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EUROOPAN UNIONIN TUOMIOISTUIN
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JUDGMENT OF THE COURT (Third Chamber)

12 February 2026 *

(Reference for a preliminary ruling – Article 267 TFEU – Principle of the primacy of EU law – National law alleged to be incompatible with the national Constitution and with EU law – Conditions for referring a matter to a constitutional court – Reasoned assessment of the consequences of applying EU law – Prior reference to the Court of Justice of the European Union for a preliminary ruling – Article 94(b) of the Rules of Procedure of the Court of Justice – Determination of the national law applicable to the dispute – Content of the request for a preliminary ruling – Obligation or entitlement to refer a matter to a constitutional court before making a reference to the Court of Justice for a preliminary ruling – None)

In Case C-56/25 [Petlichev],ⁱ

REQUEST for a preliminary ruling under Article 267 TFEU from the Sofiyski gradski sad (Sofia City Court, Bulgaria), made by decision of 29 January 2025, received at the Court on 29 January 2025, in the criminal proceedings against

MA,

interested party:

Sofiyska gradska prokuratura,

THE COURT (Third Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei, S. Rodin, N. Piçarra and N. Fenger (Rapporteur), Judges,

Advocate General: J. Richard de la Tour,

* Language of the case: Bulgarian.

ⁱ The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the European Commission, by F. Erlbacher and E. Rousseva, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice.
- 2 The request has been made in criminal proceedings brought against MA for possession of narcotics for the purposes of their distribution.

Legal context

European Union law

The Rules of Procedure of the Court of Justice

- 3 Article 94 of the Rules of Procedure of the Court of Justice, entitled ‘Content of the request for a preliminary ruling’, provides:

‘In addition to the text of the questions referred to the Court for a preliminary ruling, the request for a preliminary ruling shall contain:

...

(b) the tenor of any national provisions applicable in the case and, where appropriate, the relevant national case-law;

...’

Framework Decision 2004/757/JHA

- 4 Article 4 of Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and

penalties in the field of illicit drug trafficking (OJ 2004 L 335, p. 8), entitled ‘Penalties’, provides, in paragraph 1 thereof:

‘Each Member State shall take the measures necessary to ensure that the offences defined in Articles 2 and 3 are punishable by effective, proportionate and dissuasive criminal penalties.

Each Member State shall take the necessary measures to ensure that the offences referred to in Article 2 are punishable by criminal penalties of a maximum of at least between one and three years of imprisonment.’

Bulgarian law

- 5 Under Article 150(2) of the Konstitutsia na Republika Bulgaria (Constitution of the Republic of Bulgaria), in the version applicable to the case in the main proceedings (‘the Bulgarian Constitution’):

‘Any court may, at the request of a party to the proceedings or of its own motion, refer a matter to [the Konstitutsionen sad (Constitutional Court, Bulgaria)] seeking a declaration that a law applicable in a particular case is not compatible with the Constitution. The proceedings in the case shall continue and the court, whose decision shall be final, shall deliver its judicial decision after the conclusion of the proceedings before [the Konstitutsionen sad (Constitutional Court)].’

- 6 Under Article 18(3) of the Pravilnik za organizatsiata na deynostta na Konstitutsionnia sad (Rules of Procedure of the Constitutional Court), in the version applicable to the case in the main proceedings (‘the Rules of Procedure of the Constitutional Court’):

‘A request from the [Varhoven kasatsionen sad (Supreme Court of Cassation, Bulgaria)] or from the [Varhoven administrativen sad (Supreme Administrative Court, Bulgaria)], made in connection with proceedings pending before them, must contain a reasoned assessment of the applicable law, including of the consequences of the application of EU law where the contested provision or act comes within its scope.’

- 7 It is apparent from the request for a preliminary ruling that Article 18(3) of the Rules of Procedure of the Constitutional Court applies also to referrals to the Konstitutsionen sad (Constitutional Court) made by the ordinary courts.

