



CCE

Preliminary References

Experiences with Questions and Answers

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Europe Inter-Connected



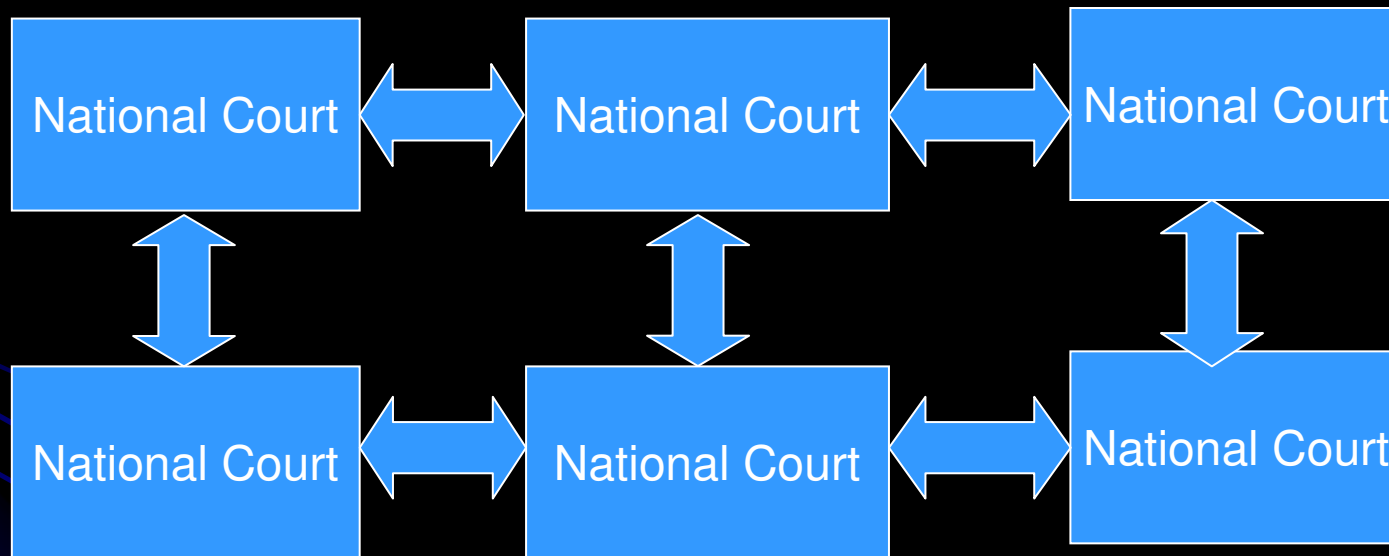
Need for inter-connection

ECJ 13 May 1981, 66/80, Int. Chemical Corp. ECR [1981] 1191

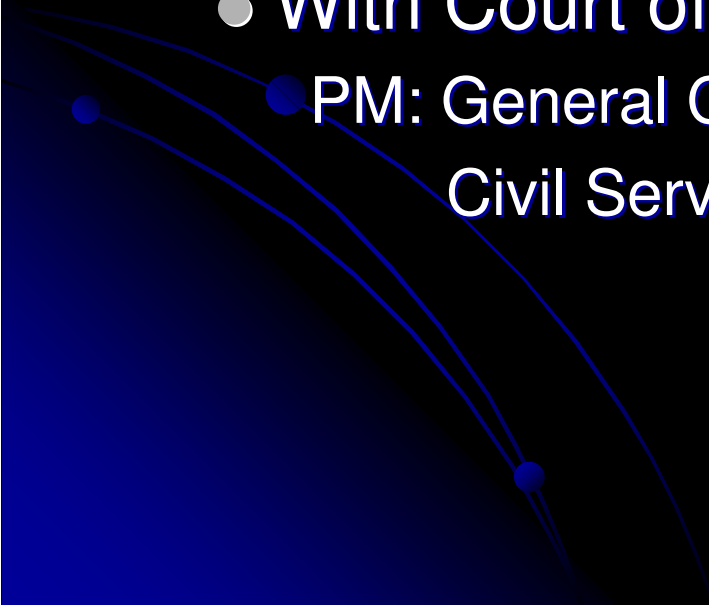
10 The scope of judgments given under this head should be viewed in the light of the aims of Article 177 and the place it occupies in the entire system of judicial protection established by the Treaties.

11 The main purpose of the powers accorded to the Court by Article 177 is to ensure that Community law is applied uniformly by national courts. **Uniform application of Community law is imperative not only when a national court is faced with a rule of Community law the meaning and scope of which need to be defined;** it is just as imperative when the Court is confronted by a dispute as to the validity of an act of the institutions.

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Interconnection

- Multi-level coordination
 - Within a court
 - Within the national judiciary
 - With courts of other Member States
 - With Court of Justice of the European Union
 - PM: General Court
 - Civil Service Tribunal
- 

Question and Answers

- 28 responses
 - Belgium
 - Bulgaria
 - Czech Republic
 - Denmark
 - Italy
 - The Netherlands
 - Poland
 - Romania
 - Spain

Involvement

- Asking questions: 9
- Applying judgments: large majority

More time needed to request a preliminary ruling ?

