The Preliminary Ruling Procedure under Article 267 TFEU and Ukraine's EU Accession: Cassation Filters, Judicial Hierarchy and the Duty to Refer

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Abstract

The preliminary ruling procedure under Article 267 TFEU connects the independence of national courts with the uniform interpretation of EU law. This article examines the independent exercise of the power to refer, the duty of courts of last instance to give reasons for non-referral, and the application of preliminary rulings in national proceedings. Drawing on CILFIT, Consorzio Italian Management, KUBERA, Remling, Lyckeskog, Puligienica and Ministerul Finanțelor, together with the case-law of the European Court of Human Rights, the analysis focuses on the interaction between national judicial hierarchy and the requirements of EU law.

The Ukrainian analysis identifies three procedural tensions: the non-equivalence of Supreme Court conclusions to acte éclairé, the potential conflict between mandatory transfers under Article 346 and the power to refer directly or apply CJEU rulings, and the relationship between Article 328 cassation filters and the identification of courts of last instance under Lyckeskog, particularly where an unresolved EU-law question may fall within the fundamental-importance exception. The article also proposes amendments to the Code of Administrative Justice and the Law on the Judiciary and the Status of Judges, distinguishing those needed to avoid conflict with EU law from those that would serve legal certainty. A four-stage assessment organises these claims for judicial practice.

Keywords: Article 267 TFEU; preliminary ruling procedure; Ukraine; cassation filters; judicial independence; judicial hierarchy; duty to give reasons; CJEU case-law; EU accession; acte clair.

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1. Introduction: judicial independence and the allocation of interpretative authority

Article 267 TFEU establishes a system of cooperation in which the Court of Justice rules on the interpretation of EU law and the validity of Union acts, while the national court identifies the issue arising from the proceedings, establishes the facts and gives judgment. The reference procedure secures uniform interpretation without creating an appellate jurisdiction over domestic judgments [2; 3].

A national judge exercising the power of reference must be able to identify an issue of Union law independently, including where national case-law appears settled. Equally, national courts of last instance are subject to the Treaty obligation to refer when its conditions are met. The Ukrainian question is how existing rules on cassation review, binding directions on remittal and departure from Supreme Court conclusions can operate without impairing the powers conferred on national courts by Article 267 TFEU upon accession [2; 10; 13; 63–65].

Subject to distinct procedural grounds of inadmissibility, a court of last instance may decline to refer a question of EU-law interpretation where it is immaterial to the outcome, resolved by the Court of Justice's case-law, or sufficiently clear under CILFIT. The decision must identify the ground relied on, while the national court retains responsibility for resolving the domestic dispute [5–8].

Previous research has examined consistency of case-law and departure from Supreme Court conclusions [83; 96], cassation filters [97], and the institutional dimensions of Ukraine's pre-accession judicial dialogue with the CJEU [77]. This study examines whether Ukrainian rules on cassation admissibility, transfers between judicial formations and binding directions on remittal would comply with Article 267 TFEU after accession.

2. Research context, methodology and sources

The research questions were informed by the EJTN advanced programme The Preliminary Ruling Procedure: Strengthening the Dialogue Between National Courts and the CJEU (AD/2026/09), held in Luxembourg on 22–23 October 2026 in cooperation with the Court of Justice. The programme addressed the practical operation of Article 267 TFEU, judicial independence, admissibility, drafting techniques and the use of preliminary rulings [1; 32–37]. The EJTN sessions helped identify the practical questions examined here; the legal conclusions are grounded in judicial decisions, legislation and scholarly research.

The method is doctrinal and comparative. EU-law judgments, Advocate General Opinions and secondary literature are distinguished by their authority. Strasbourg decisions are considered within Article 6 ECHR. The Ukrainian material falls into two groups. The first shows how European sources already enter Ukrainian proceedings through other formations of the Supreme Court: a judgment on Article 264 of the Association Agreement [61], a Grand Chamber judgment applying Article 2(11) of the Law on the Electricity Market [75], and judicial follow-up to two advisory-opinion requests under Protocol No. 16 [79–80]. The second comprises seven published acts of the Administrative Cassation Court from 2023–2026 in which the author served as

judge-rapporteur [54–59; 94]. They concern the mechanisms examined here: cassation admissibility, Supreme Court conclusions, transfer to the Grand Chamber and the duty to give reasons. Most concern domestic procedure rather than EU law; they are illustrative, not a representative sample.

Ukrainian scholarship has examined the reception of EU law and CJEU case-law in Ukraine [50; 51; 67–68], the contested legal authority of CJEU judgments [70], their relevance to administrative procedure [71] and the preliminary-reference procedure itself [52]. Fuley's study of repeated and legally irrelevant citations of Van Duyn [69] is closest to the concern of this article: the quality of judicial reliance on EU sources.

Sections 3 and 5 examine cassation filters, courts of last instance and EU-law constraints on judicial hierarchy, while Section 9 applies these findings to Ukrainian procedure.

3. The legal structure of the reference: competence, duty and exception

Article 267 TFEU concerns questions of EU-law interpretation or validity arising in pending national proceedings. A national court may refer where it considers an answer necessary to give judgment. The question must fall within the Court's jurisdiction and have a real connection with the dispute; the admissibility of a particular request is analytically separate from whether a final-instance court is obliged to refer. Under the third paragraph of Article 267 TFEU ('Article 267(3)') [2], a court against whose decisions there is no judicial remedy under national law must, in principle, refer a necessary question of EU-law interpretation, unless one of the exceptions recognised in the Court's case-law applies [2; 5–6]. Earlier judgments cited here interpret the same provision in its previous numbering as Article 177 EEC or Article 234 EC.

CILFIT and Consorzio identify the circumstances in which a final-instance court may decide a question of interpretation without a reference: an answer cannot affect the outcome; established Court of Justice case-law resolves the point (acte éclairé); or the interpretation is so clear that no reasonable doubt remains (acte clair). The evaluation of clarity takes account of the particular features of EU law and the risk of divergent interpretations. These questions arise after the court has established the relevance of EU law to the proceedings [5; 6].

The CILFIT exceptions concern interpretation, whereas challenges to the validity of Union acts are governed by a different rule: under Foto-Frost, national courts may reject an unfounded challenge to validity, but cannot themselves declare an act of an EU institution invalid. Where a national court considers such an act invalid, a question of validity must be referred to the Union judicature, subject to the established procedural framework [2; 62].

Consorzio Italian Management reaffirmed the CILFIT approach and specified what the reasons of a court of last instance must disclose when it decides not to refer. They must indicate whether the issue is irrelevant, resolved by the Court's case-law, or so clear that no reasonable doubt exists [6, paras. 33–51]. The parties can then identify, and contest, the ground relied on.

Advocate General Michal Bobek proposed a different emphasis in his Opinion in Consorzio, directed towards the general importance of questions and the possibility of divergent interpretations. The Court retained the CILFIT approach [6; 24]. His argument nevertheless identifies a practical concern: a doctrine framed by the absence of reasonable doubt must operate in a multilingual legal order whose complexity and caseload have grown substantially. Ukrainian law already uses similar criteria: 'fundamental importance for uniform case-law' in Article 328(5)(2)(a) of the Code and the criteria of an exceptional legal problem [31; 94]. After accession they could still filter cases domestically, but they could not replace the CILFIT test for the duty to refer.

The legal authority of CJEU judgments should not be equated without qualification with the common-law doctrine of binding precedent. As Shtefan observes, the identification of judgments having precedential significance remains contested, particularly when their procedural origin and subsequent use by the Court are considered [70]. The distinction relevant here is between the binding effect of the preliminary ruling in the proceedings concerned and the broader authority of the interpretation of EU law established by the Court. For the purposes of acte éclairé, the decisive inquiry is whether existing CJEU case-law adequately resolves the material question, rather than whether the earlier judgment arose from an identical national dispute [5–6].

In KUBERA, the Court held that a court of last instance applying a leave-to-appeal test based on the legal significance of the question raised must assess its obligation under Article 267(3) before refusing leave where the application raises a material question concerning the interpretation or validity of EU law [7, paras. 55–60]. This does not require a preliminary reference whenever EU law is invoked.

A domestic cassation filter selects the appeals which may proceed under national law; the EU-law duty to refer governs the handling of necessary questions by a court of last instance. The two requirements serve different purposes and, upon accession, would have to be applied together. KUBERA provides the appropriate point of comparison with the Ukrainian procedural order in case no. 440/12524/23 [7; 56].

The identity of the court of last instance also requires attention. In Lyckeskog, C-99/00, the Court held that an appellate judgment remains subject to a judicial remedy where an appeal to the supreme court is possible but examination on the merits requires leave. The supreme court must address its Article 267(3) obligation at the admissibility stage or later [89, paras. 16–18]. In Ukrainian administrative procedure the issue arises in cases of minor complexity and other cases decided under the simplified procedure. Article 328(5)(2) of the Code excludes them from cassation review unless the appeal raises a question of law of fundamental importance for uniform case-law, the appellant cannot rebut in other proceedings the facts established by the contested decision, the case is of significant public interest or of exceptional importance for the appellant, or the case was wrongly classified [31].

Where review is available through statutory exceptions, the Supreme Court must assess any Article 267(3) obligation at the admissibility stage independently of whether the

Article 328(5)(2)(a) exception permits admission. That exception may nevertheless provide a domestic route for reviewing a material, unresolved EU-law question [7; 8, paras. 24–25; 89; 97]. Where no further appeal lies, for example against orders not listed in Article 328(2)–(3), the court whose decision is final bears the duty under Article 267(3) itself. The Constitutional Court of Ukraine has joined constitutional complaints concerning subparagraphs (a) and (c) [93], and its decision may affect the design of this filter.

Millet examines how the duty to give reasons makes compliance with the reference obligation more open to review [42, pp. 22–34]. Nilsson shows that the duty currently arises mainly from party requests and contends that Article 267(3) should require final courts to explain non-referral of their own motion [43]. Remling moves in that direction: the duty may arise where a party relies on EU law without requesting a reference, and where the court must raise a binding EU-law point of its own motion [8, paras. 29–31]. Whether a party has expressly and sufficiently substantiated a request for referral is relevant to the separate assessment under Article 6 ECHR [22, para. 42].

Bobić's critique of KUBERA draws attention to the institutional cost of close supervision of national final courts and to the place of trust within judicial cooperation [44, pp. 747–760]. That concern warrants attention, but KUBERA preserves national cassation filters while requiring an assessment of the Article 267(3) obligation where a material EU-law question arises [7; 44].

