



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FOURTH SECTION

Application no. 38204/25
Manuel GRÄFE
against Germany
lodged on 28 November 2025
communicated on 26 August 2026

SUBJECT MATTER OF THE CASE

The application concerns the failure of the Federal Court of Justice to provide reasons for its decision not to refer the matter to the Court of Justice of the European Union (CJEU) for a preliminary ruling notwithstanding the applicant's request in this respect.

The applicant, a private investor, filed an action for damages against an investment banking company on account of alleged non-compliance with market and investment rules provided by domestic and European Union (EU) law. The Regional Court dismissed the action, and the Court of Appeal dismissed the applicant's appeal without granting leave to appeal on points of law.

In his complaint against the refusal to grant leave to appeal on points of law with the Federal Court of Justice the applicant submitted that the legal dispute was of fundamental significance and that it required a decision by the Federal Court of Justice for the development of the law. He further argued that the question whether the EU law applicable to his case aimed at the protection of individual investors, remained open and required a referral to the CJEU. If the question would be answered in the positive, his claim was bound to succeed.

On 18 March 2025 the Federal Court of Justice refused to grant the applicant leave to appeal. It held that the legal dispute between the parties was neither of fundamental significance nor did it require a decision by the

court for the development of the law or in the interests of ensuring uniform adjudication. It made no mention of the applicant's request for a referral to the CJEU.

On 24 July 2025 the Federal Constitutional Court refused to admit the applicant's constitutional complaint for adjudication, without providing reasons.

The applicant complains under Article 6 § 1 of the Convention that the Federal Court of Justice did not give reasons as to why it had not sought a preliminary ruling from the CJEU.

QUESTIONS TO THE PARTIES

Did the refusal of the Federal Court of Justice to grant the applicant's request for a referral to the Court of Justice of the European Union (CJEU) render the proceedings unfair, in violation of Article 6 § 1 of the Convention (see *Gondert v. Germany*, no. 34701/21, §§ 35-39, 16 December 2025; *Georgiou v. Greece*, no. 57378/18, §§ 22-23, 14 March 2023; and *Sanofi Pasteur v. France*, no. 25137/16, §§ 68-71, 13 February 2020)?

In particular, in light of the applicant's submissions to the Federal Court of Justice, did Article 6 § 1 of the Convention oblige that court to give reasons for not referring the case to the CJEU for a preliminary ruling (see *Gondert*, cited above, § 42, and *De Simone v. Germany* (dec.), no. 21853/23, §§ 28-30 and 33, 2 December 2025)?

If so, did the decision taken by the Federal Court of Justice provide the applicant with an answer as to why that court had not referred the matter to the CJEU for a preliminary ruling?