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Judicial Network of the European Union



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Delivering justice in war time: the experience of the Supreme Court of Ukraine



The Supreme Court is the highest court in the Ukrainian judicial system, ensuring the stability and uniformity of case-law.

The Supreme Court is comprised of: the Grand Chamber of the Supreme Court; the Administrative Chamber; the Commercial

Chamber; the Criminal Chamber; and the Civil Chamber.

Following judicial reform in 2016, the Supreme Court was created and began its procedural activities on 15 December 2017. During the first four years of operation, the Court's priorities were to ensure the

uniformity of case-law, legal certainty and to increase public confidence in the judiciary. However, as a result of the war, the focus of the Supreme Court's activities has changed, and the most important task has undoubtedly become the protection of human life and health and ensuring access to justice.

According to the statistical reports of the Supreme Court, between 24 February 2022 and 11 June 2023 a total of 90,979 procedural appeals and cases were received for consideration.

Since the beginning of the war, the Supreme Court has examined a total of 95,483 procedural appeals and cases (81% of those pending), including: Grand Chamber - 431 (63%), Administrative Chamber - 55,811 (85%), Commercial Court Chamber - 8,654 (78%), Criminal Chamber - 9,405 (79%), Civil

Chamber - 21,182 (74%).

Following the examination of those appeals and cases, the Supreme Court issued 40,218 decisions refusing to grant leave to appeal in cassation (42% of the number of cases examined), 23,337 procedural appeals and cases were returned or left without review (24%), and 31,927 cases were reviewed on the merits (33%).

As of 11 June 2023, 19,463 procedural appeals and cases remain pending.

This means that, despite the war, the Supreme Court has continued to function in a regular manner. The only trend is a decrease in the number of cases referred to the Supreme Court. This can clearly be attributed to the war.

On the administration of justice by other courts during the war

The rapid occupation of part of the Ukrainian territory and the absence of a competent High Council of Justice (the body responsible for changing the jurisdiction of courts and for seconding judges) have led to an urgent need to address the issue of administration of justice by the courts located in the areas of active hostilities and under temporary occupation.

For this reason, the Parliament adopted Law No. 2112-IX of 3 March 2022, which empowers the President of the Supreme Court to change the territorial jurisdiction of the courts that are unable to administer justice in the event that the High Council of Justice is unable to exercise its powers.

In total, in 2022, the President of the Supreme Court issued orders changing the territorial jurisdiction of 135 courts.

To determine which courts should be assigned territorial jurisdiction, the geographical factor was most often taken into account, i.e. territorial jurisdiction was assigned to courts located relatively close to each other, and the number of judges working in those courts was considered.

In addition, given the large number of courts the territorial jurisdiction of which needed to be changed (the first order alone changed the jurisdiction of 53 district courts), it was common practice to assign jurisdiction over cases of several courts to one court.

In line with the process of liberation of territory by the Armed Forces of Ukraine, the territorial jurisdiction of the courts was, however, gradually restored. This takes into account the ability of each court to administrate justice, as well as the security factor, because even in liberated territory, depending on the specific location, there is a significant danger to judges and litigants. In addition, some court premises were destroyed or damaged, raising the issue of repairing these premises or changing the location of the court. According to the information provided by the State Judicial Administration of Ukraine, 12% (98) of the total number (777) of court buildings are damaged or completely destroyed.

Overall, the President of the Supreme Court restored the jurisdiction of 57 courts.

It is also worth noting that the change in jurisdiction led to the emergence of a large number of judges who were not administering justice and who began to request the President of the Supreme Court to resolve the issue of their secondment to courts that were administering justice and were located in territory controlled by the Ukrainian authorities. For the period of temporary absence of the competent High Council of Justice (until January 2023), the President of

the Supreme Court was vested with the relevant powers. The requests for secondment were considered by the President of the Supreme Court, taking into account the wishes of the judges and the needs of the courts.

Ultimately, in 2022, the President of the Supreme Court approved the secondment of some 500 judges who had expressed their willingness to be seconded and with whom it had been possible to establish contact.

