
STATUTORY INSTRUMENTS

2005 No. 384

The Criminal Procedure Rules 2005

PART 75

REFERENCE TO THE EUROPEAN COURT

Reference to the European Court

75.1.—(1) In this rule “order” means an order referring a question to the European Court for a preliminary ruling under Article 234 of the Treaty establishing the European Community, Article 150 of the Treaty establishing Euratom or Article 41 of the Treaty establishing the Coal and Steel Community.

(2) An order may be made—

- (a) by the Crown Court of its own motion or on application by a party to proceedings in the Crown Court; or
- (b) by the Court of Appeal, on application or otherwise, at any time before the determination of an appeal or application for leave to appeal under Part I of the Criminal Appeal Act 1968.

(3) An order shall set out in a schedule the request for the preliminary ruling of the European Court, and the court making the order may give directions as to the manner and form in which the schedule is to be prepared.

(4) When an order has been made, a copy shall be sent to the senior master of the Supreme Court (Queen’s Bench Division) for transmission to the Registrar of the European Court.

(5) The Crown Court proceedings in which an order is made shall, unless the Crown Court otherwise determines, be adjourned until the European Court has given a preliminary ruling on the question referred to it.

(6) Nothing in paragraph (5) above shall be taken as preventing the Crown Court from deciding any preliminary or incidental question that may arise in the proceedings after an order is made and before a preliminary ruling is given by the European Court.

(7) No appeal or application for leave to appeal, in the course of which an order is made, shall, unless the Court of Appeal otherwise orders, be determined until the European Court has given a preliminary ruling on the question referred to it.

[Note. Formerly rule 29 of the Crown Court Rules 1982(1) and rules 3-5 of the Criminal Appeal (References to the European Court) Rules 1972(2). See also Practice Direction (ECJ references: procedure) [1999] 1 Cr App R 452 and the House of Lords Practice Directions and Standing Orders applicable to Criminal Appeals (November 2003), paragraphs 31.1-31.7.]