



Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings

(C/2024/6008)

Following the entry into force, on 1 September 2024, of 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 ⁽¹⁾, the Court of Justice now shares with the General Court of the European Union the competence to give a preliminary ruling on the interpretation of EU law or the validity of acts adopted by the institutions, bodies, offices or agencies of the European Union.

Given the major significance of this change, it is necessary to update the text of the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings ⁽²⁾. As was the case with previous versions, these recommendations serve as a reminder of the essential characteristics of the preliminary ruling procedure and the matters to be taken into account by the national courts and tribunals before a reference for a preliminary ruling, and also provide practical guidance on the form and content of requests for a preliminary ruling as well as on the preliminary analysis to which they are subject when they arrive at the Court of Justice in order to determine which court has jurisdiction to deal with them. Once this has been determined, the request for a preliminary ruling is dealt with in essentially the same way by either the Court of Justice or the General Court. Subject to the exceptional situation in which there is a review, the decisions given by the General Court are final and have the same scope as those given by the Court of Justice.

⁽¹⁾ OJ L, 2024/2019, 12.8.2024, ELI: <http://data.europa.eu/eli/reg/2024/2019/oj>.

⁽²⁾ OJ C 380, 8.11.2019, p. 1.

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Introduction

1. The reference for a preliminary ruling, provided for in Article 19(3)(b) of the Treaty on European Union ('TEU') and Article 267 of the Treaty on the Functioning of the European Union ('TFEU'), is a fundamental mechanism of EU law. It is designed to ensure the uniform interpretation and application of EU law within the European Union, by offering the courts and tribunals of the Member States a means of bringing before the Court of Justice of the European Union for a preliminary ruling questions concerning the interpretation of EU law or the validity of acts adopted by the institutions, bodies, offices or agencies of the European Union, it being specified that, while all requests for a preliminary ruling must be addressed to the Court of Justice, the answer to the questions referred by the national courts or tribunals will be provided, depending on the subject matter of the request, either by the Court of Justice or by the General Court.

2. The preliminary ruling procedure is based on a close cooperation between the Court of Justice and the General Court, on the one hand, and the courts and tribunals of the Member States, on the other. In order to ensure that that procedure is fully effective, it is necessary to recall its essential characteristics and to provide further information to clarify the provisions of the Rules of Procedure of the Court of Justice and of the General Court, which are worded in essentially identical terms, relating, in particular, to the originator, subject matter and scope of a request for a preliminary ruling, as well as to the form and content of such a request. That information – which applies to all requests for a preliminary ruling (I) – is supplemented by provisions concerning requests for a preliminary ruling requiring particularly expeditious handling (II) and by an annex which summarises, by way of reminder, all the elements that must be included in a request for a preliminary ruling.

I. Provisions which apply to all requests for a preliminary ruling

The originator of the request for a preliminary ruling

3. The jurisdiction of the Court of Justice and of the General Court to give a preliminary ruling on the interpretation or validity of EU law is exercised exclusively on the initiative of the national courts and tribunals, whether or not the parties to the main proceedings have expressed the wish that a question be referred for a preliminary ruling. In so far as it is called upon to assume responsibility for the subsequent judicial decision, it is for the national court or tribunal before which a dispute has been brought – and for that court or tribunal alone – to determine, in the light of the particular circumstances of each case, both the need for a request for a preliminary ruling in order to enable it to deliver its decision and the relevance of the questions which it submits.

4. Status as a court or tribunal is interpreted as an autonomous concept of EU law, by taking into account a number of factors such as whether the body making the reference is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is inter partes, whether it applies rules of law and whether it is independent.

5. The courts and tribunals of the Member States may thus submit to the Court of Justice a request for a preliminary ruling where they consider that a decision of the Court of Justice or the General Court on a question concerning the interpretation or the validity of EU law is necessary to enable them to give judgment (see second paragraph of Article 267 TFEU). A reference for a preliminary ruling may, inter alia, prove particularly useful when a question of interpretation is raised before the national court or tribunal that is new and of general interest for the uniform application of EU law, or where the existing case-law does not appear to provide the necessary guidance in a new legal context or set of facts.

