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# EU News: Click & Read

149 – March 2021

European Documentation Centre

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This newsletter contains a selection of recent official documents of the European Union. It features information of particular interest to Swiss readers and aims to provide universities, cantonal and federal administrations, legal professionals, as well as corporations with information about the latest legal developments in the European Union. Written in English or French, the newsletter offers links to documents in one of those languages.

We hope you will find this issue both useful and a pleasure to read.

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## Highlights

**Case C-28/20. Judgment of the Court (Grand Chamber) of 23 March 2021. Airhelp Ltd v Scandinavian Airlines System Denmark – Norway – Sweden. Request for a preliminary ruling from the Attunda tingsrätt.**

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 5(3) – **Common rules on compensation and assistance to passengers in the event of cancellation or long delay of flights** – Exemption from the obligation to pay compensation – Concept of ‘extraordinary circumstances’ – **Pilots’ strike organised within a legal framework – Circumstances that are ‘internal’ and ‘external’ to the operating air carrier’s activity** – Articles 16, 17 and 28 of the Charter of Fundamental Rights of the European Union – No impairment of the air carrier’s freedom to conduct a business, right to property and right of negotiation.

[EUR-Lex - 62020CJ0028](#)

**Case C-392/19. Judgment of the Court (Grand Chamber) of 9 March 2021. VG Bild-Kunst v Stiftung Preußischer Kulturbesitz. Request for a preliminary ruling from the Bundesgerichtshof.**

Reference for a preliminary ruling – Intellectual property – Copyright and related rights in the information society – Directive 2001/29/EC – Article 3(1) – **Concept of ‘communication to the public’ – Embedding, in a third party’s website, of a copyright-protected work by means of the process of framing** – Work freely accessible with the authorisation of the copyright holder on the licensee’s website – **Clause in the exploitation agreement requiring the licensee to introduce effective technological measures against framing** – Lawfulness – Fundamental rights – Article 11 and Article 17(2) of the Charter of Fundamental Rights of the European Union.

[EUR-Lex - 62019CJ0392](#)

**Case C-746/18. Judgment of the Court (Grand Chamber) of 2 March 2021. Criminal proceedings against Prokuratuur. Request for a preliminary ruling from the Riigikohus.**

Reference for a preliminary ruling – **Processing of personal data in the electronic communications sector** – Directive 2002/58/EC – Providers of electronic communications services – Confidentiality of the communications – Limitations – Article 15(1) – Articles 7, 8 and 11 and Article 52(1) of the Charter of Fundamental Rights of the European Union – **Legislation providing for the general and indiscriminate retention of traffic and location data by providers of electronic communications services** – Access of national authorities to retained data for the purpose of investigations – Combating of crime in general – Authorisation given by the public prosecutor’s office – **Use of data in criminal proceedings as evidence** – Admissibility.

[EUR-Lex - 62018CJ0746](#)

## 1. EU-Swiss Relations

### Community Legislation

Nothing to report for the period under review.

## 2. External Relations / Foreign Policy

### Community Legislation

**Protocol to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, on a Framework Agreement between the European Union and the Palestinian Authority of the West Bank and the Gaza Strip on the general principles for its participation in Union programmes**

[EUR-Lex - 22021A0408\(01\)](#)

**Council Decision (CFSP) 2021/542 of 26 March 2021** amending Decision (CFSP) 2020/472 on the **European Union military operation in the Mediterranean** (EUNAVFOR MED IRINI)

[EUR-Lex - 32021D0542](#)

**Council Decision (CFSP) 2021/482 of 22 March 2021** amending Decision 2013/184/CFSP **concerning restrictive measures against Myanmar/Burma**

[EUR-Lex - 32021D0482](#)

**Council Decision (CFSP) 2021/481 of 22 March 2021** amending Decision (CFSP) 2020/1999 **concerning restrictive measures against serious human rights violations and abuses**

[EUR-Lex - 32021D0481](#)

**Council Decision (CFSP) 2021/448 of 12 March 2021** amending Decision 2014/145/CFSP concerning **restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine**

[EUR-Lex - 32021D0448](#)

