

Case C-196/09

Paul Miles and Others

v

European Schools

(Reference for a preliminary ruling from the Complaints Board of the European Schools)

(Reference for a preliminary ruling — Concept of ‘court or tribunal of a Member State’ within the meaning of Article 267 TFEU — Complaints Board of the European Schools — System of remuneration of teachers seconded to the European Schools — No adjustment of remuneration following depreciation in sterling — Compatibility with Articles 18 TFEU and 45 TFEU)

Opinion of Advocate General Sharpston delivered on 16 December 2010 . . .	I - 5107
Judgment of the Court (Grand Chamber), 14 June 2011	I - 5139

Summary of the Judgment

Preliminary rulings — Reference to the Court — National court or tribunal for the purposes of Article 267 TFEU
(Art. 267 TFEU)

The Court of Justice has no jurisdiction to rule on a reference for a preliminary ruling from the Complaints Board of the European Schools.

In order to determine whether a body making a reference is a court or tribunal for the purposes of Article 267 TFEU, which is a question governed by European Union law alone, the Court takes account of a number of factors, such as whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is *inter partes*, whether it applies rules of law and whether it is independent.

Although, as all the parties intervening in this case observed, the Complaints Board

meets all those criteria and must, therefore, be deemed to be a 'court or tribunal' within the meaning of Article 267 TFEU, it falls within the remit, not of 'a Member State' but of the European Schools, which constitute, as the first and second recitals of the European Schools' Convention state, a '*sui generis*' system, which achieves, by means of an international agreement, a form of cooperation between the Member States and between those States and the European Union. It is thus a body of an international organisation which, despite the functional links which it has with the Union, remains formally distinct from it and from those Member States. In those circumstances, the mere fact that the Complaints Board is required to apply the general principles of Union law when it has a dispute before it is not sufficient to make the Board fall within the definition of 'court or tribunal of a Member State' and thus within the scope of Article 267 TFEU.

(see paras 37-39, 42-43, 46, operative part)