6. Where a question is raised in the context of a case that is pending before a court or tribunal against whose decisions there is no judicial remedy under national law, that court or tribunal is nonetheless required to make a reference for a preliminary ruling (see third paragraph of Article 267 TFEU), unless there is already well-established case-law on the point or unless the correct interpretation of the rule of law in question admits of no reasonable doubt.

7. It follows, moreover, from settled case-law that although national courts and tribunals may reject pleas raised before them challenging the validity of acts of an institution, body, office or agency of the European Union, the Courts of the European Union have exclusive jurisdiction to declare such acts invalid. When it has doubts as to the validity of such an act, a court or tribunal of a Member State must therefore make a reference for a preliminary ruling, stating the reasons why it has such doubts. Depending on the subject matter of the request for a preliminary ruling, it will then be for either the Court of Justice or the General Court to give its ruling on that question (see points 25 to 29 below).

The subject matter and scope of the request for a preliminary ruling

8. A request for a preliminary ruling must concern the interpretation or validity of EU law, not the interpretation of rules of national law or issues of fact raised in the main proceedings.

9. The Court of Justice and the General Court can give a preliminary ruling only if EU law applies to the case in the main proceedings. It is essential, in that respect, that the referring court or tribunal set out all the relevant matters of fact and of law that have prompted it to consider that any provisions of EU law may be applicable in the case.

10. With regard to references for a preliminary ruling concerning the interpretation of the Charter of Fundamental Rights of the European Union ('the Charter'), it must be noted that, under Article 51(1) of the Charter, the provisions of the Charter are addressed to the Member States only when they are implementing EU law. While the circumstances of such implementation can vary, it must nevertheless be clearly and unequivocally apparent from the request for a preliminary ruling that a rule of EU law other than the Charter is applicable to the case in the main proceedings. Since the Courts of the European Union have no jurisdiction to give a preliminary ruling where a legal situation does not come within the scope of EU law, any provisions of the Charter that may be relied upon by the referring court or tribunal cannot, of themselves, form the basis for such jurisdiction.

11. Lastly, although, in order to deliver their decision, the Court of Justice and the General Court necessarily take into account the legal and factual context of the dispute in the main proceedings, as defined by the referring court or tribunal in its request for a preliminary ruling, they do not themselves apply EU law to that dispute. When ruling on the interpretation or validity of EU law, the Court of Justice and the General Court make every effort to give a reply which will be of assistance in resolving the dispute in the main proceedings, but it is for the referring court or tribunal to draw case-specific conclusions, if necessary by disapplying the rule of national law that has been held to be incompatible with EU law.

The appropriate stage at which to make a reference for a preliminary ruling

12. A national court or tribunal may submit a request for a preliminary ruling to the Court as soon as it finds that a ruling on the interpretation or validity of EU law is necessary to enable it to give judgment. It is that court or tribunal which is in fact in the best position to decide at what stage of the national proceedings such a request should be made.

13. Since, however, that request will serve as the basis of the proceedings before the Court of Justice or the General Court and they must therefore have available to them all the information that will enable them both to assess whether they have jurisdiction to give a reply to the questions referred and, if so, to give a useful reply to those questions, it is necessary that a decision to make a reference for a preliminary ruling be taken when the national proceedings have reached a stage at which the referring court or tribunal is able to define, in sufficient detail, the legal and factual context of the case in the main proceedings, and the legal issues which it raises. In the interests of the proper administration of justice, it may also be appropriate for the reference to be made only after both sides have been heard.

The form and content of the request for a preliminary ruling

14. The request for a preliminary ruling may be in any form allowed by national law, but it should be borne in mind that that request serves as the basis of the proceedings before the Court of Justice or the General Court and is served on all the interested persons referred to in Article 23 of the Protocol on the Statute of the Court of Justice of the European Union ('the Statute') and, in particular, on all the Member States, with a view to obtaining any observations they may wish to make. Owing to the consequential need to translate it into all the official languages of the European Union, the request for a preliminary ruling should therefore be drafted simply, clearly and precisely by the referring court or tribunal, avoiding superfluous detail. As experience has shown, about 10 pages are often sufficient to set out adequately the legal and factual context of a request for a preliminary ruling and the grounds for making the reference to the Court of Justice.