4. Remling and the limits of summary reasons

Remling, C-767/23, arose from Dutch immigration proceedings in which a final-instance court could dismiss an appeal by summary reasons, even though the party relied on EU law. The Court of Justice held that a summary procedure may be retained, but a final-instance court must state specifically and concretely why a recognised ground for non-referral applies where a material EU-law issue arises [8, paras. 24, 32, 38]. The requirement may arise although the party has not expressly asked for a preliminary ruling; it may also arise where the court is required to consider a mandatory EU-law issue of its own motion [8, paras. 29–31].

The EJTN presentation on judicial dialogue also addressed the active role of courts in establishing facts, particularly in administrative proceedings [33, slide 14]. Article 9(4) of the Ukrainian Code requires administrative courts to take the measures prescribed by law to establish the facts, including obtaining evidence on their own initiative [31]. This provision does not itself establish a general duty to raise EU-law questions ex officio; that duty must be assessed under the applicable rules of EU law [8, paras. 29–31].

The judgment draws a useful distinction among the grounds for non-referral. If the issue is immaterial to the outcome, a brief explanation may ordinarily suffice. If the question is materially identical to one already answered, identification of the relevant judgment may be adequate; a less exact analogy may require further reasoning. A conclusion of acte clair will generally need fuller reasons addressing the characteristics of EU law and the possible divergence of interpretation [8, paras. 35–37]. The Court also permits a final-instance court expressly to adopt the lower court's reasons,

provided that those reasons adequately establish one of the recognised grounds for non-referral [8, para. 33].

Advocate General Ćapeta had proposed that summary reasoning would suffice without identifying the CILFIT ground [25, paras. 69, 84]; the Court required the reasons to show which ground applies [8, paras. 32, 38].

The Court also preserved the distinct treatment of inadmissibility grounds specific to the domestic proceedings, subject to equivalence and effectiveness [8, para. 25]. Accordingly, the reasoning required at an admissibility stage should be analysed by reference to the precise procedural situation and the material EU-law question. Remling clarifies the demands already developed in Consorzio and KUBERA and explains their operation in the context of abbreviated reasons [6–8].

5. Judicial independence as a condition of judicial dialogue

Judicial independence is an institutional condition of the Article 267 system. In Associação Sindical dos Juízes Portugueses, the Court linked independent national adjudication to effective judicial protection under Article 19(1) TEU and identified independence as essential to cooperation under Article 267 [13, paras. 42–44]. The relevant safeguard extends to all national courts entitled to refer.

Rheinmühlen-Düsseldorf established that a national lower court's power to seek an interpretation of EU law cannot be taken away by a domestic rule making it legally bound by the assessment of a higher court [63]. Elchinov and Križan developed the same protection in proceedings following appellate or constitutional review: the lower court, including on remittal, must retain the possibility of seeking an interpretation needed for the case [10; 64].

Elchinov goes further: after receiving the Court of Justice's interpretation, the referring court must, where necessary, disregard a higher court's directions that are incompatible with EU law [10, paras. 29–32]. The principle protects not only access to the preliminary ruling procedure but also the effectiveness of the answer in the national proceedings.

Cartesio, IS and RS address related institutional constraints, including national proceedings directed against an order for reference and the prospect of disciplinary consequences for seeking or giving effect to EU-law interpretation [9; 11; 12]. The practical freedom to refer would be weakened if the judge were exposed to retaliation for exercising that jurisdiction. Respect for judgments of higher national courts and safeguards for independent judicial assessment must therefore be considered together.

Ministerul Finanțelor, C-606/24, concerns a national mechanism for securing consistency in judicial interpretation. The Court held that Article 19(1) TEU, read with Article 47 of the Charter, did not preclude Romanian legislation requiring certain courts to suspend proceedings and seek, or await, a national supreme-court decision on a previously unresolved point of law [14, paras. 58–75, 82]. The mechanism served consistency and was held not to impair judicial independence. The Court also required the domestic mechanism to preserve the effective exercise of Article 267 powers [14, paras. 77–80]. In Puligienica, C-689/13, the Grand Chamber held that Article 267

TFEU precludes a national rule which, where a chamber of a court of last instance disagrees with the position of that court sitting in plenary session on an EU-law issue, requires referral of the question to the plenary session and prevents the chamber from referring directly to the Court of Justice [84, paras. 32–36]. Puligienica precludes making a mandatory referral to another national formation a prerequisite for, or an obstacle to, a direct reference [84, paras. 34–36].

Hann-Invest confirms that internal case-law coordination must not allow persons outside the adjudicating panel to control its decision [109].

A distinct issue concerning constitutional review arose in Melki and Abdeli, C-188/10 and C-189/10, where the Court held that a priority constitutional-review procedure is compatible with Article 267 only if ordinary courts remain free to refer at any stage and to disapply national provisions contrary to EU law [95, paras. 47 and 57]. Ukrainian law follows a different model. Under Article 7(4) of the Code, a court that finds a statute unconstitutional does not apply it, applies the Constitution directly and, after deciding the case, asks the Supreme Court to consider a constitutional submission [31]; whether to make the submission is decided by the Plenum of the Supreme Court [65, Art. 46(2)(5)]. Plenum Resolution No. 2 of 23 January 2026, concerning provisions of the Law on Court Fee found unconstitutional by a panel of the Administrative Cassation Court in case no. 440/8929/24, is a recent example [103]. The Plenum's Rules of Procedure provide for examination of constitutional initiatives [110], while Resolution No. 6 of 22 March 2024 illustrates a refusal [114]. The institutional relationship between ordinary courts and the Constitutional Court has also been examined in Ukrainian scholarship [115]. Unlike a preliminary reference under Article 267 TFEU, the Ukrainian constitutional-submission procedure follows the national judgment and involves institutional review. It must therefore remain distinct from the independent power of the court hearing the case to refer directly to the Court of Justice [84; 95].

Accession is likely to raise the question of a constitutional basis for the primacy of EU law. Under Article 9 of the Constitution, ratified treaties form part of national legislation, and a treaty contrary to the Constitution may be concluded only after the Constitution has been amended [30]. Whether an amendment is needed, or the accession treaty and constitutional interpretation suffice, is for the constitutional legislator and the Constitutional Court to decide. The Rome Statute provides a distinct example of constitutional adaptation. In 2001 the Constitutional Court found provisions of the Rome Statute on the complementary jurisdiction of the International Criminal Court incompatible with Article 124 of the Constitution [104]; the amendment permitting recognition of the International Criminal Court’s jurisdiction took effect on 30 June 2019, and the Statute was ratified in 2024 [105]. Article 157(2) of the Constitution prohibits constitutional amendments during martial law or a state of emergency. Any amendment found necessary for EU accession must respect that constitutional restriction [30]. Ukrainian administrative case-law and a separate judicial opinion identify three grounds potentially relevant to the non-application of a statute, although their legal bases and scope differ: unconstitutionality under Article 7(4) of the Code, conflict with a higher-ranking act or a ratified treaty under Article

7(3) and (5), and failure to meet the ‘quality of law’ standard [102; 107]. Unlike those domestic grounds, EU-law primacy also covers secondary legislation, which is not ratified by the Verkhovna Rada and falls outside Article 7(5) of the Code. After accession, expressly recognising applicable EU law in Article 7 would improve procedural clarity without resolving its constitutional implications. Disapplication of conflicting national provisions would remain subject to EU-law requirements, including direct effect where necessary. Commission v Poland, which concerned a constitutional court’s ultra vires review of the Court of Justice’s case-law, shows how sensitive that relationship can become [106]. Article 4(2) TEU requires respect for Member States’ constitutional identities, but does not permit unilateral derogation from EU law. For Ukraine, this reinforces the importance of addressing constitutional questions through the accession process and judicial dialogue [106, paras. 223–229].

The case-law on independence also concerns the legal status of the referring body. Altabas and Monciunskaite distinguish the substantive safeguards under Article 19(1) TEU from the Article 267 conditions for recognising an institution as a court or tribunal, drawing on Banco de Santander, Getin Noble Bank and L.G. [45; 46].

6. The Convention perspective: why the reasons matter

Where Article 6 ECHR applies, it requires national courts to address sufficiently substantiated and material submissions concerning a preliminary reference in a manner consistent with the right to a fair hearing. In Ullens de Schooten and Rezabek, Strasbourg examined the adequacy of the domestic court’s treatment of such a request rather than purporting to interpret EU law itself [17, paras. 60–62]. This inquiry is distinct from the obligation imposed on final-instance courts by Article 267 TFEU.

Dhahbi and Schipani concerned inadequate judicial responses to material requests, while Sanofi Pasteur further addressed the sufficiency of reasons advanced for non-referral [18; 19; 21]. The Convention assessment proceeds from the arguments actually raised, the procedural position of the court and the reasons given in the decision as a whole.

In Baydar, the ECtHR accepted summary reasoning in the circumstances of the case [20, paras. 48, 51]. In Gondert, concerning leave to appeal before the German Federal Court of Justice, the ECtHR held that a refusal of an express and substantiated request for a preliminary reference must at least identify the applicable CILFIT criterion [22, para. 44]. In De Simone v Germany, the ECtHR found no corresponding duty under Article 6 where the applicant had not requested a reference or substantiated its necessity [81, paras. 28 and 33]. Remling establishes a broader EU-law obligation: a final-instance court may have to explain non-referral even without an express request from the parties [8, paras. 28–31].

Bio Farmland Betriebs S.R.L. v Romania adds an administrative-law example. The applicant challenged an agricultural support sanction and argued that the final-instance court had failed to explain the refusal of its proposed reference. The ECtHR found a violation of Article 6 § 1, examining the national court's failure to give adequate reasons concerning the requested reference [39].

The Convention does not guarantee, as such, a right to have a case referred to the Court of Justice; a refusal may breach Article 6 § 1 only where it is arbitrary, in particular where it is not duly reasoned [17, para. 57; 20, para. 39; 21, para. 69]. The Registry's Key Theme on this case-law, which does not bind the Court, also records that the reasons may be inferred from the judgment as a whole, from a reference to an earlier decision of the same court, or from endorsement of lower-court reasons that addressed the CILFIT criteria [22, para. 38; 23]. This matters for Ukrainian refusals under Article 333(1)(6) of the Code, which typically rely on an earlier Supreme Court conclusion.

Costello analyses the wider constitutional implications of Strasbourg supervision of non-referral, using the term 'shadow constitutional court' as an academic characterisation [47]. The ECtHR's jurisdiction remains grounded in the Convention; its findings do not substitute for a binding interpretation of EU law from the Court of Justice. For Ukrainian courts, the immediate standard remains the duty to give adequate reasons under domestic procedural law and Article 6 ECHR.

