

(English version)

**Question for written answer E-000091/26
to the Commission
Christine Anderson (ESN)
(13 January 2026)**

Subject: Application of Article 80(1) of the GDPR in Germany and status of complaint CHAP(2020)3321

Under Article 80(1) of Regulation (EU) 2016/679 data subjects are entitled to representation by a body, organisation or association within the meaning of Article 80(1) of the GDPR. According to the established case law of the Court of Justice, national procedural rules must not impair the practical effectiveness of Union law and, under Article 267(3) TFEU, courts of last instance are obliged to refer matters of interpretation of Union law that are relevant to the decision of the Court of Justice.

1. In its processing of complaint CHAP(2020)3321, did the Commission explicitly examine whether the requirement of legal representation in court proceedings in Germany impairs the practical effectiveness of Article 80(1) GDPR — in particular with regard to costs, access to legal representation and the actual possibility of being represented by an association in court — and what judgment did it reach?
2. In its assessment of possible systematic infringements, does the Commission also take into account the repeated refusal by national courts of last instance to make referrals under Article 267(3) TFEU despite doubts raised under EU law, and does it consider such a practice to be, in principle, a potential grounds for infringement proceedings?
3. What is the current state of play in complaint CHAP(2020)3321 (e.g. ongoing examination, pre-closure phase, EU Pilot, preparation of formal proceedings) and what specific legal or factual elements does the Commission believe still need to be examined before a decision can be taken on whether to initiate proceedings under Article 258 TFEU?

Submitted: 13.1.2026

**Answer given by Mr McGrath on behalf of the European Commission
(22 April 2026)**

The complaint procedure referred to is still pending. The Commission cannot offer further details at this stage.

Following the case law of the Court of Justice on Article 267 of the Treaty on the Functioning of the European Union, national courts may refer questions regarding the interpretation of EU law to the Court of Justice and must do so if they are courts of last instance.

However, courts of last instance are not required to request a preliminary ruling from the Court of Justice in cases where the question posed is irrelevant, where the EU legislation has already been interpreted by the Court of Justice, or where the application of EU law is clear and leaves no room for reasonable doubt ⁽¹⁾.

⁽¹⁾ See also judgment of 23 November 2001, C-564/19, IS, ECLI:EU:C:2021:949, p.61 and Judgment of the Court (Grand Chamber) of 24 March 2026 in Case C-767/23: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62023CJ0767&qid=1774375930787>.