The role of the Court of Justice in the implementation of EU policy through the method of comparative interpretation

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Abstract: *One of the features of the biggest international organizations/Unions is to include international courts, through which the the organizations carry out their ideals such as to protect peace, democracy and human rights. The aim of the paper is to review the mission of the European court of justice which has a significant impact on determining the directions of the Union itself, of its member states and of life level of their citizens. Its role in creating/implementing the EU policy is particularly noteworthy. In this regard, the working method of the court which is interpretation is discussed as a tool for policy implementation. his paper focuses on the existing methods of interpretation, especially on the comperative interpretation as the special method. The purpose of the article is to review the importance and potential of comparative interpretation method through a mixed-quantitative, qualitative, and general research methods, as well as comparative analysis.*
Keywords: *comparative; ECJ; EU; justice; interpretation.*

INTRODUCTION

The paper discusses the importance of the Court of Justice of the European Union, the directions of its activities apart from being a judicial body, and the main tool of implementing this activity - the method of interpretation. The term "interpretation," is left undefined by the Treaty on the Functioning of the European Union.[1] This is precisely the starting point of this paper, since defining the essence of interpretation actually determines its scope. According to the German understanding, interpretation is the abstract determination of the meaning of a standard text.[2] Indefiniteness gives it unlimited power and transforms the court as a creator of a new type of legal order.

The classical methods of interpretation are discussed in the article and the attention is payed to special method such is comparative interpretation.[3] The article discusses its role in the work of the court and its development potential. The use of the comparative method becomes especially relevant in the context of differences in legal cultures, which is typical of the European Union. The application of the comparative law method by the Court of Justice of the European Union, especially in the context of major social changes leading to a spontaneous convergence of the legislations of member states, brings a new dynamic. It allows the legal order of the EU to naturally address these changes, aligning the legal culture of the EU with that of the member states. The EU's established motto, "Unity in Diversity," takes on new meanings in the context of the Court of Justice's application of the comparative law method, ensuring "mutual influence between the EU and national legal orders,

[1] Ligia -Valentina Mirisan, The place and role of the comparative law method within the interpretation of the court of justice of the EU, SARA Law Research Center, International Journal of Legal and Social Order, https://www.ccdsara.ro/ijlso ISSN 2821 – 4161 (Online), p. 1-6.
[2] Anweiler, Auslegungsmethoden, S. 25; Buck, Auslegungsmethoden des Gerichtshofs, S. 22; Seyr, Effet utile, S. 56; Zippelius, Juristische Mehtodenlehre, S. 21.
[3] Dr. Suvi Sankari European Court of Justice Legal Reasoning in Context. P. 57. Lasok and Millett 2004, 376, Schermers and Waelbroeck 2001, 10–27, or Brown and Kennedy 1994, 301–322.

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thus creating a common space of law."[4] But there is also criticisms to the comparative method: One review suggests the comparatist must 'go deeply into [the debates within a particular legal system] and try to understand the other legal system on its own terms',[5] suggesting this as a 'jurisprudential approach to comparative law'.[6] The universalisable character of legal reasoning would cast doubt on this at least in so far as it applies to legal reasoning. Most legal theorists claim to offer general accounts of law in a way that is not specific to any jurisdiction. [7] The decisions of national courts applying EU law must be grounded in an interpretation that could be applied by any other national court in similar situations.[8] Moreover, the Court of Justice's use of the comparative law method in drawing on national legal cultures when interpreting EU law should 'be shaped by a requirement of consistency within the EU legal system.' [9]This means the purpose is not to find the 'best' legal solution or the most common one, but one that best fits the EU legal order.[10] The discussion related to this issue is important for the proper development of the comparative interpretation method, so that it does not turn from a means to a weapon and fails to reach the ultimate addressee of the law - the people. Hence, the aim of the study is to identify if the method of interpretation can evolve the law and transform it into an evaluative social phenomenon.

