



Enhancing fundamental rights in a safe digital public space

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This paper explores some of the key points in the Commission's Communication dealing with the European Judicial Strategy 2025-2030, adding a special emphasis on AI safety, when fundamental rights are at stake. Training is a necessary pre-condition in ensuring the independence of the judiciary. Recourse to digitalization for an efficient and widespread access to legislation and case law is particularly relevant in expanding the knowledge of EU law and the case law of the CJEU. Training of judges inserts an important tile in the mosaic of judicial cooperation within the EU, leading to equal treatment of Member States in observing a uniform interpretation of EU law, thus strengthening the principle of primacy. Awareness raising in fundamental rights is connected to the implementation of the Charter of Fundamental Rights. Art. 47 of the Charter is pivotal in the CJEU's case law on the rule of law and on judicial independence.

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1. A short preamble: AI safety vs efficiency.

Justice is at the core of this project and I will focus my presentation on such a crucial notion, evoked in connection with fundamental rights and AI.

My opening consideration has to do with the fact that whenever liberal democracies face new challenges – and this has frequently happened in recent years – citizens feel a most urgent need to expand the guarantees of their rights and promote their effective enforceability. Theories on deliberative democracy have developed around the concept of an ongoing process of enforcement of fundamental rights, thus expanding the notion of effective judicial protection, which implies a full engagement of the legislature, at all levels.

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Historically there has been a need to confront different models of constitutions and, what is most interesting, different approaches to constitutional adjudication. This exercise is very relevant, when we reflect critically on potential attacks to the rule of law. In that – hopefully not incumbent – emergency **we ought to be treasuring national constitutional traditions and bring them closer in a coherent set of values and principles, enhancing the advantages that have been accumulated in liberal democratic systems.**

When digitalization and recourse to AI expand, the borders of the “public space” too must be wider, so that even virtual participants can be included in democratic circuits. The most attentive scholarship partially had to review theories on participation, to take into account potential risks caused by digitalized communication and avoid the marginalization of groups or individuals within democratic circuits. In a digital space, awareness of constitutional rights and principles must be cultivated among citizens, who have to stay vigilant and seek effective judicial enforcement within an ongoing democratic process¹.

It is worth mentioning, quoting *Recital* 13 of the AI Act², that AI systems are different from «simpler traditional software systems or programming approaches». Whenever they imply human involvement – both in the input of data and in delivering information or executing operations – they must be driven by strict rules measuring and limiting the impact they may have on fundamental rights. The risk-based approach, delineated in art. 3.2 of the AI Act, is in itself a guide in indicating how to adopt the principle of proportionality.

Even in this new legal environment, the EU Charter of Fundamental Rights (CFREU) stands as a point of reference for its comprehensive approach to a wide spectrum of rights and principles and for its syncretism in relation to other legal sources, among all the ECHR. Such a centrality is confirmed by recent documents produced by ELI, namely the “ELI Mount Scopus European Standards of Judicial Independence” and the “Charter of Fundamental Constitutional Principles”. The drafters of these documents acknowledge that standards are not fixed rules. Hence, the language is descriptive and broad, oriented towards “attainment of a common European culture of judicial independence”, which must be based on the separation of powers³.

In order to contextualize my thoughts in a broader scenario, let me just refer to what has been recently reported with regard to the role of the legislature in the field of AI. Lawmaking has increased in the East Asia and Pacific Region, in individual US States – 82 AI related bills in 2024 – and, as we know well, in Europe. Whereas EU lawmaking is highly comprehensive and Member States are active in legislating themselves, US federal government is pursuing the policy of challenging state-level AI laws.

Stanford University’s Human-Centered AI Institute, one of the most renowned places monitoring the state of research in this field, stresses the urgency to look primarily for safety. The idea that regulation makes countries less competitive – this is the fear disclosed by the US

¹ For example, J. HABERMAS, *Nuovo mutamento della sfera pubblica e politica deliberativa*, Milano, 2023, pp. 11-12.

² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (Text with EEA relevance).

³ European Law Institute, *Mount Scopus European Standards of Judicial Independence*, Vienna, 2024; European Law Institute, *Charter of Fundamental Constitutional Principles of a European Democracy*, Vienna, 2023.

administration in competition with China – should be better formulated and balanced against the risks rising from lack of regulation⁴.