The issue of the judges of the appellate courts the jurisdiction of which was changed (the Donetsk Court of Appeal, the Luhansk Court of Appeal and the Kherson Court of Appeal) was resolved in a similar manner. These judges were then seconded to other courts of appeal. This has helped to alleviate the shortage of staff in the relevant courts and has, in part, improved the administration of justice.

Finally, according to statistics, the number of court cases filed in Ukrainian courts decreased by 40% in 2022. This decline can be attributed to a number of factors: the occupation of part of the Ukrainian territory, a decline in business and other activities, and the emigration of part of the Ukrainian population.

Despite this decrease and all the difficulties, the Ukrainian judicial system has survived and continues to work.

*News@JNEU would
like to thank most
sincerely the Ukrainian
Supreme Court for
sharing this article.*

Visit of the Court of Justice to the Swedish Supreme Courts



From left to right: Sakarias Magnusson, Jerker Olsson and Katarina Grén

As part of the activities of the Judicial Network of the European Union (JNEU), the Court of Justice will organise visits to all Member States, the first one being Sweden.

On 16 June, two representatives of the Directorate for Research and Documentation (DRD) and the Swedish Language Translation Unit of the Directorate-General for Multilingualism (DGM) of the Court of Justice of the European Union (CJEU) visited the Swedish Högsta domstolen (Supreme Court) and the Swedish Högsta förvaltningsdomstolen (Supreme Administrative Court).

During the morning, Mr Jerker Olsson (DRD) and Mr Sakarias Magnusson (DGM), welcomed by Ms Helena Jäderblom, President of the Högsta förvaltningsdomstolen, and Ms Katarina Grén, Registrar of the Högsta förvaltningsdomstolen, presented the activities of their respective directorates.

The presentations, attended by around 50 participants from the supreme courts, concerned the handling of requests for a preliminary ruling to the Court of Justice, from their arrival until the decision of the Court of Justice, as well as the follow-up to the relevant national case-law and legal monitoring in general. In addition, the Curia website, the DRD publications contained therein and Infocuria, the search engine were presented, as well as the JNEU activities and its platform.

In order to illustrate multilingualism as a central tool for citizens' access to justice, the work of the DGM was presented and the pivot language system described. Explanations were given, in particular, concerning the work of the Swedish Translation Unit on various types of documents, especially requests for a preliminary ruling drafted in Swedish.

The presentations were very appreciated by the participants:

- * “we gained a valuable insight into how these cases are handled at the Court of Justice of the European Union and what a national court needs to consider when formulating a request”;
- * “we were showed a multitude of examples of documents and searches, which was very interesting”;
- * “this kind of visit brings the extremely important, but difficult, preliminary questions a little closer”;
- * “it was also exciting to hear the speakers' reflections on why the way in which the CJEU writes decisions differs from, for example, how our judgments usually look like. Another thing I



noted was that processing procedures seemed to be highly structured, for example in terms of the duration of a given action”;

* “the extensive work on multilingualism at the CJEU was already known, but it was pleasant to know more about this activity, such as translating with the aid of pivot languages”;

* “what I found most interesting was that a part of the work described by Mr Olsson concerned library work, such as the selection of relevant literature. Also the creation of keyword chains and learning about how to structure and make the information available through Curia and newsletters was interesting.”

A second presentation session on these topics took place in the afternoon for the staff of the European Commission Representation and the European Parliament Liaison Office in Stockholm.

KEY CASES

PENDING BEFORE THE CJEU

Main Courtroom, CJEU

This section includes the cases brought before the CJEU which have been assigned to the Grand Chamber during the period covered by this issue. Clicking on the hyperlink will open the page of the Court website, updated regularly, containing all documents available as well as more detailed data when you select  “case information” on the right side of the page.