15. The content of any request for a preliminary ruling is prescribed in identical terms by Article 94 of the Rules of Procedure of the Court of Justice and by Article 199 of the Rules of Procedure of the General Court, and is summarised, by way of a reminder, in the annex hereto. In addition to the text of the questions referred for a preliminary ruling, the request for a preliminary ruling must contain:

- a summary of the subject matter of the dispute in the main proceedings and the relevant findings of fact as determined by the referring court or tribunal, or, at the very least, an account of the facts on which the questions referred are based;

- the tenor of any national provisions applicable in the case and, where appropriate, the relevant national case-law, and
- a statement of the reasons which prompted the referring court or tribunal to inquire about the interpretation or validity of certain provisions of EU law, and the relationship between those provisions and the national legislation applicable to the main proceedings.

In the absence of one or more of the above, the Court of Justice or the General Court may find it necessary, on the basis of Article 53(2) of the Rules of Procedure of the Court of Justice or Article 225 of the Rules of Procedure of the General Court respectively, to decline jurisdiction to give a preliminary ruling on the questions referred or dismiss the request for a preliminary ruling as inadmissible, by reasoned order.

16. In its request for a preliminary ruling, the referring court or tribunal must provide the precise references for the national provisions applicable to the facts of the dispute in the main proceedings and for the provisions of EU law whose interpretation is sought or whose validity is challenged. Those references must, as far as possible, include both the exact title and date of adoption of the acts containing the provisions concerned and the publication references for those acts. When referring to case-law, the referring court or tribunal is also requested to mention the European Case-Law Identifier (ECLI) of the decision concerned.

17. If it considers it necessary for the purpose of understanding the case, the referring court or tribunal may briefly set out the main arguments of the parties to the main proceedings. It should be borne in mind in that context that only the request for a preliminary ruling will be translated, and not any annexes to that request.

18. The referring court or tribunal may also briefly state its view on the answer to be given to the questions referred for a preliminary ruling. That information may be useful, particularly in the context of expedited procedures or, as the case may be, urgent procedures.

19. Lastly, the questions referred for a preliminary ruling must appear in a separate and clearly identified section of the order for reference, preferably at the beginning or the end. It must be possible to understand them on their own terms, without it being necessary to refer to the statement of the grounds for the request.

20. In order to make the request for a preliminary ruling easier to read, it is essential that the Court of Justice receive it in typewritten form and that the pages and paragraphs of the order for reference be numbered. Handwritten requests for a preliminary ruling will not be processed.

Protection of personal data and anonymisation of the request for a preliminary ruling

21. In order to ensure optimal protection of personal data in the handling of the case by the Court of Justice or the General Court, the service of the request for a preliminary ruling on the interested persons referred to in Article 23 of the Statute and the subsequent dissemination, in all official languages of the European Union, of the decision closing the proceedings, the referring court or tribunal – which alone has full knowledge of the case file in the national proceedings – is invited to anonymise the case by replacing, for example using letters, the names of individuals referred to in the request and by redacting information that might enable them to be identified. Given the widespread use of new information and communication technologies and, in particular, the use of search engines, any anonymisation effected after the request for a preliminary ruling has been served on the interested persons referred to in Article 23 of the Statute and publication of the notice relating to the case in the Official Journal of the European Union is rendered redundant.

22. If the referring court or tribunal has a nominative version of the request for a preliminary ruling, containing the full names and contact details of the parties to the main proceedings, and an anonymised version of that request, it is requested to send both versions to the Court of Justice to facilitate the handling of the case by the Court of Justice or the General Court.

Transmission to the Court of Justice of the request for a preliminary ruling and of the case file in the national proceedings

23. The request for a preliminary ruling must be dated and signed, then sent to the Registry of the Court of Justice electronically or by post (Registry of the Court of Justice, Rue du Fort Niedergrünewald, L-2925 Luxembourg). For reasons connected, in particular, with the need to ensure expeditious handling of the case and optimal communication with the referring court or tribunal, the Court of Justice recommends that national courts and tribunals use the e-Curia application. The rules on access to that application, which enables procedural documents to be lodged and served electronically, and the conditions of use of e-Curia may be viewed on the institution's website: CURIA – Procedure – Court of Justice of the European Union (europa.eu). In order to facilitate the handling of requests for a preliminary ruling by the Court of Justice and the General Court and, in particular, their translation into all the official languages of the European Union, national courts and tribunals are requested, in addition to sending the original version of the request for a preliminary ruling via e-Curia, to send an editable version of that request to the following address: editable-versions@curia.europa.eu.⁽³⁾

24. The request for a preliminary ruling must reach the Registry together with all the relevant documents and documents useful for the Court of Justice and the General Court to handle the case and, in particular, the precise contact details for the parties to the main proceedings and their representatives, if any, as well as the file of the case in the main proceedings or a copy of it. The file (or copy file) – which may be sent electronically or by post – will be retained at the Registry throughout the proceedings before the Court of Justice or the General Court where, unless otherwise indicated by the referring court or tribunal, it may be consulted by the interested persons referred to in Article 23 of the Statute.

