

Preliminary ruling references under Article 267 TFEU as a useful tool within the national judicial system

Functions, requirements, new competence of the General Court



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SYSTEM OF JUDICIAL PROTECTION IN THE EUROPEAN UNION

Court of Justice of the European Union (Art. 19.1 first sentence TEU):

- the Court of Justice, the General Court and specialised courts
- ensure that in the interpretation and application of the Treaties the law is observed

National courts (Art.19.1 second sentence TEU):

- Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law

!!! division of competences between EU courts and national courts

SYSTEM OF JUDICIAL PROTECTION IN THE EUROPEAN UNION

why national courts are important in the European Union – decentralised system of judicial protection of individuals' right



- Effet utile
- Primacy and direct effect
- Consistent interpretation
- Member States' liability for breaches of EU law



crucial importance of cooperation between CJEU and national courts – sine qua non of uniform interpretation and application of EU law



Preliminary ruling procedure

Functions of preliminary ruling procedure

- ensuring uniform interpretation and application of EU law
- protection of individuals' rights (also as regards validity of EU acts)
- indirectly* – CJ adjudicates on conformity of national law with EU law

*indirectly – CJ is not competent to invalidate national law, this is the competence uniquely of national courts

Preliminary ruling procedure

- preliminary rulings may concern interpretation of the Treaties or validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union (subject of requests);
- where a question is raised (doubts?)
- before any court or tribunal of a Member State (what is a court?)
- a decision on the question is necessary to enable that court to give judgment (no hypothetical questions allowed)
- competence of any court of tribunal (prohibition of restricting this competence according to national law)
- obligation of any court of 'last resort' (what is a court of 'last resort'?)

'court' in terms of Article 267 TFEU

- 'a body'
- which is established by law
- permanent and independent
- charged with the settlement of disputes defined in general terms
- which is bound by rules governing inter partes proceedings
- parties must be required to apply to the court for the settlement of the dispute and its determination must be binding
- is bound to apply rules of law

Article 19.1 second sentence TEU requires that the national court is independent, impartial and established by law

in general different criteria under 267 TFEU and Article 19.1 second sentence TEU – C-132/20 Getin Noble Bank, paras 66-75)

Reform of the Court of Justice of the European Union

NEW COMPETENCES OF THE GENERAL COURT - preliminary rulings in:

- (a) the common system of value added tax;
- (b) excise duties;
- (c) the Customs Code;
- (d) the tariff classification of goods under the Combined Nomenclature;
- (e) compensation and assistance to passengers in the event of denied boarding or of delay or cancellation of transport services;
- (f) the system for greenhouse gas emission allowance trading.

Reform of the Court of Justice of the European Union

- European Parliament, the Council and the European Central Bank entitled to submit statements of the case or written observations, „where they consider they have a particular interest in the issues raised by the request for preliminary ruling”;
- one-stop shop: preliminary ruling references are to be sent to the Court of Justice; which distributes them according to the division of competences between CJ and GC
- procedural provisions in the GC adjusted to these applied in the CJ
- 2 specialised Chambers in the GC to adjudicate in preliminary procedure; one judge in each Chamber will be an Advocate General