7. Failure to refer: consequences and institutional responsibility

The consequences of a failure to refer must be situated within their distinct legal frameworks. Köbler and Traghetti del Mediterraneo concern Member State liability for a sufficiently serious breach of EU law attributable to a national court of last instance; a failure to refer or inadequate reasons alone do not establish State liability [15; 16].

Ferreira da Silva e Brito, C-160/14, also defines the limits of acte clair. Contradictory decisions of lower courts do not by themselves oblige a court of last instance to refer, and that court may regard its own, different interpretation as beyond reasonable doubt [26, paras. 41–42]. The duty nevertheless applied where conflicting lines of national case-law coincided with a concept that frequently gave rise to difficulties of interpretation in various Member States [26, paras. 43–45]. On compensation, EU law precludes a rule making State liability conditional on the prior setting aside of the judicial decision, where such setting aside is in practice impossible [26, para. 60]. The first holding has a Ukrainian parallel: deep and long-standing divergences in case-law are among the criteria of an exceptional legal problem [94, para. 50], so after accession the same divergence may engage both a transfer under Article 346(5) and the Article 267(3) duty.

In Ferreira da Silva e Brito II, C-293/24, the Grand Chamber examined the seriousness of a judicial breach by reference to CJEU case-law existing when the contested national judgment was delivered. The Court treated three circumstances as contributing to a sufficiently serious breach: a combination of errors of interpretation assessed against the case-law the national court could reasonably be expected to know, disregard of the obligation to refer, and the national court's awareness of a pending reference on the same methodological point [27]. In BX, C-163/24, the Grand Chamber held that failure to refer alone is insufficient to establish State liability: the breached EU-law rule must confer rights on individuals, which the agricultural provisions examined in that case did not [66].

In Commission v France, the Court held a Member State in breach of the third paragraph of Article 267 TFEU because its supreme administrative court, adjudicating

at last instance, had failed to refer [28]. A damages action under the Köbler line, a Treaty infringement action and an individual disciplinary process rest on different legal bases. Their requirements should be assessed separately when considering the consequences of a judicial error or refusal to refer.

A court's legal reasoning may be corrected on appeal, reconsidered after a judgment of the Court of Justice, or assessed within the strict conditions for State liability. A later disagreement over legal interpretation alone cannot establish disciplinary misconduct. The CCJE has emphasised that a reasoned departure from established case-law, made in good faith, should not attract disciplinary sanctions or adversely affect judicial evaluation [85, para. 39]. The established standards require an inquiry into the legal position at the time of judgment, the nature of the obligation breached, the materiality of the error and the applicable remedial framework. Legal certainty and an independent judicial function would both be weakened if the results of later proceedings were treated as automatic proof of personal fault.

The separation already has a Ukrainian point of contact. Under Article 106(1)(1)(b) of the Law on the Judiciary and the Status of Judges, an intentional or negligent failure to state the reasons for accepting or rejecting the parties' arguments on the merits is a disciplinary ground, while under Article 106(2) the setting aside or amendment of a decision does not in itself entail disciplinary liability [65]. After accession, a failure to address a substantiated request for a reference could be framed under the first provision. IS and RS mark the limit: disciplinary proceedings may not be used against a judge for making a reference or giving effect to EU law as interpreted by the Court of Justice [11; 12]. Ukrainian disciplinary practice will therefore have to separate an absence of reasons from disagreement with reasons actually given [85, para. 39].

8. The quality of a reference and the duty after the answer

A reference under Article 267 must identify the material facts, the applicable national legal framework, the relevant EU-law provisions and the reasons why an answer is necessary. Article 94 of the Court of Justice Rules of Procedure and the 2024 Recommendations set out the requirements [3; 4]. A request that fails to provide that context may prevent the Court from giving an answer useful in the national proceedings.

Questions should concern the interpretation or validity of EU law rather than invite the Court of Justice to determine the validity of national legislation or resolve the domestic dispute. The request must provide sufficient legal and factual context both for a useful ruling and for observations by the participants entitled to intervene [3–4; 35, slides 4 and 8–9].

The national court determines the facts and chooses the domestic procedural outcome within its competence. It must therefore formulate a legal question connected to the dispute, maintain an adequate record and apply the preliminary ruling in deciding the case. The Court of Justice rules on the EU-law issue within its jurisdiction; its response does not dispose of the national proceedings [2–4].

The EJTN materials, particularly the sessions on drafting and legal research, offered practical illustrations of how deficiencies in the factual account, national-law

explanation or identification of the disputed EU-law provision can undermine a request [1; 35]. The governing requirements, however, are those of the Rules of Procedure and official Recommendations. Anonymisation and precise identification of the referring court also form part of proper preparation [3; 4].

During preliminary ruling proceedings, the referring court must maintain effective cooperation with the Court of Justice, respond to requests for clarification and inform it of procedural developments that may affect the need for a ruling. Such continuing cooperation is particularly important where the underlying dispute changes or ceases to be pending [3; 34, slide 6]. Once the Court of Justice has given its answer, the referring court must apply the authoritative interpretation to the material issues before it and give reasons for the judgment.

Applying a preliminary ruling in pending proceedings differs from reopening a final decision. In Kapferer, the Court held that EU law does not generally require a national court to set aside a final judicial decision contrary to EU law [86, paras. 20–24]. Kühne & Heitz, concerning the reconsideration of a final administrative decision, identifies exceptional conditions under which EU law may require administrative authorities to review their decisions [87, paras. 27–28]. Ukraine should therefore address the implementation of preliminary rulings in pending proceedings separately from the rules governing final judgments and administrative decisions [72].

Reliable use of CJEU case-law requires more than identifying a relevant judgment. The judge must establish the precise EU-law provision interpreted, the legal question answered, the material context of the ruling and whether subsequent case-law has qualified that interpretation. The distinction between a judgment that merely cites a provision and one that actually interprets it is particularly important. The Court's Research and Documentation Directorate demonstrates how searches by legal provision and by the operative part of judgments can help identify decisions in which the relevant rule was substantively interpreted, rather than mentioned incidentally [36].

Where the meaning of a provision is disputed, relevant authentic language versions must also be considered. The practical guides prepared by Komarova and Lazowski, and by Komarova and Anakina, provide useful Ukrainian-language support for this method of judicial research [73–74]. These research skills will also be essential to applying Article 267 and the CILFIT standard after accession [3; 5–6].

Since October 2024, the General Court may decide preliminary references in specified fields under Article 50b of the Statute, although requests are still submitted through the Court of Justice [29; 53]. The referring court remains responsible for deciding the national dispute [3].

Empirical studies of Belgian highest courts and Czech preliminary references show that judicial dialogue also reflects institutional considerations and national judges' own interpretative approaches [48; 49].

9. Ukraine: existing judicial practice and preparation for EU membership

9.1. Existing forms of judicial dialogue

Ukraine is not yet an EU Member State and its courts cannot make references under Article 267 TFEU. Ukraine was one of the ten States in which Protocol No. 16 to the ECHR entered into force on 1 August 2018, following its ratification under Law No. 2156-VIII of 5 October 2017 [88; 91]. The Supreme Court, designated as the requesting court, has since gained practical experience of judicial dialogue through this mechanism.

In cases nos. 607/15144/20 and 240/3843/24, the Supreme Court sought advisory opinions from the ECtHR and subsequently took procedural or judicial steps following the Court's answers [79–80]. This experience is relevant to the preparation of judicial requests, the management of pending proceedings and the domestic follow-up to a European court's response. The distinction remains fundamental: Protocol No. 16 opinions are non-binding and available only to designated highest courts, whereas Article 267 TFEU establishes a different system of judicial cooperation and legal effects [2; 88].

Case no. 240/3843/24 also shows the procedural steps involved. On 4 December 2025 a chamber of the Administrative Cassation Court requested an advisory opinion and suspended the proceedings; the Grand Chamber of the ECtHR delivered its opinion on 29 September 2026, the Supreme Court received it on 1 October and resumed the proceedings on 7 October 2026 under Article 237 of the Code [31; 80].

Negotiations on Cluster 1 (Fundamentals), including Chapter 23 on the judiciary and fundamental rights, opened on 15 June 2026; Cluster 6 (External Relations) followed on 14 July, and Clusters 2 and 3 on 13 October 2026 [38; 40; 82; 116]. For the judiciary, accession preparation now calls for a focused review of procedural rules, judicial training and access to authoritative EU-law sources.

9.2. Domestic judicial mechanisms and EU-law requirements

Ukrainian administrative procedure already regulates lawful and reasoned judicial decisions and employs rules directed towards consistency of case-law. Article 242(5) of the Code of Administrative Justice requires courts to take account of Supreme Court conclusions concerning the application of law. Article 13(6) of the Law on the Judiciary and the Status of Judges uses a corresponding formulation; that law separately prescribes the binding effect of such conclusions for public authorities applying the legislation concerned [31; 65]. For courts, Supreme Court conclusions are not formally binding precedents but carry considerable procedural weight: failure to take account of a relevant conclusion may support cassation under Article 328(4)(1), while compliance may justify refusal to open proceedings under Article 333(1)(6), subject to statutory conditions [31; 65]. Within the Supreme Court, departure from an earlier conclusion is governed by the transfer procedure under Articles 346–347 [31].

The Supreme Court's Supreme LAB database records referrals to judicial chambers and the Grand Chamber, including their grounds and procedural outcomes [112]. Its separate Legal Positions Database facilitates access to judicial conclusions and related decisions [113]. These resources support transparency and analysis of domestic mechanisms for maintaining consistency of case-law.

Consistency of case-law is the common purpose of both systems. Article 267 exists to secure the uniform interpretation of EU law [2; 5], and the Supreme Court is required by law to ensure the stability and unity of case-law [65, Art. 36(1)]. Consistency is not absolute: departure is justified by weighty reasons, such as a change in legislation, a decision of the Constitutional Court or of a European court, or the need to correct the court's own error [96; 102]. After accession, a preliminary ruling would become one more such reason, and the Ukrainian mechanisms for consistency would help to carry the answer quickly through the court system. Tools for searching and classifying case-law, including AI-assisted ones, can support that task if they remain under judicial control [98].