Determination, by the Court of Justice, of the court which has jurisdiction to give a preliminary ruling

25. If, for reasons of legal certainty and expedition, all requests for a preliminary ruling must be submitted to the Court of Justice, the reply to the questions submitted by the referring court or tribunal will not necessarily be given by the Court of Justice itself. The reply will be provided either by the Court of Justice or by the General Court, depending on the subject matter of the request for a preliminary ruling.

26. As is clear from the first paragraph of Article 50b of the Statute, the General Court has jurisdiction to hear and determine requests for a preliminary ruling under Article 267 TFEU that come exclusively within one or more of the following specific 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.

The second paragraph of that article specifies however that the Court of Justice retains jurisdiction to hear and determine requests for a preliminary ruling that raise independent questions relating to the interpretation of primary law, public international law, general principles of EU law or the Charter of Fundamental Rights of the European Union. For that reason, each request for a preliminary ruling submitted to the Court of Justice is thus subject to a preliminary analysis, in accordance with the procedure described below, set out in Article 93a of the Rules of Procedure of the Court of Justice.

⁽³⁾ The editable version corresponds to the document drawn up using a word-processing software such as Microsoft Word, OpenOffice Writer, Google Docs or Pages. Unlike image-based software such as PDF, this editable format allows the text to be directly extracted so that it can be used in the case processing cycle, in particular at the translation stage.

27. If, after analysing the request for a preliminary ruling, the President of the Court, having heard the Vice-President and the First Advocate General, considers that the request comes exclusively within one or more of the specific areas referred to in the preceding paragraph, the President will inform the Registry accordingly, which will immediately transmit the request to the Registry of the General Court. The request will be formally registered by the latter and the proceedings will continue before the General Court, in accordance with the provisions of its Rules of Procedure, which are identical, in substance, to the provisions of the Rules of Procedure of the Court of Justice.

28. If, however, the preliminary analysis of the request for a preliminary ruling leads the President, the Vice-President and the First Advocate General to consider that, although the request comes within one or more specific areas, it also concerns other areas or raises independent questions of interpretation of primary law, public international law, general principles of EU law or the Charter of Fundamental Rights of the European Union, the request is immediately referred, for further analysis, to the general meeting of the Court of Justice, in which all the Judges and Advocates General of the Court of Justice take part. If that analysis leads the Court of Justice to consider that the request for a preliminary ruling comes exclusively within one or more of the specific areas referred to in the first paragraph of Article 50b of the Statute, that request will immediately be transmitted by the Registry of the Court of Justice to the Registry of the General Court and the proceedings will then continue before the latter court in accordance with the provisions of its Rules of Procedure. Otherwise, the proceedings will continue before the Court of Justice, in accordance with the provisions of its Rules of Procedure of the Court of Justice. The referring court or tribunal will, of course, be immediately informed of the outcome of that analysis by the registry of the court concerned, which will then become its sole interlocutor.

29. Where the General Court finds that it does not have jurisdiction to hear and determine a request for a preliminary ruling, it will refer it to the Court of Justice by way of order, in accordance with the second paragraph of Article 54 of the Statute. Pursuant to the second subparagraph of Article 256(3) TFEU, the General Court may also, at any stage of the proceedings, decide to refer a request to the Court of Justice where it considers that it calls for a decision of principle likely to affect the unity or consistency of EU law. The national court is immediately informed of the referral.

Interaction between the reference for a preliminary ruling and the national proceedings

30. Although the referring court or tribunal may still order protective measures, particularly in connection with a reference on determination of validity, the lodging of a request for a preliminary ruling nevertheless calls for the national proceedings to be stayed until the Court of Justice or the General Court has given its ruling.

