



Institut suisse de droit comparé  
Schweizerisches Institut für Rechtsvergleichung  
Istituto svizzero di diritto comparato  
Swiss Institute of Comparative Law

# EU News: Click & Read

159 – February 2022

European Documentation Centre

Editor: [Henrik Westermark](#) Legal Adviser

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.

## Table of contents

1. EU-Swiss Relations .....	2
2. External Relations / Foreign Policy .....	2
3. Agriculture and Fisheries / Maritime Affairs	3
4. Audiovisual and Media and Information Society .....	3
5. Competition and State Aid.....	3
6. Customs .....	3
7. Economic and Monetary Affairs, Taxation, Enterprise.....	4
8. Education, Training, Youth, Culture, Research and Innovation .....	5
9. Employment and Social Affairs .....	6
10. Energy and Environment.....	7
11. Food Safety, Public Health and Consumers .	7
12. Human Rights.....	9
13. Internal Market and Free Movement .....	10
14. Intellectual Property.....	11
15. Justice, Freedom and Security (incl. Judicial Cooperation) .....	11
16. Transport .....	12
17. Community Institutions, Principles and the Communities' own resources .....	13

## Highlights

### Case C-430/21 Judgment of the Court (Grand Chamber) of 22 February 2022. Proceedings brought by RS. Request for a preliminary ruling from the Curtea de Apel Craiova.

Reference for a preliminary ruling – Rule of law – Independence of the judiciary – Second subparagraph of Article 19(1) TEU – Article 47 of the Charter of Fundamental Rights of the European Union – Primacy of EU law – **Lack of jurisdiction of a national court to examine the conformity with EU law of national legislation found to be constitutional by the constitutional court of the Member State concerned** – Disciplinary proceedings.

[EUR-Lex - 62021CJ0430](#)

### Case C-483/20 Judgment of the Court (Grand Chamber) of 22 February 2022. XXXX v Commissaire général aux réfugiés et aux apatrides. Request for a preliminary ruling from the Conseil d'État.

Reference for a preliminary ruling – **Common policy on asylum** – Common procedures for granting and withdrawing international protection – Directive 2013/32/EU – Article 33(2)(a) – **Inadmissibility of an application for international protection lodged in a Member State by a third-country national who has obtained refugee status in another Member State, where the minor child of that third-country national, who is a beneficiary of subsidiary protection status, resides in the first Member State** – Charter of Fundamental Rights of the European Union – Article 7 – Right to respect for family life – Article 24 – Best interests of the child – No infringement of Articles 7 and 24 of the Charter of Fundamental Rights due to the inadmissibility of the application for international protection – Directive 2011/95/EU – Article 23(2) – Obligation on the Member States to ensure the family unity of beneficiaries of international protection is maintained.

[EUR-Lex - 62020CJ0483](#)

### Case C-156/21 Judgment of the Court (Full Court) of 16 February 2022. Hungary v European Parliament and Council of the European Union.

Action for annulment – Regulation (EU, Euratom) 2020/2092 – General regime of conditionality for the protection of the European Union budget – **Protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States** – Legal basis – Article 322(1)(a) TFEU – Alleged circumvention of Article 7 TEU and Article 269 TFEU – Alleged infringements of Article 4(1), Article 5(2) and Article 13(2) TEU and of the principles of legal certainty, proportionality and equality of Member States before the Treaties.

[EUR-Lex - 62021CJ0156](#)

## 1. EU-Swiss Relations

### Community Legislation

**Council Recommendation amending Council Recommendation (EU) 2020/1632 as regards a coordinated approach to facilitate safe travel during the COVID-19 pandemic in the Schengen area notification from Switzerland ST 6447 2022 INIT**

[EUR-Lex - ST\\_6447\\_2022\\_INIT - EN - EUR-Lex \(europa.eu\)](#)

## 2. External Relations / Foreign Policy

### Community Legislation

**Council Regulation (EU) 2022/334 of 28 February 2022 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine**

[EUR-Lex - 32022R0334 - EN - EUR-Lex \(europa.eu\)](#)

**Council Decision (CFSP) 2022/338 of 28 February 2022 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force**

[EUR-Lex - 32022D0338 - EN - EUR-Lex \(europa.eu\)](#)

**Decision (EU) 2022/313 of the European Parliament and of the Council of 24 February 2022 providing macro-financial assistance to Ukraine**

