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Challenges in Legal Research of International Jurisprudence: Improving Access, Consistency and Methodology

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Abstract

International jurisprudence increasingly informs domestic judicial reasoning, comparative legal analysis, and the implementation of human rights and European Union standards. Yet judges, practitioners, and researchers face difficulties arising from fragmented databases, language barriers, inconsistent citations, differences in the authority and procedural status of decisions, and the volume of case law. Drawing on Van Hoecke (2011), Hutchinson and Duncan (2012), Cryer et al. (2011), and Deplano and Tsagourias (2021), this paper uses doctrinal and comparative legal research to examine these challenges, focusing on the European Court of Human Rights and the Court of Justice of the European Union.

The analysis examines HUDOC and InfoCuria, the classification of judicial documents and formations, the verification of subsequent case-law developments, and consistent citation through the European Case-Law Identifier. It argues that digital access alone cannot ensure reliable research: researchers must document source selection, procedural status, relevant metadata, and subsequent treatment through a transparent and reproducible methodology. The paper proposes a practical framework for institutional digital libraries and legal knowledge repositories that preserves these elements and supports more consistent, accessible, and verifiable use of international jurisprudence.

Keywords: international jurisprudence; legal research methodology; doctrinal research; comparative law; HUDOC; ECLI; digital legal libraries.

1. Introduction

A judgment can be easy to find and difficult to use correctly. Its relevance may depend on a procedural distinction absent from the search result, a qualification several paragraphs away, or a later decision that changes how the original reasoning should be read. The central problem examined here is the distance between retrieving a document and establishing a defensible legal proposition from it.

The paper asks what a legal researcher must establish before international case law can reliably support domestic legal reasoning. It treats access, consistency and methodology as connected problems. Access determines which materials enter the enquiry; classification determines what those materials represent; interpretation determines what can reasonably be concluded from them. An error at the first stage can remain invisible throughout an otherwise careful analysis.

The methodological literature provides a basis for making these choices explicit. Hutchinson and Duncan (2012) argue that doctrinal researchers should explain their methods rather than rely on

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professional familiarity to make the process self-evident. Van Hoecke's (2011) edited collection examines the character of legal doctrine and its relationship with comparative and interdisciplinary approaches. Cryer et al. (2011) distinguish methodological reflection from the practical conduct of research in EU and international law. Deplano and Tsagourias (2021) bring together different methods used to produce international legal knowledge. These works do not prescribe a single database protocol; they support the more basic requirement that research questions, source choices and interpretive assumptions be identifiable.¹

Applied to jurisprudence, this requirement has a concrete consequence. A paper claiming to identify a legal standard must explain why the selected decisions are capable of establishing it. A handful of familiar judgments may provide a useful introduction, but cannot by themselves demonstrate that a rule is consistent across time or factual settings. The researcher must determine whether the exercise concerns the current state of the law, a historical development, a conflict between authorities, or the application of an established test to particular circumstances.

The approach adopted here is doctrinal, with a structured comparison of research requirements at the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). Official database documentation, relevant procedural provisions and selected judgments are used to identify recurring risks and to develop an institutional research framework. The comparison concerns the organisation and evaluation of authority. It does not assume that the two courts exercise interchangeable functions or that their judgments have identical domestic effects.²

The case examples are deliberately limited. They illustrate how language, procedural status and subsequent treatment affect a proposition's reliability. They do not constitute an exhaustive survey of either court's jurisprudence. No interviews, user survey or quantitative audit of database performance were conducted. Accordingly, the recommendations are reasoned proposals for institutional practice, rather than findings that a particular system has already reduced research errors.

Reproducibility is used in a qualified sense. Another researcher should be able to reconstruct the search, identify the documents consulted and assess the reasons for including them. Agreement on the interpretation is a separate matter. Legal reasoning permits disagreement, but its evidential basis should remain open to examination. This distinction allows transparent research without pretending that doctrinal analysis can be reduced to an automatic calculation.