31. While the Court of Justice or the General Court, in principle, remains seized of a request for a preliminary ruling for so long as that request is not withdrawn by the referring court or tribunal, it must nevertheless be borne in mind that the role of the Court of Justice and the General Court in the preliminary ruling procedure is to contribute to the effective administration of justice in the Member States, and not to give opinions on general or hypothetical questions. Since the preliminary ruling procedure is predicated on there being proceedings actually pending before the referring court or tribunal, it is incumbent on that court or tribunal to inform the Court of Justice or the General Court of any procedural step that may affect the referral and, in particular, of any discontinuance or withdrawal or of any amicable settlement of the dispute in the main proceedings, and of any other event leading to the termination of the proceedings. The referring court or tribunal must also inform the Court of Justice or the General Court of any decision delivered in the context of an appeal against the order for reference and of the consequences of that decision for the request for a preliminary ruling. In the interests of the proper conduct of the preliminary ruling proceedings and, in particular, to ensure that the Court of Justice and the General Court do not devote time and resources to a case that is likely to be withdrawn or become devoid of purpose, it is important that such information is communicated to the Court of Justice or the General Court with the minimum of delay.

32. National courts and tribunals should also note that the withdrawal of a request for a preliminary ruling may have an impact on the management of similar cases by the referring court or tribunal. Where the outcome of a number of cases pending before the referring court or tribunal depends on the reply to be given by the Court of Justice or the General Court to the questions submitted by that court or tribunal, it is appropriate for that court or tribunal to join those cases before submitting its request for a preliminary ruling in order to enable the Court of Justice or the General Court to reply to the questions referred notwithstanding any withdrawal of one or more cases.

Costs and legal aid

33. Preliminary ruling proceedings before the Court of Justice and the General Court are free of charge and those courts do not rule on the costs of the parties to the proceedings pending before the referring court or tribunal. It is for the referring court or tribunal to rule on those costs.

34. If a party to the main proceedings has insufficient means, the Court of Justice or the General Court may grant that party legal aid to cover the costs, particularly those in respect of its representation, which it incurs. That aid can, however, be granted only if the party in question is not already in receipt of aid under national rules or to the extent to which that aid does not cover, or covers only partly, costs incurred before the Court of Justice or the General Court. That party is requested in any event to send to the Court of Justice or the General Court all information and supporting documents that will enable his or her true financial situation to be assessed.

Conduct of the proceedings before the Court of Justice or the General Court and the action taken by the referring court or tribunal upon their decision

35. The Registry of the Court of Justice or the Registry of the General Court will remain in contact with the referring court or tribunal throughout the proceedings, and will send it copies of all procedural documents and any requests for information or clarification deemed necessary in order for a useful reply to be given to the questions referred by that court or tribunal.

36. At the end of the proceedings which, as a rule, comprise a written part and an oral part, the Court of Justice or the General Court gives its ruling in the form of a judgment on the questions submitted by the referring court or tribunal. In some cases, however, the Court of Justice and the General Court may find it necessary to rule on those questions without an oral part of the procedure, or even without seeking the written observations of the interested persons referred to in Article 23 of the Statute. That is the case, in particular, when the question referred for a preliminary ruling is identical to a question on which the Court of Justice or the General Court has already ruled, or where the answer to such a question may be clearly deduced from existing case-law or admits of no reasonable doubt. In such cases, the Court of Justice or the General Court will, on the basis, respectively, of Article 99 or Article 226 of their Rules of Procedure, rule expeditiously on the question referred, by a reasoned order which has the same scope and the same binding force as a judgment.

37. After the judgment has been delivered or the order closing the proceedings has been signed, the Registry of the relevant court will send the decision closing the proceedings to the referring court or tribunal. Unlike judgments and orders of the Court of Justice, judgments and orders of the General Court take effect as provided in the second paragraph of Article 62b of the Statute. The referring court or tribunal is requested to inform, as the case may be, the Court of Justice or the General Court of the action taken upon that decision in the case in the main proceedings. The referring court or tribunal is required to send its final decision, expressly mentioning the case number of the case before the Court of Justice or the General Court, to the following address: Follow-up-DDP@curia.europa.eu.