We read that «the era of AI evangelism is giving way to an era of AI evaluation» and that more measuring and a more frequent production of indicators is pivotal to understanding rapid changes and preventing risks. This is true, for example, in AI related employment, where weaker opportunities are being created and earnings outcomes may be lowered, if not properly monitored⁵.

I suggest that a major task for all those engaged in the training of justice professionals is to **promote monitoring and evaluation as tools for raising awareness in all forms of recourse to AI**. Indeed, the Commission’s Communication on “Judicial European Training Strategy 2025-2030”⁶ leads us in that direction, posing several challenges to individuals and institutions active in the field, in order to provide updated knowledge.

It also reveals a potential tension between the Commission and Member States, in relation to the notion of **autonomy in delivering judicial training**, since the latter inevitably mirrors the peculiarities of national judiciaries, their intrinsic needs and, furthermore, their responsiveness to national institutions, including Councils of the judiciaries.

I will highlight a few key points in the Commission’s Communication and will then concentrate on training as a necessary pre-condition to establish the independence of the judiciary. The principle – to name just one – of **interdisciplinary training**, which is adopted as a guide by EJTN, aims to improve, in my view, a **common culture of judicial independence**, a parallel goal to the one pursued in the Commission’s “strategy”, which is projected ahead to 2030.

Putting forward the notion of “interoperability” the Commission intends to propose an interaction between systems and data and to foster “e-judge craft”. Efficiency as a result of digitalization in the public administration, including the judiciary, is at the core of the “Draghi Report” and recalls the leading idea of growth as the outcome of synergies in many fields. Hence, as the Commission emphasizes, it is of utmost importance to guarantee access to all legislation and case law for all justice professionals, as a way to raise awareness and competences, improving long-life education in this field. This is a preliminary step to cross-border judicial cooperation and it is so in all fields, even in building, for example, joint investigation teams on delicate terrorism cases.

Cooperation is closely connected with furthering **mutual trust among national judiciaries** and with enhancing growth of the legal systems in their entirety. All these efforts lead to **building a common legal culture**. I wish to underline this point, which I will develop later on, since the Commission indicates that acquiring a full knowledge of the EU *acquis* in all fields – whistleblowing, hate speech, the protection of the child and the best interest of children, and so on – promotes a profitable interaction with the case law of the Strasbourg Court.

⁴ *Let 2026 be the year the world comes together for AI safety*, Nature, 29 December 2025, see <https://www.nature.com/articles/d41586-025-04106-0>.

⁵ See <https://www.forbes.com/sites/joemckendrick/2025/12/23/stanford-researchers-ai-reality-check-imminent/>.

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, European Judicial Training Strategy 2025 – 2030, Brussels, 20.11.2025, COM (2025) 801 final.

Furthermore, this knowledge must be nourished by constant updating: **awareness** is not an empty concept, it is rather **a means to an end**, a vehicle in acquiring the necessary information which altogether empowers justice professionals. It is pertinent that the Commission should convincingly acknowledge the central role played by EJTN – the network embracing judicial training institutions throughout the EU – thus confirming a fruitful cooperation among them and putting an emphasis on their inclusive approach towards foreign partners. Once more, respect for the autonomy that should guide national training institutions is part of an efficient and forward-looking exercise of coordination.

In fact, such a coherent structure of the learning machinery throughout the EU makes an even **sounder ground for candidate countries**, as pointed out by the Commission, in view of future accessions. The aim is to promote judicial independence free from corruption and aware of the need to acquire effective knowledge of the digital justice system, notwithstanding specific help to Ukraine’s recovering and reconstruction process.

In a diachronic perspective, digital justice policies are complementary to the EU broader strategy, launched in 2015, to build and develop a digital single market. Competences – it is worth recalling – are concurring and grounded in art. 114 TFEU, whereby the European Parliament and the Council adopt measures for the approximation of the national provisions which have as their objective the establishment and the functioning of the internal market.

