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STATUTORY INSTRUMENTS

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**2011 No. 1709**

**The Criminal Procedure Rules 2011**

**PART 75**

**REQUEST TO THE EUROPEAN COURT FOR A PRELIMINARY RULING**

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**When this Part applies**

**75.1.** 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**

**75.2.—**(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**

**75.3.**—(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 will—
  - (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.

#### **Postponement of case pending request**

- 75.4.** Where the court orders the submission of a request—
- (a) the general rule is that it will adjourn or postpone any further hearing; but
  - (b) it may otherwise direct.