## 3. Agriculture and Fisheries / Maritime Affairs

**Council Regulation (EU) 2021/406 of 5 March 2021** amending Regulations (EU) 2021/91 and (EU) 2021/92 as regards **certain provisional fishing opportunities for 2021 in Union waters and non-Union waters**

[EUR-Lex - 32021R0406](#)

### Case Law

**Case C-400/19. Judgment of the Court (Fourth Chamber) of 11 March 2021. European Commission v Hungary. Failure of a Member State to fulfil obligations – Common organisation of the markets in agricultural products – Regulation (EU) No 1308/2013 – Article 34 TFEU – Selling prices of agri-food products – Minimal profit margins to be applied in the retail trade of those products.**

[EUR-Lex - 62019CJ0400](#)

## 4. Audiovisual and Media and Information Society

### Case Law

**Case C-392/19. Judgment of the Court (Grand Chamber) of 9 March 2021. VG Bild-Kunst v Stiftung Preußischer Kulturbesitz. Request for a preliminary ruling from the Bundesgerichtshof.**

Reference for a preliminary ruling – Intellectual property – Copyright and related rights in the information society – Directive 2001/29/EC – Article 3(1) – **Concept of ‘communication to the public’ – Embedding, in a third party’s website, of a copyright-protected work by means of the process of framing** – Work freely accessible with the authorisation of the copyright holder on the licensee’s website – **Clause in the exploitation agreement requiring the licensee to introduce effective technological measures against framing** – Lawfulness – Fundamental rights – Article 11 and Article 17(2) of the Charter of Fundamental Rights of the European Union.

[EUR-Lex - 62019CJ0392](#)

## 5. Competition and State Aid

### Case Law

**Case C-596/19 P. Judgment of the Court (Grand Chamber) of 16 March 2021. European Commission v Hungary. Appeal – Article 107(1) TFEU – State aid – Hungarian tax on turnover linked to advertisements** – Information used to determine the reference system – Progressivity of tax rates – Transitional measure for the partial deductibility of losses carried forward – **Existence of a selective advantage** – Burden of proof.

[EUR-Lex - 62019CJ0596](#)

**Case C-362/19 P. Judgment of the Court (Fifth Chamber) of 4 March 2021. European Commission v Fútbol Club Barcelona.**

Appeal – State aid – **Aid granted to certain professional football clubs** – Article 107(1) TFEU – **Concept of ‘advantage’** – Aid scheme – Regulation (EU) 2015/1589 – Article 1(d) – Reduced tax rate – Non-profit entities – Less advantageous tax deduction – Effect – Cross-appeal – Articles 169 and 178 of the Rules of Procedure of the Court of Justice.

[EUR-Lex - 62019CJ0362](#)

**Joined Cases C-434/19 and C-435/19. Judgment of the Court (Fifth Chamber) of 3 March 2021. Poste Italiane SpA v Riscossione Sicilia SpA agente riscossione per la provincia di Palermo e delle altre provincie siciliane and Agenzia delle entrate – Riscossione v Poste Italiane SpA. Requests for a preliminary ruling from the Corte suprema di cassazione.**

References for a preliminary ruling – State aid – Competition – Article 107(1) TFEU – Conditions under which applicable – Article 106(2) TFEU – **Services of general economic interest – Management of the post-office account used for collection of the municipal real estate tax** – Undertakings benefiting from special or exclusive rights granted by the Member States – **Fees set unilaterally by the recipient undertaking – Abuse of dominant position** – Article 102 TFEU – Inadmissibility.

[EUR-Lex - 62019CJ0434](#)

**Case C-425/19 P. Judgment of the Court (Grand Chamber) of 2 March 2021. European Commission v Italian Republic and Others.**

Appeal – State aid – **Measures adopted by a consortium of banks governed by private law for the benefit of one of its members – Measures authorised by the Central Bank of the Member State** – Concept of ‘State aid’ – **Whether imputable to the State** – State resources – Evidence supporting the conclusion that a measure is imputable – Distortion of elements of fact and of law – Decision declaring the aid incompatible with the internal market.