Transfer is mandatory where a panel intends to depart from a conclusion of its own chamber, another chamber, another cassation court or the Grand Chamber (Article 346(1)–(4)), and discretionary where the case raises an exceptional legal problem (Article 346(5)) [31; 94, para. 48]. After accession, Article 346(4) must not make transfer to the Grand Chamber a precondition for a necessary preliminary reference on an EU-law question [84, paras. 32–36]. After a preliminary ruling, domestic transfers may support consistency of case-law but cannot make application of the Court of Justice's interpretation conditional on Grand Chamber approval [10, paras. 29–32; 84, paras. 34–36]. The adjudicating panel should explain why any conflicting earlier conclusion no longer governs the EU-law issue. A transfer concerns the determination of a domestic case by another formation; a reference concerns the interpretation or validity of EU law, after which the referring court still decides the dispute [2; 31].

Article 290 of the Code provides a further Ukrainian mechanism for securing consistency: the Supreme Court may decide a model case where numerous similar administrative disputes are pending [31]. Unlike Article 267 TFEU, this procedure concerns the adjudication of a domestic dispute rather than an interpretative question referred to a supranational court. Its relevance lies in Ukraine's existing experience of coordinating judicial interpretation without requiring every similar case to reach cassation.

Before accession, the relevance of CJEU case-law in Ukrainian proceedings may arise through distinct legal routes. In the field of public procurement, Article 153(2) of the Association Agreement requires corresponding CJEU case-law to be taken into account during legislative approximation. This does not establish a general obligation for Ukrainian courts to apply all CJEU judgments [60]. Article 264 of the Association Agreement provides for the use of relevant CJEU case-law in interpreting specified State-aid provisions, while Article 322 establishes a distinct mechanism for obtaining interpretations from the Court of Justice in certain disputes between the Parties [60].

Ukrainian legislation may also expressly require consideration of EU case-law: Article 2(11) of the Law on the Electricity Market provides an example, applied by the Grand Chamber of the Supreme Court in case no. 910/9627/20 [75–76]. These routes must be distinguished from voluntary comparative reliance on EU judgments and from the preliminary-reference jurisdiction that will become available to Ukrainian courts upon accession.

The Supreme Court judgment of 24 October 2023 in case no. 640/17296/20, delivered by another panel, refers expressly to Article 264 in its discussion of State aid and the relevance of EU legal materials [61, paras. 37–39]. It is a concrete example of Treaty-based interpretative relevance before membership. Its legal basis differs from the comparative use of EU judicial-independence case-law in domestic disputes governed by Ukrainian constitutional law.

In case no. 240/5787/24, the Supreme Court examined judicial remuneration and independence with reference to Ukrainian constitutional provisions and the Court of Justice judgment in XL and Others, joined cases C-146/23 and C-374/23 [54, paras. 42–48; 108]. The Court expressly referred to the preamble and Article 2 of the Association Agreement when treating CJEU case-law as authoritative interpretative guidance [54, para. 48]. This comparative reliance did not displace the applicable Ukrainian constitutional and statutory provisions or establish the binding force of the cited EU judgment.

The quality of judicial reliance on CJEU case-law in Ukraine can be assessed through three questions: what domestic or international rule governs the dispute and establishes the relevance of the cited EU-law material [30; 31; 60]; what precise legal proposition follows from the cited judgment; and how that proposition affects the resolution of the dispute. The Supreme Court's consideration of Article 264 of the Association Agreement in case no. 640/17296/20 illustrates the importance of identifying the applicable legal basis [61]. Fuley's examination of the widespread Ukrainian citation of Van Duyn demonstrates the risk of reproducing an authoritative quotation without verifying its relevance [69]. Comparative reliance on CJEU case-law may reinforce judicial reasoning but cannot replace the identification and application of the governing Ukrainian law.

Ukrainian law distinguishes the duty to take account of Supreme Court legal conclusions under Article 242(5) from the binding force of the reasons and conclusions underlying a cassation judgment when a case is reheard under Article 353(5) [31; 65]. Article 353(6) already limits those directions: the cassation court may not prescribe which rule of substantive law the lower court must apply or what decision it must reach. This safeguard reduces, but does not eliminate, the potential tension identified in Elchinov. After accession, the binding reasons under Article 353(5) could not prevent a lower court from making a necessary reference or giving effect to the Court of Justice's interpretation [10; 31]. Ministerul Finanțelor confirms the point for a national mechanism of binding supreme-court rulings: a court deciding after such a ruling cannot be bound by it if, in the light of the Court of Justice’s interpretation, it considers the ruling inconsistent with EU law [14, para. 79]. The same reasoning would apply to Supreme Court conclusions under Article 242(5) of the Code. The exception is confined to the EU-law question answered by the Court of Justice; on all other issues the remittal directions keep their binding force, and the judicial hierarchy remains intact.

The procedural order of 15 July 2026 in case no. 440/12524/23 illustrates the Ukrainian cassation filter for cases of minor complexity [56]. Another provision merits comparison: Article 333(2) of the Code permits refusal of cassation review of certain

interlocutory orders where the correct application of a legal rule is obvious and raises no reasonable doubt [31]. Its wording resembles the absence-of-reasonable-doubt element of acte clair, but Article 333(2) is a narrowly defined national admissibility rule, not an application of CILFIT. Article 333(4) separately requires reasons for refusing to open cassation proceedings [31]. After accession, the domestic ground for refusal and any applicable EU-law duty to refer would require separate assessment, consistently with KUBERA and Remling [7; 8].

A useful domestic comparison, without legal equivalence to acte éclairé, is Article 333(1)(6) of the Code: the Supreme Court refuses to open cassation proceedings where it has already stated a conclusion on the application of the rule in similar legal relationships and the appellate court followed it, unless the Supreme Court considers departure necessary [31]. The test presupposes comparable relationships; in case no. 140/12748/24 the Court held that a Grand Chamber model-case conclusion governed the supplement claim but not the recalculation claim, and remitted the case [57, paras. 58–60]. After accession, an earlier Supreme Court conclusion concerning a question governed by EU law could not substitute for acte éclairé or discharge an applicable obligation under Article 267(3). Where that obligation arises, a refusal order must identify the domestic admissibility ground and explain the basis for non-referral; reasons may be concise where the question is irrelevant or already answered, while acte clair generally requires fuller justification [5–8; 31].

Strengthening compliance with the duty to give reasons requires sound legal research, consistent citation practice and explanation of the relevance of prior Supreme Court conclusions. In cases turning on EU-derived provisions of applicable domestic law, judges should identify the domestic legal basis before using comparative European sources.

Three further Administrative Cassation Court judgments illustrate the duties to address material arguments [55, paras. 67–73], respect the limits of review [58, paras. 88–93] and give reasons when reviewing public action [59, paras. 96–105].

The European Commission's Ukraine Reports for 2025 and 2026 identify persistent judicial staffing and institutional-capacity challenges, with the latter reporting a further deterioration in judicial vacancies [41; 117]. In preparing for accession, these constraints must be considered alongside the additional demands of EU-law research, multilingual interpretation and preliminary-reference proceedings.

According to the Supreme Court's 2025 report, the Administrative Cassation Court received 56,112 cassation appeals and disposed of 55,743 cassation appeals and cases during the year. At the end of 2025, 44 of its 56 judicial positions were filled [90]. These figures explain the operational importance of admissibility filters and concise judicial reasoning, although they do not determine the legal standard applicable to an EU-law question.

As Koen Lenaerts observed, ‘the primary address for citizens and undertakings for obtaining legal protection is the national judge’ [92]. Preparation for Article 267 TFEU must therefore extend beyond the Supreme Court to Ukraine's first-instance and appellate courts. Their role will be particularly important in identifying questions of

EU law at an early stage of proceedings, even where a subsequent cassation appeal may be unavailable.

9.3. Procedural and legislative preparation

Two stages of preparation should be distinguished. Before membership, a review of administrative, civil and commercial procedural rules should identify any proven gap in the treatment of EU-derived arguments or case-law consistency. Upon membership, domestic procedure will need to accommodate requests under Article 267, the handling of pending proceedings, parties' submissions and the implementation of the Court of Justice's answer. Within the accession framework, Ukraine should retain discretion over procedural design, subject to the EU-law principles of equivalence and effectiveness [2–4; 8, para. 25; 72].

Safeguards are necessary where mandatory transfers, remittal directions or Supreme Court conclusions would obstruct Article 267 powers or compliance with CJEU rulings [10; 63; 84]. Separately, legal certainty would benefit from expressly addressing the application of EU law in Article 7 of the Code; regulating direct preliminary references, including the form of the reference order and the referring court's ability to maintain its reference [9]; providing for suspension under Article 236 and resumption under Article 237 [31; 80]; and clarifying reasons for non-referral under Articles 242 and 333(4) [6; 8]. Safeguards should also prevent disciplinary measures imposed solely for making a preliminary reference or giving effect to the Court of Justice's interpretation [11; 12]. Reopening final judgments under Article 361 remains a separate issue [86].

For cassation proceedings, the review should focus on the relationship between statutory admissibility and a material question of EU law. The Code already supplies reasons for allowing or refusing cassation review and provides rules for the treatment of Supreme Court legal conclusions [31]. The issues to assess after accession are whether the last-instance court can independently identify the Treaty question at the admissibility stage and whether its reasons reveal a lawful basis for non-referral under CILFIT, Consorzio, KUBERA and Remling [5–8].

Ukraine's Law No. 3477-IV of 23 February 2006 offers an existing legislative model for translation, publication and judicial use of European case-law [111]. Its institutional experience may inform preparation for applying CJEU judgments, provided that their distinct legal effects are respected and the application of EU law is not made conditional upon domestic recognition or translation.

Ukraine's preparation for Article 267 TFEU would benefit from three measures: reliable Ukrainian translations of the 2024 Recommendations and leading CJEU judgments, clearly identified as unofficial; judicial training in assessing the need for a reference and drafting questions under Article 94 of the Rules of Procedure; and regular use of the Court's Research and Documentation Directorate resources to follow preliminary rulings and their domestic implementation [3–8; 36]. The EJTN drafting exercises offer a practical training model.

9.4. Judicial research, AI and institutional capacity

AI tools could support the Article 267 workflow, especially in high-volume admissibility review. A specialised assistant could identify material EU-law questions, retrieve relevant CJEU judgments, check draft references against Article 94 and flag missing reasons for non-referral [3; 4; 8]. Such assistance requires verified sources, secure processing, auditable outputs and judicial control [98]. A public-facing cassation-filter assistant illustrates a separate use case outside confidential case processing [99]. The risk of fictitious citations is illustrated by two Supreme Court orders concerning non-existent judgments [100; 101].

