

Co-operation with national judges in the field of environmental law under the European Commission Framework Contract ENV.A.I/FRA/2012/0018

Training module

HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE WITH EU WATER LAW

05 - 07 April 2017

Warsaw, Poland

Organised by Academy of European Law

Case Study by Dr Matthias Keller, Aachen

Reasoning of the case: „Ferry Tales“



Source: www.bilderbuch-koeln.de

Structure of the Case Study

- A. Preparation
- B. Preliminary Question
- C. Content and Form

Preparation (I): Article 267 TFEU

Legal Basis is Article 267 TFEU:

The Court of Justice of the European Union shall have jurisdiction to give MS Courts **preliminary rulings** concerning:

- (a) the **interpretation** of the Treaties
- (b) the **validity** and interpretation of (EU) acts

Preparation (II): Recommendations

Official Journal 2016/C 439/01 and website of the CJEU:

**“Recommendations
to national courts and tribunals,
in relation to the initiation of preliminary ruling proceedings”
from 25 November 2016**

Footnote:

The above recommendations are comprehensive.

A request should be made only after these recommendations have been read by the national judges.

Preparation (III): Have the parties to be heard?

Recommendations (OJ 2016/C 439/01) para 13:

„In the interest of proper administration of justice, it may also be desirable for the reference to be made only after both sides have been heard.“

Preliminary question (Just a personal proposal)

Is Article 4(1) of Directive 2000/60/EC to be interpreted in a way

that its provisions on the prevention of the deterioration of the status of surface water

can be a legal ground to deny the authorization of a project to deepen a river, although this project is in conformity with national water law?

Footnote:

According to my knowledge the problem of reversed direct effect (against the citizen) necessitates clarification.

Content and Form of the Request

(cf. the recommendations OJ 2016/C 439/01)

The referring court and the parties to the main proceedings.

The subject matter of the dispute in the main proceedings and the relevant facts.

The relevant legal provisions.

The grounds for the reference.

The questions referred for a preliminary ruling.

Possible need for specific treatment (anonymity).

Form that facilitates electronic processing:

- white, unlined, A4-size paper.
- commonly used font (Times New Roman, Courier or Arial).
- 12 point in the body of the text and at least 10 point in any footnote.
- all pages of the request, and the paragraphs, should be numbered.

The request should be sent by registered post together with the file the case in the main proceedings to: Registry of the Court of Justice, Rue du Fort Niedergrünwald,
2925 Luxembourg, LUXEMBOURG

Last but not least: “10” seems to be a very good number of pages of the request.

Thank you

for your kind attention!