Competition

Case C-48/22 P, Google and Alphabet v Commission (Google Shopping)

Keywords

Competition — Abuse of dominant position — Markets for internet searches, online search advertising and intermediated online search advertising in the EEA — Decision finding an infringement of Article 102 TFEU and Article 54 of the EEA Agreement

Economic and monetary policy

Case C-551/22 P, Commission v SRB

Keywords

Appeal — Economic and monetary policy — Single resolution mechanisms for credit institutions and certain investment firms — Resolution procedure applicable where an entity is failing or is likely to fail — Adoption of a resolution scheme in respect of Banco Popular Español

Principles of EU law

Joined Cases C-554/21, HANN-INVEST, C-622/21, MINERAL-SEKULINE, and C-727/21, UDRUGA KHL MEDVEŠČAK ZAGREB

Requests for a preliminary ruling from the Visoki trgovački sud Republike Hrvatske (Croatia)

Keywords

Obligations of Member States — Provision of remedies sufficient to ensure effective legal protection — Observance of the principle of judicial independence — National legislation providing for a registrations judge in appellate courts with the power to give instructions and influence the decisions from the chambers of those appellant courts — National legislation providing for the binding effect of the legal position given during the meetings of all the judges of the Commercial Chamber of the Commercial Court of Appeal — Interpretation of Article 19(1) TEU and of Article 47 of the Charter

External relations

Case C-29/22 P, *KS and KD v Council and Others*

Keywords

Appeal — Injury allegedly caused by the continuing violation of the applicants' fundamental human rights by EULEX Kosovo — Crimes committed in Kosovo in 1999 — Insufficient investigation of the deaths of the applicants' family members — Alleged absence of an effective remedy before the Human Rights Review Panel (HRRP) — Alleged failure of the defendants to remedy the finding of a violation by the HRRP — Alleged abuse of power

Case C-44/22 P, *Commission v KS and Others*

Keywords

Appeal — Injury allegedly caused by the continuing violation of the applicants' fundamental human rights by EULEX Kosovo — Crimes committed in Kosovo in 1999 — Insufficient investigation of the deaths of the applicants' family members — Alleged failure to provide a remedy before the Human Rights Review Panel (HRRP) — Alleged failure of the defendants to remedy the finding of a violation by the HRRP — Alleged abuse of power

Common foreign and security policy

Case C-351/22, *Neves 77 Solutions*

Request for a preliminary ruling from the Tribunalul București (Romania)

Keywords

Common foreign and security policy — Restrictive measures — Sale of products from Russia destined for military use — Failure to notify the authorities — Automatic confiscation of the sale proceeds

Area of Freedom, Security and Justice

Case C-352/22, *Generalstaatsanwaltschaft Hamm (Request for extradition of a refugee to Turkey)*

Reference for a preliminary ruling from the Oberlandesgericht Hamm (Germany)

Keywords

Asylum policy — Final recognition of refugee status by a Member State — Refugee residing permanently in another Member State following such recognition — Request for extradition by the refugee's country of origin

Case C-406/22, *Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky*

Request for a preliminary ruling from the Krajský soud v Brně (Czech Republic)

Keywords

Border control, asylum and immigration — Asylum policy — Procedures for granting and withdrawing international protection — Directive 2013/32/EU — Procedure for examining applications for international protection — Application that a Member State may consider to be manifestly unfounded — Grounds — Application from a safe third country national — Concept of a safe third country — Moldavia — Scope of judicial review

Case C-670/22, *Staatsanwaltschaft Berlin (EncroChat)*

Request for a preliminary ruling from the Landgericht Berlin (Germany)

Keywords

Judicial cooperation in criminal matters — European Investigation Order in criminal matters — Conditions for issuing — Need for a court decision in cases of serious infringements of fundamental rights — Use of evidence obtained in breach of EU Law

Next hearings in streaming

The streaming will be accessible from a [link on the Curia site](#).



Competition

July 12th

[Case C-221/22](#), Commission v Deutsche Telekom

Keywords

Appeal — Competition — Abuse of dominant position — Refusal of the Commission to pay default interest when reimbursing a fine — Articles 266 and 340 TFUE — Interest rate applied — Deterrent effect of competition fines

FORTHCOMING JUDGMENTS AND OPINIONS OF THE CJEU

This section contains the cases assigned to the Grand Chamber for which the Advocate General's opinion or the Court's judgment will be delivered over the next few weeks. Clicking on the hyperlink will open the page of the Court website, updated regularly, containing all documents available as well as more detailed data when you select "case  information" on the right side of the page.