Effective compliance with Article 267 TFEU also requires, in practical terms, reliable access to current CJEU case-law. When assessing whether an interpretation has already been provided (acte éclairé) or whether the correct application of EU law leaves no reasonable doubt (acte clair), national courts need to identify relevant judgments, examine their reasoning and consider subsequent developments in the case-law. For Ukraine, this supports the development of a freely accessible, Ukrainian-language research platform complementing, rather than duplicating, official resources such as InfoCuria and EUR-Lex. Such a platform could provide multilingual search, citation verification, tracking of subsequent case-law and AI-assisted identification of potentially relevant legal questions. It should preserve direct links to authoritative texts, clearly distinguish verified judicial findings from AI-generated analysis and require human verification of AI-assisted outputs. The purpose would be to facilitate judicial research, training and reasoned decision-making, without changing the legal conditions governing preliminary references under Article 267 TFEU or transferring judicial responsibility to automated systems.

Comparative research covering ten Member States indicates that Article 267 TFEU does not require uniform domestic procedural arrangements [72]. National rules differ on suspension, procedural deadlines and interim relief. Ukraine should determine which of its existing rules can be retained and which require adjustment, taking account of the referring court's independent powers [10; 14; 63].

Institutional preparation should address identifiable judicial needs: access to current authentic versions of EU instruments and judgments, reliable legal translation, terminological consistency and tools for verifying the status of cited authorities. The multilingual character of preliminary ruling proceedings, illustrated by Muiris O'Connor's EJTN presentation, makes legal-linguistic expertise an integral element of effective judicial cooperation [37]. Such support can improve compliance with present Ukrainian duties to give reasons while preparing for future preliminary-reference proceedings [3; 31; 41].

Parties' submissions should distinguish a disputed fact from a question of EU-law interpretation, identify the applicable national and EU-law provisions, and explain why the answer matters. Better-framed questions make it easier for the court to decide whether an actual reference is required and to give legally adequate reasons for its procedural choice [3; 4].

10. A four-stage framework for Ukrainian administrative courts

For Ukrainian administrative courts, the proposed framework consists of four inquiries. The first identifies the legal basis and temporal scope of EU law in the dispute. The second determines whether domestic rules on Supreme Court conclusions, transfers and binding reasons on remittal preserve the judge's freedom to refer. The third separates national cassation-admissibility requirements from the grounds for non-referral recognised in CILFIT, Consorzio, KUBERA and Remling. The fourth examines how the national court will implement the preliminary ruling in the pending proceedings. The relevant Ukrainian provisions include Articles 242, 328, 333, 346–347 and 353 of the Code [2; 5–10; 14; 31; 84; 89].

An impediment to making a reference raises the guarantees protecting judicial independence and Article 267 powers; insufficient reasons raise the obligations developed in Consorzio and Remling; failure to apply an authoritative ruling may concern the effectiveness of Union law and the available review or liability mechanisms [6–16; 27].

The framework must also be workable in courts handling substantial caseloads. KUBERA does not require a reference whenever EU law is mentioned, and Remling does not demand lengthy reasons in every case. What matters is whether the court has identified a necessary question of EU law and, where applicable, explained a recognised ground for deciding it without a reference [7; 8; 44].

Under current Ukrainian law, the assessment is whether the national court has given adequate reasons under existing procedural law, including its treatment of prior Supreme Court conclusions [31; 65]. The future EU-law assessment adds the question whether a final-instance court has complied with Article 267 when a necessary EU-law issue arises. The two inquiries can be kept distinct while forming part of the same judicial decision.

Consider a post-accession case of minor complexity involving national legislation implementing an EU directive. The first-instance court identifies the applicable EU-law provision and assesses whether a reference is necessary, notwithstanding an existing Supreme Court conclusion. If cassation is sought, the Supreme Court assesses admissibility under Article 328(5)(2)(a) separately from any duty under Article 267(3). Where a preliminary ruling is obtained, the referring court applies the Court of Justice's interpretation when deciding the case [5–8; 31].

The Code already provides for model cases, departure from established legal conclusions, transfers to the Grand Chamber and binding cassation reasons on remittal. Accession preparation should determine where these mechanisms can operate unchanged and where safeguards are needed to preserve an independent reference under Article 267 TFEU. Particular attention should be paid to the distinction between declining cassation review under national law and declining a necessary preliminary reference under EU law [7; 8; 10; 14; 31].

Conclusion

The analysis supports three claims about Ukrainian cassation procedure after accession.

First, cassation filters do not themselves displace Article 267(3). A prior Supreme Court conclusion under Article 333(1)(6) is not, by itself, acte éclairé. Where a material EU-law question arises, the court must assess any referral obligation independently and, if declining to refer, identify the applicable ground under CILFIT and Remling.

Second, the mechanisms for consistency remain, but they cannot prevent a reference. Where mandatory transfer under Article 346(1)–(4) would obstruct a necessary preliminary reference, the panel's power under Article 267 must prevail, consistently with Puligienica. Remittal reasons under Article 353(5) and Supreme Court conclusions under Article 242(5) must yield to the Court of Justice's interpretation, as Elchinov and Ministerul Finanțelor confirm. On other questions they keep their force, and the ruling gives the Supreme Court a ground to align its case-law.

Third, the court of last instance must be identified as in Lyckeskog. Where a cassation appeal invokes the fundamental-importance exception under Article 328(5)(2)(a), the Supreme Court must assess that national admissibility ground separately from any obligation under Article 267(3). Where no further judicial remedy exists, the court whose decision is final bears that obligation.

The legislative changes are limited. Safeguards preventing mandatory transfers and binding domestic judicial directions from obstructing Article 267 powers or the application of CJEU rulings are needed to avoid conflicts with EU law. Express recognition of EU law in Article 7 of the Code and the remaining proposals would strengthen legal certainty. Whether primacy also requires a constitutional amendment is for the constitutional legislator; the Rome Statute shows that Ukraine has taken that route before.

Ukraine has relevant experience. Its Supreme Court has used the advisory-opinion procedure under Protocol No. 16 to the ECHR, while Ukrainian procedural law already provides for model cases, the resolution of exceptional legal problems and mechanisms for maintaining consistent case-law. These institutions are not substitutes for Article 267 TFEU, but they provide a foundation for preparation.

The proposed four-stage assessment offers a means of reviewing existing procedural rules before accession. Constitutional amendments, if found necessary, must respect Article 157(2) during martial law. Judicially controlled AI tools may assist legal research and verification, but decisions to refer, and reasons for non-referral, must remain judicial.

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Declarations

Authorial position and potential interests. The author is a judge of the Administrative Cassation Court of the Supreme Court (Ukraine) and a scientific expert of CEPEJ-GT-CYBERJUST. The views expressed are solely those of the author and do not represent the official position of the Supreme Court, the Court of Justice of the European Union, the Council of Europe or EJTN.

Judicial participation and source material. The author served as judge-rapporteur in the seven Ukrainian judicial acts discussed in Section 2 [54–59; 94], the additional orders [100; 101] and the judgment [107], and authored the separate opinion [102]. Two of the cited judgments, cases nos. 240/5787/24 and 380/10696/21, concerned judicial remuneration; they are discussed solely for their method of reasoning, not for their outcome [54; 107]. The study relies on published judicial decisions and other publicly available materials. It does not disclose confidential judicial deliberations or express a predetermined position on pending proceedings. English summaries of Ukrainian judgments are the author's own.

Use of generative AI

ChatGPT and Claude (Anthropic) were used as auxiliary research and editorial tools for linguistic revision, structural editing, identification of repetition and inconsistencies, bibliographic organisation, and consideration of alternative formulations of selected research questions and analytical passages. The disclosure draws on the task-based transparency approach proposed in the Generative AI Delegation Taxonomy (GAIDeT) [78].

The author independently determined the research approach, assessed AI-assisted suggestions, verified the legal sources and retained responsibility for the interpretation of case-law, the proposed analytical framework and the conclusions. The use of AI did not replace the author's independent scholarly judgment.

References

All URLs were last accessed on 10 November 2026.

1. EUROPEAN JUDICIAL TRAINING NETWORK. The Preliminary Ruling Procedure: Strengthening the Dialogue Between National Courts and the CJEU – Advanced. AD/2026/09. Luxembourg, 22–23 October 2026. Programme. URL: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

2. EUROPEAN UNION. Consolidated version of the Treaty on the Functioning of the European Union. Art. 267. OJ C 202. 7 June 2016. URL: https://eur-lex.europa.eu/eli/treaty/tfeu_2016/art_267/oj/eng

3. COURT OF JUSTICE OF THE EUROPEAN UNION. Recommendations to National Courts and Tribunals in Relation to the Initiation of Preliminary Ruling Proceedings. C/2024/6008. OJ C. 9 October 2024. URL: https://eur-lex.europa.eu/eli/C/2024/6008/oj/eng

4. COURT OF JUSTICE OF THE EUROPEAN UNION. Rules of Procedure of the Court of Justice of 25 September 2012. Consolidated version of 17 June 2026, incorporating the amendments of 2 June 2026. URL: https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-08/rdp-cour-en.pdf

5. COURT OF JUSTICE. Judgment of 6 October 1982. CILFIT and Others. Case 283/81. ECLI:EU:C:1982:335. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61981CJ0283

6. COURT OF JUSTICE. Judgment of 6 October 2021. Consorzio Italian Management and Catania Multiservizi. Case C-561/19. ECLI:EU:C:2021:799. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62019CJ0561

7. COURT OF JUSTICE. Judgment of 15 October 2024. KUBERA. Case C-144/23. ECLI:EU:C:2024:881. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62023CJ0144

8. COURT OF JUSTICE. Judgment of 24 March 2026. Remling. Case C-767/23. ECLI:EU:C:2026:243. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62023CJ0767

9. COURT OF JUSTICE. Judgment of 16 December 2008. Cartesio. Case C-210/06. ECLI:EU:C:2008:723. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62006CJ0210

10. COURT OF JUSTICE. Judgment of 5 October 2010. Elchinov. Case C-173/09. ECLI:EU:C:2010:581. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62009CJ0173

11. COURT OF JUSTICE. Judgment of 23 November 2021. IS (Illegality of the Order for Reference). Case C-564/19. ECLI:EU:C:2021:949. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62019CJ0564

12. COURT OF JUSTICE. Judgment of 22 February 2022. RS (Effect of the Decisions of a Constitutional Court). Case C-430/21. ECLI:EU:C:2022:99. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CJ0430