The interpretation of the Digital Market Act is connected to its transitory nature, in view of the first evaluation scheduled for May 2026. Furthermore, scholarly contributions underline the double feature of this measure, oriented to economic regulation and, at the same time, having implications with antitrust law (art. 102 TFEU) and with the competences of the Commission in the field⁷. Antitrust law may prove not to be self-sufficient in this field, in particular when the need is displayed to intervene *ex ante*, to avoid the infringement of fundamental rights in a digitalized space.

It is remarkable that the AI Act too should comply with fair competition in the Single Market and should therefore be subject to the balancing of fundamental rights versus economic freedoms, which typically governs this subject matter. The legal basis for the Regulation is provided by articles 16 and 114 TFEU. However, the functioning of the internal market, to be improved adopting uniform measures throughout the EU, must be achieved in accordance with fundamental values of the Union enshrined in the Charter, among them democracy and the rule of law (*Recital* n. 2), which are crucial in discussing justice and all related issues. Art. 2 TEU is also recalled in connection with a “human-centric technology”, in the perspective of “increasing human well-being” (*Recital* n. 6).

In the next sections I will concentrate on some CJEU’s decisions which – in my view – are shaping an advanced notion of the rule of law in all its components. This, by all means partial and synthetic overview, wishes to connect the ongoing AI Act’s implementation with the EU’s founding values, as interpreted by the CJEU, and in particular with some of them, namely judicial independence and impartiality, linked to effective judicial protection.

⁷ F. ROSSI DAL POZZO e M. GUIDI, *Il Digital Market Act, un nuovo paradigma per la politica di concorrenza dell’UE nei mercati digitali: tra regolamentazione e diritto antitrust*, in F. ROSSI DAL POZZO E I. ANRÒ (eds), *Il mercato unico digitale fra antichi problemi e nuove sfide*, in *Eurojus Special Issue*, 2025, pp. 204-205.

2. Judicial cooperation and national identities.

National identities have come to the fore in the – by now very rich and complex – confrontation the CJEU established with some constitutional courts, recalcitrant in observing the principle of primacy of EU law. As Advocate General Spielman clarified in his “Opinion” delivered in *Commission v Poland*, the principle of primacy is “centripetal”, inherent to the process of supranational integration whereas national identity is “centrifugal”, since it ends up attacking a unitary concept of democracy⁸.

The decision of this case, recently delivered by the CJEU, adds further clarifications in relation to a **unitary concept of the rule of law**, which is also very relevant in our current discussion on judicial training, as I will suggest later on.

The Court writes:

«Even though, as is apparent from Article 4(2) TEU, the European Union respects the national identities of the Member States, inherent in their fundamental structures, political and constitutional, such that those States enjoy a certain degree of discretion in implementing the principles of the rule of law, it in no way follows that that obligation as to the result to be achieved may vary from one Member State to another [...] **Member States adhere to a concept of “the rule of law” which they share, as a value common to their own constitutional traditions, and which they have undertaken to respect at all times**»⁹.

A clear – and by now well established – point in the Court’s case law is that the non-regression principle, first expressed in *Repubblica*¹⁰, implies that Member States’ autonomy is in no way diminished, rather it is boosted within the system of judicial protection of the EU, inspired by the exclusive jurisdiction of the CJEU.

Let me try and clarify why arguments mainly centered on art. 2 TEU and the EU founding values, are relevant in my arguments, which are primarily related to safety in a public space, in the domain of AI.

I argue that a **unitary concept of democracy and the rule of law** is the strongest **connecting thread in judicial cooperation** taking the form of either digitalization or recourse to AI. This concept is echoed in the Court’s case law dealing with the independence of the judiciary and of individual magistrates, each of them carrying the responsibility to concretize this value in a daily commitment, when they exercise judicial functions, in compliance with constitutional values.

This also implies – and I have had the fortunate opportunity to verify this attitude discussing with constitutional justices from other EU countries during my mandate at the Italian Constitutional Court – the construction of what I suggest to describe **shared constitutional coherence**.

Constitutional adjudication, part of the constitutional identity mentioned in art. 4 paragraph 2 TEU, must be respected by the Union. Equally, the Court in Luxembourg must comply with this rule in guaranteeing equality of treatment of Member States, taking into

⁸ Opinion of Advocate General Spielman, 11 March 2025, C-448/23, *Commission v. Poland*, ECLI:EU:C:2025:165.

