

PRELIMINARY RULING PROCEEDINGS

DANIEL SARMIENTO
PROFESSOR OF EU LAW / ABOGADO



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THE NATIONAL PHASE

- Convincing a national judge
 - Points of law versus points of fact
 - Objective importance of the questions on points of law
 - Proposing questions for reference
 - The burden of time
 - Interim measures
 - Any point in time
 - Risks attached for the parties

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THE NATIONAL PHASE

- Admissibility Issues
 - A genuine “dispute”
 - A link with EU Law
 - No hypothetical questions
 - Duty to state proper reasons justifying the reference
 - A genuine “jurisdiction”

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THE NATIONAL PHASE

- Hearing the parties prior to the referral
- Challenges against the decision to refer: the Cartesio (C-210/06) and IS (C-564/19)
- Withdrawals of referrals: possible until the time of service of the date of the judgment
- Suspension of the national proceedings: implications and exceptions (BK and ZhP, C-176/22)

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THE EU PHASE – LITIGATING IN LUXEMBOURG

- Sole jurisdiction of the Court of Justice, but recent decentralisation of preliminary referneces to the General Court (but NOT on labour law cases)
- The written submissions
 - 20 pages only, but with some flexibility
 - No contradiction among the parties – simultaneous filing and service of other parties' submissions
 - Clarity and concision – the impact of translations at the Court
 - Only shot in writing

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THE EU PHASE – LITIGATING IN LUXEMBOURG

- The oral hearing
 - Planning your trip to Luxembourg
 - No witnesses, no experts, only questions to the lawyers
 - Structure of the hearing: Introductory words, questions and concluding remarks
 - Language of the hearing
 - Addressing the Court: practical tips
 - Online interventions

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THE EU PHASE – LITIGATING IN LUXEMBOURG

- The Opinion of the AG
 - Non-binding text, but highly influential internally (and externally)
 - Reopening of the oral procedure
- The judgment
 - Effects of the judgment: binding on all parties, all courts and all authorities in all Member States
 - Retroactive effect of the judgment
 - No review of the judgment
- Referring the case again