1. THE EU AND EUROPEAN COURT OF JUSTICE (ECJ)

The European Union is a community based on the rule of law. [11]The judicial authority of the European Union is constituted by the The European Court of Justice (ECJ) which was founded in 1952. Today the ECJ could be viewed as one of the most influential and powerful courts in the world. [12] The transformation of the European legal system has turned the ECJ into probably the most influential international legal body in existence.[13] ECJ is not the only international court that can act independently of the desires of powerful states, or be a tipping point actor, and thereby influence politics.[14] It is one of the key institutions of the European Union (EU) and plays a crucial role in the EU's legal system, in shaping and maintaining the legal framework of the European Union, ensuring consistency and adherence to the EU law across its member states in cooperation with the courts and tribunals of the Member States ensures the uniform application and interpretation of EU law.[15] The European Court of Justice consists of two separate courts: the Court of Justice, the General Court. Due to the large number of cases, complaints from individuals, companies and organizations, as well as cases related to competition law, will be heard by the General Court, while the "European Union Civil Service Tribunal" resolves disputes between the EU and its employees. Five of the most

[4] Koen Lenaerts, 2022, p.18 in Ligia -Valentina Mirisan, The place and role of the comparative law method within the interpretation of the court of justice of the EU, SARA Law Research Center, International Journal of Legal and Social Order, https://www.ccdsara.ro/ijlso ISSN 2821 – 4161 (Online), p. 1-6.
[5] Koma ´rek, 'Questioning Judicial Deliberations', 826. Gerard Conway , The Limits of Legal Reasoning and the European Court of Justice, P. 6.
[6] W. Ewald,'TheJurisprudential ApproachtoComparativeLaw:AFieldGuide to "Rats"', American Journal of Comparative Law, 46(4) (1998), 701–707. Gerard Conway , The Limits of Legal Reasoning and the European Court of Justice, P. 6.
[7] Gerard Conway , The Limits of Legal Reasoning and the European Court of Justice, P. 192
[8] Maduro 2009, 375
[9] Maduro 2007, 7.
[10] Dr. Suvi Sankari European Court of Justice Legal Reasoning in Context. P. 57.
[11] Kelemen, R. Daniel, Eeckhout, Piet, Fabbrini, Federico, Pech, Laurent; Uitz, Renáta: ***National Courts Cannot Override CJEU Judgments: A Joint Statement in Defense of the EU Legal Order, VerfBlog,*** 2020/5/26, https://verfassungsblog.de/national-courts-cannot-override-cjeu-judgments/, DOI: 10.17176/20200527-013240-0.
[12] Gerard Conway, The Limits of Legal Reasoning and the European Court of Justice, P. 192.
[12] Koen Lenaerts, 2022, p.18.
[13] Karen J.Alter, Establishing the Supremacy of European Law, p. 229.
[14] Karen J. Alter, The European court's political Power, Oxford University press, 2009 p. 25.
[15] https://curia.europa.eu/jcms/jcms/Jo2_6999/en/

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common cases can be distinguished among the disputes considered by the court: 1. Request for a preliminary review, when national courts ask the EU Court to interpret the law; 2. Complaint against the governments of EU member states due to non-application of EU laws; 3. Complaints for annulment of EU laws that allegedly violate EU Treaties and fundamental rights; 4. Complaint against the institutions of the European Union for failure to fulfill the duties assigned to them; 5. Complaints by individuals, companies and organizations against EU decisions or actions.

The Court ensures compliance with EU legislation, supervises the application and interpretation of the Treaty establishing the European Union. The ECJ ensures that EU law is interpreted and applied uniformly across all EU member states. The Court's competence is mandatory and joining the Community, the member states accept its authority; no subsequent authorization is necessary to subject them to its jurisdiction. The decisions of the ECJ are binding on all EU member states. The competence is exclusive according to Article 3 of the Treaty on the Functioning of the European Union — TFEU Since Article 219 [292] forbids member states to resort to any other conflict resolution method where the Treaty is at issue. It has the authority to annul EU legal acts that are not in line with the treaties or fundamental rights. National courts can refer questions on the interpretation and application of EU law to the ECJ for guidance. This ensures a consistent application of EU law across all member states. Subject-wise, the ECJ remains an essentially economic court. Browsing through the court reports of the past years, most judicial attention was devoted to the same 'usual suspects', namely taxation; intellectual property; competition; state aid; internal market (free movement of goods retreating and making way for services and persons); agriculture; public procur[16].