- 8 Under Article 354a of the Nakazatelen kodeks (Criminal Code), in the version applicable to the facts in the main proceedings:

‘(1) Any person who, without the appropriate authorisation, produces, processes, acquires or possesses narcotics or analogues thereof for the purposes of distribution, or who distributes narcotics or analogues thereof, shall be subject, in the case of highly dangerous narcotics or analogues thereof, to a term of imprisonment of between two and eight years and a fine of between 5 000 leva

(BGN) [(approximately EUR 2 556.45)] and BGN 20 000 [(approximately EUR 10 225.83)] and, in the case of dangerous narcotics or analogues thereof, to a term of imprisonment of between one and six years and a fine of between BGN 2 000 [(approximately EUR 1 022.58)] and BGN 10 000 [(approximately EUR 5 112.91)]. ...

(2) Where the narcotics or the analogues thereof are in large quantities, the person shall be subject to a term of imprisonment of between 3 and 12 years and a fine of between BGN 10 000 and BGN 50 000. ...’

- 9 Article 26a of the *Zakon za kontrol varhu narkotichnite veshtestva i prekursorite* (Law on the control of narcotics and precursors) provides:

‘The Council of Ministers shall set the prices of narcotics for the purposes of criminal proceedings.’

- 10 *Postanovlenie no 23 na Ministerski savet za opredeliane na tseni na narkotichnite veshtestva za nuzhdite na sadoproizvodstvoto* (Decree No 23 of the Council of Ministers setting the prices of narcotics for the purposes of judicial proceedings) of 29 January 1998 (DV No 15 of 6 February 1998), in the version applicable to the facts in the main proceedings, determines the setting of prices for the purposes of judicial proceedings of narcotics referred to in Article 3 of the *Naredba za reda za klasifitsirane na rasteniata i veshtestvata kato narkotichni* (Regulation on the procedure for classifying plants and substances as narcotics) (DV No 87 of 4 November 2011), in the version applicable to the facts in the main proceedings.
- 11 Article 3 of that regulation classifies methamphetamine in the category of plants and substances that pose a high level of danger to public health due to the harmful effects of the abuse thereof and that are prohibited for use in human and veterinary medicine, and fentanyl in the category of highly dangerous substances used in human and veterinary medicine.

The main proceedings and the question referred for a preliminary ruling

- 12 By an indictment filed with the *Sofiyski gradski sad* (Sofia City Court, Bulgaria), which is the referring court, MA was charged with possession of narcotics for the purposes of their distribution.
- 13 It was stated in that indictment that MA had been in possession of 4 doses of methamphetamine and 22 doses of fentanyl, with a total monetary value of BGN 90 276.60 (approximately EUR 46 166).
- 14 In the light of that value, calculated on the basis of Article 26a of the Law on the control of narcotics and precursors and of Decree No 23 of the Council of Ministers, referred to in paragraph 10 above (‘the national provisions relating to the determination of the monetary value of narcotics’), the offence at issue was classified as possession of narcotics or analogues thereof in ‘large quantities’,

which is punishable, under Article 354a(2) of the Criminal Code, by a longer term of imprisonment and a larger fine than those under paragraph 1 of that article.

