

# Comparative Interpretation

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## A. Introduction

As one of the methods of interpreting EU legal provisions lawyers use comparative approach. This type of interpretation means comparison of national law with the EU law. The main aim of comparative interpretation, along with the other methods, is to receive clear understanding of EU legal provisions.

## B. Method of Comparative Interpretation used by the ECJ

Comparative interpretation is not used by ECJ frequently but "looking at the style of judicial pronouncements, it is also interesting that in recent years the influence of British judges has surfaced in ECJ decisions". Besides enumerating in their decisions the legal basis for the cases, judges use to take into

account even preceding cases dealing with this or that question.



Unbekanntes Makro: 'footnote'

Although the clear preference for the

teleological interpretation



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, on several occasions the ECJ has used the comparative method openly by referring to general principles underlying the national laws of all or most Member States. A good example of this can be seen in the Case 29/76, when the Court should define the interpretation of the concept 'civil and commercial matters' within the meaning of the first paragraph of Article 1 of the Convention of 27 September 1968, concerning the application of the Convention. Ruling the case, the ECJ has decided that the reference must not be made to the law of one of the States concerned in the conflict but, first, "to the objectives and scheme of the Convention and, secondly, to the general

principles which stem from the corpus of the national legal systems."



Unbekanntes Makro: 'footnote'

In other important Judgment, the ECJ has used the comparative legal method to examine the submissions of an applicant 'in the light of fundamental rights, that form an integral part of the general principles of law'. In *Nold v. Commission* the ECJ has ruled that 'in safeguarding these rights, the Court is bound to draw inspiration from constitutional traditions common to the Member States, and it cannot therefore uphold measures which are incompatible with fundamental rights

recognized and protected by the Constitutions of those States'



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Responsible: Freie Universität Berlin, by its President  
Authors: Maria Zhigalova, Eduardo Caruso Cunha  
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