

3rd lecture – EU Law

Example – Preliminary Ruling Proceedings

Based on Article 267 TFEU, decide whether the following courts **can**, **must**, or **are not authorized** to refer a preliminary question to the Court of Justice of the European Union:

1. The Spanish Supreme Court, against whose decision no further judicial remedy is possible
2. The Mexican Supreme Court, against whose decision no further judicial remedy is possible
3. The Czech District Court, against whose decision an appeal is possible
4. The Italian administrative authority (administrative office), against whose decision an appeal is possible
5. The French Constitutional Court
6. European Court of Human Rights
7. The German Permanent Arbitration Court

Decide whether the Court of Justice of the EU would respond to the following questions (i.e., whether it is authorized):

1. The French court asks for the interpretation of Article 45 TFEU
2. The Irish court asks about the validity of Article 101(3) TFEU
3. The German court asks about the validity of Article 7 of the Directive 2004/38
4. The Czech court asks for the interpretation of Article 3 of the GDPR Regulation

Example – Direct Effect of Directives, of Regulations

Imagine (a fictional case – i.e., this is not true, it is for pedagogical purposes) that the European Union adopted a directive with the following Article 2: "Member States shall ensure that the minimum annual leave for all employees is at least 6 weeks." The implementation deadline expired on September 30, 2024. Member State A has not implemented the directive on time and is still in delay. The questions are:

1. Ms. Catherine (a national of State A) has only 5 weeks of vacation according to her employment contract, but she has already heard about the existence of this directive. In February 2025, she asked her employer in a private company to provide her with 6 weeks of vacation in accordance with the directive and to comply with the law. The employer refused Catherine's request. Catherine filed a lawsuit against the employer in court. How should the national court decide?
2. Catherine filed a lawsuit against State A for not implementing the directive yet. Can she do this? How is the court likely to rule?
3. Could Catherine claim compensation for damage from the state that failed to implement the directive on time?
4. Could the state sue the employer for not following the directive and applying national law instead?
5. How would it change if such an obligation were established by an EU regulation?