

Interview with Pierre Pescatore: references for preliminary ruling (Luxembourg, 12 November 2003)

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[Susana Muñoz] To what extent do national courts influence the development of case-law by referring questions to the Court of Justice for a preliminary ruling?

[Pierre Pescatore] That is a very discerning and pertinent question. My reply is that, as the French say, by the very fact of putting the question, it is answered. That is what the national court does: it raises a question in order, in a way, to predetermine what the answer will be. That happened particularly in relation to all the early questions referred to the Court for a preliminary ruling, particularly in the famous Van Gend & Loos case. In that case, the Netherlands court was considering a dispute that raised the issue of the domestic implications of Community law, so it referred the matter to the Court of Justice for a preliminary ruling. By its initiative in referring the question and as a result of the way in which it formulates its question, a national court, in a sense, predetermines the answer that it should receive from the Court of Justice; the national court's stance may, consequently, acquire genuine Community significance. And so the answer provided for a Netherlands court in Van Gend & Loos became a principle that was subsequently binding on all the Member States. And you see what is new here: the fact that national solutions are being extended through the whole of the Community.