

ECJ: No Ruling on Defendant's Right to Participate via Videoconference

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In its judgment in the *Joined Cases C-255/23 and C-285/23 (AVVA and Others)*, the ECJ clarified on 6 June 2024 that it will not rule on the question whether Union law confers defendants a right to participate at trial remotely via videoconference. The requests for a preliminary ruling stem from the Economic court in Latica which tries offences of organised large-scale fraud and money laundering. The court requested interpretation of Directive 2014/41 regarding the European Investigation Order (EIO) and Directive 2016/343 on the presumption of innocence because defendants in the main criminal proceedings, who reside in Lithuania and Germany respectively, claimed that they have a right to participate at trial via videoconference (without an EIO being issued).

Given that the referring court continued the hearings against the defendants in the main proceedings after the launch of the reference for preliminary ruling, the ECJ found that there is no need to rule on the request anymore. After the reference for a preliminary ruling, national courts can only continue the main proceedings to carry out procedural acts which concern aspects not linked to the questions referred. However, the procedural steps taken by the Economic court at issue have been steps that prevent the court from complying with a possible ECJ judgment.

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