by means of e-Curia



Technical requirements and practical recommendations for parties and representatives making oral submissions by videoconference

September 2024

This document has been drawn up jointly by the Registries of the Court of Justice and of the General Court, the Interpretation Directorate and the Information Technology Directorate of the Court of Justice of the European Union, and is intended for parties and representatives who wish to participate in a hearing by videoconference. It sets out the necessary technical requirements for videoconferencing (I) and contains some essential practical recommendations for those parties and representatives for the preparation and proper conduct of such hearings (II).

I. TECHNICAL REQUIREMENTS

The use of videoconferencing for hearings is possible only if certain technical requirements are met. It is therefore very important to follow the instructions set out in this document.

Technical equipment required

1. Only connections using **H.323, SIP or WebRTC protocols** are permitted. H.323, SIP and WebRTC are protocols that are used specifically to set up videoconference calls and enable the stability and optimal security of connections;

3. The use of a unidirectional **microphone** is advised. This type of microphone picks up sound coming mainly from one direction and will reduce ambient sound and improve the quality of the audio signal that is sent to the various participants in the hearing and to interpreters where use is made of simultaneous interpretation.



4. The party or representative making oral submissions remotely should be positioned in relation to the camera in such a way that his or her **upper body and face** can be seen, as in the image shown below. The use of a **lectern** is advised. It is very important to avoid camera angles that are too high or too low. The **background** must be as neutral as possible.



Written observations: E-Curia

- The Court's recommended method of lodging a procedural document is via the e-Curia application. This allows the lodging and service of procedural documents by exclusively electronic means, without it being necessary to provide certified copies of the document transmitted to the Court or to duplicate that transmission by sending the document by post. (see DECISION OF THE COURT OF JUSTICE of 4 September 2024 on the lodging and service of procedural documents by means of e-Curia)
- Use of the e-Curia application is mandatory in the General Court.



Written observations

- Article 23 (Statute of the Court) within two months of a notification from the Court, the parties, the Member States, the Commission and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled to submit statements of case or written observations to the Court
- Where a request for a preliminary ruling is served on them by the Court, those persons may thus submit, if they wish, written observations in which they set out their point of view on the request made by the referring court or tribunal



Written observations

- Although the statement must be complete and include, in particular, the arguments on which the Court may base its answer to the questions referred, it is not necessary, on the other hand, to repeat the factual and legal background of the dispute set out in the order for reference, unless it requires further comment
- Subject to special circumstances or specific provisions of the Rules of Procedure providing for a restriction of the length of the documents because of the urgency of the case, written observations lodged in a preliminary ruling should not exceed 20 pages



The background of the slide features a blue-tinted image of a library. On the left, there are several shelves filled with books. In the center, a prominent classical column stands. To the right of the column, more shelves with books are visible. The overall aesthetic is academic and formal.

The oral phase

Logistics

- Please be advised that the security check may take some time
- Not all security personnel may speak English



Photo from Court of Justice of the European Union [Linked](#)

Clothing

What is the required attire?

Representatives are required—subject to applicable exceptions—to present oral argument in proper court dress, standing behind the lectern provided for that purpose. Each representative must bring his or her own gown.





Press and Information

Court of Justice of the European Union

PRESS RELEASE No 63/22

Luxembourg, 22 April 2022

Broadcast by streaming of hearings and the handing down of judgments and opinions of the Court of Justice

In order to facilitate the public's access to its judicial activity, the Court of Justice of the European Union will offer a streaming service with effect from 26 April.

The delivery of judgments of the Court of Justice and the reading of Advocate Generals' opinions will be **broadcast live** on its website. That broadcast, which at this stage will only include cases assigned to the Grand Chamber, will be made from the start of hearings for the delivery of judgments, in accordance with the timetable provided in the [judicial calendar](#).

The hearings in cases assigned to the Grand Chamber of the Court of Justice will also, in principle, be the subject of a **later broadcast** for a pilot period of 6 months. It will be possible to view the hearings either on the same day from 14.30pm (for hearings that took place that morning), or the following day from 9.30am (for hearings that are held in the afternoon), but it will not be possible to consult them subsequently.

These broadcasts are designed so as to allow citizens to follow hearings under the same conditions as if they were physically present. Viewers will therefore benefit from the simultaneous interpretation of the pleadings in the languages necessary for the proper conduct of the hearing.