- 15 The referring court considers that the national provisions relating to the determination of the monetary value of narcotics are contrary to the principle of proportionality of penalties, recognised both by the Bulgarian Constitution and by EU law, since the constituent element of the offence, namely the possession of narcotics or analogues thereof in ‘large quantities’, is determined by reference to a monetary value that is arbitrary and incorrect and not by reference to the quantity of active substance that is being held or the individual doses that may be extracted from it.
- 16 The referring court states, however, that the request for a preliminary ruling does not concern the question of the proportionality of those national provisions, which is referred to solely as background information, but only the obligation or discretion of that court to refer a matter to the Konstitutsionen sad (Constitutional Court) for a review of those national provisions for constitutionality before making, as the case may be, a reference to the Court of Justice for a preliminary ruling.
- 17 According to the referring court, although the possibility is open to it of submitting a request to the Court of Justice for a preliminary ruling concerning, in the present case, the interpretation of Article 4(1) of Framework Decision 2004/757, it would be more appropriate first of all to refer the matter to the Konstitutsionen sad (Constitutional Court) in order to ascertain whether the national provisions relating to the determination of the monetary value of narcotics are compatible with the Bulgarian Constitution. The detailed knowledge of the Konstitutsionen sad (Constitutional Court) of the specific features of the national law, the fact that that court gives a ruling within a shorter period of time as compared to the Court of Justice, and observance of the principle of the primacy of EU law are all factors that warrant, in the referring court’s view, a referral to the Konstitutsionen sad (Constitutional Court) prior to a reference to the Court of Justice.
- 18 The referring court states that, where a contested national provision comes within the scope of EU law, the conditions for referring the matter to the Konstitutsionen sad (Constitutional Court), laid down in Article 18(3) of the Rules of Procedure of the Constitutional Court, as interpreted by that latter court, would prevent the referring court from first referring the matter to the Konstitutsionen sad (Constitutional Court).
- 19 Pursuant to the procedural rule under that provision, as interpreted by that constitutional court, a request for a review of the constitutionality of a national provision that comes within the scope of EU law, submitted in accordance with Article 150(2) of the Bulgarian Constitution, must include a reasoned assessment of the applicable law, including of the consequences of the application of EU law, failing which it will be refused as inadmissible. According to the referring court, it

is thus required to apply, in the first place, EU law to the facts of the case before it, by examining the effect of that law on the application of the contested national provisions and, in particular, by determining whether those provisions must be interpreted in a manner consistent with EU law or whether they must be disapplied.

- 20 According to the referring court, Article 18(3) of the Rules of Procedure of the Constitutional Court, as interpreted by that latter court, is contrary to EU law in several respects.
- 21 First, before it can refer a matter to the Konstitutsionen sad (Constitutional Court), the referring court is required, where it considers it necessary to make a reference to the Court of Justice for a preliminary ruling, to meet the requirements arising from Article 267 TFEU and, more directly, from Article 94(b) of the Rules of Procedure of the Court of Justice, in particular the requirement to indicate clearly, in good faith, the national law applicable in the case in the main proceedings.
- 22 The national provisions relating to the determination of the monetary value of narcotics, which the referring court considers to be unconstitutional, without, however, having the power to declare them as such, cannot, according to that court, be ‘national provisions applicable in the case’ within the meaning of Article 94(b) of the Rules of Procedure of the Court of Justice.
- 23 Second, the referring court considers that the case-law of the Konstitutsionen sad (Constitutional Court) shows that that court is reluctant to ensure observance of the principle of the primacy of EU law and is willing to review the compatibility of EU law with the Bulgarian Constitution.
- 24 The referring court states that it is in order to ensure the primacy of the Bulgarian Constitution over EU law that the Konstitutsionen sad (Constitutional Court) requires, on the basis of Article 18(3) of its Rules of Procedure, any national court to ascertain the consequences of the application of EU law on the national provisions at issue before being able to refer a matter to it for a review of those national provisions for constitutionality. According to the referring court, Article 18(3) of the Rules of Procedure of the Constitutional Court, as interpreted by that latter court, thus has as its consequence that a national provision that has already been interpreted in conformity with EU law is subsequently challenged on the ground that it is unconstitutional.
- 25 If a matter were to be referred to the Konstitutsionen sad (Constitutional Court) before it is referred to the Court of Justice and if the Konstitutsionen sad (Constitutional Court) were to find that the national provisions at issue were compatible with the Bulgarian Constitution, the referring court would be free to make a subsequent reference to the Court of Justice for a preliminary ruling regarding the compatibility of those national provisions with EU law, which would make it possible to ensure the primacy of that law over the Bulgarian Constitution.