Court of Justice of the European Union has an important unifying role those with the other EU institutions; the courts of the Member States; the Member States themselves; the parties appearing before it; other international courts; and the general public.[17] As it consideres various types of disputes disputes between EU bodies; Disputes between EU bodies and member states; disputes between member states; Disputes between legal and natural persons and EU bodies; A dispute between the European Union and its employees. The primary function of the ECJ is to provide preliminary rulings on questions of EU law referred to it by national courts. It also hears direct actions brought by member states, EU institutions, and individuals against EU institutions or member states.

The ECJ has developed important legal principles, including the doctrines of direct effect and supremacy, which emphasize the priority of EU law over national law[18]. The supremacy of EU law over national law is established by the court through its important decisions, which can be considered as the most important step in his existence. In the "Costa/E.N.E.L." decision the Court stated that EC law is a matter sui generis, which, in contrast to international law, is not only subject to the signatory states, but also to their citizens. Such a view also enables a Union citizen to invoke norms of EC law and the rights arising from them.[19] However, the relationship between the Union and Member State legal orders remains a key issue. Competence issues focus on the potential for and resolution of conflicts between Union and domestic legal requirements. These so-called Kompetenz Kompetenz questions concern the implications of Union legal domestic constitutional norms over the Court's portrayal of Union legal demands.[20] The EU legal order is the backbone that holds the EU together,

[16] Michel Bobek, The Court of Justice of the European Union, The Oxford Handbook of European Union Law, Oxford University Press, P. 176.

[17] Anna Wallerman Ghavanini, The Court of Justice of the European Union as a Relational Actor European Law Open , Volume 2, Special Issue 2: June 2023, p. 233 – 243. DOI: https://doi.org/10.1017/elo.2023, p. 40.

[18] https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en

[19] Costa v ENEL (1964) Case 6/64, Factortame Litigation; Macarthys v Smith (1979) 3 All ER 325; Marshall v Southampton AHA (1986) Case 152/84; Van Gend en Loos (1963) Case 26/62.

[20] Timothy Moorhead, The Legal Order of the European Union The Institutional Role of the Court of Justice, 2014, p. 16.

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and the German Federal Constitutional Court's ruling in *Weiss* poses a profound threat to that legal order.[21] This discussion deepened further afterwards when The German Constitutional Court (case of *2BvR 859/15)* declared that the Court of Justice of the European Union had acted outside their powers as The PSPP measures taken by ECB were ultra vires EU law and German constitutional law; and violated fundamental principles of European and German law such as the principles of conferral and proportionality.[22] This decision made clear the wide possibilities of interpretation and also raised question about the primacy of EU law over national law which still remains unanswered and is likely to deepen in the future.

It is worth noting that the discussion on the directions of its activity is not resolved, and one of its challenges, along with overcrowding, is its bias.Praised by some as the relentless and steady motor of European integration and attacked by others as an example of a clearly biased institution, more ink has perhaps been spilled over the years on discussing the (de)merits of the Court of Justice than any other Union institution.[23] The Court's often presumed and sometimes demonstrated judicial activism has provided one of the key explanatory factors for many of its bolder decisions, and it has become one of the established truths of both critical scholarship and public rhetoric about the Court.[24]

The literature on the ECJ puts forward three different narratives about its role in European integration. Legalist scholarship puts the ECJ in the center of their narrative, portraying the ECJ as a heroic actor capable of pushing European governments and institutions in the direction of greater European integration. International Relations scholars assume that states are at the center of inter national relations in the EU, thus they examine the ECJ as a tool of states to accomplish their objectives. Comparative politics approaches focus on the relationship between ECJ and actors above and below the state that use The European Court and Legal Integration legal system to promote their own objectives.[25] Analyzing all three approaches together and separately once again confirms that, despite differences of opinion, the Court is a key player in the European Union. All of the above-mentioned multifaceted activities require a flexible legal method, for which the interpretation has been correctly chosen. However, interpretation is evaluative in nature and depends on its implementer, which precisely raises questions related to bias towards the dominant ideology at a particular time.

