

SCHEDULE

Rule 28

“PART 68

References to the European Court

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Interpretation

68.1. In this Part—

- (a) “the court” means the court making the order;
- (b) “the European Court” means the Court of Justice of the European Union;
- (c) “order” means an order referring a question to the European Court for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union⁽¹⁾ or as provided for under any agreement to which the European Union or the Member States of the European Union are parties;
- (d) “reference” means a request to the European Court for a preliminary ruling; and
- (e) “European Court Procedure Rules” means the Rules of Procedure of the European Court, published on 29 September 2012⁽²⁾.

Making of order

68.2. An order may be made at any stage of the proceedings—

- (a) by the court of its own initiative; or
 - (b) on an application by a party in accordance with Part 23.
- (2) An order should not normally be made—
- (a) in the High Court, by a Master or district judge;
 - (b) in a county court, by a district judge.
- (3) The reference must contain the matters specified in the European Court Procedure Rules and comply with any guidance given by the European Court.
- (4) The reference must be set out in a schedule to the order and the court may give directions on the preparation of the schedule.

(1) See the Treaty of Lisbon, article 1(11), Official Journal of the European Union C306/1, 17.12.2007.

(2) Official Journal of the European Union, L 265/1, 29.09.2012.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Requests made by the court to the European Court

68.3.—(1) Any request made by the court to the European Court that—

- (a) one or more persons or entities concerned by the case be granted anonymity;
- (b) the reference be determined pursuant to the expedited preliminary ruling procedure;
- (c) the reference be determined pursuant to the urgent preliminary ruling procedure; or
- (d) the reference be given priority over other cases,

must be made in a document separate from the order or in a covering letter accompanying the order.

(2) Any such request must state the provision of the European Court Procedure Rules on which it is based and the matters of fact and law on which it is based. In the case of a request that the reference be determined pursuant to the urgent preliminary ruling procedure, it must also, so far as possible, indicate the answer that the court proposes to the question referred.

Transmission to the European Court

68.4.—(1) The order and, where relevant, any request made by the court to the European Court must be sent to the Senior Master for onward transmission to the European Court.

(2) The Senior Master will send a copy of the order and any such request to the Registrar of the European Court.

(3) Unless the court orders otherwise, the Senior Master will send those documents to the Registrar of the European Court without waiting for the time for appealing against the order to expire or for any application for permission to appeal or any appeal to be determined.

(4) Where any new parties are joined to the proceedings after the order has been sent to the Senior Master, details must be sent promptly to the Senior Master to inform the Registrar of the European Court.

Stay of proceedings

68.5. Where an order is made, unless the court orders otherwise the proceedings will be stayed until the European Court has given a preliminary ruling on the question referred to it.”