Principles of EU law

13th July — Judgment

Joined Cases C-615/20 and C-671/20, YP and others and M. M. (**Waiver of immunity and suspension of a judge**)

Requests for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland)

Keywords

Member States — Obligations — Provision of remedies sufficient to ensure effective legal protection — Observance of the principle of judicial independence — Disciplinary measures for national judges — Waiver of immunity and suspension from judicial office by a court itself suspended pursuant to an order for interim measures of the Court of Justice

Competition

13th July — Judgment

Case C- 376/20 P, Commission / CK Telecoms UK Investments

Keywords

Appeal — Competition — Concentrations of undertakings — Wireless telecommunications — Acquisition of Telefónica UK by Hutchison — Decision declaring the concentration incompatible with the internal market and the EEA Agreement

Provisions governing the institutions

13th July — Opinion

Case C-551/21, Commission v Council (**Signing of international agreements**)

Keywords

Action for annulment — Council Decision (EU) 2021/1117 of 28 June 2021 on the signing, on behalf of the European Union, and provisional application of the Implementing Protocol to the Fisheries Partnership Agreement between the Gabonese Republic and the European Community (2021-2026) — Designation by the Council of the European Union of the Ambassador of Portugal as the person empowered to sign that protocol on behalf of the Union — Infringement of Article 17(1) TEU and Article 4(3) TEU — The prerogative of the Commission to ensure the external representation of the Union — Principle of sincere cooperation between the Union and its Member States — Requirement of unity of the external representation of the Union — Infringement of Articles 296 and 297 TFEU — Duty to state reasons and requirement to publish the decision — Infringement of Article 13(2) TEU — Principle of sincere cooperation between institutions

Intellectual property

13th July — Opinion

Case C-382/21 P, EUIPO v The KaiKai Company Jaeger Wichmann

Keywords

Appeal — Community design - Multiple application for registration of Community designs n° 5 807 179 0001-0012 (gymnastic and sports apparatus and equipment) — Priority claim — Loss of the right of priority for the application for registration

Area of Freedom, Security and Justice

24th July — Judgment

Case C-107/23 PPU, Lin

Request for a preliminary ruling from the Curtea de Apel Braşov (Romania)

Keywords

EU Law — Values and objectives of the Union — Limitation periods for criminal liability — Effects of the decisions of a constitutional court — Application of the more lenient criminal law — Risk of impunity

13th July — Opinions

Case C-646/21, Staatssecretaris van Justitie en Veiligheid (**Persons identifying with the values of the Union**)

Request for a preliminary ruling from the Rechtbank Den Haag, zittingsplaats s-Hertogenbosch (Netherlands)

Keywords

Asylum policy — Refugee status or subsidiary protection status — Directive 2011/95/EU — Conditions for granting refugee status — Likelihood of being subject to persecution — Reasons for persecution — Concept of ‘a particular social group’ — Westernisation of minor children — Best interests of the child

Case C-261/22, GN (**Ground for refusal based on the best interests of the child**)

Request for a preliminary ruling from the Corte suprema di cassazione (Italy)

Keywords

European arrest warrant — Surrender of sentenced or suspected persons to the issuing judicial authorities — Respect for private and family life — Rights of the child — Mother living with minor children — Ground for refusal or postponing of the surrender

Entry into office of new members of the CJEU

Mr. Vittorio Di Bucci took office as the new Registrar of the General Court on 5 June 2023. His presentation can be consulted [here](#).

Publication of Flash News on the Curia website

Starting this month, correspondents will receive an e-mail containing a link every time a new Flash News on national or European Court of Human Rights decisions is published.

Flash News on national decisions will also be available for public consultation via the [Curia](#) site.



The Judicial Network of the European Union was created on the initiative of the President of the Court of Justice of the European Union and the Presidents of the Constitutional and Supreme Courts of the Member States.

One of the objectives of the JNEU is to share and centralise information and documents relevant to the application, dissemination and study of EU law, as interpreted and applied not only by the Court of Justice of the European Union but also by national courts and tribunals.

It also aims to promote mutual knowledge and understanding of the laws and systems of the Member States from a comparative law perspective.