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Preliminary ruling: some pending proceedings on environmental matters

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Article 267 TFEU

- The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:
- a) the interpretation of the Treaties;
- b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union.

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Preliminary ruling (Article 267 TFEU) referral for a "question of interpretation"

Principle of cooperation between legal systems and between their courts

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Preliminary ruling (Article 267 TFEU) referral for "interpretation"

Subject matter: a) interpretation of the Treaties b) validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union

Union law (primary TEU, TFEU or secondary legislation and its correct interpretation).

Its function is to provide the national court with interpretative elements in order to resolve a dispute in which the correct application of a Union rule is at issue.

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- Preliminary ruling (Article 267 TFEU) referral for "interpretation"
- **prerequisite**: interpretation necessary for the purposes of the decision ("Where such a question is raised before a court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling on the question.")

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- Preliminary ruling (Article 267 TFEU) – referral for a "question of interpretation"
- When such a question is raised in a case pending before a national court against whose decisions there is no judicial remedy under national law, that court is required to refer the matter to the Court.
- Courts of last instance ("national court against whose decisions there is no judicial remedy under national law"): obligation to refer.
- Courts not of last instance: option to refer.
- In the field of the environment, reference is made at present to preliminary rulings C-558/25 Audi and C-553/25 Volkswagen concerning the system for controlling and reducing pollutant emissions from motor vehicles.

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concept of 'jurisdiction' (Community concept - irrelevance of national definitions):

Exercises judicial functions

mandatory nature of jurisdiction

adversarial proceedings

application of legal rules

independence of the body

Legal origin

Permanent nature

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Preliminary ruling (Article 267 TFEU) referral on "validity"

subject matter: always secondary legislation (never treaties)

incidental declaration of invalidity due to conflict between secondary legislation and the treaties

prerequisites: the same as for a referral for interpretation

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Preliminary ruling (Article 267 TFEU)

referral on a question of validity

national jurisdiction

necessary for the purposes of the decision

binding only on courts of last instance

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The reform of the Statute of the Court of Justice

- Regulation (EU, EURATOM) 2024/2019 of the European Parliament and of the Council of 11 April 2024 amending Protocol No 3 on the Statute of the Court of Justice of the European Union.
- As of 1 October 2024, the reform identifies six areas in which preliminary rulings fall within the jurisdiction of the General Court: The common system of VAT; 2. Excise duties; 3. The Customs Code; 4. Tariff classification of goods – Combined Nomenclature; 5. Financial compensation and assistance to passengers in the event of denied boarding, delay or cancellation of transport services; 6. The greenhouse gas emission allowance trading system.

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The Court of Justice retains jurisdiction to hear preliminary rulings on:

1. independent questions of interpretation of primary law;
2. public international law;
3. general principles of law or the Charter of Fundamental Rights of the European Union.

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