2. Access and the construction of the research corpus

Fragmentation arises when materials relevant to one issue are distributed across different courts, databases and document collections. It also occurs within a single case: the judgment, procedural information, an Advocate General's Opinion and a press release may all appear under the same case number. A general search engine can help locate them, but its ranking supplies no legal reason for preferring one result. The initial search must therefore be followed by verification in an official source.

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HUDOC provides access to several categories of material, including judgments, decisions, communicated cases and legal summaries. Its coverage has identifiable limits: single-judge decisions are not published, and Committee decisions appear only from April 2010 (European Court of Human Rights [ECtHR], n.d.-b). These limits matter when defining a corpus. A search returning no results cannot establish that the Court has never encountered the issue. It establishes only that the chosen query found no matching documents within the searched collection.

The HUDOC manual explains searches using document collections, keywords and language filters (ECtHR, n.d.-c). InfoCuria's advanced interface permits searches by document type, judicial formation, procedural category, legislation or case law cited, and ECLI (Court of Justice of the European Union [CJEU], n.d.-b). These fields allow the researcher to narrow an enquiry on legally relevant grounds. They also create opportunities for exclusion errors. A filter for judgments will omit decisions; a restriction to one formation may remove a useful application of an earlier rule.

A defensible search therefore begins with the legal question, not with a memorable phrase from a familiar case. For an enquiry into untested witness evidence, the researcher should identify the relevant Convention provision, use the database's legal terminology, and search alternative descriptions of the problem. Searches should combine structured fields with full-text terms. Every material restriction should be recorded, especially limits concerning language, dates and document categories. A narrower search can then be checked against a broader one before the corpus is treated as adequate.

Language presents two distinct difficulties. First, a relevant judgment may be unavailable in the researcher's preferred language. Second, a translated legal concept may suggest an equivalence that the underlying legal systems do not support. The Court's guidance states that non-official HUDOC translations are generally not produced or checked by its Registry (ECtHR, n.d.-a). Such translations can assist discovery and understanding, but a disputed formulation should be checked against an official-language text. Translation provenance belongs in the research record.³

The CJEU's language policy likewise shows that availability varies between categories of decisions (CJEU, n.d.-c). A search conducted only in English may consequently produce a different corpus from a search in another language. This is a limitation to disclose, not a reason to abandon the enquiry. Where linguistic capacity is limited, a researcher should identify the excluded material, explain its possible significance and seek targeted translation of passages that may affect the legal conclusion.

Practical access also depends on time and institutional support. A court library that maintains agreed search terms, reliable links and reviewed translations can prevent repeated discovery work. Yet a collection organised only by downloaded filenames will preserve documents without preserving the reasons for their selection. The useful unit of institutional knowledge is the decision together with its provenance, classification and relevance to a defined question.

3. Authority and the risk of false consistency

Classification must precede reliance. In Strasbourg practice, a decision may resolve admissibility, while a judgment may address the merits or just satisfaction. Both can contain legally important reasoning. It would be mistaken either to treat every decision as a merits judgment or to exclude decisions as intrinsically unimportant. The record should identify the issue resolved and distinguish the Court's assessment from the parties' submissions reproduced in the document.

Finality requires a separate check. Article 44 of the European Convention on Human Rights makes Grand Chamber judgments final and sets the conditions under which Chamber judgments become final. Article 46 concerns the obligation to comply with final judgments in cases to which the State is a party (European Convention on Human Rights, 1950, arts. 44–46). The binding obligation in a particular case should not be confused with the wider interpretive significance of the Court's reasoning. A domestic analysis must explain the relevant legal relationship rather than label all Strasbourg materials simply "binding".

At Luxembourg, the CJEU encompasses distinct courts and procedural routes. A General Court judgment must be identified separately from a Court of Justice judgment, and any relevant appeal outcome must be checked. An Advocate General's Opinion proposes a solution but does not decide the case; the judges are not required to follow it (CJEU, n.d.-a). Extracting a persuasive passage from an Opinion and attributing it to the Court changes the authority of the proposition. Orders also require examination of their subject and reasoning, rather than exclusion based on their label alone.