2. INTERPRETATION AS A MAIN WORKING METHOD OF ECJ

In accordance with Article 19 of the Treaty on European Union (TEU), the European Court of Justice shall ensure that in the interpretation and application of the Treaties the law is observed. It follows from that Treaty provision that all EU acts must be interpreted so as to guarantee that the European Union is based on the rule of law. The primary sources of European law are currently the Treaty on the Functioning of the European Union (TFEU/TFEU) and the Treaty on European Union (EU/TEU) according to Art. 1 II TFEU; according to Art. 51 TFEU 37 protocols and two annexes;

[21] Kelemen, R. Daniel, Eeckhout, Piet, Fabbrini, Federico, Pech, Laurent; Uitz, Renáta: ***National Courts Cannot Override CJEU Judgments: A Joint Statement in Defense of the EU Legal Order, VerfBlog,*** 2020/5/26, https://verfassungsblog.de/national-courts-cannot-override-cjeu-judgments/, DOI: 10.17176/20200527-013240-0.

[22] BVerGR Judgment of 5 May 2020 - 2 BvR 859/15.

[23] Michel Bobek, The Court of Justice of the European Union. The Oxford Handbook of European Union Law. Oxford University Press, P. 170.

[24] Anna Wallerman Ghavanini, The Court of Justice of the European Union as a Relational Actor European Law Open , Volume 2, Special Issue 2: June 2023, p. 233 – 243. DOI: https://doi.org/10.1017/elo.2023.40. H Rasmussen, ***On Law and Policy in the European Court of Justice: A Comparative Study in Judicial Policymaking*** (Martinus Nijhoff Publishing 1986); M Dawson et al (eds), ***Judicial Activism at the European Court of Justice*** (Edward Elgar Publishing 2013).

[25] Karen J. Alter, The European court's political Power, Oxford University press, 2009. p. 25

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and according to Art. 6 I EU the Charter of Fundamental Rights. In primary law, the ECJ assumes a clear, hierarchical structure. The relationship between rule and exception plays a special role. The court assumes that all chapters of a treaty follow the same internal form, which places the basic norm at the beginning[26] though the principle of "lex specialis derogat legi generali" states that a general law does not apply if a more specific one is relevant.

The Court of Justice of the European Union (CJEU) provides the sole official interpretation of Union legal norms, employing various methods, including the grammatical method, focusing on the "interpretation of the word," often complemented and corrected by a systematic and teleological interpretation method. None of the methods of interpretation applied by the ECJ must be examined in isolation as the Court of Justice differentiates between the purpose and effectiveness of a norm. The most frequently used method is grammatical as the starting point is therefore always a written text[27]. If an interpretation goes beyond this in order to close a regulatory gap, it is a legal development.[28] Though it is recognized that the most important is Teleological interpretation. Teleological interpretation thus attempts to specify the content of the norm in line with the purpose pursued by the legislator.[29]

The Court also mentions the spirit of the treaties before their system and even before their wording.[30] However, the principle of effectiveness, the so-called "effet utile", plays an important role in the case law of the ECJ. This states that the interpretation to be chosen is the one that best enables the effectiveness of a provision to unfold.[31] One of the central questions of the effet utile is its dogmatic classification. In some cases it is seen as a maxim within teleological interpretation[3233], in others it is treated as an independent method of interpretation,[34] and some voices in the literature classify the effet utile as being in the area of judicial legal development.[35]

Interpretation of the law is characteristic of all legal systems. For example, a Sharia court is overseen by a qadi (judge) who must have studied (legal interpretation) in depth. Though, the US Federal Supreme Court has the same function and is called the defender of the Constitution. It does not make laws, but interprets them. With this function, namely the interpretation of the Constitution, it exercises de facto legislative authority.[36] The interpretation method is also used by the European

[26] Pechstein/Drechsler, EU Methodenlehre, S. 169. in - Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[27] Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[28] Anweiler, Auslegungsmethoden, S. 28f; Everling, JZ 2000, 218; Walter, Rechtsfortbildung durch den EuGH, S. 76ff. in Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[29] Larenz, Methodenlehre, S. 153 in Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[30] EuGH Rs. 26/62, van Gend & Loos, Slg. 1963, S. 1 Rn. 27.

[31] Anweiler, Auslegungsmethoden, S. 219f; Buck, Auslegungsmethoden des Gerichtshofs, S. 208; Mosiek, Effet utile und Rechtsgemeinschaft, S. 6. in Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[32] Case C-421/92 Gabriele Habermann-Beltermann v Arbeiterwohlfahrt, Bezirksverband Ndb./Opf. eV.

[33] Mosiek, Effet utile und Rechtsgemeinschaft, S. 7. in Berliner Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[34] Joined Cases C-6/90 and 9/90, Francovich v. Italy, Bonifaci v. Italy Judgment of the Court of Justice of 19 November 1991.