[EUR-Lex - 62019CJ0425](#)

## 6. Customs

**Regulation (EU) 2021/444 of the European Parliament and of the Council of 11 March 2021** establishing the **Customs programme for cooperation in the field of customs** and repealing Regulation (EU) No 1294/2013  
[EUR-Lex - 32021R0444](#)

### Case Law

**Case C-7/20. Judgment of the Court (Sixth Chamber) of 3 March 2021. VS v Hauptzollamt Münster. Request for a preliminary ruling from the Finanzgericht Düsseldorf.**

Reference for a preliminary ruling – Customs union – Union Customs Code – Regulation (EU) No 952/2013 – Article 87(4) – **Place where the customs debt is incurred** – Value added tax (VAT) – Directive 2006/112/EC – Article 2(1) – Articles 70 and 71 – Chargeable event and place where the import VAT becomes chargeable – Place where the tax debt is incurred – Finding of a failure to comply with an obligation imposed by EU customs legislation – **Goods which were physically introduced into the customs territory of the Union in a Member State but entered the economic network of the Union in the Member State where that finding was made.**

[EUR-Lex - 62020CJ0007](#)

## 7. Economic and Monetary Affairs, Taxation, Enterprise

### Community Legislation

**Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021** amending Regulation (EU) 2017/2402 laying down a **general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis**

[EUR-Lex - 32021R0557](#)

**Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021** amending Regulation (EU) No 575/2013 as regards **adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 crisis** (Text with EEA relevance)

[EUR-Lex - 32021R0558](#)

**Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021** establishing the **InvestEU Programme** and amending Regulation (EU) 2015/1017 (**investment scheme to support the economic recovery in response to the Covid-19 pandemic**)

[EUR-Lex - 32021R0523](#)

**Council Directive (EU) 2021/514 of 22 March 2021** amending Directive 2011/16/EU on **administrative cooperation in the field of taxation**

[EUR-Lex - 32021L0514](#)

### Case Law

**Case C-501/18. Judgment of the Court (Fourth Chamber) of 25 March 2021. BT v Balgarska Narodna Banka. Request for a preliminary ruling from the Administrativen sad Sofia-grad.**

Reference for a preliminary ruling – **Deposit-guarantee schemes** – Directive 94/19/EC – Article 1(3)(i) – Article 7(6) – Article 10(1) – Concept of ‘unavailable deposit’ – Determination of unavailability of deposits – Competent authority – **Depositor’s rights to compensation – Contractual clause contrary to Directive 94/19** – Principle of primacy of Union law – European System of Financial Supervision – European Banking Authority (EBA) – Regulation (EU) No 1093/2010 – Article 1(2) – Article 4(2)(iii) – Article 17(3) – EBA recommendation to a national banking authority on measures to comply with Directive 94/19 – Legal effects – Validity – **Reorganisation and**

**winding up of credit institutions** – Directive 2001/24/EC – Article 2, seventh indent – Concept of ‘reorganisation measures’ – **Compatibility with Article 17(1) and Article 52(1) of the Charter of Fundamental Rights of the European Union – Liability of Member States for breach of Union law** – Conditions – Sufficiently serious breach of EU law – Procedural autonomy of Member States – **Principle of sincere cooperation – Article 4(3) TEU – Principles of equivalence and effectiveness.**

[EUR-Lex - 62018CJ0501](#)

**Case C-907/19. Judgment of the Court (First Chamber) of 25 March 2021. Q-GmbH v Finanzamt Z. Request for a preliminary ruling from the Bundesfinanzhof.**

Reference for a preliminary ruling – Directive 2006/112/EC – **Value added tax (VAT) – Exemptions** – Article 135(1)(a) – **Insurance transactions and related services performed by insurance brokers and insurance agents** – Service supplied for an insurer, comprising different services – Categorisation as a single supply.