Judicial formation is relevant information, but does not replace analysis. A Grand Chamber judgment may clarify an important question; a subsequent Chamber judgment may explain how that clarification operates in a particular factual setting. Research limited to prominent formations can miss qualifications found in later applications. Conversely, counting numerous routine applications as independent support can exaggerate the breadth of a rule. Consistency concerns the reasoning and its conditions, not the number of search results.

The absent-witness cases illustrate why tracing development matters. In *Al-Khawaja and Tahery v. the United Kingdom* (2011, paras. 119–147), the Grand Chamber addressed the use of evidence from witnesses who did not attend trial and the safeguards required to assess overall fairness. *Schatschaschwili v. Germany* (2015, paras. 100–131) clarified the relationship between reasons for absence, the weight of the evidence and counterbalancing measures. The latter analysis requires attention to significant evidence even where its sole or decisive character is uncertain. A proposition stating that untested evidence automatically makes a trial unfair would misrepresent this contextual assessment.

Subsequent treatment must therefore be examined at the level of the proposition. A later judgment may cite an earlier case while relying on only one part of its reasoning. The reference does not demonstrate approval of every statement in the earlier judgment. Citation tracking should record the paragraph, the point supported and whether the later court follows, distinguishes or qualifies

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it. Where classification is uncertain, the researcher should preserve that uncertainty instead of forcing the reference into a favourable category.⁴

This discipline is particularly important in comparative work. Similar vocabulary can conceal different functions: a proportionality assessment in one legal regime may answer a question that the other regime approaches through jurisdiction or legislative scope. Before declaring convergence, the researcher should establish that the decisions concern a sufficiently comparable problem and explain any differences in applicable law, procedure or institutional mandate.

4. A transparent research protocol

A workable protocol begins with a short research specification. It should identify the question, the courts and instruments concerned, the relevant period and the intended use of the result. For a memorandum on current law, the cut-off date should be stated and the search refreshed before the memorandum is used. For a historical study, later decisions may explain the development but should not silently be treated as law applicable at the earlier date.

The second stage is discovery. The researcher records databases, search expressions, filters and search dates. The record need not reproduce every unsuccessful experiment, but should retain the searches that determined the corpus and the principal reasons for excluding potentially relevant materials. Decisions identified through a textbook or commentary should be retrieved from an official source. Commentary remains useful for identifying arguments and competing readings; it should not be the sole evidential basis for attributing a proposition to a court.

The third stage is verification and classification. Each retained document receives a record containing the court, case title, case or application number, date, document type, formation, procedural status, language and official source. The researcher identifies the paragraph supporting the proposition and reads it with the relevant facts and surrounding reasoning. A concise case note should distinguish the issue, the legal test, the application of that test and the outcome. This prevents a factual observation from being reused as a general rule.

The fourth stage tests the proposition against earlier and later authorities. Backward citation searches help reconstruct its origin; forward searches identify its subsequent treatment. Both require reading, because a citation is a relationship between documents rather than a ready-made description of legal effect. The researcher should actively seek decisions that weaken the proposed conclusion. An institutional review should ask which contrary authority was considered and why it does not alter the result, rather than simply request additional supporting citations.

The CILFIT line provides a concrete example. *CILFIT v. Ministry of Health* (1982, paras. 18–20) addressed the multilingual and contextual features of EU interpretation. *Conorzio Italian Management and Catania Multiservizi* (2021, paras. 40–46) revisited those considerations in assessing the duty of courts of last instance to refer questions. It stated that a national court cannot be required to examine every language version, while requiring attention to divergences of which it is aware, particularly when raised by the parties and verified. Reading the earlier formulation alone could produce an overstated account of the practical language requirement.

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The fifth stage is citation and preservation. ECLI identifies a judicial document consistently across different sources and assists linking and retrieval (European Commission, n.d.). It should be stored alongside the case number, date and paragraph references. It does not verify the researcher's interpretation, certify finality or demonstrate that the proposition remains current. The identifier is a means of locating authority, not a substitute for evaluating it.⁵

Finally, a colleague should be able to reconstruct the decisive steps from the record. Review should concentrate on matters capable of changing the conclusion: a missing document category, an incorrect procedural status, a mistranslated qualification or an unexamined later judgment. This is a proportionate form of reproducibility. It preserves professional judgment while exposing the source choices on which that judgment depends.