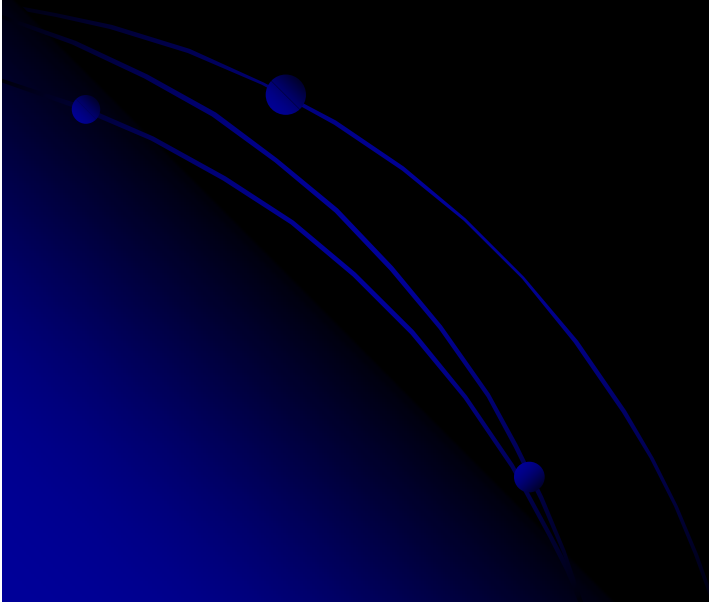
- Initiative:
 - Parties/court ?
 - Project discussed with parties ?

Questions

- Refusal to request a preliminary ruling
→ do courts have a policy with regard to the question to refer or not ?
- Coordination
 - Within Court
 - With other Courts
 - C-142/12
 - C-278/12 PPU, 19 July 2012 (compare C-88/12)
 - With other Courts (other Member States)
 - C-321/12
 - C-24/12
 - Opinion by Advocate-General ECJ

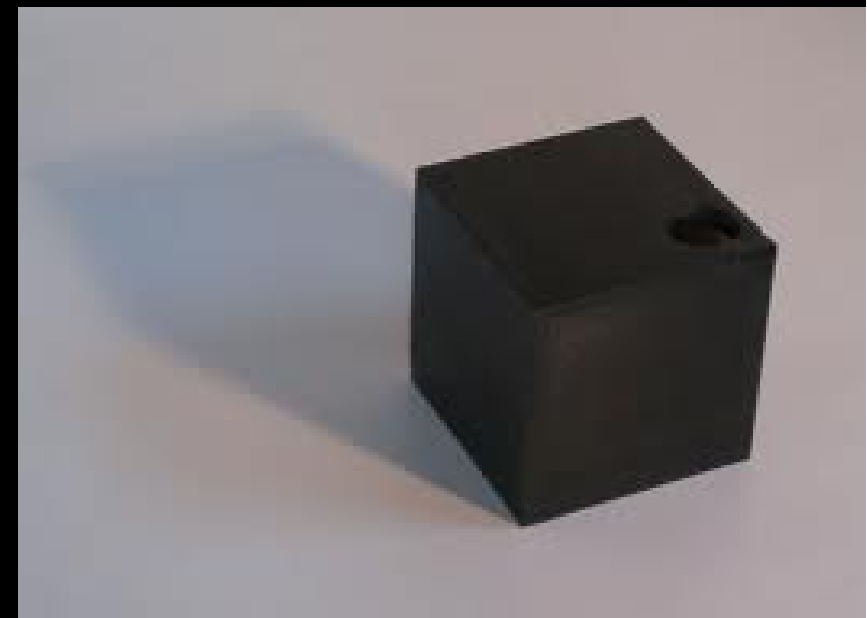
Questions

- Selection of case
- General questions or case specific
- Motivation of necessity of questions
- Proposed answer



Stage 2

- Reasoned order (no reasonable doubt) art. 104, § 3 RP
- Observations submitted by parties
- Conclusion Advocate General



Answers

- Is interpretation useful

“By its question, the referring court asks, in essence, whether ...”

- Follow on questions ?

- Hearing parties

- General impact → discussion ?

Answers

- Citing preliminary ruling
- Factual findings by ECJ

ECJ 1 October 2009, Servatius, C-567/07,
ECR [2009] I- 9021, point 55

ECJ 12 July 2012, Komen, C-326/11,
point 14

- Time needed for final judgment

For discussion



- **Don't ask what the ECJ can do for you but ask what the national Courts can do for the ECJ**
- Is it useful to formulate “best practices” for national courts ?
- If so, what should be the content ?
 - Phase 1
 - Phase 3
- Could a non formalized dialogue (between all courts involved) be useful ?