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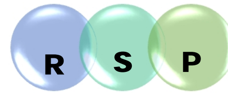

ORIGINAL PAPER

Prime Time for Justice: Exploiting the Relations among the High Court of Cassation and Justice, the Constitutional Court of Romania and the European Court of Justice

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Abstract
The High Court of Cassation and Justice is the highest court within the hierarchy of courts in Romania and it has jurisdiction mainly to ensure consistent interpretation and application of the law by other courts, both in criminal and civil matters. Chronologically, the Court of Cassation and Justice was founded in 1861 and, after having several names, each with its own meaning for its role, following the revision of the Constitution of Romania in November 2003 the supreme court becomes once again the High Court of Cassation and Justice. It has the primary role in the unification of Romanian jurisprudence in relation to European law, having exclusive national jurisdiction to eliminate contradictory legal decisions by sentencing the decisions regarding the appeal in the interest of the law, and recently, by sentencing the preliminary decisions in a number of legal issues. In its relation with the Constitutional Court, the High Court is the only court within the judicial system that can trigger both *a priori* control of the constitutionality review of the law, and *a posteriori* control in this regard. On the other hand, decisions adopted under the exercise of *a posteriori* verification by raising the exception of unconstitutionality have effect on all courts, including the High Court of Cassation and Justice. As regards the relations with the European Court of Justice, they are under the sign of the influence that the jurisprudence of the European Court has on the domestic court and the Supreme Court also. The means by which the effective cooperation between these institutions of national law and of European law, is the institution of preliminary question that can be addressed to the Luxembourg Court by national courts, thereby ensuring cooperation between the EU judge and the national magistrate.

Keywords*: Supreme court, the High Court of Cassation and Justice, Romanian Constitutional Court, European Court of Justice, cooperation*

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The High Court of Cassation and Justice – a Supreme Court in Internal Law

The institution of a "supreme court" in the judicial system is not new for the Romanian law but, as we have probably already been used to it, it is an "eminently French creation" (Vioreanu, 1871: 156 apud Duţu, 2012: 41-42; Alland, Rials, 2003: 313-317; Cadiet, 2004: 260-266). Unlike Roman law, where the role of the judge was ultimately held by magistrates, assemblies and then by the emperor, the institution of a "supreme court" is a creation of the modern state and has emerged with the establishment of central jurisdiction. Currently, Law no. 304/2004 on judicial organization explicitly determines, by the provisions of article 18 that in Romania there is only one Supreme Court, called the High Court of Cassation and Justice, a legal entity based in the capital.

From High Court of Cassation and Justice to Supreme Court and back to High Court of Cassation and Justice

In Europe, the idea of a "supreme court" has appeared since the Middle Ages, with the complex structure of legal entities and multiplication of legal actions and appeal, "initially taking the form of higher courts or sovereign courts, like Curia Regis in England and France" (Duţu, 2012: 41). In 1749, *De l'Esprit des Lois*, belonging to Montesquieu, launched and imposed the idea of separation of powers and the establishment of a "judicial power". This philosophy has impelled the "creation" of the judicial power, by establishing the US Supreme Court, in 1789, and then, affirming modern constitutionalism (Duţu, 2012: 41).

In France, the institution of a supreme court of justice is found during the monarchy, under the name of "council" and judging appeals against decisions of parliaments and sovereign courts. The end of the 18th century brings triumph for the ideal of liberty-equality-fraternity that contributes to the establishment of the judicial power, different and independent of the administrative power, having, at its top, the Court of Cassation, whose role is to ensure uniformity of jurisprudence of courts and to make sure the law is correctly enforced. The French environment influences the legal life in the Romanian Countries since the 7th century, and the consequences are felt more strongly with the enforcement of the Organic Regulations, which were also absorbed in the revolutionary manifestos of 1848. The Great Powers Conference, held in Paris, in May 1858 and ended with the enactment of the *Paris Convention*, brings the necessary leverage for the union of the Romanian Principalities (Romanian Country and Moldavia) and the creation of modern Romania, particularly in light of the law. Promoted by the French delegate to the Conference (Count Alexander Walewski, Foreign Minister of Emperor Napoleon III) and following the French model, the idea of a High Court of Cassation and Justice takes shape in four articles of the Convention (Great Powers Conference, 1858, articles 38-41), thus providing the status of the first Supreme Court in Romania.