Possibility, exceptionally, for the Court of Justice to review the decision of the General Court

38. As is clear from the third paragraph of Article 256(3) TFEU, decisions given by the General Court on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of EU law being affected. The second paragraph of Article 62 of the Statute states in that regard that, in such a case, the proposal to review the decision of the General Court must be made by the First Advocate General of the Court of Justice within one month of delivery of that decision and that the Court of Justice must, within one month of receiving the proposal made by the First Advocate General, rule on that proposal and decide, accordingly, whether or not the decision of the General Court should be reviewed. It follows from a combined reading of those provisions and the second paragraph of Article 62b of the Statute that the decision of the General Court does not therefore become final until the expiry of the aforementioned time limits or, if the review procedure is effectively opened, at the end of that procedure, the details of which are set out in Articles 194 and 195 of the Rules of Procedure of the Court of Justice.

39. However, in so far as the review procedure should occur only exceptionally, it is important that the referring court or tribunal be informed as soon as possible as to whether (or not) there is a proposal to review the decision of the General Court. Article 193a of the Rules of Procedure of the Court of Justice thus provides for the Court of Justice to be informed without delay if there is no proposal to review, which will make the decision of the General Court become final. Otherwise, the court or tribunal will have to wait to see what action the Court of Justice takes on the First Advocate General's proposal – and, if that proposal is accepted, the outcome of the review procedure – in order to know whether the Court of Justice confirms the decision given by the General Court or considers that it undermines the unity or consistency of EU law, in which case the answer given by the Court of Justice to the questions subject to review will replace that of the General Court.

II. Provisions applicable to requests for a preliminary ruling requiring particularly expeditious handling

40. As provided in Article 23a of the Statute as well as in Articles 105 to 114 of the Rules of Procedure of the Court of Justice and Article 237 of the Rules of Procedure of the General Court, a reference for a preliminary ruling may, in certain circumstances, be determined pursuant to an expedited procedure or an urgent procedure. The Court of Justice or the General Court, as the case may be, will decide whether these procedures are to be applied, either on submission by the referring court or tribunal of a separate, duly reasoned, request setting out the matters of fact or of law which justify the application of such procedure(s), or, exceptionally, of its own motion, where that appears to be required by the nature or the particular circumstances of the case.

Conditions for the application of the expedited procedure and the urgent procedure

41. Article 105 of the Rules of Procedure of the Court of Justice and Article 237 of the Rules of Procedure of the General Court provide that a reference for a preliminary ruling may thus be determined pursuant to an expedited procedure, derogating from the provisions of those rules, where the nature of the case requires that it be dealt with within a short time. Since that procedure imposes significant constraints on all those involved in it, and, in particular, on all the Member States called upon to lodge observations, whether written or oral, within much shorter time limits than would ordinarily apply, its application must be sought only when particular circumstances create an emergency that warrants the Court of Justice or the General Court ruling quickly on the questions referred. That may be the case, inter alia, if there is a serious and immediate danger to public health or to the environment which a prompt decision by the Court of Justice or the General Court 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. According to settled case-law, the large number of persons or legal situations potentially affected by the decision that the referring court or tribunal has to deliver after bringing the matter before the Court of Justice for a preliminary ruling, the fact that there may be important economic issues at stake or that the referring court or tribunal is obliged to rule expeditiously do not, however, in themselves constitute exceptional circumstances that would justify the use of the expedited procedure.

42. The same applies a fortiori to the urgent preliminary ruling procedure, provided for in Article 107 of the Rules of Procedure of the Court of Justice. That procedure, which applies to the Court of Justice alone and only in the areas covered by Title V of Part Three of the TFEU, relating to the area of freedom, security and justice, imposes even greater constraints on those concerned, since it limits the number of parties authorised to lodge written observations and, in cases of extreme urgency, allows the written part of the procedure before the Court of Justice to be omitted altogether. The application of the urgent procedure must therefore be requested only where it is absolutely necessary for the Court of Justice to give its ruling very quickly on the questions submitted by the referring court or tribunal.

