



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

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FOURTH SECTION

Application no. 1373/26
Ulrich DEGNER
against Germany
lodged on 7 January 2026
communicated on 24 August 2026

SUBJECT MATTER OF THE CASE

The application concerns the failure of the Oldenburg Court of Appeal 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 had acquired a caravan which allegedly had been equipped with a defeat device that during testing deliberately reduced harmful emissions unlike under real driving conditions. Before the civil courts the applicant claimed damages from the company which had manufactured the chassis of the caravan, arguing that the defeat device as such and the German civil courts' calculation method for the resulting damage did not comply with European Union (EU) law.

On appeal, he submitted that these questions had not been answered by the CJEU yet and that they were decisive for the outcome of his case. Referring to a pending request for a preliminary ruling by another German court, he asked the Court of Appeal to stay the proceedings for the CJEU to give answers to the questions raised, or to refer the matter to the CJEU for a preliminary ruling.

Relying on the well-established jurisprudence of the Federal Court of Justice, the Court of Appeal dismissed the applicant's appeal holding that the applicant suffered no damage in view of the benefits obtained that had to be deducted from the damage, and that the calculation method employed did not

violate EU law. Subsequently, 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 Court of Appeal did not provide any reasons for its decision not to refer the case to the CJEU, and that the *CILFIT* exception of *acte clair* did not apply.

QUESTIONS TO THE PARTIES

Did the refusal of the Oldenburg Court of Appeal 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 Oldenburg Court of Appeal, 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 Oldenburg Court of Appeal provide the applicant with an answer as to why that court had not referred the matter to the CJEU for a preliminary ruling?