- 26 It is in that context that the referring court seeks to ascertain whether Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice oblige or entitle a national court that is uncertain whether national legislation coming within the scope of EU law is compatible with both the national Constitution and EU law to request, as a first step, a national review of that legislation for constitutionality, before making, if necessary and as a second step, a reference to the Court of Justice for a preliminary ruling.
- 27 In those circumstances, the Sofiyski gradski sad (Sofia City Court) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

‘Are Article 267 TFEU, Article 94(b) of the Rules of Procedure of the Court ... and the principle of the primacy of EU law ... to be interpreted as meaning that, where a national court has doubts as to the compatibility of a provision of national law with EU law, and is at the same time convinced that that provision of law is [contrary to the national Constitution], it is obliged or entitled, before submitting its request for a preliminary ruling, to establish whether that provision of national law is indeed applicable in the main proceedings by making an application to the [Konstitutionsionen sad (Constitutional Court)] for a declaration as to its unconstitutionality?’

Consideration of the question referred

- 28 As a preliminary point, it must be borne in mind that, according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it (see, to that effect, judgment of 4 October 2024, *Bouskoura*, C-387/24 PPU, EU:C:2024:868, paragraph 36 and the case-law cited).
- 29 In the present case, the question referred is based on the premiss that the national provisions relating to the determination of the monetary value of narcotics are contrary both to the Bulgarian Constitution and to EU law.
- 30 As has been stated in paragraph 19 above, it follows from Article 18(3) of the Rules of Procedure of the Constitutional Court, as interpreted by that court, that, where a national court submits to the Konstitutionsionen sad (Constitutional Court) a request for a review of the constitutionality of national legislation that comes within the scope of EU law, that request must, if it is not to be refused as inadmissible, include a reasoned assessment of the applicable law, including of the consequences of the application of EU law, which may lead that national court, where it has doubts regarding the interpretation of EU law, first to make a reference to the Court of Justice for a preliminary ruling.

- 31 Since the referring court considers that it is precluded, by that requirement arising from Article 18(3) of the Rules of Procedure of the Constitutional Court, as interpreted by that latter court, from referring a matter to the Konstitutsionen sad (Constitutional Court) before making a reference, as the case may be, to the Court of Justice for a preliminary ruling, the question referred seeks, in reality, to determine whether that provision, as interpreted by the Konstitutsionen sad (Constitutional Court), is consistent with Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice.
- 32 In those circumstances, it should be stated that, by its question, the referring court asks, in essence, whether Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice must be interpreted as precluding a procedural rule of a Member State relating to the conditions for referring a matter to the constitutional court of that Member State, as interpreted by that latter court, under which a request for a review of the constitutionality of national legislation coming within the scope of EU law, submitted to that constitutional court by the national court, must, if it is not to be refused as inadmissible, contain a reasoned assessment of the law applicable to the case before it, including of the consequences of the application of EU law, which may lead that national court first to make a reference to the Court of Justice for a preliminary ruling.
- 33 As regards, in the first place, Article 267 TFEU, it is important to recall that the judicial system established by the Treaties has as its keystone the preliminary ruling procedure provided for in that article, which, by setting up a dialogue between one court and another, specifically between the Court of Justice and the courts and tribunals of the Member States, has the object of securing uniform interpretation of EU law, thereby serving to ensure its consistency, its full effect and its autonomy as well as, ultimately, the particular nature of the law established by the Treaties. This is consequently the path that a national court must take when it has doubts as to the compatibility of national law with a provision of EU law requiring interpretation of the latter (see, to that effect, Opinion 2/13 (*Accession of the European Union to the ECHR*) of 18 December 2014, EU:C:2014:2454, paragraph 176 and the case-law cited, and judgment of 18 December 2025, *Commission v Poland (Ultra vires review of the Court's case-law – Primacy of EU law)*, C-448/23, EU:C:2025:975, paragraphs 111 and 112 and the case-law cited).
- 34 According to the Court's settled case-law, national courts and tribunals have the broadest power, or even the obligation, to refer a matter to the Court of Justice if they consider that a case pending before them raises questions involving interpretation of the provisions of EU law or consideration of their validity, necessitating a decision on their part (judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraph 64 and the case-law cited).