In 1861, Prince Alexandru Ioan Cuza issued, by Royal Decree No.1 of January 12th, 1861, the Law for the establishment of the Court of Cassation and Justice, published in the Official Gazette of the Romanian Principality No. 18 of January 24 and in the Official Gazette of Moldavia no. 88 of January 29. This is "an important step towards independence and affirmation of the judiciary as a genuine power, independent and equal with the other fundamental state authorities" (Duţu, 2012: 53). In time, the status of this court was little changed in 1870, after being fully maintained by the Constitution of July 1, 1866, an act that the people of that time claimed that "it was a monument of the future", as Pascal Aristide, Dean of the County Bar of Ilfov, said about it. However, the Constitution of 1923 substantially alters the status of the Supreme Court, and starting with

the Constitution of 1983, the High Court also receives jurisdiction to validate elections for Parliament (Romanian Constitution, 1938, article 50). But this power was exercised only once, in 1939. However, the idea is welcomed by the people of that time, A. Rădulescu stating that “the system is indisputably superior” (Rădulescu, 1943: 865) and that “long talks are prevented and the research is conducted by trained and independent people” (Rădulescu, 1943: 866). Also the contemporary doctrine claims that “with such a jurisdiction, the High Court was called upon to play a certain political role, but, in any case, it reached the plenitude of powers known in its history: resolution of disputes and ensuring uniform law enforcement and interpretation, disciplinary supervision of the judiciary, court of contentious administrative matters, control of the constitutionality of laws and, finally, by validating the elections, control of the formation of Parliament” (Duţu, 2012: 351).

With the adoption of the first communist Constitution (13 April 1948), the new judicial reality was shaped by Decree No. 132 of April 2, 1949 on judicial organization, which established, for the first time, tasks and responsibilities for the justice, the latter being achieved by the following courts: popular courts, tribunals, courts and the Supreme Court. Becoming Supreme Court, the court at the top of the judicial hierarchy receives many other changes by Decrees, culminating with the adoption of the Constitution of 1952, when its position is now replaced by the Superior Court, which had a double role: that of law court and court of supervision of other courts in the judicial system. According to article 72 of the Constitution of the Romanian People's Republic, “the Supreme Court [...] exercises legal activity supervision of all courts of the Romanian People’s Republic”. The designation of General Court is preserved also in the Constitution of 1965 and Law no. 58/1968 on judicial organization.

According to article 101 of the Constitution of 1965, the courts were represented by the Supreme Court, county courts, district courts and military courts. In this context, the Superior Court was “the head of the unitary system of the judiciary, the highest court of law among all the criminal, civil and military courts” (Moldovan, 1989: 153). After December 1989, in the context of returning to the imperatives of democracy and the rule of law, “the Supreme Court has gradually regained its appropriate traditional role and place in the judicial hierarchy of the country” (Duţu, 2012: 453). Even the name has changed, being known, according to the Constitution of 1991, as the Supreme Court of Justice. A final name change is suffered by the Supreme Court in 2003 when, following the revision of the fundamental law, it becomes, again, the High Court of Cassation and Justice. Hence, of all the courts of the new democratic state, the Supreme Court alone enjoys constitutional status, being expressly mentioned in the text of the Constitution. For that reason, it is rightly stated that this gives it a “superior stability and hierarchy” (Duţu, 2012: 453).

In conclusion, the institution of the Supreme Court “has deep roots in history” (Chartier, 2001: 2; Weber, 2006: 16) and has been given, in the course of time, several names, each with its own meaning for the associated role. Thus, our highest court was called the High Court of Cassation and Justice from March 15/28, 1862 to April 2, 1949, when it became the Supreme Court.

This denomination lasted only until June 19, 1952, when the Superior Court was established, which operated until December 27, 1989. Since that date, the Supreme Court of Justice was established, and in November 2003 the term of High Court of Cassation and Justice was reintroduced.