43. Although it is not possible to provide an exhaustive list of such circumstances, particularly because of the varied and evolving nature of the rules of EU law governing the area of freedom, security and justice, a national court or tribunal may, for example, consider submitting a request for the urgent preliminary ruling procedure to be applied in the case, referred to in the fourth paragraph of Article 267 TFEU, of a person in custody or deprived of his or her liberty, where the answer to the question raised is decisive as to the assessment of that person's legal situation, or in proceedings concerning parental authority or custody of young children, in so far, in particular, as the outcome of the dispute in the main proceedings depends on the answer to the question referred for a preliminary ruling and the use of the ordinary procedure could cause serious, and perhaps irreparable, harm to the relationship between a child and (one of) that child's parents or to the child's

development and integration into his or her family and social environment. By contrast, mere economic interests, however substantial and legitimate they may be, the legal uncertainty affecting the parties to the main proceedings or other parties to similar disputes, the large number of persons or legal situations potentially affected by the decision that a referring court or tribunal has to deliver after bringing a matter before the Court of Justice for a preliminary ruling, or the large number of cases that may be affected by the decision of the Court of Justice do not constitute, as such, circumstances that would justify the application of the urgent preliminary ruling procedure.

The request for application of the expedited procedure or the urgent procedure

44. To enable the Court of Justice or the General Court to decide quickly whether the expedited procedure or the urgent preliminary ruling procedure should be applied, the request must set out precisely the matters of fact and of law which establish the urgency and, in particular, the risks involved in following the ordinary procedure. In so far as it is possible to do so, the referring court or tribunal must also briefly state its view on the answer to be given to the questions referred. Such a statement makes it easier for the parties to the main proceedings and the other interested persons participating in the procedure to define their positions, and therefore contributes to the rapidity of the procedure.

45. The request for the application of the expedited procedure or the urgent procedure must in any event be submitted in an unambiguous form that enables the Registry to establish immediately that the file has to be dealt with in a particular way. Accordingly, the referring court or tribunal is requested to specify which of the two procedures is required in the particular case, and to mention in its request the relevant article of the Rules of Procedure concerned (Article 105 of the Rules of Procedure of the Court of Justice or Article 237 of the Rules of Procedure of the General Court for the expedited procedure or Article 107 of the Rules of Procedure of the Court of Justice for the urgent procedure). That mention must be included in a clearly identifiable place in its order for reference or in a separate letter from the referring court or tribunal.

46. As regards the order for reference itself, it is particularly important that it should be concise where the matter is urgent, as this will help to ensure the rapidity of the procedure.

Communication between the Court of Justice or the General Court and the referring court or tribunal as well as the parties to the main proceedings

47. A court or tribunal submitting a request for the expedited procedure or the urgent procedure to be applied is requested to send that request and the order for reference itself – together with the text of the latter in an editable format – by means of the e-Curia application or by email (DDP-GrefeCour@curia.europa.eu).

48. In order to facilitate subsequent communication by the Court of Justice or the General Court with the referring court or tribunal and with the parties to the main proceedings, the referring court or tribunal is also requested to state its email address which may be used by the Court of Justice or the General Court, together with the email addresses of the representatives of the parties to the main proceedings.

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ANNEX

The essential elements of a request for a preliminary ruling

This annex summarises, by way of a reminder, the main elements that must be included in a request for a preliminary ruling. These are followed by an indication of the paragraphs in the present recommendations in which those elements are discussed in more detail.

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.).

As regards form, requests for a preliminary ruling must be typewritten, dated and signed and must be received at the Registry of the Court of Justice, preferably electronically, together with all the documents that are relevant and useful for the handling of the case (see, in that respect, paragraphs 20 to 24 of the present recommendations and, with regard to requests requiring particularly expeditious treatment, paragraphs 44 to 48).

Transmission channels recommended by the Court of Justice and the General Court

In order to ensure the best possible communication with courts and tribunals that have referred questions for a preliminary ruling, the Court of Justice and the General Court recommend the use of the following transmission channels:

- (1) Lodging of the request for a preliminary ruling (or of other relevant documents linked to that request):
 - Signed original of the request for a preliminary ruling (or of the other documents linked to that request): to be sent via the e-Curia application. The rules on access to that application, which is free of charge and secure, and the conditions of use of e-Curia, are available here: https://curia.europa.eu/jcms/jcms/P_78957/en/.
 - Editable version of the request for a preliminary ruling (or of the other documents linked to it): editable-versions@curia.europa.eu.
- (2) Transmission of the final decision of the referring court or tribunal (anonymised, if necessary, including for the purposes of being placed online), following the decision of the Court of Justice or the General Court on the request for a preliminary ruling: Follow-up-DDP@curia.europa.eu.