13. COURT OF JUSTICE. Judgment of 27 February 2018. Associação Sindical dos Juízes Portugueses. Case C-64/16. ECLI:EU:C:2018:117. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62016CJ0064

14. COURT OF JUSTICE. Judgment of 3 September 2026. XY and Others v Ministerul Finanțelor. Case C-606/24. ECLI:EU:C:2026:686. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62024CJ0606

15. COURT OF JUSTICE. Judgment of 30 September 2003. Köbler v Republik Österreich. Case C-224/01. ECLI:EU:C:2003:513. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62001CJ0224

16. COURT OF JUSTICE. Judgment of 13 June 2006. Traghetti del Mediterraneo. Case C-173/03. ECLI:EU:C:2006:391. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62003CJ0173

17. EUROPEAN COURT OF HUMAN RIGHTS. Ullens de Schooten and Rezabek v Belgium. Judgment of 20 September 2011. Applications nos. 3989/07 and 38353/07. URL: https://hudoc.echr.coe.int/eng?i=001-108382

18. EUROPEAN COURT OF HUMAN RIGHTS. Dhahbi v Italy. Judgment of 8 April 2014. Application no. 17120/09. URL: https://hudoc.echr.coe.int/eng?i=001-142504

19. EUROPEAN COURT OF HUMAN RIGHTS. Schipani and Others v Italy. Judgment of 21 July 2015. Application no. 38369/09. URL: https://hudoc.echr.coe.int/eng?i=001-156258

20. EUROPEAN COURT OF HUMAN RIGHTS. Baydar v Netherlands. Judgment of 24 April 2018. Application no. 55385/14. URL: https://hudoc.echr.coe.int/eng?i=001-182454

21. EUROPEAN COURT OF HUMAN RIGHTS. Sanofi Pasteur v France. Judgment of 13 February 2020. Application no. 25137/16. URL: https://hudoc.echr.coe.int/eng?i=001-201432

22. EUROPEAN COURT OF HUMAN RIGHTS. Gondert v Germany. Judgment of 16 December 2025. Application no. 34701/21. URL: https://hudoc.echr.coe.int/eng?i=001-247860

23. EUROPEAN COURT OF HUMAN RIGHTS. Key Theme – Article 6 (Civil): The Obligation to Give Reasons for a Refusal to Make a Preliminary Reference to the Court of Justice of the European Union. Knowledge Sharing Platform. Last updated: 28 February 2026. URL: https://ks.echr.coe.int/documents/d/echr-ks/refusals-to-request-a-preliminary-reference-to-the-cjeu

24. BOBEK, Michal. Opinion of the Advocate General of 15 April 2021. Consorzio Italian Management. Case C-561/19. ECLI:EU:C:2021:291. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62019CC0561

25. ĆAPETA, Tamara. Opinion of the Advocate General of 26 June 2025. Remling. Case C-767/23. ECLI:EU:C:2025:486. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62023CC0767

26. COURT OF JUSTICE. Judgment of 9 September 2015. Ferreira da Silva e Brito and Others. Case C-160/14. ECLI:EU:C:2015:565. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62014CJ0160

27. COURT OF JUSTICE. Judgment of 8 September 2026. Ferreira da Silva e Brito and Others (II). Case C-293/24. ECLI:EU:C:2026:723. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62024CJ0293

28. COURT OF JUSTICE. Judgment of 4 October 2018. Commission v France. Case C-416/17. ECLI:EU:C:2018:811. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CJ0416

29. EUROPEAN PARLIAMENT AND COUNCIL. Regulation (EU, Euratom) 2024/2019 of 11 April 2024 amending Protocol No 3 on the Statute of the Court of Justice of the European Union. Official Journal of the European Union. OJ L, 2024/2019, 12 August 2024. URL: https://eur-lex.europa.eu/eli/reg/2024/2019/oj/eng

30. UKRAINE. Constitution of Ukraine of 28 June 1996. URL: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text (in Ukrainian).

31. UKRAINE. Code of Administrative Justice of Ukraine. Law no. 2747-IV of 6 July 2005. URL: https://zakon.rada.gov.ua/laws/show/2747-15#Text (in Ukrainian).

32. STERCK, Julien. The Preliminary Ruling Procedure: General Presentation. Presentation at EJTN AD/2026/09. Luxembourg, 22–23 October 2026. 38 slides. Training Catalogue: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

33. MEDINA, Laila. Judicial Dialogue under Preliminary Reference Proceedings. Training presentation at EJTN AD/2026/09. Luxembourg, 22–23 October 2026. 22 slides. EJTN Online Training Catalogue. URL: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

34. ADAM, Stanislas. The Position of the National Court Before and After the Reference: A Continuous Quest for the Integrity and Effectiveness of the Preliminary Reference Procedure. EJTN AD/2026/09. Luxembourg, 22 October 2026. 9 slides. Training Catalogue: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

35. DI BELLA, Cesare. A View from Luxembourg: Good Practices and Common Mistakes in Drafting a Reference. EJTN AD/2026/09. Luxembourg, 22 October 2026. 12 slides. Training Catalogue: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

36. COURT OF JUSTICE OF THE EUROPEAN UNION, Research and Documentation Directorate. The Research and Documentation Directorate and Curia's Search Tools. Training presentation at EJTN AD/2026/09. Luxembourg, 22–23 October 2026. 43 slides. EJTN Online Training Catalogue. URL: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

37. O'CONNOR, Muiris. The Role of Languages and Translation in Proceedings before the Court of Justice. EJTN AD/2026/09. Luxembourg, 22–23 October 2026. 19 slides. Training Catalogue: https://catalogue.ejtn.eu/seminars-and-webinars/listing/2655-the-preliminary-ruling-procedure-strengthening-the-dialogue-between-national-courts-and-the-cjeu-advanced

38. EUROPEAN COMMISSION. Ukraine's Path towards EU Accession. Official information portal. URL: https://commission.europa.eu/topics/eu-solidarity-ukraine/ukraines-path-towards-eu-accession_en

39. EUROPEAN COURT OF HUMAN RIGHTS. Bio Farmland Betriebs S.R.L. v Romania. Judgment of 13 July 2021. Application no. 43639/17. URL: https://hudoc.echr.coe.int/eng?i=001-211308

40. COUNCIL OF THE EUROPEAN UNION. Enlargement: EU Opens Accession Negotiations with Ukraine on Internal Market, Competitiveness and Inclusive Growth. Press release, 13 October 2026. URL: https://www.consilium.europa.eu/en/press/press-releases/2026/10/13/enlargement-eu-opens-accession-negotiations-with-ukraine-on-internal-market-competitiveness-and-inclusive-growth

41. EUROPEAN COMMISSION. Ukraine 2025 Report. Commission Staff Working Document SWD(2025) 759 final, Brussels, 4 November 2025. Chapter 23: Judiciary and Fundamental Rights. URL: https://enlargement.ec.europa.eu/document/download/17115494-8122-4d10-8a06-2cf275eecde7_en?filename=ukraine-report-2025.pdf

42. MILLET, François-Xavier. From the Duty to Refer to the Duty to State Reasons: The Past, Present and Future of the Preliminary Reference Procedure. European Journal of Legal Studies. 2023. Vol. 15. CJEU Special Issue (3). P. 7–36. DOI: https://doi.org/10.2924/EJLS.2023CJEU.002. URL: https://hdl.handle.net/1814/76139

43. NILSSON, Isak. Why National Courts Must Explain Non-Referral: The Preliminary Ruling Procedure and the Duty to Give Reasons. Nordic Journal of European Law. 2026. Vol. 9, No. 1. P. 1–24. DOI: https://doi.org/10.36969/njel.v9i1.28259

44. BOBIĆ, Ana. The Court of Justice and the Governor's Dilemma: KUBERA trgovanje s hrano in pijačo doo v Slovenia. European Law Review. 2025. Vol. 50, No. 6. P. 747–760. URL: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5892844

45. ALTABAS, Ana. Judicial Independence Under Article 19(1) TEU and Article 267 TFEU: Untangling the Gordian Knot. Croatian Yearbook of European Law and Policy. 2025. Vol. 21. P. 145–174. DOI: https://doi.org/10.3935/cyelp.21.2025.600. URL: https://hrcak.srce.hr/file/501343

46. MONCIUNSKAITE, Beatrice. The Shifting Landscape of Judicial Independence Criteria Under the Preliminary Reference Procedure. Hague Journal on the Rule of Law. 2025. Vol. 17. P. 95–116. DOI: https://doi.org/10.1007/s40803-024-00243-2. URL: https://link.springer.com/content/pdf/10.1007/s40803-024-00243-2.pdf

47. COSTELLO, Róisín Áine. Strasbourg's Consideration of Article 267 TFEU and the ECtHR as a Shadow Constitutional Court of the European Union. German Law Journal. 2026. Vol. 27, No. 4. P. 537–555. DOI: https://doi.org/10.1017/glj.2026.10227

48. JAREMBA, Urszula; KAPPÉ, Marleen. The Unfolding Story of Judicial Dialogue in the EU: The Coercive and Persuasive Motives Behind the Participation of Belgian Highest Courts in the Preliminary Ruling Procedure. German Law Journal. 2024. Vol. 25, No. 5. P. 690–706. DOI: https://doi.org/10.1017/glj.2024.9

49. PIVODA, Marek; VLČEK, Filip. Mobilising Judicial Voices: How and Why National Courts Express Their Opinions in the Preliminary Reference Procedure – A Case Study of Czechia. JCMS: Journal of Common Market Studies. 2026. P. 1–30. DOI: https://doi.org/10.1111/jcms.70082

50. HALETSKA, Nataliya; SAVCHUK, Anastasiia. Court of Justice of the European Union and Ukrainian Legal Order: Some Pre-accession Considerations. Review of European and Comparative Law. 2023. Vol. 55, No. 4. P. 85–111. DOI: https://doi.org/10.31743/recl.16641

51. KHOTYNSKA-NOR, O. Z.; STEFANCHUK, M. M.; PLAKHOTNIK, O. V. Vplyv praktyky Sudu spravedlyvosti Yevropeiskoho Soiuzu na rozvytok ukrainskoho pravosuddia ta yii znachennia dlia natsionalnoi sudovoi systemy v konteksti yevropeiskoi intehratsii [The Impact of CJEU Case-Law on the Development of Ukrainian Justice and Its Significance for the National Judicial System in the Context of European Integration]. Visnyk kryminalnoho sudochynstva [Bulletin of Criminal Justice]. 2026. No. 2. P. 293–310. DOI: https://doi.org/10.59835/2413-5372.2026.2/293-310 (in Ukrainian).