The imposing appearance of the High Court of Cassation and Justice through jurisdiction established by law

Following the revision of the Constitution of Romania, in November 2003, the highest court became the High Court of Cassation and Justice. It is organized into four sections (Civil Section I, Civil Section II, Criminal Section, and the Department of Administrative and Fiscal Matters) and joined Sections (for the settlement, as provided by law, of the complaints regarding the change of jurisprudence of the High Court of Cassation and Justice and for the notification of the Constitutional Court of Romania about the control of constitutionality of laws before promulgation), each with its own jurisdiction. Concurrently, within this court, there are three functioning judge panels: the panel responsible for judging the appeal in the interests of the law, the panel for the settlement of law issues and the Panel of 5 judges. The 5 judges panels deal with the appeals against decisions delivered at first instance by the criminal Section of the High Court of Cassation and Justice, they settle the appeals against rulings pronounced during the trial at first instance by the criminal Section of the High Court of Cassation and Justice, resolve disciplinary cases according to the law and other cases within their jurisdiction by law. According to article 18, paragraph (2) of Law 304/2004, as amended, the High Court of Cassation and Justice "ensures consistent interpretation and enforcement of the law by the other courts". Taking into consideration the EU Member State quality of the Romanian State, the unification of Romanian legal practice in relation to European law is an important objective of Romanian law. First of all, it is intended, by this, to avoid future adjudgments of Romania made by the European Court of Human Rights for contradictory judicial practice, as it has already happened (Beian vs. Romania, 2007; Ştefan and Ştef vs. Romania, 2008; Driha vs. Romania, 2009), and, secondly, to create a jurisprudential uniformity which constitutes a solid basis for legislating at European level.

The High Court of Cassation and Justice has a primary role in the context invoked, all the more so as in recent years it has gained new prerogatives to ensure uniform enforcement of national legislation which, as I previously mentioned in other papers, is closely related to European legislation. Both the appeal in the interests of the law and the preliminary judgment filed for settlement of law issues, are legal institutions borrowed from the French law. The purpose of both mechanisms is to ensure interpretation and consistent enforcement of the law by courts, the appeal in the interests of the law being used as "a last resort to put a stop to the perpetuation of damage" (Lupaşcu, 2009: 78-109). On the other hand, the mechanism of the preliminary judgment for settlement of law issues, recently introduced in our legislation, is intended to eliminate the risk of non-unitary practice, by basically solving an essential issue of law, ultimately appeared in a pending case. It is a prevention tool, which is designed to prevent a non-unitary jurisprudence that might arise at some point and becomes the main mechanism for unifying the judicial practice. Thereby, the High Court of Cassation and Justice has exclusive jurisdiction at national level to eliminate contradictory court jurisprudence using decision taken to solve the appeal in the interests of the law and preliminary judgments to settle law issues. To that effect, the existence and development of a continuous and constant jurisprudence at national level contribute to a better understanding and application of European law. Furthermore, by shaping and unifying the jurisprudence, the High Court of Cassation and Justice helps bringing together common law countries and civil law countries. All these aspects lead to uniform European law and, why not, to a possible future legislative codification, and the contribution of our supreme court in this process is irrefutable.

Considering these aspects, we can state, along with Professor Mircea Duţu, that "the High Court of Cassation and Justice is the fundamental ground, the "keystone" of the Romanian jurisdictional system, a living institution, constantly moving and evolving, in a state of continuity by discontinuity, the first to ensure the European and international aspect of national justice, a critical sensor of the Romanian public life" (Duţu, 2012: 453).

Relations between the High Court of Cassation and Justice and the Constitutional Court of Romania

In Romania, the constitutionality review of laws has occurred since 1912, when the High Court of Cassation and Justice confirmed the judgment delivered by the County Court of Ilfov in the famous "Trial of Tramways", giving jurisdiction to courts of law to investigate and determine the constitutionality of laws. Subsequently, starting with the Constitution of 1923, the right of the judiciary to perform this review was entrusted to the High Court of Cassation in the joined sections, although some voices, as Disescu still argued that the trial of "unconstitutionality of laws" should belong to all judicial bodies (Lascarov-Moldoveanu, Fănescu, 1925: 389).

Constitutions of the communist regime created only an appearance relative to the review of constitutionality of regulatory documents (for example, the Constitution of 1965 stipulated that the legislative power shall review the constitutionality of laws), but after December 1989, in the new context of the democratic political regime, the Romanian government has chosen the European model of constitutionality review. In this manner, the Constitution of December 1991 established a political-jurisdictional public authority to exercise this control: the Constitutional Court. Following the review of the fundamental law of 2003, its role as guarantor of the supremacy of the Constitution was established by article 142, paragraph (1). On this occasion, the Constitutional Court has received new responsibilities which increase its importance in the institutional edifice of the rule of law. The first decisions of the Constitutional Court were delivered in 1992 and were related, first to the free areas regime, and the second to the legal situation of buildings owned by the state after August 23, 1944, both of admission. Since then, the activity of the Court has grown exponentially with the development of the regulatory system and the activity of the ordinary courts. Regarding its activity, it must be stressed that it can exercise the constitutionality review only after a prior notice from the authorities expressly entitled by the Fundamental Law, and the solutions it can deliver may accept or reject the notification.