- 35 It is also settled case-law that a rule of national law cannot prevent a national court from exercising that discretion, or complying with that obligation, which are an inherent part of the system of cooperation between the national courts and the Court of Justice established in Article 267 TFEU and of the functions of the court responsible for the application of EU law entrusted by that provision to the national courts (judgment of 5 June 2023, *Commission v Poland (Independence and private life of judges)*, C-204/21, EU:C:2023:442, paragraph 157 and the case-law cited).
- 36 In that context, a national rule the effect of which may inter alia be that a national court will choose to refrain from referring questions for a preliminary ruling to the Court is detrimental to the prerogatives thus granted to national courts and tribunals by Article 267 TFEU and, consequently, to the effectiveness of that system of cooperation (judgment of 15 July 2021, *Commission v Poland (Disciplinary regime for judges)*, C-791/19, EU:C:2021:596, paragraph 226 and the case-law cited).
- 37 Furthermore, it was held that a national court which, in a case concerning EU law, considers that a provision of national law is not only contrary to EU law, but also unconstitutional, does not lose the right, or escape, if it is a court against whose decisions there is no judicial remedy, the obligation under Article 267 TFEU to refer questions to the Court of Justice on the interpretation or validity of EU law by reason of the fact that the declaration that a rule of national law is unconstitutional is subject to a mandatory reference to the constitutional court (judgment of 22 June 2010, *Melki and Abdeli*, C-188/10 and C-189/10, EU:C:2010:363, paragraph 45 and the case-law cited).
- 38 The effectiveness of EU law would be in jeopardy and the effectiveness of Article 267 TFEU would be diminished if, owing to the existence of an obligation to refer a matter to a constitutional court, a national court hearing a case governed by EU law were prevented from referring to the Court of Justice questions for a preliminary ruling concerning the interpretation or validity of EU law in order to enable it to decide whether or not a provision of national law was compatible with that EU law (see, to that effect, judgments of 4 June 2015, *Kernkraftwerke Lippe-Ems*, C-5/14, EU:C:2015:354, paragraph 34 and the case-law cited, and of 20 December 2017, *Global Starnet*, C-322/16, EU:C:2017:985, paragraph 21 and the case-law cited).
- 39 As regards, in the second place, the principle of the primacy of EU law, which establishes the pre-eminence of EU law over the law of the Member States, it must be borne in mind that that principle requires all Member State bodies to give full effect to the various EU provisions, and the law of the Member States may not undermine the effect accorded to those various provisions in the territory of those States (see, to that effect, judgment of 10 July 2025, *DADA Music and UPFR*, C-37/24, EU:C:2025:551, paragraph 76 and the case-law cited).