52. KOSTIUCHENKO, Ya. Poperednie zvernennia natsionalnykh sudiv do Sudu YeS yak instrument zabezpechennia verkhovenstva prava Yevropeiskoho Soiuzu [Preliminary References by National Courts to the Court of Justice as an Instrument for Ensuring the Rule of EU Law]. Analitychno-porivnialne pravoznavstvo [Analytical and Comparative Jurisprudence]. 2025. No. 5, Part 3. P. 335–341. DOI: https://doi.org/10.24144/2788-6018.2025.05.3.49 (in Ukrainian).

53. EUROPEAN UNION. Protocol (No 3) on the Statute of the Court of Justice of the European Union. Article 50b. Consolidated version of 1 September 2024. URL: https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-08/statut_cour_en.pdf

54. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 30 September 2026, case no. 240/5787/24, paras. 42–48 (judicial remuneration, independence and comparative CJEU case-law). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/140207851 (in Ukrainian).

55. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 11 September 2023, case no. 420/14943/21, paras. 40–73 (reasoned administrative action and judicial justification). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/113405942 (in Ukrainian).

56. SUPREME COURT (UKRAINE), Administrative Cassation Court. Order of 15 July 2026, case no. 440/12524/23 (admissibility of cassation appeal in cases of minor complexity). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/138279422 (in Ukrainian).

57. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 20 October 2026, case no. 140/12748/24 (pension recalculation, model-case precedent and distinct claims). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/140777524 (in Ukrainian).

58. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 16 September 2026, case no. 280/10250/25, paras. 88–93 (limits of appellate and cassation review under Articles 308 and 341 of the Code of Administrative Justice). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/139800327 (in Ukrainian).

59. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 15 December 2023, case no. 380/12348/22, including paras. 96–105 (judicial review and reasons). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/115722476 (in Ukrainian).

60. EUROPEAN UNION AND UKRAINE. Association Agreement between Ukraine, of the One Part, and the European Union, the European Atomic Energy Community and Their Member States, of the Other Part. Signed 27 June 2014. Arts. 153(2), 264, 322. URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (in Ukrainian).

61. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 24 October 2023, case no. 640/17296/20, paras. 37–39 (Article 264 of the Association Agreement and State-aid interpretation). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/114433021 (in Ukrainian).

62. COURT OF JUSTICE. Judgment of 22 October 1987. Foto-Frost v Hauptzollamt Lübeck-Ost. Case 314/85. ECLI:EU:C:1987:452. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61985CJ0314

63. COURT OF JUSTICE. Judgment of 16 January 1974. Rheinmühlen-Düsseldorf v Einfuhr- und Vorratsstelle für Getreide und Futtermittel. Case 166/73. ECLI:EU:C:1974:3. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61973CJ0166

64. COURT OF JUSTICE. Judgment of 15 January 2013. Križan and Others v Slovenská inšpekcia životného prostredia. Case C-416/10. ECLI:EU:C:2013:8. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62010CJ0416

65. UKRAINE. Law on the Judiciary and the Status of Judges, no. 1402-VIII of 2 June 2016. Arts. 13(5)–(6), 36(1), 46(2)(5), 106. URL: https://zakon.rada.gov.ua/laws/show/1402-19#Text (in Ukrainian).

66. COURT OF JUSTICE. Judgment of 8 September 2026. BX v Statul Român – Ministerul Finanțelor Publice and Curtea de Apel Bucureşti. Case C-163/24. ECLI:EU:C:2026:722. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62024CJ0163

67. PETROV, Roman. The Impact of the Court of Justice of the European Union on the Legal System of Ukraine. Pravo Ukrainy [Law of Ukraine]. 2019. No. 6. P. 53–68. DOI: https://doi.org/10.33498/louu-2019-06-053

68. SMYRNOVA, K. V. Pravozastosuvannia Uhody pro asotsiatsiiu z YeS u pravoporiadku Ukrainy: sudova praktyka [Application of the EU–Ukraine Association Agreement in the Ukrainian Legal Order: Judicial Practice]. Pravo Ukrainy [Law of Ukraine]. 2024. No. 7. P. 13–22. DOI: https://doi.org/10.33498/louu-2024-07-013 (in Ukrainian).

69. FULEY, T. I. Zastosuvannia rishen Sudu spravedlyvosti Yevropeiskoho Soiuzu sudamy Ukrainy: fenomen spravy Yvonne van Duyn v Home Office [Application of Judgments of the Court of Justice of the European Union by Ukrainian Courts: The Phenomenon of Yvonne van Duyn v Home Office]. Pravo Ukrainy [Law of Ukraine]. 2024. No. 3. P. 103–120. DOI: https://doi.org/10.33498/louu-2024-03-103 (in Ukrainian).

70. SHTEFAN, A. S. Pretsedentne pravo Sudu YeS: problema vyznachennia yurydychnoi syly [CJEU Case Law: The Problem of Determining Its Legal Authority]. Nauka i pravookhorona [Science and Law Enforcement]. 2025. Issue 3 (69). P. 66–73. DOI: https://doi.org/10.33270/0525693.7 (in Ukrainian).

71. BLAZHIVSKA, N. Ye. Rozghliad sudamy Ukrainy administratyvnykh sprav z urakhuvanniam praktyky Sudu spravedlyvosti Yevropeiskoho Soiuzu ta Yevropeiskoho sudu z prav liudyny: do pytannia pro udoskonalennia protsesualnykh mekhanizmiv [Consideration of Administrative Cases by Ukrainian Courts in Light of the Case Law of the Court of Justice of the European Union and the European Court of Human Rights: Improving Procedural Mechanisms]. In: Administratyvne sudochynstvo Ukrainy: pytannia teorii i praktyky [Administrative Justice in Ukraine: Theory and Practice]. Kyiv: Kompaniia VAITE, 2025. P. 339–346. URL: https://court.gov.ua/storage/portal/supreme/rizne/Monograf_Admin_sud_vo.pdf (in Ukrainian).

72. RESEARCH SERVICE OF THE VERKHOVNA RADA OF UKRAINE. Analitychna zapyska z pytan porivnialnoho zakonodavstva shchodo vzaiemodii natsionalnykh sudiv iz Sudom YeS [Comparative Legal Analysis of the Interaction Between National Courts and the Court of Justice of the European Union]. No. 08/2026. 2026. 95 p. URL: https://research.rada.gov.ua/print/78134.html (in Ukrainian).

73. KOMAROVA, T. V.; ŁAZOWSKI, A. Sudova praktyka Sudu spravedlyvosti YeS z pytan verkhovenstva prava ta yii znachennia dlia Ukrainy [Case Law of the Court of Justice of the European Union on the Rule of Law and Its Significance for Ukraine]. Practical Guide. EU Project Pravo-Justice, 2024. 51 p. URL: https://www.pravojustice.eu/storage/app/uploads/public/669/8c7/833/6698c7833db83422117737.pdf (in Ukrainian).

74. KOMAROVA, T. V.; ANAKINA, T. M. Yak pratsiuvaty z rishenniamy Sudu spravedlyvosti Yevropeiskoho Soiuzu: Khartiia YeS pro osnovopolozhni prava v svitli praktyky Sudu spravedlyvosti Yevropeiskoho Soiuzu [Working with Judgments of the Court of Justice of the European Union: The EU Charter of Fundamental Rights in the Light of CJEU Case Law]. Practical Guide. EU Project Pravo-Justice, 2026. 224 p. URL:

https://www.pravojustice.eu/storage/app/uploads/public/6a0/6c2/f77/6a06c2f778587676428367.pdf (in Ukrainian).

75. SUPREME COURT (UKRAINE), Grand Chamber. Judgment of 3 August 2022, case no. 910/9627/20, proceedings no. 12-59гс21. Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/105852859 (in Ukrainian).

76. UKRAINE. Law on the Electricity Market, No. 2019-VIII of 13 April 2017. Vidomosti Verkhovnoi Rady Ukrainy [Official Bulletin of the Verkhovna Rada of Ukraine]. 2017. No. 27–28. Art. 312. URL: https://zakon.rada.gov.ua/laws/show/2019-19#Text (in Ukrainian).

77. BERNAZIUK, Ian. From Judicial Dialogue to Legal Integration: Ukraine's Cooperation with the Court of Justice of the European Union Before EU Accession and Prospects for Post-Accession Cooperation. Version 1.0. Zenodo. 2026. DOI: https://doi.org/10.5281/zenodo.23737246

78. SUCHIKOVA, Yana; TSYBULIAK, Natalia; TEIXEIRA DA SILVA, Jaime A.; NAZAROVETS, Serhii. GAIDeT (Generative AI Delegation Taxonomy): A Taxonomy for Humans to Delegate Tasks to Generative Artificial Intelligence in Scientific Research and Publishing. Accountability in Research. 2026. Vol. 33, No. 3. Article 2544331. DOI: https://doi.org/10.1080/08989621.2025.2544331

79. SUPREME COURT (UKRAINE), Grand Chamber. Judgment of 9 September 2026, case no. 607/15144/20, proceedings no. 14-29цс25 (application of an ECtHR advisory opinion under Protocol No. 16). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/139924670 (in Ukrainian).

80. SUPREME COURT (UKRAINE), Administrative Cassation Court. Order of 7 October 2026, case no. 240/3843/24, proceedings no. K/990/38755/24 (resumption of proceedings following an ECtHR advisory opinion). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/140400671 (in Ukrainian).