[EUR-Lex - 32022D0313 - EN - EUR-Lex \(europa.eu\)](#)

**Council Regulation (EU) 2022/212 of 17 February 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus**

[EUR-Lex - 32022R0212 - EN - EUR-Lex \(europa.eu\)](#)

### Case Law

**Affaire C-283/20 Arrêt de la Cour (cinquième chambre) du 24 février 2022. CO e.a. contre MJ e.a. Demande de décision préjudicielle, introduite par le tribunal du travail francophone de Bruxelles.**

Renvoi préjudiciel – Politique étrangère et de sécurité commune (PESC) – **Mission “État de droit” menée par l’Union européenne au Kosovo (Eulex Kosovo)** – Action commune 2008/124/PESC – Article 8, paragraphes 3 et 5, article 9, paragraphe 3, et article 10, paragraphe 3 – **Qualité d’employeur du personnel de mission** – Article 16, paragraphe 5 – Effet subrogatoire.

[EUR-Lex - 62020CJ0283](#)

**Case C-226/20 P Judgment of the Court (Fourth Chamber) of 24 February 2022. Eurofer, Association Européenne de l’Acier, AISBL v European Commission.**

Appeal – Dumping – **Imports of hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia, Serbia and Ukraine** – Termination of the proceedings against imports originating in Serbia – Determination of injury – Cumulative assessment of the effects of imports from more than one third country – Regulation (EU) 2016/1036 – Article 3(4) – Termination of the proceedings without measures – Article 9(2) – ‘Negligible’ imports – De minimis threshold – European Commission’s discretion.

[EUR-Lex - 62020CJ0226](#)

### 3. Agriculture and Fisheries / Maritime Affairs

#### Case Law

**Case C-564/20 Judgment of the Court (Sixth Chamber) of 10 February 2022. PF and MF v Minister for Agriculture Food and the Marine and Sea Fisheries Protection Authority (SFPA). Request for a preliminary ruling from the Supreme Court.**

Reference for a preliminary ruling – Common fisheries policy – Regulation (EC) No 1224/2009 – Control system – Article 33(2)(a) and Article 34 – **Recording of catches and fishing effort** – Transmission to the European Commission of information concerning the quantities of nephrops caught – Possibility to use data other than those contained in the fishing logbook – Reasonable and scientifically valid method to process and verify data – Closure of fisheries.

[EUR-Lex - 62020CJ0564](#)

### 4. Audiovisual and Media and Information Society

#### Community Legislation

**Data Act: Proposal for a Regulation on harmonised rules on fair access to and use of data**

[Data Act: Proposal for a Regulation](#)

### 5. Competition and State Aid

#### Case Law

**Case T-799/17. Judgment of the General Court (Tenth Chamber, Extended Composition) of 2 February 2022. Scania AB and Others v European Commission.**

Competition – Agreements, decisions and concerted practices – Truck manufacturers market – Decision finding an infringement of Article 101 TFEU and of Article 53 of the EEA Agreement – **Agreements and concerted practices in relation to the prices of trucks, the timing for the introduction of emission technologies and the passing on to customers of the costs relating to those technologies** – ‘Hybrid’ procedure staggered over time – Presumption of innocence – Principle of impartiality – Charter of Fundamental Rights – Single and continuous infringement – Restriction of competition by object – Geographic scope of the infringement – Fine – Proportionality – Equal treatment – Unlimited jurisdiction.

[EUR-Lex - 62017TJ0799 - EN - EUR-Lex \(europa.eu\)](#)

### 6. Customs

#### Case Law

**Case C-226/20 P Judgment of the Court (Fourth Chamber) of 24 February 2022. Eurofer, Association Européenne de l'Acier, AISBL v European Commission.**

Appeal – Dumping – **Imports of hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia, Serbia and Ukraine** – Termination of the proceedings against imports originating in Serbia – Determination of injury – Cumulative assessment of the effects of imports from more than one third country – Regulation (EU) 2016/1036 – Article 3(4) – Termination of the proceedings without measures – Article 9(2) – ‘Negligible’ imports – De minimis threshold – European Commission’s discretion.