- 40 Thus, the functioning of the system of cooperation between the Court of Justice and the national courts, established by Article 267 TFEU, requires, as does the principle of the primacy of EU law, the national court to be free to refer to the Court for a preliminary ruling any question that it considers necessary, at whatever stage of the proceedings it considers appropriate, even at the end of an interlocutory procedure for the review of constitutionality (judgments of 22 June 2010, *Melki and Abdeli*, C-188/10 and C-189/10, EU:C:2010:363, paragraphs 52 and 57, and of 11 September 2014, *A*, C-112/13, EU:C:2014:2195, paragraph 39 and the case-law cited).
- 41 In addition, it follows also from the principle of the primacy of EU law that the national courts have jurisdiction to assess the compatibility of national law, in the present case the national provisions on the determination of the monetary value of narcotics, with EU law, without having to refer the matter to the constitutional court of their Member State to that end (see, to that effect, judgment of 24 June 2019, *Popławski*, C-573/17, EU:C:2019:530, paragraphs 53 and 54 and the case-law cited).
- 42 It follows that Article 267 TFEU and the principle of the primacy of EU law preclude national legislation under which national courts that are uncertain whether a national provision coming within the scope of EU law is compatible with both the national Constitution and EU law must refer the matter to the constitutional court of their Member State before exercising their discretion or complying with their obligation to make a reference to the Court of Justice for a preliminary ruling.
- 43 By contrast, neither Article 267 TFEU nor the principle of the primacy of EU law precludes legislation of a Member State which makes the admissibility of a referral of a matter to the constitutional court of that Member State by a national court dependent on the submission, by that national court, of a reasoned assessment of the consequences of the application of EU law to the national provisions that that national court considers liable to be unconstitutional, which could mean that that court must first make a reference to the Court of Justice for a preliminary ruling.
- 44 Those conditions for referring a matter to the constitutional court of the Member State concerned do not limit, in any way, the possibility for other national courts to make a reference to the Court of Justice for a preliminary ruling, nor do they delay such a reference.
- 45 On the contrary, those conditions for referring a matter are, as such, liable to encourage those national courts, when they intend to request a review of a national provision for constitutionality, to apply EU law first of all, without preventing them from exercising their discretion or from complying with their obligation to make a reference to the Court of Justice for a preliminary ruling. Those conditions are therefore intended to promote the exercise of the rights and obligations arising

from Article 267 TFEU as well as observance of the principle of the primacy of EU law in the national legal order.

- 46 It is true that those conditions for referring a matter to a Member State's constitutional court, by a national court, allow that constitutional court to rule on the constitutionality of a national provision, as the case may be, after the Court of Justice has provided an answer to a reference for a preliminary ruling from that national court in the context of the same dispute. Nevertheless, that circumstance does not, as such, contravene the principle of the primacy of EU law, provided that that national court is not prevented from drawing all inferences resulting from that principle in the context of the dispute pending before it, recalled in paragraph 39 above, even after that constitutional court has given its ruling.
- 47 In that regard, it must be borne in mind, first, that a judgment of the Court of Justice delivered in the context of the preliminary ruling procedure is binding on the national court as regards the interpretation of EU law for the purposes of resolving the dispute before it. That court must therefore, if necessary, disregard the rulings of a higher national court if it considers, having regard to the interpretation provided by the Court, that they are not consistent with EU law, if necessary refusing to apply the national rule requiring it to comply with the decisions of that higher court (judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraphs 74 and 75 and the case-law cited).
- 48 Second, it must be pointed out that, in order to ensure the effectiveness of all provisions of EU law, the primacy principle requires, first of all, national courts to interpret, to the greatest extent possible, their national law in conformity with EU law. The requirement to interpret national law in conformity with EU law entails, in particular, the obligation for national courts and tribunals to change established case-law, where necessary, if it is based on an interpretation of national law that is incompatible with the objectives of EU law. However, that obligation to interpret national law in a manner consonant with EU law has certain limitations and cannot, in particular, serve as the basis for an interpretation of national law *contra legem* (judgments of 24 June 2019, *Popławski*, C-573/17, EU:C:2019:530, paragraph 57; of 15 October 2024, *KUBERA*, C-144/23, EU:C:2024:881, paragraph 52; and of 20 November 2025, *Framholm*, C-195/25, EU:C:2025:904, paragraphs 67 and 68).
- 49 Furthermore, where it is unable to interpret national legislation in compliance with the requirements of EU law, the primacy principle requires the national court which is called upon, within the exercise of its jurisdiction, to apply provisions of EU law, to give full effect to those requirements in the dispute pending before it, if necessary refusing of its own motion to apply any rules or national practice, even if adopted subsequently, that is in conflict with a provision of EU law with direct effect, and it is not necessary for that court to request or await the prior setting aside of those rules or that national practice by legislative or other constitutional means (see, to that effect, judgments of 9 March 1978, *Simmenthal*,

106/77, EU:C:1978:49, paragraph 24; of 24 June 2019, *Popławski*, C-573/17, EU:C:2019:530, paragraph 58; and of 1 August 2025, *Alace and Canpelli*, C-758/24 and C-759/24, EU:C:2025:591, paragraph 63 and the case-law cited).