[EUR-Lex - 62019CJ0907](#)

**Affaire C-856/19. Arrêt de la Cour (sixième chambre) du 25 mars 2021. Commission européenne contre Hongrie.**

Manquement d’État – Article 258 TFUE – Directive 2011/64/UE – Article 10, paragraphes 2 et 3 – **Accises applicables aux tabacs manufacturés** – Taux de l’accise globale sur les cigarettes inférieur au taux minimal prescrit – Difficultés internes – **Menace de troubles graves à l’ordre public – Obligation de coopération loyale.**

[EUR-Lex - 62019CJ0856](#)

**Case C-950/19. Judgment of the Court (Fifth Chamber) of 24 March 2021. Proceedings brought by A. Request for a preliminary ruling from the Helsingin hallinto-oikeus.**

Reference for a preliminary ruling – Company law – Directive 2006/43/EC – Statutory audits of annual accounts and consolidated accounts – Article 22a(1)(a) – **Recruitment of a statutory auditor by an audited entity – Waiting period – Prohibition on taking up a key management position within the audited entity** – Infringement – Gravity and duration of the infringement – Expression ‘taking up a position’ – Scope – Conclusion of an employment contract with the audited entity – Independence of statutory auditors – External appearance.

[EUR-Lex - 62019CJ0950](#)

**Case C-388/19. Judgment of the Court (First Chamber) of 18 March 2021. MK v Autoridade Tributária e Aduaneira. Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa - CAAD).**

Reference for a preliminary ruling – Direct taxation – **Tax on capital gains from immovable property – Free movement of capital** – Basis for assessment of tax – Discrimination – **Option to be taxed according to the same arrangements as residents** – Compliance with EU law.

[EUR-Lex - 62019CJ0388](#)

**Case C-48/20. Judgment of the Court (Sixth Chamber) of 18 March 2021. UAB “P” v Dyrektor Izby Skarbowej w B. Request for a preliminary ruling from the Naczelny Sąd Administracyjny.**

Reference for a preliminary ruling – Taxation – **Common system of value added tax (VAT)** – Directive 2006/112/EC – Article 203 – Taxes improperly invoiced – Good faith on the part of the issuer of the invoice – Risk of loss of tax revenue – **Obligations of the Member States to provide for the possibility of adjusting tax improperly invoiced** – Principles of fiscal neutrality and proportionality.

[EUR-Lex - 62020CJ0048](#)

**Case C-596/19 P. Judgment of the Court (Grand Chamber) of 16 March 2021. European Commission v Hungary.**

Appeal – Article 107(1) TFEU – **State aid – Hungarian tax on turnover linked to advertisements** – Information used to determine the reference system – Progressivity of tax rates – Transitional measure for the partial deductibility of losses carried forward – **Existence of a selective advantage** – Burden of proof.

[EUR-Lex - 62019CJ0596](#)

## 8. Education, Training, Youth, Culture, Research and Innovation

Nothing to report for the period under review.

## 9. Employment and Social Affairs

### Case Law

**Case C-585/19. Judgment of the Court (Fifth Chamber) of 17 March 2021. Academia de Studii Economice din București v Organismul Intermediar pentru Programul Operațional Capital Uman - Ministerul Educației Naționale. Request for a preliminary ruling from the Tribunalul București.**

References for a preliminary ruling – Social policy – Protection of the safety and health of workers – Organisation of working time – Directive 2003/88/EC – Article 2 – Definition of ‘working time’ – Article 3 – **Minimum period of daily rest – Workers having concluded several employment contracts with the same employer** – Application by worker.

[EUR-Lex - 62019CJ0585](#)

**Case C-652/19. Judgment of the Court (Second Chamber) of 17 March 2021. KO v Consulmarketing SpA. Request for a preliminary ruling from the Tribunale di Milano.**

Reference for a preliminary ruling – Social policy – Directive 1999/70/EC – Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP – Clause 4 – Principle of non-discrimination – **Objective reasons justifying different treatment of fixed-term workers** – Directive 98/59/EC – Collective redundancy – National legislation on the protection to be afforded to a worker dismissed as part of an unlawful collective redundancy – **Application of a less advantageous protection system to fixed-term contracts concluded before its entry into force and converted into contracts of an indefinite duration after that date.**

[EUR-Lex - 62019CJ0652](#)

**Case C-344/19. Judgment of the Court (Grand Chamber) of 9 March 2021. D. J. v Radiotelevizija Slovenija. Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije.**

Reference for a preliminary ruling – Protection of the safety and health of workers – Organisation of working time – Directive 2003/88/EC – Article 2 – **Concept of ‘working time’ – Stand-by time according to a stand-by system** – Specific work maintaining television transmitters situated far away from residential areas – Directive 89/391/EEC – Articles 5 and 6 – Psychosocial risks – Obligation to prevent.