[EUR-Lex - 62020CJ0226](#)

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

### Case Law

**Case C-257/20 Judgment of the Court (Fifth Chamber) of 24 February 2022. „Viva Telecom Bulgaria“ EOOD v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ - Sofia. Request for a preliminary ruling from the Varhoven administrativen sad.**

Reference for a preliminary ruling – Taxation – **Withholding tax on notional interest on an interest-free loan granted to a resident subsidiary by a non-resident parent company** – Directive 2003/49/EC – Payments of interest between associated companies of different Member States – Article 1(1) – Exemption from withholding tax – Article 4(1)(d) – Exclusion of certain payments – Directive 2011/96/EU – Corporation tax – Article 1(1)(b) – Distribution of profits by a resident subsidiary to its non-resident parent company – Article 5 – Exemption from withholding tax – Directive 2008/7/EC – Raising of capital – Article 3 – Contributions of capital – Article 5(1)(a) – Indirect tax exemption – Articles 63 and 65 TFEU – Free movement of capital – Taxation of the gross amount of notional interest – Recovery procedure for the purposes of the deduction of expenses related to the grant of the loan and a possible refund – Difference in treatment – Justification – Balanced allocation of the power to impose taxes between the Member States – Effective collection of tax – Combating of tax avoidance.

[EUR-Lex - 62020CJ0257](#)

**Affaires jointes C-52/21 et C-53/21. Arrêt de la Cour (septième chambre) du 24 février 2022. Pharmacie populaire – La Sauvegarde SCRL contre État belge et Pharma Santé – Réseau Solidaris SCRL contre État belge. Demande de décision préjudicielle, introduite par la cour d'appel de Liège.**

Renvoi préjudiciel – Libre prestation des services – Article 56 TFUE – Restrictions – Législation fiscale – Impôt sur les sociétés – **Obligation pour les acheteurs de services d'établir et de transmettre à l'administration fiscale des pièces justificatives relatives aux sommes facturées par des prestataires de services établis dans un autre État membre** – Absence d'une telle obligation s'agissant de prestations de services purement internes – Justification – Efficacité des contrôles fiscaux – Proportionnalité.

[EUR-Lex - 62021CJ0052](#)

**Affaire C-605/20 Arrêt de la Cour (septième chambre) du 24 février 2022. Suzlon Wind Energy Portugal – Energia Eólica Unipessoal Lda contre Autoridade Tributária e Aduaneira. Demande de décision préjudicielle, introduite par le Supremo Tribunal Administrativo.**

Renvoi préjudiciel – Fiscalité – **Taxe sur la valeur ajoutée (TVA)** – Directive 2006/112/CE – Article 2, paragraphe 1, sous c) – Applicabilité ratione temporis – Prestations soumises à la TVA – **Prestations de services à titre onéreux** – Critères – Relation intragroupe – Prestations consistant à réparer ou à remplacer des composants d'aérogénérateurs sous garantie et à effectuer des rapports de non-conformité – Notes de débit émises par le prestataire sans mention de la TVA – Déduction par le prestataire de la TVA ayant grevé les biens et les services qui lui ont été facturés par ses sous-traitants au titre des mêmes prestations.

[EUR-Lex - 62020CJ0605](#)

**Case C-364/20 P Judgment of the Court (Seventh Chamber) of 24 February 2022. Ernestis Bernis and Others v Single Resolution Board.**

Appeal – Economic and monetary union – Banking union – Recovery and resolution of credit institutions and investment firms – **Single resolution mechanism for credit institutions and certain investment firms (SRM)** – Regulation (EU) No 806/2014 – Article 18 – Resolution procedure – Declaration by the European Central Bank (ECB) that an entity is failing or is likely to fail – Decision of the Single Resolution Board (SRB) not to adopt a resolution scheme – Lack of public interest – Winding up in accordance with national law – Shareholders – Lack of direct concern – Inadmissibility.