According to its jurisdiction (article 25 c) of the Law no. 304/2004, as amended), the High Court of Cassation and Justice, established in joined Sections, may refer to the Constitutional Court to review the constitutionality of laws before promulgation. Thus, the functional relations between the two courts are governed by the quality of the Supreme Court to be one of those important authorities that can notify the Constitutional Court to exercise the constitutionality review (According to article 146 a) of the Romanian Constitution, the High Court of Cassation and Justice, along with the President of Romania, one of the presidents of the two chambers of parliament, the government, the Ombudsman and a number of at least 50 deputies and 25 senators, can trigger a priori constitutional control, challenging the constitutionality of a law before it is promulgated). Also, the High Court may inform the Constitutional Court in order to exercise the review of regulatory documents a posteriori, when the exception of unconstitutionality is invoked by litigants, in a case submitted for trial and pending, pursuant to the law. Therefore, the Supreme Court is the only court within the judicial system that can trigger both a priori control of the constitutionality review of the law, and a posteriori control in this regard.

On the other hand, the decisions of the Constitutional Court are binding from the date of their publication in the Official Gazette. When the unconstitutionality makes reference to a law before its promulgation, the Parliament has the obligation to reconsider those provisions to coordinate them with the decision of the Court. When the unconstitutionality makes reference to provisions of a law, decree or regulation in force, the Parliament or the Government, as appropriate, shall be obliged, within 45 days of the publication of the decision, to coordinate the unconstitutional stipulations with the provisions of the fundamental law. Otherwise, they shall cease legal effects.

From the above mentioned, it emerges the idea that the High Court of Cassation and Justice is an important entity in relation to the other branches of government. Thus, an unconstitutional law of the Parliament can be prevented from entering into force by notifying the Constitutional Court, which must be done by the High Court. Also, a law, decree or regulation, or provisions thereof, can lack legal effect if the Constitutional Court is notified by the High Court of Cassation and Justice, by exception of unconstitutionality. It results from this context, the role of the Supreme Court to cooperate with the Constitutional Court by notifying the latter on certain unconstitutional regulatory provisions.

But decisions delivered by virtue of exercising the control a posteriori, by raising the exception of unconstitutionality, produce effects to all courts, including to the High Court of Cassation and Justice (Dănișor, 2007: 690), which are required to take them into consideration at the delivery of their own judgments, excepting the rejecting decisions, that cause effects inter partes (Vida, 2004: 199). Otherwise, pronounced rulings are illegitimate, this aspect being pointed out in the doctrine since 2010 (Beligrădeanu, 2010: 55-56), during the examination of Decision No 4615 of October 26, 2009 passed by the High Court of Cassation and Justice, about which it was even claimed that "such institutional behavior is unacceptable" (Beligrădeanu, 2010: 55). In this case, after the Constitutional Court has ruled, by means of jurisprudence, that a certain text of law met both conditions of constitutionality and conventionality, the High Court of Cassation and Justice has assumed legal authority to assess the text in question from the perspective of the Convention for the Defense of Human Rights and Fundamental Freedoms, describing it as being contrary to the right to a fair trial. The High Court, as a court of law, be it supreme, chose to ignore the decision of the Constitutional Court and failed to enforce the text in that case. The phenomenon has intrigued foreign doctrine as well, which stated at some point that a loyal constitutional behavior is the essence of the rule of law and the Constitutional Court is and must be guarantor for the supremacy of the Constitution (Benke, 2011: 285).