[EUR-Lex - 62019CJ0344](#)

**Case C-580/19. Judgment of the Court (Grand Chamber) of 9 March 2021. RJ v Stadt Offenbach am Main. Request for a preliminary ruling from the Verwaltungsgericht Darmstadt.**

Reference for a preliminary ruling – Protection of the safety and health of workers – Organisation of working time – Directive 2003/88/EC – Article 2 – **Concept of ‘working time’ – Stand-by time according to a stand-by system – Professional firefighters** – Directive 89/391/EEC – Articles 5 and 6 – Psychosocial risks – Obligation to prevent.

[EUR-Lex - 62019CJ0580](#)

## 10. Energy and Environment

### Case Law

**Affaire C-900/19. Arrêt de la Cour (première chambre) du 17 mars 2021. One Voice et Ligue pour la protection des oiseaux contre Ministre de la Transition écologique et solidaire. Demande de décision préjudicielle, introduite par le Conseil d'État (France).**

Renvoi préjudiciel – Environnement – Directive 2009/147/CE – **Conservation des oiseaux sauvages** – Articles 5 et 8 – Interdiction de recourir à toute méthode de capture des oiseaux – Article 9, paragraphe 1 – **Autorisation de recourir par dérogation à une telle méthode consacrée par un usage traditionnel** – Conditions – Absence d'autre solution satisfaisante – Justification de l'absence d'"autre solution satisfaisante" par la seule préservation de cette méthode traditionnelle – Sélectivité des captures – **Réglementation nationale autorisant la capture d'oiseaux par l'emploi de gluaux.**

[EUR-Lex - 62019CJ0900](#)

**Case C-565/19 P. Judgment of the Court (Sixth Chamber) of 25 March 2021. Armando Carvalho and Others v European Parliament and Council of the European Union.**

Appeal – **Action for annulment and for damages** – Environment – **2030 climate and energy package** – Fourth paragraph of Article 263 TFEU – **Lack of individual concern.**

[EUR-Lex - 62019CJ0565](#)

**Joined Cases C-473/19 and C-474/19. Judgment of the Court (Second Chamber) of 4 March 2021. Föreningen Skydda Skogen and Others v Länsstyrelsen i Västra Götalands län and Others. Requests for a preliminary ruling from the Vänersborgs tingsrätt, mark- och miljödomstolen.**

Reference for a preliminary ruling – Environment – Directive 92/43/EEC – **Conservation of natural habitats and of wild fauna and flora** – Article 12(1) – Directive 2009/147/EC – Conservation of wild birds – Article 5 – Forestry – **Prohibitions intended to ensure the conservation of protected species – Plan for final felling of trees** – Site hosting protected species.

[EUR-Lex - 62019CJ0473](#)

**Affaire C-741/19. Conclusions de l'avocat général M. M. Szpunar, présentées le 3 mars 2021. République de Moldavie contre Société Komstroy, venant aux droits de la société Energoalians. Demande de décision préjudicielle formée par la cour d'appel de Paris (France).**

Renvoi préjudiciel – **Traité sur la Charte de l'énergie – Notion d'"investissement" – Différends entre un investisseur et une partie contractante** – Situation purement externe à l'ordre juridique de l'Union – Compétence de la Cour.

