



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

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FOURTH SECTION

Application no. 38616/25
TIALINI GMBH & CO. KG
against Germany
lodged on 10 December 2025
communicated on 24 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 company's request in this respect.

The applicant company instituted compensation proceedings against an insurance company for loss of profit during the COVID-19 pandemic owing to the closure of all its restaurants as ordered by the competent authorities.

Both the Regional Court and the Court of Appeal dismissed the applicant company's claim and the latter also refused to grant leave to appeal on points of law before the Federal Court of Justice.

In its complaint against that refusal the applicant company argued that the legal dispute was of fundamental significance and required a decision by the Federal Court of Justice in the interests of ensuring uniform adjudication. It submitted that the case raised a question concerning the scope and impact of obligations contained in Directive (EU) 2016/97 on the interpretation of the domestic insurance law, which had not yet been decided by the Federal Court of Justice and must be referred to the CJEU.

The Federal Court of Justice refused the applicant company's leave to appeal holding that none of the statutory grounds invoked existed in the case at issue. It made no mention of the applicant company's request for a referral to the CJEU.

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QUESTIONS

Subsequently, the Federal Constitutional Court refused to admit the applicant company's constitutional complaint for adjudication, without providing reasons.

The applicant company complains under Article 6 § 1 of the Convention that the Federal Court of Justice did not provide any reasons for its decision not to refer the case to the CJEU for a preliminary ruling.

QUESTIONS TO THE PARTIES

Did the refusal of the Federal Court of Justice to refer the applicant company's case 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 company'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 company with an answer as to why that court had not referred the matter to the CJEU for a preliminary ruling?