Moreover, the Constitutional Court was intransigent when one realised they had been notified with the exception of unconstitutionality of a decision of the High Court of Cassation and Justice for solving an appeal in the interests of the law, but with disregard to the constitutional jurisprudence. In this case, by decision no. 206 of 29 April 2013, the Constitutional Court found that "the settlement of law issues on trial" by Decision no.8 of October 18, 2010 given by the High Court of Cassation and Justice, is unconstitutional. It was held, therefore, that the phrase "settlement of law issues on trial" on the one hand, affects only the interpretation and consistent application of laws, meaning regulatory documents, and not decisions of the Constitutional Court and their effects, and on the other hand, affects only the interpretation and consistent application of the laws by the courts and not by the Constitutional Court, which is a distinct authority of the judiciary. On other occasions, the Constitutional Court found about the existence of a constitutional legal

conflict between the High Court of Cassation and Justice and the President (Decision of the Constitutional Court no. 1222 of November 12, 2008), when the Supreme Court did not consider, on appeal, a decision of the Constitutional Court by which certain legislative provisions had been declared unconstitutional and also between the High Court of Cassation and Justice, on the one hand, and the Parliament and Government, on the other hand (Decision of the Constitutional Court no. 838 of May 27, 2009), when the Supreme Court, through its decisions, replaced the legislative power.

In other words, as determined by the Constitutional Court repeatedly, since Plenum Decision no. 1/1995 on the compulsoriness pronounced in constitutionality review, "res judicata accompanying jurisdictional acts, and therefore decisions of the Constitutional Court attaches not only to the device, but also to the considerations that support it". In this respect are Decision No.1415 of November 4, 2009, Decision No. 414 of April 14, 2010, Decision No. 415 of April 14, 2010, Decision No. 1615 of December 20, 2011, and Decision No. 463 of September 17, 2014.

In conclusion, the Constitutional Court aims at eliminating "unconstitutional venom" (Muraru, Constantinescu, 1995: 31) and its decisions, delivered in virtue of its jurisdiction as constitutional court of law, are binding *erga omnes* from the date of their publication, unlike *a priori* control, which does not create such an effect (Drăganu, 2004: 76). Violation, by one of the powers: legislative, executive or judicial, of constitutional effects of law that accompany the decisions of the Constitutional Court, involves legal consequences such as: declaring the unconstitutionality of the legislative solutions, whose unconstitutionality has been discovered in advance, when the legislative power reiterates a provision declared unconstitutional (Decision no. 1133 of November 27, 2007 in conjunction with Decision no. 472 of April 22, 2008, Decision no. 415 of April 14, 2010 in conjunction with the Decision no. 1018 of July 19, 2010, Decision no. 1394 of October 26, 2010 in conjunction with Decision no. 335 of March 10, 2011, all of them pronounced by the Constitutional Court of Romania), declaring the unconstitutionality of the decree already passed, when the Government acts as delegate legislator (Decision of the Constitutional Court no.1.257 of October 7, 2009, Decision of the Constitutional Court no. 1629 of December 3, 2009), censorship of administrative acts by courts of law in contentious administrative matters (for administrative acts of the executive power), invalidation of rulings in appeals, when courts do not comply with the effects of decisions of the Constitutional Court, or even triggering a constitutional legal conflict (Gîrleşteanu, 2012: 41-51; Carpentier, 2006: 378; Dănişor, Drăghici, 2007: 109-122; Eleftheriadis, Nicolaïdis, Weiler, 2011: 673-677).

Relations between the High Court of Cassation and Justice and the Court of Justice of the European Union

The High Court of Cassation and Justice cannot be presented completely unless one looks at its relation with the Court of Justice of the European Union, both courts having, for that matter, a particular importance both for the national legal system and for the European legal system. The Court of Justice of the European Union is the judicial institution of the European Union, also known as the "Court of Justice". It is "an institution that ensures compliance with the European law" (Rusu, Gornig, 2009: 83) and decides on issues of constitutional or administrative nature (Sack, 2001: 77), being primarily designed to examine the legality of measures adopted at European level and to ensure interpretation and consistent application of the European law in all Member States (Streinz, 2003: 186-192). That court is, in fact, the ultimate tool for the interpretation of

Community law, it is binding for national courts, and its decisions enjoy the *res interpretata* effect.

But the decisions of the Court of Justice in Luxembourg are binding only with regard to the interpretation of European law provisions, without being able to create new regulations. But the European Court jurisprudence, especially the previous one, cannot ignore the influence of the founding treaties, binding on Member States. Moreover, the hybrid nature of the European law requires the Court of Justice to eliminate certain loopholes, at the same time developing the European law. Hence, it follows the law creating character of the jurisprudence of this institution. However, the legal order of the European Union, although integrated into the national legal systems of the Member States, remains independent of the national legal order. Consequently, the Court of Justice of the European Union will not be able to enact national regulations and it does not have jurisdiction to review the legality of an act or domestic measures and has no duty to interpret national law (Munteanu, 1996: 270), its legal authority being limited to the interpretation and application of the European law.

