

## Interview with Pierre Pescatore: national judges and Community judges (Luxembourg, 12 November 2003)

**Source:** .

**Copyright:** (c) Translation CVCE.EU by UNI.LU

All rights of reproduction, of public communication, of adaptation, of distribution or of dissemination via Internet, internal network or any other means are strictly reserved in all countries.

Consult the legal notice and the terms and conditions of use regarding this site.

**URL:**

[http://www.cvce.eu/obj/interview\\_with\\_pierre\\_pescatore\\_national\\_judges\\_and\\_community\\_judges\\_luxembourg\\_12\\_november\\_2003-en-f3376e04-3ad5-460c-8e86-305c30e61fc7.html](http://www.cvce.eu/obj/interview_with_pierre_pescatore_national_judges_and_community_judges_luxembourg_12_november_2003-en-f3376e04-3ad5-460c-8e86-305c30e61fc7.html)



**Last updated:** 24/11/2016

## Interview with Pierre Pescatore: national judges and Community judges (Luxembourg, 12 November 2003)

[Susana Muñoz] Could you explain and illustrate for us the different roles of national and Community judges and the relationship between the national and Community courts?

[Pierre Pescatore] To answer that question, we need to look back at the legislative and judicial systems of the Community as a whole. Community law is intended to be incorporated into national law, and that applies in particular to all the rules that have been identified as having direct effect within the national legal systems. Community law therefore differs from international law, which forms a layer of law above the states; it is law designed to be integrated into the legal system that applies in the territory of the Member States. Consequently, the court of first instance under Community law is not the Court of Justice but the national court; it identifies both the issues and the rules that have direct effect within its legal order. The Court of Justice has always said that it is not the Court of Justice itself, but the national court, the ordinary court that is the court of first instance under Community law.

It is via the preliminary ruling procedure that matters are referred to the Court of Justice and addressed, but this time within the broader context. Unlike the national court, the Court of Justice is familiar not only with the national legal system within which a legal issue arises, it is also familiar with the legal systems of the other Member States, and above all it is familiar with general Community law. As a result, the Community court has available to it sources of information to which the national court has no access. The Court of Justice may hear governments or the Commission — which submits to the Court an overview of a problem that has arisen in a given Member State but is of interest for the Community as a whole. So you will understand that the functions and horizons of national and Community court are very different.

The national court must tackle the case referred to it within its jurisdiction: it may be an administrative court, a tax tribunal, a commercial court, and far more rarely a civil court, but quite frequently a criminal court; and that will amaze you. Why a criminal court? Because, generally speaking, the rules governing business law provide for criminal penalties, and so the rule of Community law makes its appearance through criminal law.

Then that is all referred up to the Court of Justice, which delivers its judgment in the light of the additional information with which it can provide the national court, particularly with a view to the Community's global order.