[EUR-Lex - 62020CJ0364](#)

**Case C-257/20 Judgment of the Court (Fifth Chamber) of 24 February 2022. „Viva Telecom Bulgaria“ EOOD v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ - Sofia. Request for a preliminary ruling from the Varhoven administrativen sad.**

Reference for a preliminary ruling – Taxation – **Withholding tax on notional interest on an interest-free loan granted to a resident subsidiary by a non-resident parent company** – Directive 2003/49/EC – Payments of interest between associated companies of different Member States – Article 1(1) – Exemption from withholding tax – Article 4(1)(d) – Exclusion of certain payments – Directive 2011/96/EU – Corporation tax – Article 1(1)(b) – Distribution of profits by a resident subsidiary to its non-resident parent company – Article 5 – Exemption from withholding tax – Directive 2008/7/EC – Raising of capital – Article 3 – Contributions of capital – Article 5(1)(a) – Indirect tax exemption – Articles 63 and 65 TFEU – Free movement of capital – Taxation of the gross amount of notional interest – Recovery procedure for the purposes of the deduction of expenses related to the grant of the loan and a possible refund – Difference in treatment – Justification – Balanced allocation of the power to impose taxes between the Member States – Effective collection of tax – Combating of tax avoidance.

[EUR-Lex - 62020CJ0257](#)

**Affaire C-582/20 Arrêt de la Cour (cinquième chambre) du 24 février 2022. SC Cridar Cons SRL contre Administrația Județeană a Finanțelor Publice Cluj et Direcția Generală Regională a Finanțelor Publice Cluj-Napoca. Demande de décision préjudicielle, introduite par l'Înalta Curte de Casație și Justiție.**

Renvoi préjudiciel – **Système commun de taxe sur la valeur ajoutée** – Directive 2006/112/CE – Articles 167 et 168 – Droit à déduction – Refus – Fraude fiscale – Administration des preuves – **Sursis à statuer sur une réclamation administrative visant un avis d'imposition refusant un droit à déduction, dans l'attente de l'issue d'une procédure pénale** – Autonomie procédurale des États membres – Principe de neutralité fiscale – Droit à une bonne administration – Article 47 de la charte des droits fondamentaux de l'Union européenne.

[EUR-Lex - 62020CJ0582](#)

**Affaire C-487/20 Arrêt de la Cour (huitième chambre) du 10 février 2022. Philips Orăștie S.R.L. contre Direcția Generală de Administrare a Marilor Contribuabili.**

Renvoi préjudiciel – Harmonisation des législations fiscales – Système commun de taxe sur la valeur ajoutée (TVA) – Directive 2006/112/CE – Articles 179 et 183 – Droit à déduction de la TVA – Modalités – **Compensation ou remboursement de l'excédent de TVA** – Obligations de paiement supplémentaires – Principe de neutralité fiscale – Principes d'équivalence et d'effectivité.

[EUR-Lex - 62020CJ0487](#)

**Case C-9/20 Judgment of the Court (Fifth Chamber) of 10 February 2022. Grundstücksgemeinschaft Kollaustraße 136 v Finanzamt Hamburg-Oberalster. Request for a preliminary ruling from the Finanzgericht Hamburg.**

Reference for a preliminary ruling – Taxation – Value added tax (VAT) – Directive 2006/112/EC – Point (b) of the first paragraph of Article 66 – Chargeability of VAT – The time the payment is received – Article 167 – **Origin and scope of the right of input VAT deduction** – Article 167a – Derogation – Cash accounting – **Letting and subletting of a property used for industrial or commercial purposes.**

[EUR-Lex - 62020CJ0009](#)

**Case C-515/20 Judgment of the Court (Sixth Chamber) of 3 February 2022. B AG v Finanzamt A. Request for a preliminary ruling from the Bundesfinanzhof.**

Reference for a preliminary ruling – **Value added tax (VAT)** – Directive 2006/112/EC – Article 122 – Reduced rate for supplies of wood for use as firewood – **Differentiation on the basis of the objective characteristics and properties of the goods** – Types of wood intended for use as fuel which serve the same consumer need and are in competition with each other – Principle of fiscal neutrality.

[EUR-Lex - 62020CJ0515](#)

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

Nothing to report for the period under review.

## 9. Employment and Social Affairs

### Case Law

**Affaire C-262/20 Arrêt de la Cour (deuxième chambre) du 24 février 2022. VB contre Glavna direktsia « Pozharna bezopasnost i zashtita na naselenieto ». Demande de décision préjudicielle, introduite par le Rayonen sad Lukovit.**

Renvoi préjudiciel – Politique sociale – Aménagement du temps de travail – Directive 2003/88/CE – Article 8 – Article 12, sous a) – Articles 20 et 31 de la charte des droits fondamentaux de l’Union européenne – **Réduction de la durée normale du travail de nuit par rapport à celle du travail de jour** – Travailleurs du secteur public et travailleurs du secteur privé – Égalité de traitement.