[EUR-Lex - 62019CC0741](#)

## 11. Food Safety, Public Health and Consumers

### Community Legislation

**Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014 (Text with EEA relevance)**

[EUR-Lex - 32021R0522](#)

## Case Law

**Case C-28/20. Judgment of the Court (Grand Chamber) of 23 March 2021. Airhelp Ltd v Scandinavian Airlines System Denmark – Norway – Sweden. Request for a preliminary ruling from the Attunda tingsrätt.**

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 5(3) – **Common rules on compensation and assistance to passengers in the event of cancellation or long delay of flights** – Exemption from the obligation to pay compensation – Concept of ‘extraordinary circumstances’ – **Pilots’ strike organised within a legal framework – Circumstances that are ‘internal’ and ‘external’ to the operating air carrier’s activity** – Articles 16, 17 and 28 of the Charter of Fundamental Rights of the European Union – No impairment of the air carrier’s freedom to conduct a business, right to property and right of negotiation.

[EUR-Lex - 62020CJ0028](#)

**Case C-578/19. Judgment of the Court (Third Chamber) of 18 March 2021. X v Kuoni Travel Ltd. Request for a preliminary ruling from the Supreme Court of the United Kingdom.**

Reference for a preliminary ruling – Directive 90/314/EEC – Article 5(2), third indent – **Package travel, package holidays and package tours** – Contract concerning package travel concluded between a travel organiser and a consumer – **Liability of the travel organiser for the proper performance of obligations arising from the contract by other suppliers of services** – Damage resulting from the acts of an employee of a supplier of services – Exemption from liability – Event that cannot be foreseen or forestalled by the travel organiser or the supplier of services – Concept of a ‘supplier of services’.

[EUR-Lex - 62019CJ0578](#)

## 12. Human Rights

### Community Legislation

**Council Decision (CFSP) 2021/481 of 22 March 2021 amending Decision (CFSP) 2020/1999 concerning restrictive measures against serious human rights violations and abuses**

[EUR-Lex - 32021D0481](#)

## Case Law

**Case C-546/18. Opinion of Advocate General Bobek delivered on 18 March 2021. FN, GM, Adler Real Estate AG, HL, Petrus Advisers LLP joined parties: Übernahmekommission. Request for a preliminary ruling from the Bundesverwaltungsgericht (Federal Administrative Court, Austria).**

Reference for a preliminary ruling – **Article 47 of the Charter of Fundamental Rights of the European Union – Finality of decisions taken at the close of administrative procedures** – Directive 2004/25/EC – Interpretation in conformity with EU law.

[EUR-Lex - 62018CC0546](#)

**Case C-746/18. Judgment of the Court (Grand Chamber) of 2 March 2021. Criminal proceedings against Prokuratuur. Request for a preliminary ruling from the Riigikohus.**

Reference for a preliminary ruling – **Processing of personal data in the electronic communications sector** – Directive 2002/58/EC – Providers of electronic communications services – Confidentiality of the communications – Limitations – Article 15(1) – Articles 7, 8 and 11 and Article 52(1) of the Charter of Fundamental Rights of the European Union – **Legislation providing for the general and indiscriminate retention of traffic and location data by providers of electronic communications services** – Access of national authorities to retained data for the purpose of investigations – Combating of crime in general – Authorisation given by the public prosecutor’s office – **Use of data in criminal proceedings as evidence** – Admissibility.

[EUR-Lex - 62018CJ0746](#)



## 13. Internal Market and Single Market

### Community Legislation

**Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021** establishing the **InvestEU Programme** and amending Regulation (EU) 2015/1017 (**investment scheme to support the economic recovery in response to the Covid-19 pandemic**)

[EUR-Lex - 32021R0523](#)

### Case Law

**Affaire C-771/19. Arrêt de la Cour (dixième chambre) du 24 mars 2021. NAMA Symvouloi Michanikoi kai Meletites A.E. – LDK Symvouloi Michanikoi A.E. e.a. contre Archi Exetasis Prodikastikon Prosfigon (AEPP) et Attiko Metro AE. Demande de décision préjudicielle, introduite par le Symvoulio tis Epikrateias (Epitropi Anastolon).**

Renvoi préjudiciel – **Passation des marchés dans les secteurs de l’eau, de l’énergie, des transports et des télécommunications** – Directive 92/13/CEE – Procédures de recours – **Phase précontractuelle** – Évaluation des offres – **Rejet d’une offre technique et admission de l’offre du concurrent** – Sursis à exécution de cet acte – **Intérêt légitime du soumissionnaire évincé de contester la régularité de l’offre de l’attributaire.**

[EUR-Lex - 62019CJ0771](#)

**Case C-388/19. Judgment of the Court (First Chamber) of 18 March 2021. MK v Autoridade Tributária e Aduaneira. Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa - CAAD).**

Reference for a preliminary ruling – Direct taxation – **Tax on capital gains from immovable property – Free movement of capital** – Basis for assessment of tax – Discrimination – **Option to be taxed according to the same arrangements as residents** – Compliance with EU law.

