

1. Are the judges under a legal obligation to motivate their decisions ?

Is this obligation contained in the Constitution, a law, a regulation, an international convention (European Convention on human rights - International treaty of the U.N. on civil and political rights) ?

If so, please quote the legal text.

2. Which legal acts must state their motives ?

Judgments, sentences, rulings made on a petition, in legal aid cases, decisions of the judicial administration ?

3. What does this obligation consist of ?

- Is it sufficient for the judge to point out motives, even if these are not related to the decision.
- Does a bad motive suffice ?
- Is it sufficient for the judge to state the motives which support his decision, without taking into account the arguments put forward by the parties (in support of their claim - in support of the defence) ?
- Does the judge have to respond to the arguments put forward by the parties, either in support of their claim or in support of the defence ?

4. Why does a judgment have to be motivated ?

- to convince ?
- to justify the decision ?
- as a guarantee against arbitrariness ?
- because it is a basic principle to all judicial acts (general principle of law) ?

5. What is the bearing of these motives ?

- a) when these constitute the necessary support of the judgment (legal force) ?
- b) of all other motives than those mentioned under a) ?
- c) what is their bearing with regard to jurisprudence ?

6. What about the reasoning behind the motivation ?

Is it syllogistical (major, minor, conclusion) ?

If so, what does every term contain (legal rules - facts) ?

7. Is the reasoning which supports the decision of a judge in the Court of cassation (Supreme court), the same as the reasoning used by the lower judges ?

8. Which measure is taken in case of a lack of motives ?
Who controls the enforcement of the obligation to motivate ?

9. Once a decision is passed, is that decision binding to other judges :

- a) of the same court, in the same case, when the trial must still be continued in order to reach a final decision ?
- b) of a lower jurisdiction, in the same case, when after a decision of the judge of appeal on the appeal against an interlocutory judgment, the trial goes on till a final decision.
- c) of all other jurisdictions, in other cases, mainly with regard to the motives ? This question tends to ascertain the bearing of jurisprudence in general.