- 50 In the third place, it must be noted that the requirements arising from Article 94(b) of the Rules of Procedure of the Court of Justice or from paragraphs 3, 12 and 15 of the Recommendations of the Court of Justice of the European Union to national courts and tribunals in relation to the initiation of preliminary ruling proceedings (OJ C, C/2024/6008), to which the referring court points, have no bearing on the statements made in paragraphs 42 to 49 above.
- 51 In that regard, Article 94(b) of the Rules of Procedure of the Court of Justice provides that, in addition to the text of the questions submitted to the Court for a preliminary ruling, the request for a preliminary ruling must contain the tenor of any national provisions applicable in the case at hand and, where appropriate, the relevant national case-law. That requirement is also reflected in paragraphs 15 and 16 of the recommendations referred to in the preceding paragraph of the present judgment.
- 52 In the present case, a national provision cannot be regarded as not being ‘applicable’, within the meaning of Article 94(b) of the Rules of Procedure of the Court of Justice, solely because the referring court has doubts regarding the constitutionality of that national provision.
- 53 First, since, as appears to be the case in Bulgarian law, such a national provision remains in force until the constitutional court renders a ruling that it is unconstitutional, the mere fact that a national court has doubts regarding the constitutionality of that national provision cannot warrant the national court’s failure to include that provision in the presentation of the law applicable to the dispute before it. By contrast, that court remains entirely free to express, in its order for reference to the Court of Justice, its doubts as regards the constitutionality of that provision.
- 54 Second, it should be borne in mind that the Court has previously held that, while it may be convenient, in certain circumstances, for the facts of the case to be established and for questions of purely national law to be settled at the time the reference is made to the Court for a preliminary ruling, national courts are free to make that reference at whatever stage of the proceedings they consider appropriate (see, to that effect, judgments of 27 October 1993, *Enderby*, C-127/92, EU:C:1993:859, paragraphs 11 and 12; of 4 June 2015, *Kernkraftwerke Lippe-Ems*, C-5/14, EU:C:2015:354, paragraph 31 and the case-law cited; and of 14 February 2019, *Milivojević*, C-630/17, EU:C:2019:123, paragraph 46 and the case-law cited).
- 55 Third, in view of the referring court’s concerns regarding the case-law of the *Konstitutionsen sad* (Constitutional Court), as summarised in paragraphs 23 and 24 above, it should be borne in mind that the constitutional courts of the Member

States are required, in the same way as the ordinary courts, to observe the principle of the primacy of EU law (judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraphs 47 to 51 and the case-law cited). Thus, in accordance with settled case-law, the effects of the principle of the primacy of EU law are binding on all the bodies of a Member State, without, *inter alia*, provisions of domestic law, including constitutional provisions, being able to prevent that (see, to that effect, judgment of 18 December 2025, *Commission v Poland (Ultra vires review of the Court's case-law – Primacy of EU law)*, C-448/23, EU:C:2025:975, paragraph 171 and the case-law cited).

