

When can cases be referred for preliminary ruling proceedings before the Court of Justice of the European Union?

Although in principle any of the parties interested in a legal dispute may initiate the reference of the case for a preliminary ruling, it is the competence of the national courts to decide upon the initiation of the Court of Justice of the European Union – informed Origo the legal expert at Kovács Réti Szegheő Attorneys at Law. Dr Andrea Bayer at the same time emphasised: courts or tribunals against whose decisions there is no judicial remedy under national law must bring such a request before the Court upon the request of either party.

It is the high number of EU laws that urges national courts in an increasing number of cases to request the Court's interpretation of a given EU regulation, before ruling in the matter or in the case – introduced the process the legal expert at Kovács Réti Szegheő Attorneys at Law.

Consequently, preliminary ruling proceedings are a fundamental mechanism of the European Union Law, aimed at ensuring the uniformity of law interpretation within the European Union.

Thus, national courts and tribunals within their own decision making power may refer a question to the Court of Justice (hereinafter: „the Court”) for a preliminary ruling any time they have doubts about the application of a given EU law. This way the submission of requests for preliminary ruling promotes active collaboration between national courts and the Court, and ensures uniform application of EU law within the European Union.

„From judge to judge”

It is for the national court or tribunal alone to decide whether to refer a question to the Court of Justice for a preliminary ruling, regardless whether or not the parties to the main proceedings have expressed the wish that it do so – emphasised Dr Andrea Bayer.

Although either party to the main proceedings may express its wish that the Court refer the question for preliminary ruling, the decision whether or not to submit such request to the Court falls under the exclusive competence of national courts or tribunals, but at the same time it's worth noting that national courts against whose decisions there is no judicial remedy under national law must bring such a request before the Court.

Cases representing an exception from the rule are the ones in which there is an established practice concerning the application of the law, and those where the interpretation of the given law is unambiguous. It follows that national courts against whose decisions seeking remedy is possible at a national level are not obliged to request preliminary ruling proceedings despite such request of either party to the case.

The case will continue to fall under the jurisdiction of the national court

The legal expert of Kovács Réti Szegheő Attorneys at Law underlines that the Court will pronounce its opinion concerning the question submitted for preliminary ruling only. It follows that the national courts will continue to exercise jurisdiction and will be bound to rule in the case in the main proceedings, by suspending the hearing of the case only until the Court has pronounced its ruling.



The Court is bound to respond to the question raised by the request for preliminary ruling. The only ground on which the Court may reject requests lodged by national courts, is when the requested interpretation of the EU law at issue is evidently irrelevant to the subject or factual situation underlying the main proceedings, or when those fall outside its jurisdiction.

Speaking of their scope, preliminary ruling proceedings may be referred to the Court not only for the interpretation of a given EU law, but also for the determination of their validity or effect.

The effect of rulings brought in preliminary ruling proceedings

The rulings brought by the Court will be binding both for the national court submitting the request, and for the national courts of all EU member states – pointed out Andrea Bayer attorney at law.