Preparation for the oral rounds

curia.europa.eu/jcms/jcms/p1_1477137/en/



2025-05-13 • 09:16 - 13:11
Hearing C-474/24
C-474/24 NADA Austria e.a. (DE)

10:27:28 / 13:11:08

Preparation for the oral rounds



Hearing and the pleading

- Where the defendant is a Member State, the language of the case shall be the official language of that State
- Speakers standing behind the lectern must always use the microphone; it can be switched on and off using the button at the base of the microphone. For the purpose of providing simultaneous interpretation, speakers are advised to speak slowly
- If you do decide to read out a written text which you have prepared, please send it if possible, in advance to the Interpretation Directorate by email (interpret@curia.europa.eu). This will help the interpreters to prepare for the hearing

Hearing and the pleading

Do not exceed the time allowed for opening argument as indicated in the letter of notice to attend the hearing

As a general rule, the speaking time is fixed at 15 minutes. However, that time may be made longer or shorter depending on the nature or the specific complexity of the case

Other remarks related to the preparation

- The Judges meet the parties' representatives, wearing court dress, 5 to 10 minutes before the hearing begins
- Be ready for the questions.
- Additional questions from the members of the Court
- Get to know the judges!

PRACTICAL GUIDANCE FOR ADVOCATES BEFORE THE COURT OF JUSTICE IN PRELIMINARY REFERENCE CASES

This practical guidance is addressed principally to those appearing for the first time in the Court of Justice of the EU or who appear infrequently. It has been drafted by the Permanent Delegation to the Court of Justice of the Council of Bars and Law Societies of Europe (CCBE) in order to enhance the efficiency of the preliminary reference procedure. The consolidated version of the Court of Justice's 2012 Rules of Procedure, as amended in 2013, and the other texts governing the procedure before the Court are available online at the address: http://curia.europa.eu/jcms/jcms/lo2_7031

Note that written pleadings can be filed on-line using the e-Curia system.

This guidance addresses three areas:

1. Written pleadings
2. Oral proceedings
3. Practical issues

On the same page, see in particular also:

- Advice to Counsel appearing before the Court
- Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings
- Practice directions to parties concerning cases brought before the Court



Written Pleadings in Preliminary Reference cases

General

- Keep pleadings as short as reasonably possible (the Court recommends that they do not exceed 20 pages)
- Do not repeat material which is already in the judgment or order of the referring court (the Court has this in translation already)
- If your client has the same interest as other parties pleading before the Court (including Member States), discuss in advance who is going to focus on which points

- Before starting, consider writing out your opponent's main points in order to focus your own arguments
- It is vital to note that extensions of the deadline of two months and 10 days cannot be granted – late pleadings are returned
- Bear in mind that the Court may decide not to grant an oral hearing and therefore the written pleading may be the sole opportunity to influence the result of the case

CCBE practical guidance

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/PD_LUX/PDL_Guides_recommendations/EN_PD_L_20150909_Practical-Guidance-for-Advocates-before-the-Court-of-Justice-in-Preliminary-Reference-cases.pdf

Inadmissibility

Rules of Procedure of the Court of Justice Article 53(2) state that where it is clear that:

- 1) the Court has no jurisdiction to hear and determine a case or
- 2) where a request or an application is manifestly inadmissible,

the Court may, after hearing the Advocate General, at any time decide to give a decision by reasoned order without taking further steps in the proceedings



Application is manifestly inadmissible

- Significant proportion of requests are rejected by the Court of Justice
- The main reasons for inadmissibility - ill-drafting, basing preliminary reference on misconceptions about EU law



Application is manifestly inadmissible

- Case C-321/17

reference for preliminary ruling was missing a summary statement of the subject-matter of the dispute and of the relevant facts (demanded under Article 94 of the rules of procedure of the court of justice)

- Case C-520/19

reference for preliminary ruling was missing explanations on the reasons for the choice of the provisions of EU law whose interpretation the member state court seeks as well as on the link that it establishes between these provisions and the national legislation applicable to the dispute submitted to it





Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the Academy of European Law. Neither the European Union nor the granting authority can be held responsible for them.

Thank You!

Contact:

maarja.pild@trinititee

[LinkedIn](#)

Canva