



Renvoi préjudiciel et marge d'appréciation du juge national: Preliminary ruling procedure and margin of appreciation of the national judge (Collection ... l'Université du Luxembourg) (French Edition)

Eleftheria Neframi, Collectif

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Appelé à apprécier la nécessité de la saisine de la Cour de justice dans le cadre du renvoi préjudiciel et la pertinence des questions posées afin d'obtenir une réponse utile à la résolution du litige, le juge national a la responsabilité du déclenchement du dialogue de juge à juge. Appelé à assurer la mise en œuvre effective du droit de l'Union, dans le respect des droits fondamentaux et en garantissant une protection juridictionnelle effective, le juge national est chargé de la mise en balance des intérêts dans un compromis entre principe d'attribution et obligation de loyauté. Dans les deux cas, l'existence d'une marge d'appréciation, son étendue et ses variantes, dépendent de la norme européenne dont il s'agit d'assurer l'exécution juridictionnelle. Le rôle du juge national dans le cadre du renvoi préjudiciel se trouve au cœur de la problématique du dialogue des juges et du rapport des ordres juridiques.

While evaluating the need for a preliminary ruling and the relevance of the questions addressed to the Court of Justice of the European Union, national judges are responsible for initiating judicial dialogue. Called upon to ensure effective implementation of European Union law, while guaranteeing fundamental rights and an effective judicial protection, national judges have a European mandate to balance the Union's and the Member States' interests while ensuring the respect for the principle of conferral and the obligation of loyal cooperation. In this context, the national judges' margin of appreciation, its scope and variations, depend on the European rules, the effective implementation of which is to be guaranteed. The role of the national judges in the context of the preliminary ruling procedure is at the heart of the question of judicial dialogue and normative interactions.

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