[EUR-Lex - 62019CJ0388](#)

**Case C-739/19. Judgment of the Court (First Chamber) of 10 March 2021. VK v An Bord Pleanála. Request for a preliminary ruling from the Supreme Court (Ireland).**

Reference for a preliminary ruling – **Lawyers’ freedom to provide services** – Directive 77/249/EEC – Article 5 – **Obligation for a visiting lawyer representing a client in domestic legal proceedings to work in conjunction with a lawyer who practises before the judicial authority in question** – Limits.

[EUR-Lex - 62019CJ0739](#)

## 14. Intellectual Property

### Case Law

**Case C-392/19. Judgment of the Court (Grand Chamber) of 9 March 2021. VG Bild-Kunst v Stiftung Preußischer Kulturbesitz. Request for a preliminary ruling from the Bundesgerichtshof.**

Reference for a preliminary ruling – Intellectual property – Copyright and related rights in the information society – Directive 2001/29/EC – Article 3(1) – **Concept of ‘communication to the public’ – Embedding, in a third party’s website, of a copyright-protected work by means of the process of framing** – Work freely accessible with the authorisation of the copyright holder on the licensee’s website – **Clause in the exploitation agreement requiring the licensee to introduce effective technological measures against framing** – Lawfulness – Fundamental rights – Article 11 and Article 17(2) of the Charter of Fundamental Rights of the European Union.

[EUR-Lex - 62019CJ0392](#)

## 15. Justice, Freedom and Security (incl. Judicial Cooperation)

### Community Legislation

**Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on control of the acquisition and possession of weapons** (codification)

[EUR-Lex - 32021L0555](#)

### Case Law

**Case C-603/20 PPU. Judgment of the Court (Fifth Chamber) of 24 March 2021. SS v MCP. Request for a preliminary ruling from the High Court of Justice, Family Division (England and Wales).**

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Area of freedom, security and justice – Judicial cooperation in civil matters – Regulation (EC) No 2201/2003 – Article 10 – **Jurisdiction in matters of parental responsibility – Abduction of a child** – Jurisdiction of the courts of a Member State – Territorial scope – **Removal of a child to a third State – Habitual residence acquired in that third State.**

[EUR-Lex - 62020CJ0603](#)

**Case C-488/19. Judgment of the Court (First Chamber) of 17 March 2021. JR. Request for a preliminary ruling from the High Court (Ireland).**

Reference for a preliminary ruling – Police and judicial cooperation in criminal matters – **European arrest warrant** – Framework Decision 2002/584/JHA – Scope – Article 8(1)(c) – Concept of ‘enforceable judgment’ – **Offence giving rise to a conviction by a court of a third State** – Kingdom of Norway – **Judgment recognised and enforced by the issuing State by virtue of a bilateral agreement** – Article 4(7)(b) – Grounds for optional non-execution of the European arrest warrant – Extra-territorial offence.

[EUR-Lex - 62019CJ0488](#)

**Case C-112/20. Judgment of the Court (Tenth Chamber) of 11 March 2021. M. A. v État belge. Request for a preliminary ruling from the Conseil d'État.**

Reference for a preliminary ruling – **Directive 2008/115/EC** – Article 5 – Return decision – Father of a minor child who is a citizen of the European Union – **Taking into account the best interests of the child at the time of the adoption of the return decision.**

[EUR-Lex - 62020CJ0112](#)

**Case C-949/19. Judgment of the Court (First Chamber) of 10 March 2021. M.A. v Konsul Rzeczypospolitej Polskiej w N. Request for a preliminary ruling from the Naczelny Sąd Administracyjny.**