[35] Pechstein, Entscheidungen, S. 217; teilweise: Pechstein/Drechsler, EU Methodenlehre, S. 174. in Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[36] The Federal court system in the united states, An Introduction for Judges and Judicial Administrators in Other Countries, An Introduction for Judges and Judicial Administrators in Other Countries, Article III Judges Division Office of Judges Programs Administrative Office of the U.S. Courts Thurgood Marshall Federal Judiciary Building Washington, D.C. 20544 2010 3rd Edition.

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Court of Human Rights, which protects human rights through international conventions.[37] The ECHR used the Universal Declaration of Human Rights (1948)[38] as a starting point to achieve the common goals set by the Council of Europe in the field of fundamental human rights and freedoms and expanded its requirements and adopted The European Convention of Human Rights.[39] Since the Convention was adopted many years ago, it is necessary to adapt it to modernity. In interpreting the Convention, the Court looks for ordinary meaning of the words in their context and in the light of the object and purpose of a provision while seeking to ensure that its interpretation is practical and effective. The emphasis on rights and freedoms being practical and effective is designed to ensure that their object and purpose is realised. and this may also make it is essential to be prepared to look beyond the text of individual provisions in order to establish their meaning.[40]

In modern era the interpretation of the law by the courts has become especially relevant. It should also be taken into account that the nature of the law has changed. Quantitative growth of legal regulations occurs along with this qualitative change. If earlier there were traditional norms that determined what a person could or could not do, which left relatively little space for judicial opinion, now there are new types of rules whose purpose is not to determine the rules of individual behavior. In fact, they seek to shape collective behavior and thereby direct individuals and groups toward social and economic goals and allow for greater discretion.[41] Through the interpretation, such functions of the motivational part of the court decision are fulfilled, such as explaining to the losing party why he lost the process and to what extent it is justified for him to appeal this decision; To legitimize their role, judges must base their decisions on the law, even though it is not always easy to say what the law is. If independent judges decide cases only based on democratically accepted legal norms, they are carrying out the will of the people in specific cases. French civil judges, for example, are allowed to change their interpretations as needed – in the name of "justice" in specific cases or in the name of "legal adaptation or modernization" over time – precisely because interpretation should not replace "law".[42] Interpretation is the tool by which the law can be guided in accordance with certain policies. If you draw a parallel with chess - where, like a process, two sides fight for victory, it is easy to see what role the rules of the game and the correct distribution of its participants are important to achieve the goal. Without the universal rules of chess, it is impossible to play a game, because the essence and purpose of chess will remain unattainable. The essence of the interpretation of the law is the selection of the best "party".[43]

About the essence of the interpretation, a historical case is paradoxical, when Bartholus first made a decision and then looked for his friend Tigranius in the corpus Juris Civiles for norms corresponding to this decision. It did not stem from an arbitrary attitude, but from a desire for justice. This opinion was shared by Radbruch regarding the interpretation of the law: the interpretation of the law is the result of its own result, a creative expansion. The judge hearing the case forms an opinion in advance with his own feeling, what kind of decision he should make, and then uses the interpretation of the law to justify his decision.[44] It can be assumed that justification is a thought

[37] https://www.consilium.europa.eu/en/european-council/.
[38] The Universal Declaration of Human Rights, On December 10, 1948, by the United Nations General Assembly.
[39] The European Convention of Human Rights, Rome, 04.11.1950. the Council of Europe.
[40] Jeremy McBride, The doctrines and methodology of interpretation of the European convention on human rights and by the European court of human rights, Council of Europe, 2021, p. 34.
41 Carlo Guarnieri, Judges, their careers, and independence, Elgar Series: Research Handbooks in Comparative Law, Clark (ed.), Comparative Law and Society, Chap. 10, p. 3.
[42] Mitchel Lasser, Anticipating Three Models of Judicial Control, Debate and Legitimacy: The European Court of Justice, the Cour de cassation and the United States Supreme Court, Jean Monnet Working Paper 1/03, 2003, NY 10012, p. 3.
[43] Kharitonashvili N., Comparative civil procedure, Tbilisi, 2022.
[44] Reinhold Cipelius, Doctrine of Legal Methods, Logical Formalism in Law. Beck Publishing House in Munich, 2006. p. 137.