5. Institutional libraries and continuing verification

An institutional repository should preserve the relationship between a legal proposition and the decisions supporting it. Its purpose is to make prior research usable without allowing an old memorandum to acquire authority merely through repeated circulation. A practical design would separate official documents, document metadata and analytical notes. Readers should be able to distinguish a court's text from an institution's summary and identify who prepared or reviewed the latter.

The minimum decision record should include a stable identifier, court, case number, decision date, document category, formation, procedural status, available languages, official link and date of verification. Where a document is stored locally, the institution should retain its provenance and respect applicable publication and translation rights. A linked analytical record should state the precise proposition, supporting paragraphs, material factual limits and related authorities. These are proposed requirements for institutional practice, rather than a claim that the courts' databases already supply every field in a uniform form.

Responsibility for updating the collection should be assigned. A librarian or information officer can maintain links and metadata; a legally qualified reviewer should approve substantive notes and changes to statements of the law. Small institutions may combine these roles, but should retain a second-person check for materials intended to guide judicial reasoning. Each note needs a visible review date and an identifiable status, such as reviewed, awaiting review or superseded. Earlier versions should remain recoverable when necessary to explain past advice.

Updates should follow the institution's actual work. A new leading judgment may require prompt review of several notes, while a routine application may need only a linked reference. Monitoring can combine official case-law updates with recurring searches for the propositions most frequently relied upon. The repository should flag affected notes for assessment rather than automatically overwrite their conclusions. A later judgment may confirm part of an analysis while changing another part; the update must explain that distinction.

Digital search tools can assist discovery, translation and document comparison. An automated summary should nevertheless remain identifiable as an unreviewed aid until its propositions and

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quotations have been checked against the source. Where confidential information is involved, use must also comply with the institution's access and data-protection arrangements. These controls follow from the repository's evidential purpose: a passage without a verifiable source should not enter a reviewed statement of the law.⁶

A pilot could measure metadata completeness, verification time, unresolved translation issues and notes awaiting review. A sample audit of citation errors would provide a more useful quality measure than the number of stored documents. Faster retrieval should be assessed separately from improvements in legal analysis.

6. Conclusion

Reliable research connects the question asked, the materials selected and the proposition advanced. Official databases provide essential access, but their contents require classification and interpretation. The ECtHR and CJEU examples show how procedural status, language and later qualifications affect reliance on authority. Institutional libraries should preserve provenance, supporting paragraphs and subsequent treatment, making research easier to examine and update without displacing responsibility for its conclusions.

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Endnotes

¹ The four methodological works serve different purposes. Van Hoecke (2011) and Deplano and Tsagourias (2021) are edited collections, not jointly authored monographs. References to the collections identify their general methodological scope; no proposition is attributed to an individual chapter without a separate citation.

² The CJEU is included within the paper's broader treatment of international jurisprudence as a supranational judicial institution. The comparison addresses research practice and does not equate EU law with the Convention system or imply that EU membership obligations apply identically in non-member States.

³ For a material quotation, the research record should identify the language consulted and any translation prepared by the researcher. The status of a translated judgment must be distinguished from that of multilingual EU legislation. The CILFIT discussion concerns legislative language versions, not a claim that every translation of a judicial decision has identical authenticity.

⁴ The proposed treatment categories are analytical labels for the institutional repository. They should not imply that HUDOC or InfoCuria offers a comprehensive, legally conclusive citator. Absence of a recorded negative reference does not establish that a proposition remains unqualified.

⁵ APA author–date citations are used for methodological and institutional sources. Cases are cited by italicised name and year, with paragraph pinpoints; the reference list supplies the court or formation, case number, date and ECLI where relevant. Explanatory endnotes supplement the argument rather than duplicate bibliographical references.

⁶ The repository model and pilot measures are proposals developed in this paper. They have not been empirically tested here. Reproducibility refers to the ability to reconstruct the source selection and verification process, not to a guarantee that different lawyers will reach the same interpretation.