Reference for a preliminary ruling – Border controls, asylum and immigration – Visa policy – Convention implementing the Schengen Agreement – Article 21(2a) – Charter of Fundamental Rights – Article 47 – Right to an effective remedy – **Refusal of a long-stay visa by the consul – Obligation on a Member State to guarantee a remedy before a tribunal against a decision refusing such a visa.**

[EUR-Lex - 62019CJ0949](#)

**Case C-193/19. Judgment of the Court (Fourth Chamber) of 4 March 2021. A v Migrationsverket. Request for a preliminary ruling from the Förvaltningsrätten i Malmö – Migrationsdomstolen.**

Reference for a preliminary ruling – Area of freedom, security and justice – Border controls, asylum and immigration – **Convention implementing the Schengen Agreement** – Consultation of the Schengen Information System (SIS) in the examination of an application for a residence permit made by a third-country national for whom an alert has been issued in the SIS for the purposes of refusing entry – Article 25(1) – Schengen Borders Code – **Entry conditions for third-country nationals** – Article 6(1) and (5) – Charter of Fundamental Rights of the European Union – Article 7 and Article 24(2) – **Refusal to renew a residence permit for the purposes of family reunification on the ground that the applicant's identity cannot be established with certainty.**

[EUR-Lex - 62019CJ0193](#)

## 16. Transport

### Case Law

**Joined Cases C-870/19 and C-871/19. Judgment of the Court (Tenth Chamber) of 24 March 2021. Prefettura Ufficio territoriale del governo di Firenze v MI and TB. Requests for a preliminary ruling from the Corte suprema di cassazione.**

Reference for a preliminary ruling – Approximation of laws – **Recording equipment in road transport** – Regulation (EEC) No 3821/85 – Article 15(7) – Regulation (EC) No 561/2006 – Control proceedings – Administrative penalty – **Failure to produce the record sheets for the tachograph relating to the current day and the previous 28 days** – Single or multiple infringement.

[EUR-Lex - 62019CJ0870](#)

**Case C-28/20. Judgment of the Court (Grand Chamber) of 23 March 2021. Airhelp Ltd v Scandinavian Airlines System Denmark – Norway – Sweden. Request for a preliminary ruling from the Attunda tingsrätt.**

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 5(3) – **Common rules on compensation and assistance to passengers in the event of cancellation or long delay of flights** – Exemption from the obligation to pay compensation – Concept of ‘extraordinary circumstances’ – **Pilots’ strike organised within a legal framework – Circumstances that are ‘internal’ and ‘external’ to the operating air carrier’s activity** – Articles 16, 17 and 28 of the Charter of Fundamental Rights of the European Union – No impairment of the air carrier’s freedom to conduct a business, right to property and right of negotiation.

[EUR-Lex - 62020CJ0028](#)

## 17. Community Institutions, Principles and the Communities’ own Resources

### Case Law

**Case C-824/18. Judgment of the Court (Grand Chamber) of 2 March 2021. A.B. and Others v Krajowa Rada Sądownictwa and Others. Request for a preliminary ruling from the Naczelny Sąd Administracyjny.**

Reference for a preliminary ruling – Article 2 and the second subparagraph of Article 19(1) TEU – Rule of law – Effective judicial protection – **Principle of judicial independence – Procedure for appointment to a position as judge at the Sąd Najwyższy (Supreme Court, Poland)** – Appointment by the President of the Republic of Poland on the basis of a resolution emanating from the National Council of the Judiciary – Lack of independence of that council – Lack of effectiveness of the judicial remedy available against such a resolution – Judgment of the Trybunał Konstytucyjny (Constitutional Court, Poland) repealing the provision on which the referring court’s jurisdiction is based – Adoption of legislation declaring the discontinuance of pending cases by operation of law and precluding in the future any judicial remedy in such cases – Article 267 TFEU – Option and/or obligation for national courts to make a reference for a preliminary ruling and to maintain that reference – Article 4(3) TEU – Principle of sincere cooperation - Primacy of EU law – **Power to disapply national provisions which do not comply with EU law.**

[EUR-Lex - 62018CJ0824](#)