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**National judge of the EU member state and mixed jurisdiction**

In early 2000, prof. William Tetley asked if the European Union was a mixed jurisdiction or was becoming a mixed jurisdiction[[1]](#footnote-1). In the paper, I re-answer to this question by focusing on national judges and applying recent case law of the Cour of Justice on the European Union (CJEU). The status of national judges within the European Union evolves from the early 1960s and at least since February 2018 is a centre of attention for the CJEU. The possibility to ask a referral question by a judge for lower court directly to the CJEU was a founding factor of the EU success story.

Therefore, the for the one hand, I will study the role of a judge and on the other hand the perception of a national judge adjudicating within the courts of general jurisdiction in EU member states. I will focus on recent judgments of the EU Court of Justice in cases C-64/16, A*ssociação Sindical dos Juízes Portugueses vs Tribunal de Contas* and the so-called Polish cases regarding the questions referred: C-537/18, C-558/18 and C-563/18 (combined); C-585/18 and C-624/18; C625/18, and C619/18 (combined) in terms of the decisions and the referrals themselves. Finally, I will analyze the discourse on so-called « horizontal Solange » concept that argues for a juridical review of the state of fundamental rights in other member states by each national judge. It has been advocated by the legal scholars and judges and can be shown as a first proper common law doctrine of the EU law.

In conclusion, I will advocate that nowadays EU has become a proper mixed jurisdiction, and it should give an impulse for a radical change in the judges’ training program to allow the fully adjudicating the EU cases by applying common law/Equity standards, or even for creating a separate branch of jurisdiction that would adjudicate the EU cases.

1. William Tetley, Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified), 60 La. L. Rev. (2000), https://digitalcommons.law.lsu.edu/lalrev/vol60/iss3/2 [↑](#footnote-ref-1)