⁹ Judgment of the Court of Justice, 18 December 2025, C-448/23, *Commission v. Poland*, ECLI:EU:C:2025:975, par. 180.

¹⁰ Judgment of the Court of Justice, 20 April 2021, C-896/19, *Repubblica*, ECLI:EU:C:2021:311, par. 63 and 64.

account that art. 4, paragraph 3 describes the principle of **loyal cooperation between the Union and the Member States in complying with the Treaties**.

In infringement proceedings brought by the Commission against Hungary, dealing with several violations of fundamental rights and values in national legislation on “pedophile offenders”, Advocate General Capeta in her Opinion focuses in an innovative way on art. 2 TEU, arguing that it «expresses *the choice* of the founders of the European Union as to the type of society that the Member States have pledged to create together within the framework of the European Union»¹¹.

Not only the first subparagraph of Article 19(1) TEU defines the task of the CJEU as one of ensuring that, in the interpretation and application of the Treaties, the law is observed. In infringement proceedings, governed by Articles 258 to 260 TFEU, the Court is also competent to find that a Member State has failed to fulfil an obligation under the Treaties. This reading of the relevant sources in primary EU law inspires the Advocate General and leads to the conclusion that, in such circumstances, the Court «performs its constitutional role»¹².

Further clarifications emerge from a decision in response to a preliminary reference lodged by a Polish Court of Appeal. The CJEU states that:

«The second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter, and the principle of the primacy of EU law must be interpreted as precluding legislation of a Member State and case-law of the constitutional court of that Member State under which a national court is required to comply with a decision delivered by a formation of a higher court, where, on the basis of a decision of the Court, that national court finds that one or more judges forming part of that panel of judges do not meet the requirements of independence, impartiality and previous establishment by law, within the meaning of that provision, and that, in addition, it is prevented, under national law, from verifying the regularity of the composition of that panel of judges on the basis of the same factors as those taken into account in that decision of the Court».

Hence, should a judicial body of last instance not satisfy the requirements of independence, impartiality and previous establishment by law, the decision of such a body should be considered null and void, when it is essential to guarantee the primacy of EU law¹³.

Does this case law contradict what I mentioned earlier on, praising the autonomy of national judicial training institutions, notwithstanding the Commission’s strategy to enhance coordination of judicial training?

I think there is no contradiction. The CJEU is providing a frame of reference, indicating the margins of discretion Member States have in implementing the rule of law, with no invasion of national identities. Judicial training institutions should adopt that frame of reference in their planning, particularly when dealing with recourse to AI. Safety prevails over efficiency in the delivery of knowledge addressed to magistrates and to all justice professionals.

¹¹ Opinion of Advocate General Capeta, 5 June 2025, C-769/22, *Commission v. Hungary*, ECLI:EU:C:2025:408, par. 155.

¹² Opinion of Advocate General Capeta, C-769/22, *cit.*, par. 191.

¹³ Judgment of the Court of Justice, 4 September 2025, C-225/22, ‘R’ S.A. v AW ‘T’, ECLI:EU:C:2025:649, par. 63 and 70.

3. Judicial cooperation and the rule of law.

Against this background, I wish to clarify my thoughts on the centrality of the rule of law. The point is how **to combine efficiency in the organization of justice, full compliance with fundamental rights and with the founding values of the EU, cherished in art. 2 TEU**. Such values are at the forefront of judicial cooperation, as a pre-condition in delivering an efficient digital justice strategy. **A safe public space in the domain of AI is the one governed by all such values.**

Within this framework I think we can better understand the meaning of the inventive jargon that has been proposed to describe contemporary developments. The “**ecosystem of trust**” is the place in which safe judicial cooperation is developed, in compliance with the founding values of the EU.¹⁴ AI systems must be permeated by such values, repeatedly read by the CJUE in conjunction with the second subparagraph of art. 19 (1) TEU, in order to guarantee respect for the rule of law, effective judicial protection and the independence of the judiciary.

The Commission’s Communication indicates that training should «highlight the relationship between AI and judicial independence» (section 2.3). This point deserves further clarification and should be discussed in a coordinated manner within the European network of training institutions, looking primarily at the case-law shaped by the Luxembourg Court.