- 56 Furthermore, the Court has previously held that the obligation on national courts or tribunals against whose decisions there is no judicial remedy under national law, arising from the third paragraph of Article 267 TFEU, to refer a question to the Court of Justice for a preliminary ruling is based on cooperation, established with a view to ensuring the proper application and uniform interpretation of EU law in all the Member States, between national courts, as courts responsible for the application of EU law, and the Court of Justice. That obligation is intended in particular to prevent a body of national case-law that is not in accordance with the rules of EU law from being established in any of the Member States. Furthermore, that obligation is the corollary of the exclusive jurisdiction of the Court to rule on the validity of EU acts and to provide the definitive and binding interpretation of that law (see, to that effect, judgment of 18 December 2025, *Commission v Poland (Ultra vires review of the Court's case-law – Primacy of EU law)*, C-448/23, EU:C:2025:975, paragraphs 205 and 206).
- 57 It follows that, if a constitutional court is seised of a request for a review of the constitutionality of a provision of national law coming within the scope of EU law, that court is in principle obliged to make a reference to the Court of Justice for a preliminary ruling, in accordance with the third paragraph of Article 267 TFEU, where a question concerning the interpretation of EU law or the validity of an act of secondary legislation is raised before it, unless it has established that the question raised is irrelevant or that the EU law provision in question has already been interpreted by the Court of Justice or that the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt (see, to that effect, judgment of 15 October 2024, *KUBERA*, C-144/23, EU:C:2024:881, paragraphs 34 and 36 and the case-law cited).
- 58 Furthermore, as the Court has previously held, if a constitutional court of a Member State considers that a provision of secondary EU law, as interpreted by the Court of Justice, infringes the obligation to respect the national identity of that Member State, that constitutional court must stay the proceedings and make a reference to the Court for a preliminary ruling under Article 267 TFEU, in order for the validity of that provision to be assessed in the light of Article 4(2) TEU, the Court alone having jurisdiction to declare an EU act invalid. In addition, since the Court has exclusive jurisdiction to provide the definitive interpretation of EU law, the constitutional court of a Member State cannot, on the basis of its own

interpretation of provisions of EU law, including Article 267 TFEU, validly hold that the Court has delivered a judgment exceeding its jurisdiction and, therefore, refuse to give effect to a preliminary ruling from the Court (see, to that effect, judgments of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraphs 71 and 72, and of 18 December 2025, *Commission v Poland (Ultra vires review of the Court's case-law – Primacy of EU law)*, C-448/23, EU:C:2025:975, paragraphs 223 and 230 and the case-law cited).

- 59 Lastly, in the event, as envisaged by the referring court, that a constitutional court refuses, in breach of the principle of the primacy of EU law, to give effect to a judgment given by way of a preliminary ruling by the Court of Justice, it must be borne in mind, as has been stated in paragraph 47 above, that it is settled case-law that the national court which has exercised the discretion conferred on it by Article 267 TFEU is bound, for the purposes of resolving the dispute in the main proceedings, by the interpretation of the provisions at issue given by the Court. Thus, that national court is required, in order to ensure the full effectiveness of the rules of EU law, to disregard, in the dispute before it, the rulings of a national constitutional court which refuses to give effect to a judgment given by way of a preliminary ruling by the Court of Justice (see, to that effect, judgments of 15 January 2013, *Križan and Others*, C-416/10, EU:C:2013:8, paragraphs 69 and 70 and the case-law cited, and of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, paragraph 77).
- 60 In the light of all of the foregoing, the answer to the question referred is that Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice must be interpreted as not precluding a procedural rule of a Member State relating to the conditions for referring a matter to the constitutional court of that Member State, as interpreted by that latter court, under which a request for a review of the constitutionality of national legislation coming within the scope of EU law, submitted to that constitutional court by the national court, must, if it is not to be refused as inadmissible, contain a reasoned assessment of the law applicable to the case before it, including of the consequences of the application of EU law, which may lead that national court first to make a reference to the Court of Justice for a preliminary ruling.

Costs

- 61 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Article 267 TFEU, the principle of the primacy of EU law and Article 94(b) of the Rules of Procedure of the Court of Justice

must be interpreted as not precluding a procedural rule of a Member State relating to the conditions for referring a matter to the constitutional court of that Member State, as interpreted by that latter court, under which a request for a review of the constitutionality of national legislation coming within the scope of EU law, submitted to that constitutional court by the national court, must, if it is not to be refused as inadmissible, contain a reasoned assessment of the law applicable to the case before it, including of the consequences of the application of EU law, which may lead that national court first to make a reference to the Court of Justice for a preliminary ruling.

[Signatures]