81. EUROPEAN COURT OF HUMAN RIGHTS. De Simone v Germany (dec.). Decision of 2 December 2025. Application no. 21853/23. URL: https://hudoc.echr.coe.int/eng?i=001-247840

82. COUNCIL OF THE EUROPEAN UNION. EU and Ukraine Open First Accession Negotiations Cluster. Press release, 15 June 2026. URL: https://www.consilium.europa.eu/en/press/press-releases/2026/06/15/eu-and-ukraine-open-first-accession-negotiations-cluster

83. BERNAZIUK, Ian. Vyrishennia vykliuchnoi pravovoi problemy yak sposib zabezpechennia odnakovoho zastosuvannia norm prava [Resolving an Exceptional Legal Problem as a Means of Ensuring the Uniform Application of Legal Rules]. Supreme Court (Ukraine), 25 February 2019 (in Ukrainian). URL: https://supreme.court.gov.ua/supreme/pres-centr/zmi/655976

84. COURT OF JUSTICE (Grand Chamber). Judgment of 5 April 2016. Puligienica Facility Esco SpA (PFE) v Airgest SpA. Case C-689/13. ECLI:EU:C:2016:199. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62013CJ0689

85. CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE). Opinion No. 20 (2017) on the Role of Courts with Respect to the Uniform Application of the Law. Strasbourg, 10 November 2017. Para. 39. URL: https://rm.coe.int/opinion-no-20-2017-on-the-role-of-courts-with-respect-to-the-uniform-a/16807661e3

86. COURT OF JUSTICE. Judgment of 16 March 2006. Kapferer v Schlank & Schick GmbH. Case C-234/04. ECLI:EU:C:2006:178. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62004CJ0234

87. COURT OF JUSTICE. Judgment of 13 January 2004. Kühne & Heitz NV v Productschap voor Pluimvee en Eieren. Case C-453/00. ECLI:EU:C:2004:17. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62000CJ0453

88. UKRAINE. Law No. 2156-VIII of 5 October 2017 on the Ratification of Protocols Nos. 15 and 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms. URL: https://zakon.rada.gov.ua/laws/show/2156-19#Text (in Ukrainian).

89. COURT OF JUSTICE. Judgment of 4 June 2002. Lyckeskog. Case C-99/00. ECLI:EU:C:2002:329. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62000CJ0099

90. SUPREME COURT (UKRAINE). Kasatsiinyi administratyvnyi sud u 2025 rotsi [Administrative Cassation Court in 2025]. Annual Report. Kyiv, 2026. P. 8, 22 (in Ukrainian). URL: https://court.gov.ua/storage/portal/supreme/prezent2026/KASU_zvit_2025.pdf

91. EUROPEAN COURT OF HUMAN RIGHTS. Entry into Force of Protocol No. 16 to the European Convention on Human Rights. Press Release ECHR 276 (2018), 1 August 2018. URL: https://hudoc.echr.coe.int/app/conversion/pdf/?filename=Protocol+No.+16+to+the+ECHR+coming+into+force.pdf&id=003-6159401-7972623&library=ECHR

92. LENAERTS, Koen. 'The Primary Address for Citizens and Undertakings for Obtaining Legal Protection Is the National Judge'. Interview on the occasion of the award of an honorary doctorate. Eötvös Loránd University, Faculty of Law, 8 May 2025. URL: https://ajk.elte.hu/en/the-primary-address-for-citizens-and-undertakings-for-obtaining-legal-protection-is-the-national-0

93. CONSTITUTIONAL COURT OF UKRAINE, Second Senate. Order No. 12-уп(II)/2026 of 15 July 2026 on joining constitutional proceedings concerning subparagraphs (a) and (c) of Article 328(5)(2) of the Code of Administrative Justice of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/v012u710-26 (in Ukrainian).

94. SUPREME COURT (UKRAINE), Administrative Cassation Court. Order of 26 April 2024, case no. 360/917/23, paras. 48–52 (transfer to the Grand Chamber; criteria of an exceptional legal problem). Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/118662287 (in Ukrainian).

95. COURT OF JUSTICE (Grand Chamber). Judgment of 22 June 2010. Melki and Abdeli. Joined Cases C-188/10 and C-189/10. ECLI:EU:C:2010:363. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62010CJ0188

96. BERNAZIUK, Ian. Osoblyvosti zabezpechennia yednosti sudovoi praktyky ta vidstupu vid pravovykh pozytsii Verkhovnoho Sudu (na prykladi vyrishennia publichno-pravovykh sporiv) [Ensuring Consistency of Case-Law and Departure from Supreme Court Positions in Public-Law Disputes]. Visnyk Luhanskoho derzhavnoho universytetu vnutrishnikh sprav imeni E. O. Didorenka. 2020. Issue 2(90). P. 77–89. DOI: https://doi.org/10.33766/2524-0323.90.77-89 (in Ukrainian).

97. BERNAZIUK, Ian. Konstytutsiino-pravovyi status Verkhovnoho Sudu yak sudu prava [The Constitutional and Legal Status of the Supreme Court as a Court of Law]. Ekspert: paradyhmy yurydychnykh nauk i derzhavnoho upravlinnia. 2020. No. 6(12). P. 101–115. DOI: https://doi.org/10.32689/2617-9660-2020-6(12)-101-115. URL: http://journals.maup.com.ua/index.php/expert/article/view/1808 (in Ukrainian).

98. BERNAZIUK, Ian. Shtuchnyi intelekt i yoho vykorystannia dlia zabezpechennia yednosti sudovoi praktyky yak skladovoi doviry do sudu [Artificial Intelligence and Its Use to Ensure Consistency of Case-Law as a Component of Trust in the Court]. Slovo Natsionalnoi shkoly suddiv Ukrainy. 2024. No. 4(49). P. 16–35. DOI: https://doi.org/10.37566/2707-6849-2024-4(49)-2 (in Ukrainian).

99. BERNAZIUK, Ian. GPT-bot «Kasatsiinyi filtr KAS Ukrainy»: perevirka skarhy do Verkhovnoho Sudu [GPT Assistant ‘Cassation Filter of the Code of Administrative Justice’: Checking an Appeal to the Supreme Court]. Constitutionalist, 19 June 2026. URL: https://constitutionalist.com.ua/gpt-bot-kasatsijnyj-filtr-kas-ukrainy-perevirka-skarhy-do-verkhovnoho-sudu (in Ukrainian).

100. SUPREME COURT (UKRAINE), Administrative Cassation Court. Order of 15 January 2026, case no. 240/14153/24 (refusal to open cassation proceedings; non-existent case-law cited in the appeal). URL: https://reyestr.court.gov.ua/Review/133336040 (in Ukrainian).

101. SUPREME COURT (UKRAINE), Administrative Cassation Court. Order of 3 February 2026, case no. 340/2365/25 (refusal to open cassation proceedings; non-existent case-law cited in the appeal). URL: https://reyestr.court.gov.ua/Review/133764626 (in Ukrainian).

102. SUPREME COURT (UKRAINE), Administrative Cassation Court. Separate opinion of Judge I. Bernaziuk of 14 August 2020, case no. 240/10153/19. URL: https://reyestr.court.gov.ua/Review/90985586 (in Ukrainian).

103. SUPREME COURT (UKRAINE), Plenum. Resolution No. 2 of 23 January 2026 on a constitutional submission concerning Article 3(2) and Article 4(2)(3)(1)–(2) of the Law on Court Fee. URL: https://supreme.court.gov.ua/supreme/pro_sud/postanovi_plenumu/postanova_plenumu_2_2026_01_23 (in Ukrainian).

104. CONSTITUTIONAL COURT OF UKRAINE. Opinion No. 3-в/2001 of 11 July 2001 on the conformity of the Rome Statute of the International Criminal Court with the Constitution of Ukraine. URL: https://ccu.gov.ua/sites/default/files/docs/3-v-1_2001.doc (in Ukrainian).

105. UKRAINE. Law No. 3909-IX of 21 August 2024 on the Ratification of the Rome Statute of the International Criminal Court and Its Amendments. URL: https://zakon.rada.gov.ua/laws/show/3909-20 (in Ukrainian).

106. COURT OF JUSTICE (Grand Chamber). Judgment of 18 December 2025. Commission v Poland (Ultra vires review of the Court's case-law – Primacy of EU law). Case C-448/23. ECLI:EU:C:2025:975. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62023CJ0448

107. SUPREME COURT (UKRAINE), Administrative Cassation Court. Judgment of 8 September 2022, case no. 380/10696/21. Unified State Register of Court Decisions. URL: https://reyestr.court.gov.ua/Review/106141045 (in Ukrainian).

108. COURT OF JUSTICE (Grand Chamber). Judgment of 25 February 2025. XL and Others v Sąd Rejonowy w Białymstoku and Lietuvos Respublika. Joined Cases C-146/23 and C-374/23. ECLI:EU:C:2025:109. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62023CJ0146

109. COURT OF JUSTICE (Grand Chamber). Judgment of 11 July 2024, Hann-Invest and Others, Joined Cases C-554/21, C-622/21 and C-727/21. ECLI:EU:C:2024:594. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CJ0554

110. SUPREME COURT (UKRAINE), Plenum. Rules of Procedure of the Plenum of the Supreme Court, approved by Resolution No. 1 of 30 November 2017, as amended by Resolution No. 22 of 6 October 2023, Articles 9^1–9^3. URL: https://supreme.court.gov.ua/supreme/pro_sud/reglamentp (in Ukrainian).

111. UKRAINE. Law No. 3477-IV of 23 February 2006, On the Execution of Judgments and Application of the Case-Law of the European Court of Human Rights, Articles 6, 13–14 and 17–19. URL: https://zakon.rada.gov.ua/laws/show/3477-15 (in Ukrainian).

112. SUPREME COURT (UKRAINE). Supreme LAB: Database of Cases Referred to Judicial Chambers and the Grand Chamber. Official online database. URL: https://sl.court.gov.ua/affairs.php (in Ukrainian).

113. SUPREME COURT (UKRAINE). Legal Positions Database. Official online database. URL: https://lpd.court.gov.ua (in Ukrainian).

114. SUPREME COURT (UKRAINE), Plenum. Resolution No. 6 of 22 March 2024, On Refusal to Submit a Constitutional Petition to the Constitutional Court of Ukraine concerning Pension Restrictions for Persons Affected by the Chornobyl Disaster. URL: https://supreme.court.gov.ua/supreme/pro_sud/postanovi_plenumu/postanova_plenumu_6_2024_03_22 (in Ukrainian).

115. YEZEROV, Albert; TERLETSKYI, Dmytro. Courts of General Jurisdiction and the Constitutional Court of Ukraine: Issues of Interaction. Pravo Ukrainy. 2020. No. 8. pp. 223–237. DOI: https://doi.org/10.33498/louu-2020-08-223 (in Ukrainian).

116. COUNCIL OF THE EUROPEAN UNION. Enlargement: EU Opens Accession Negotiations with Ukraine on External Relations Policies. Press release, 14 July 2026. URL: https://www.consilium.europa.eu/en/press/press-releases/2026/07/14/enlargement-eu-opens-accession-negotiations-with-ukraine-on-external-relations-policies

117. EUROPEAN COMMISSION. Ukraine 2026 Report. Commission Staff Working Document SWD(2026) 699 final. Brussels, 4 November 2026. Chapter 23: Judiciary and Fundamental Rights. URL: https://enlargement.ec.europa.eu/document/download/c817ca8c-4ddf-405d-896a-40becd42924a_en?filename=ukraine-report-2026.pdf