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process after the decision of the case, and the judge actually justifies the decision he made, which he made as a result of inner conviction. On the importance of interpretation, we can safely conclude that it is an important tool of the judicial system, the use of which depends on its owner.

The lack of a definition of the term interpretation in the European Union is not accidental, and it is this uncertainty that ensures the evolution of the field of law assessment and the creation of a new legal order with supranational terms[45]. There is a risk that legal inflation will occur, although it can be prevented by high legitimacy of legal principles.

3. COMPARATIVE INTERPRETATION – AS THE FUTURE OF LAW DEVELOPMENT

The use of the comparative legal interpretation method follows from Article 6(3) TEU, which refers to the "constitutional traditions of the Member States" as part of Union law. Article 19 TEU provides the constitutional authority for the ECJ to engage in a comparative study of the laws of the Member States. It is already widely recognised that the comparative interpretation is the special method of interpretation in European law.[46] The method of comparative law can be defined as an interpretative tool serving the Court of Justice in resolving certain constitutional or legislative gaps, conflicts, and ambiguities. While the method of comparative law focuses primarily on the legislation of member states, it does not exclude international law or even the law of third countries, such as that of the USA."[47] The comperative law itself is based on two methods: micro-comparison and macro-comparison. However, for a comprehensive comparison, it is advisable to use both the micro-comparison and the macro-comparison methods. Macro-comparison is carried out by comparing the general style of procedural systems or procedural codes, and in this regard, the main principles of legal families or legal culture are distinguished. Micro-comparison, which is more widespread, aims to solve specific problems, to study some special procedural mechanism and its functional equivalents in different countries in order to introduce an analogue into national legislation. However, it is difficult to draw an unambiguous line between micro-comparison and macro-comparison.[48] When comparing, it is important to compare not just legal texts, but also real legal rules and legal cultures. A mere verbal comparison of dogmatic institutions or legal rules can mislead comparative researchers and lead to incorrect conclusions. Social problems, their solutions, and the comparison of the results of these solutions should be carried out functionally. Therefore, one should compare not only legal texts or "written law", but also "law in action".[49] When comparing, it should also be taken into account that legal norms of equal rank should be compared.[50]

The first challenge of use this method by cout of Justice is that the legal systems of the Member States have developed completely differently and therefore comparability as such is often limited. The plurality of actors in charge of the application of the law raises the question which of them have the authority of interpreting the integration law and the modalities of such an inter pretation. One of the instruments that could help overcome the lack of uniformity of approaches regarding the interpretation

[45] Martina Bacic, Terminological variation and conceptual divergence in EU Law. https://www.researchgate.net/publication/376522578.

[46] Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

[47] Koen Lenaerts, Kathleen Gutman, and Janek Tomasz Nowak, EU Procedural Law, Oxford, 2015, p. 37. in Ligia -Valentina Mirisan, The place and role of the comparative law method within the interpretation of the court of justice of the EU, SARA Law Research Center, International Journal of Legal and Social Order, https://www.ccdsara.ro/ijlso ISSN 2821 – 4161 (Online), p. 1-6.

[48] *Gottwald P.* , Comperative civil procedure, Ritsumeikan Law Review No22, 2005,23-25.

[49] *Gottwald P.* , Comperative civil procedure, Ritsumeikan Law Review No22, 2005,23-25.

[50] Anweiler, Auslegungsmethoden, S. 186. in Vladimir Yaroshevskiy, Die Auslegungsmethoden des EuGH Zitiervorschlag, Berliner Online-Beiträge zum Europarecht, Nr. 1, S. 1-17.

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and application of supranational law by the courts of several member states is the preliminary reference procedure. In the absence of such a procedure the burden of interpretation of supranational law rests on the national courts.[51] However, this approach does not ensure uniformity of interpretation.

