

PART 44

REQUEST TO THE EUROPEAN COURT FOR A PRELIMINARY RULING

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When this Part applies

44.1. This Part applies where the court can request the Court of Justice of the European Union ('the European Court') to give a preliminary ruling, under Article 267 of the Treaty on the Functioning of the European Union.

[Note. Under Article 267, if a court of a Member State considers that a decision on the question is necessary to enable it to give judgment, it may request the European Court to give a preliminary ruling concerning—

- (a) the interpretation of the Treaty on European Union, or of the Treaty on the Functioning of the European Union;*
- (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union.]*

Preparation of request

44.2.—(1) The court may—

- (a) make an order for the submission of a request—
 - (i) on application by a party, or
 - (ii) on its own initiative;
- (b) give directions for the preparation of the terms of such a request.

(2) The court must—

- (a) include in such a request—
 - (i) the identity of the court making the request,
 - (ii) the parties' identities,
 - (iii) a statement of whether a party is in custody,
 - (iv) a succinct statement of the question on which the court seeks the ruling of the European Court,
 - (v) a succinct statement of any opinion on the answer that the court may have expressed in any judgment that it has delivered,
 - (vi) a summary of the nature and history of the proceedings, including the salient facts and an indication of whether those facts are proved, admitted or assumed,
 - (vii) the relevant rules of national law,
 - (viii) a summary of the relevant contentions of the parties,
 - (ix) an indication of the provisions of European Union law that the European Court is asked to interpret, and
 - (x) an explanation of why a ruling of the European Court is requested;
- (b) express the request in terms that can be translated readily into other languages; and
- (c) set out the request in a schedule to the order.

Submission of request

44.3.—(1) The court officer must serve the order for the submission of the request on the Senior Master of the Queen’s Bench Division of the High Court.

(2) The Senior Master must—

- (a) submit the request to the European Court; but
- (b) unless the court otherwise directs, postpone the submission of the request until—
 - (i) the time for any appeal against the order has expired, and
 - (ii) any appeal against the order has been determined.