In recent decisions delivered by the CJEU the claim for independence of the judiciary and for its impartiality is based on the interpretation of primary EU law, in connection with art. 47 of the CFREU. The latter guarantees the right to an effective remedy to “everyone” whose rights and freedoms are violated and introduces in the second paragraph the reference to an «independent and impartial tribunal previously established by law».

I have often quoted, and I do reiterate these references, Fabrizio Cafaggi¹⁵ and Jeremias Prassl¹⁶ on the polyform – or if you like multifunctional – nature of art. 47. They have predicted in their writings that the effective enforcement of rights is transversal and can be evoked, via art. 47, in all fields of EU law.

The example of social rights, in particular the right to paid annual leave, is very clear and innovative, since the CJEU has developed its case law on the ground of effective protection of the weaker party in contracts of employment and has underlined the close link to secondary law in the field of health and safety¹⁷.

I suggest that social law offers an interesting ground to experiment the risk approach provided in the AI Act. It offers criteria on how to balance the protection of the most vulnerable and fragile ones, against an unlimited recourse to AI. And in these situations, the justiciability of fundamental rights is of essence. Furthermore, the complementarity of judicial and

¹⁴ AI Act, *Recital* n. 8 refers to the «European ecosystem of public and private actors creating AI systems in line with Union values».

¹⁵ F. CAFAGGI, *Towards Collaborative Governance of European Remedial and Procedural Law*, in *Theoretical Inquiries in Law*, 2018, see https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3113601. References to the relevant case law in S. SCIARRA, *Corti a confronto. Giudici europei e giudici nazionali per una sovranità condivisa*, il Mulino, 2025, 73ff.

¹⁶ See https://www.europeanrights.eu/public/commenti/BRONZINI8-Jeremy_Prassl_-_01.04.2019.pdf.

¹⁷ Judgment of the Court of Justice, 6 November 2018, C-684/16, *Max-Planck-Gesellschaft zur Förderung der Wissenschaften*, ECLI:EU:C:2018:874.

administrative enforcement has been highlighted, arguing for recourse to art. 47 to enforce the principle of good administration, reasoning on both constitutional and EU law grounds¹⁸.

Reference to art. 47 of the CFREU is also made in conjunction with the duty to lodge a preliminary reference and the duty to state reasons for a refusal to do so¹⁹. This is yet another open door to enter the field in which interactions with art. 6 ECHR are strengthened and clarified. In her “Opinion” the AG explains the difficult balance that needs to be established between procedural reasons leading to an abbreviated form of reasoning – for example if the time available is insufficient and efficiency must be increased in the overall organization of justice – and the duty to inform properly individuals, in order to protect them from arbitrariness thus «enabling the parties to understand the judicial decision that has been given»²⁰.

The AG quotes judgments of the Strasbourg Court in *Baydar* and *Harisch* to highlight the possibility that courts of last instance may have to offer summary reasoning, if the circumstances of the case so require, making sure that the parties have been heard and have understood why their request for a reference has been refused. She suggests that a similar reasoning be transposed to art. 47 CFREU and that a case-by-case approach should be adopted²¹. The AG is focused on the obligation to refer the question to the Court, laid down in paragraph 3 of art. 267 TFEU. The connections she establishes with art. 6 ECHR somehow expand the explanations attached to the Charter, since she is offering a detailed survey of the circumstances that should occur to read art. 267 in the light of the second paragraph of art. 47. *Baydar*²² stands as a point of reference in the evolution of this case-law and this matter will need further clarification, with a view to expanding the spectrum of such a combined interpretation.

When we consider the independence of the judiciary, art. 47 radiates an even brighter light, in connection with art 2 TEU and the second subparagraph of art. 19(1) TEU. In a series of judgments, beginning with the leading case of *Portuguese judges*²³, the Court considered that the value of the rule of law is “concretised” by the second subparagraph of Article 19(1) TEU. In the cases that followed and were inspired by that innovative decision, the Court developed an even more detailed understanding of the requirement of independence of judges, to be considered the concrete expression of the rule of law and it did so through Article 19 TEU and Article 47 of the Charter²⁴.