Also, a characteristic of the jurisprudence of the Court of Justice is that it avoids relying on customary law to substantiate judgments. Although in public international law, the customary law is "a fundamental source of law" (Miga-Beșteliu, 2005: 681), in European Union law, it is "quasi-nonexistent" (Fuerea, 2003: 150), although it is not expressly denied (Ostertum, 1996: 115). As regards the legal force of the legal precedent, early jurisprudence did not make references to other judgments, delivered in similar cases, which is explained by the fact that, at the beginning, the organization and functioning of the European Communities were based mainly on the principles of the European continent system, which does not recognize jurisprudence as a source of law. But in time, under the influence of common-law system, and from the need of expediency of the Court activity, its jurisprudence has undertaken some concepts specific to common-law system and thus it began to make references and even cite its previous jurisprudence.

Romania, Member State of the European Union, since January 1, 2007, has enlarged its focus on legal matters, as a result of the influence of the European Court of Human Rights jurisprudence and the Court of Justice of the European Union jurisprudence on the national courts jurisprudence and even on national legislation. In this context, the High Court of Cassation and Justice has a specific role, extremely important, resulted from its status within the legal system at national level, reported to the demands of the European integration.

Regarding the relations between the Romanian legal system, which is led by the High Court of Cassation and Justice and the Court of Justice of the European Union, as the jurisdiction of the European Union, they are governed by the rules established by the Treaty of Lisbon, the statutes of the two courts, as well as their regulations of organization and functioning. In particular, national courts cannot ignore EU law, integrated into their own legal systems, which they are required to apply immediately, directly and with priority over the national law. The direct effect of the European law is not stipulated in the Treaties, however this has been established by the Court of Justice in Van Genden Loos case. Moreover, the Court of Justice has also held that if, during proceedings before the national court, the parties fail to issue a claim based on provisions of Community law, the national court must enforce Community regulations *ex officio*, provided that they have an impact in solving that particular case (Case C-312/93, Peterbroeck vs. Van Campenhout & Co.). The means by which the actual cooperation between these institutions is realised, one of national law and the other of European Law, is the institution

of the preliminary question that can be addressed to the Luxembourg Court by national courts, thereby ensuring cooperation between the union judge and the national magistrate. In this context, the High Court of Cassation and Justice has the right, at any time, to request the Court of Justice a "preliminary ruling", and this right turns into obligation when it is actually the court of last resort and if a matter of interpretation or validity has been invoked before the court, either by the parties or even by the court itself, *ex officio*. The jurisprudence of the European Court is particularly important for the national judicial system, contributing to the development of interpretation and application of national law and European law equally.

The preliminary questions procedure is a mechanism which enables our supreme court to consult the Court of Justice of the European Union concerning the interpretation or validity of Community law in a pending case. Thus, this procedure is a means of ensuring legal certainty, by the uniform application of Community law throughout the European Union. The decisions effects of the Court of Justice of the European Union are reflected directly on the manner of interpretation and application of the national law which, as it is known can be applied only in close contact with the European law. According to the direct effect of EU law over the national legal systems, the internal judge is obliged to take into consideration the judgments of the Court of Luxembourg and the interpretation of the law provided by them. It follows that the decisions of the Court of Justice of the European Union enjoy res interpreted authority which is binding on national courts. This is the only European court authorized to issue interpretative judgments, genuine sources of European Law.

Also interesting is the fact that our legal system recently adopted a procedure which, although borrowed from the French law, is very similar to the preliminary question procedure addressed to the Court of Justice of the European Union: the institution of the preliminary judgment for settlement of law issues.

This mechanism falls under the jurisdiction of the High Court of Cassation and Justice and it is designed to eliminate the risk of non-unitary practice, by rule settlement of an essential question of law, appeared in a pending case before a Court of last resort. It is a prevention tool, which is designed to prevent a non-unitary practice that might arise at some point and it becomes the main unification mechanism of the national court jurisprudence. As the Court of Justice is the only interpreter of the EU law jurisprudentially speaking, providing mandatory interpretative decisions, the High Court of Cassation and Justice is the only one that can provide court decisions at national level in order to prevent (preliminary judgment) or settle (appeal in the interests of the law) inconsistent judicial practice. This shows the concern of our state to rally to the requirements of the European law and to align as much as possible national legislation and jurisprudence in relation to European law.

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