[EUR-Lex - 62020CJ0262](#)

**Affaire C-283/20 Arrêt de la Cour (cinquième chambre) du 24 février 2022. CO e.a. contre MJ e.a. Demande de décision préjudicielle, introduite par le tribunal du travail francophone de Bruxelles.**

Renvoi préjudiciel – Politique étrangère et de sécurité commune (PESC) – **Mission “État de droit” menée par l’Union européenne au Kosovo (Eulex Kosovo)** – Action commune 2008/124/PESC – Article 8, paragraphes 3 et 5, article 9, paragraphe 3, et article 10, paragraphe 3 – **Qualité d’employeur du personnel de mission** – Article 16, paragraphe 5 – Effet subrogatoire.

[EUR-Lex - 62020CJ0283](#)

**Affaire C-389/20 Arrêt de la Cour (troisième chambre) du 24 février 2022. CJ contre Tesorería General de la Seguridad Social (TGSS). Demande de décision préjudicielle, introduite par le Juzgado de lo Contencioso-Administrativo n° 2 de Vigo.**

Renvoi préjudiciel – **Égalité de traitement entre les hommes et les femmes en matière de sécurité sociale** – Directive 79/7/CEE – Article 4, paragraphe 1 – Prohibition de toute discrimination fondée sur le sexe – Employés de maison – Protection contre le chômage – Exclusion – Désavantage particulier pour les travailleurs féminins – Objectifs légitimes de politique sociale – Proportionnalité.

[EUR-Lex - 62020CJ0389](#)

**Case C-219/20 Judgment of the Court (Sixth Chamber) of 10 February 2022. LM v Bezirkshauptmannschaft Hartberg-Fürstenfeld and Österreichische Gesundheitskasse. Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark.**

Reference for a preliminary ruling – Freedom to provide services – **Posting of workers** – Directive 96/71/EC – Article 3(1)(c) – **Terms and conditions of employment** – Remuneration – Article 5 – Penalties – Limitation period – Charter of Fundamental Rights of the European Union – Article 41 – Right to good administration – Article 47 – Effective judicial protection.

[EUR-Lex - 62020CJ0219](#)

**Case C-485/20 Judgment of the Court (Third Chamber) of 10 February 2022. XXXX v HR Rail SA. Request for a preliminary ruling from the Conseil d’État.**

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Equal treatment in employment and occupation – Prohibition of discrimination on the ground of disability – **Dismissal of a worker who had become permanently incapable of performing the essential functions of the post** – Staff member completing training as part of recruitment – Article 5 – **Reasonable accommodation for people with disabilities** – Requirement to reassign to another post – Obligation subject to it not being a disproportionate burden for the employer.

[EUR-Lex - 62020CJ0485](#)



## 10. Energy and Environment

### Case Law

**Affaire C-290/20 Arrêt de la Cour (troisième chambre) du 24 février 2022. « Latvijas Gāze » AS. Demande de décision préjudicielle, introduite par la Latvijas Republikas Satversmes tiesa.**

Renvoi préjudiciel – Marché intérieur du gaz naturel – Directive 2009/73/CE – Article 2, point 3 – Notion de « transport » – Article 23 – **Pouvoir de décider du raccordement d’installations de stockage, d’installations de regazéification de gaz naturel liquéfié et de clients industriels au réseau de transport** – Article 32, paragraphe 1 – Accès des tiers au réseau – Possibilité de raccordement direct des clients finaux au réseau de transport de gaz naturel.

[EUR-Lex - 62020CJ0290](#)

**Affaire C-463/20 Arrêt de la Cour (troisième chambre) du 24 février 2022. Namur-Est Environnement ASBL contre Région wallonne. Demande de décision préjudicielle, introduite par le Conseil d’État (Belgique).**

Renvoi préjudiciel – Environnement – Directive 2011/92/UE – Évaluation des incidences de certains projets sur l’environnement – Directive 92/43/CEE – **Conservation des habitats naturels – Articulation entre la procédure d’évaluation et d’autorisation visée à l’article 2 de la directive 2011/92/UE et une procédure nationale de dérogation aux mesures de protection des espèces prévues par la directive 92/43/CEE** – Notion d’“autorisation” – Processus décisionnel complexe – Obligation d’évaluation – Portée matérielle – Stade procédural auquel doit être garantie la participation du public au processus décisionnel.

