Dutch Preliminary Ruling procedure

In 2012, Dutch law introduced a national preliminary ruling procedure. Based on that procedure, lower courts can submit questions to the Dutch Supreme Court. In complex legal matters, judges Court in first instance (district courts) or second instance (courts of appeal) can refer legal issues to the Supreme. In this way, it can become clear at an early stage in proceedings how a particular legal issue should be interpreted, without appealing or cassation. The preliminary questions should only concern legal issues that are relevant to a large number of possible other cases in which the same issue may arise. Moreover, the answer to the question must be relevant to the case pending before the court asking the question.

If the Supreme Court decides to answer the questions, parties and (after approval of the Supreme Court) third parties may submit comments to the Supreme Court on the questions asked. Once the Supreme Court has answered the questions, the court who asked the questions resumes handling the case. Once that court has decided any appeals and/or cassation may be filed through the regular route.

This contribution discusses this preliminary ruling procedure. Why was this option introduced? Is it used frequently? What kind of questions have been asked? Is the preliminary ruling procedure considered as a success? Are there options for improvement?

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