The Court had also stated that references to the «fields covered by Union law» are made irrespective of whether the Member States are implementing Union law within the meaning of

¹⁸ F. CAFAGGI, *Judicial and Administrative Protection Intertwined: the Right to an Effective, Proportionate and Dissuasive Remedy*, in C. MAK & B. KAS (eds), *Civil Courts and the European Polity. The Constitutional Role of Private Law Adjudication in Europe*, Hart, 2025, 175 ff.

¹⁹ Opinion of Advocate General Capeta, 26 June 2025, C-767/23, *Remling*, ECLI:EU:C:2025:486.

²⁰ *Remling*, *cit.*, par. 54.

²¹ *Remling*, *cit.*, par.76-77.

²² European Court of Human Rights, 24 April 2018, *Baydar v. Netherlands*, *Application no. 55385/14*, in particular par. 45-53.

²³ Judgment of the Court of Justice, 27 February 2018, C-64/16, *Associação Sindical dos Juizes Portugueses*, ECLI:EU:C:2018:117, par. 32.

²⁴ See Judgment of the Court of Justice, 5 November 2019, C-192/18, *Commission v. Poland (Independence of courts)*, ECLI:EU:C:2019:924, par. 98 and, more recently, Judgment of the Court of Justice, 6 March 2025, C-647/21 and C-648/21, *D. K. and Others (Withdrawal of cases from a judge)*, ECLI:EU:C:2025:143, par. 66.

Article 51(1) of the Charter. This interpretation must be read in conjunction with art. 47 of the Charter, whereby the right to an effective remedy is connected to access to an independent tribunal²⁵.

Reading this case law and observing its consistency, we can underpin the point made in the Commission’s Communication, namely that judicial training should incorporate this jurisprudence and make it become an essential part of national training providers. This is the harmonized ground of the internal market on which to build sound digitalized judicial cooperation and to experiment safe use of AI. In a somehow provocative way one could say that **the “digital skills” enumerated in the Commission’s Communication should rotate around a human-centered culture of judicial independence.**

Digital skills of this kind create a safe public space in which connections among sources are to be created and constantly updated in fields which are open to changes. The examples I offered on the obligation to state reasons, when courts of last instance refuse to lodge preliminary questions to the CJEU, are instructive in order to be reminded of the never lost centrality of a human-centered ability to build bridges among sources and enucleate specific circumstances, which should be approached following a case-by-case methodology.

In all such situations, when the construction of a new case-law is under way and is oriented to create coherent paths for the two European courts to explore, safety prevails over efficiency. AI needs to be carefully instructed and supported by innovative training techniques, which may benefit from exchanges of good practices among national training institutions.

4. Concluding remarks.

Training of judges, in all its different forms and expressions, inserts an important tile in the mosaic of judicial cooperation within the EU, leading to equal treatment of Member States in observing a uniform interpretation of EU law, thus strengthening the principle of primacy.

In the ongoing process of interpretation and enactment of the AI Act, training for justice professionals should lead to common goals, developing a **common culture of judicial independence**, through the dissemination of consistent information, based on developments in EU law and the case law of the CJEU, read in conjunction with the case law of the Strasbourg Court. This is an increasingly relevant part of judicial cooperation, grounded on shared values and mutual trust among courts.

The interpretation of the AI Act in different national legal contexts should be equally consistent in the assessment of risks. Respect for the autonomy of national judicial training providers should be combined with coordination in delivering some unitary messages, such as a **unitary concept of the rule of law.**

An equally unitary approach should be privileged in the interpretation of the second paragraph of art. 47 CFREU, whereby the independence and impartiality of a tribunal previously established by law is ensured, among other tools, by transparent and accurate reasoning in delivering decisions, to make them understandable to individuals and set aside arbitrariness.

²⁵ Judgment of the Court of Justice, 29 March 2022, C-132/20, *Getin Noble Bank*, ECLI: ECLI:EU:C:2022:235, par.90 and 93.

Judicial training is one – and not the less important – component of a widespread culture of judicial cooperation, rooted in the tradition of European liberal democracies. It generates an open environment where magistrates are connected and aware of their functions within a safe digital public space, in which equality among Member states is guaranteed and so is the principle of primacy of EU law.