Another challenge is that the multilingual feature of EU terms manifests in their co-existing in 23 official languages, which is referred to as multilingual concordance. This implies that all language versions should convey the same legal effect. Multilingual concordance evokes the relation between the translation and the other language versions (Biel 2019).[52] That's exactly the problem that arose in the ECJ decision in Case 100/84, where ECJ found that "no legal conclusions can be drawn from the terminology used".[53] Both terminological variation and conceptual divergence can undermine the uniform application and interpretation of EU law. However, even if terminological convergence is upheld, conceptual divergence can nevertheless be manifested in varying interpretations of EU concepts at the level of the Member states.[54] In general, it should be noted that any translation requires interpretation, and the most difficult task is translation with the same context. As the meaning of a word in EU law does not necessarily have to coincide with its meaning within the legal system of a Member State.[55] This complicates the use of the literal interpretation method as it was towards the interpretation of the term 'spouse' for the purposes of Article 10 of Regulation No 1612/68.267[56] or In the case[57] where The concepts of 'intention' or 'purpose' was disscussed.[58]

As mentioned in the literature The comparative legal interpretation method has two primary scopes of application in Community law: The first one is the extraction of unwritten Community law - If the Court is faced with a problem for which there is not yet a solution under Community law, it falls back on the legal systems of the Member States, in which comparable situations are already regulated. An example of this can be found in the "Hauer" judgment[59] Where ECJ used the Italian and Irish constitutions and the German Basic Law to assess the issue. ECJ in its decisions[60] said that an interpretation of a provision of Community law thus involves a comparison of the different language versions. Finally, if different language versions cannot be reconciled in this way, the ECJ is left with a choice between a narrow interpretation and a broad interpretation, depending on which language versions apply.[61] This confirms that Comparative legal interpretation is an irreplaceable tool for the ECJ to condense the incomplete structure of Community law and to keep the Community legal system in line with the legal systems of its member states. Its fruits include the principles of good faith and the right to be heard.[62]

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[51] Diyachenko E.B. Application of the EAEU law by national courts and development of judicial dialogue. Law Enforcement Review. 2022;6(4):244-260. https://doi.org/10.52468/2542-1514.2022.6(4).244-260.

[52] Martina Bacic, Terminological variation and conceptual divergence in EU Law. at: https://www.researchgate.net/publication/376522578.

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Another application for comparative legal interpretation is liability law in the area of fundamental rights.[63]. Here, the need for a legal comparison arises from the law itself. The former Article 215 II of the EC Treaty and the still applicable Article 188 II of the EAGV both stipulate that "general principles of law common to the legal systems of the Member States" should be used in the case of non-contractual official liability of the Community institutions. In this case, comparative law is therefore not just a subsidiary method, but the method specified by the Treaty and is therefore decisive. In the "Brasserie du pêcheur" judgment[64] the ECJ developed a state liability claim from the legal systems of the member states.

Furthermore, apart from the fact that the comparative law method provides an analytical support for the discovery and development of general principles of EU law[65], it may also be relied upon with a view to clarifying specific provisions of EU law. In other words, it provides a good framework for the ECJ to undertake 'federal common law-making'.[66] As the legal systems of the Member States have developed completely differently and therefore comparability as such is often limited. In order to do justice to this, the ECJ introduces an evaluative element into the comparison.[67] Due to the indeterminacy of written law, it requires the evaluative nature of law. This indicates the future of law, the need for its dynamism, the lesser importance of codification and the superiority of general principles. However, it has the potential to make the law unpredictable if it is not applied in a balanced manner. In case of its application in accordance with the supreme principles of law, it is possible to conclude that the method of comparative interpretation can give law a dynamic and social function and maintain the vitality of such a large union with its diverse legal culture as the European Union.

CONCLUSIONS

Based on all of the above, the Court of Justice is a unifying political player, which makes a significant contribution to the implementation of the European Union's policy. In its implementation, the correctly selected legal method - interpretation - is of key importance. Among the methods of interpretation, one of the significant places is occupied by the method of comparative interpretation. It cannot be attributed to any classical interpretation method, but needs to recognize as a separate special method, since it is an emergency aid for the court when it cannot find an answer in the EU Law sources. That is why it can be concluded that the method of comparative interpretation can play a unifying role of cultures, become a bridge between different cultures of law and internationalize the legal profession.

As for the discussion of how comparative interpretation should be carried out, it can be concluded that its application according to necessity diminishes its significance. Its use in this way has the potential to render the law unpredictable and completely evaluative. It should be applied in accordance with the supreme principles of Supralegal law.

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[66] K. Lenaerts and K. Gutman, '"Federal Common Law" in the European Union: A Comparative Perspective from the United States' (2006) 54 American Journal of Comparative Law 55.

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