[EUR-Lex - 62020CJ0463](#)

**Case C-300/20 Judgment of the Court (Grand Chamber) of 22 February 2022. Bund Naturschutz in Bayern e.V. v Landkreis Rosenheim. Request for a preliminary ruling from the Bundesverwaltungsgericht.**

Reference for a preliminary ruling – Environment – Directive 2001/42/EC – Assessment of the effects of certain plans and programmes on the environment – Article 2(a) – Concept of ‘plans and programmes’ – Article 3(2)(a) – Measures prepared for certain sectors and setting a framework for future development consent of projects listed in Annexes I and II to Directive 2011/92/EU – Article 3(4) – Measures setting a framework for future development consent of projects – **Landscape conservation regulation adopted by a local authority.**

[EUR-Lex - 62020CJ0300](#)

**Affaire C-121/21 République tchèque contre République de Pologne. Conclusions de l’avocat général M. P. Pikamäe, présentées le 3 février 2022.**

Manquement d’État – Article 259 TFUE – **Prolongation d’une autorisation d’exploitation de la mine de Turów en Pologne proche de la frontière tchèque** – Différend entre la République tchèque et la République de Pologne quant aux incidences sur l’environnement en République tchèque – Directive 2011/92/UE – Évaluation des incidences de certains projets sur l’environnement (EIE) – Contrariété au droit de l’Union de la législation nationale, de la décision EIE et de l’autorisation d’exploitation.

[EUR-Lex - 62021CC0121 - FR - EUR-Lex \(europa.eu\)](#)

## 11. Food Safety, Public Health and Consumers

### Case Law

**Case C-452/20 Judgment of the Court (First Chamber) of 24 February 2022. PJ v Agenzia delle dogane e dei monopoli - Ufficio dei monopoli per la Toscana and Ministero dell’Economia e delle Finanze. Request for a preliminary ruling from the Consiglio di Stato.**

Reference for a preliminary ruling – Approximation of laws – Directive 2014/40/EU – Article 23(3) – **World Health Organisation Framework Convention on Tobacco Control – Prohibition on selling tobacco products to minors** – Rules on penalties – **Effective, proportionate and dissuasive penalties** – Obligation on sellers of tobacco products to verify the buyer’s age when selling those products – Fine – Operation of a tobacconist’s shop – Suspension of trading licence for a period of 15 days – Principle of proportionality – Precautionary principle.

[EUR-Lex - 62020CJ0452](#)

**Case C-536/20 Judgment of the Court (Fourth Chamber) of 24 February 2022. UAB „Tiketa“ v M. Š. and VŠĮ „Baltic Music“. Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas.**

Reference for a preliminary ruling – Directive 2011/83/EU – Consumer contracts – Concept of ‘trader’ – **Obligation to provide information in respect of distance contracts** – Requirement that the necessary information be provided in plain and intelligible language and on a durable medium.

[EUR-Lex - 62020CJ0536](#)

**Affaire C-175/20 Arrêt de la Cour (cinquième chambre) du 24 février 2022. « SS » SIA contre Valsts ieņēmumu dienests. Demande de décision préjudicielle, introduite par l'Administratīvā apgabaltiesa.**

Renvoi préjudiciel – **Protection des personnes physiques à l'égard du traitement des données à caractère personnel** – Règlement (UE) 2016/679 – Article 2 – Champ d'application – Article 4 – Notion de “traitement” – Article 5 – Principes relatifs au traitement – Limitation des finalités – Minimisation des données – Article 6 – Licéité du traitement – **Traitement nécessaire à l'exécution d'une mission d'intérêt public dont est investi le responsable du traitement** – Traitement nécessaire au respect d'une obligation légale à laquelle le responsable du traitement est soumis – Article 23 – Limitations – Traitement des données à des fins fiscales – Demande de communication d'informations relatives à des annonces de vente de véhicules mises en ligne – Proportionnalité.

[EUR-Lex - 62020CJ0175](#)

**Affaires jointes C-143/20 et C-213/20 Arrêt de la Cour (troisième chambre) du 24 février 2022. A contre O et G. W. et E. S. contre A. Towarzystwo Ubezpieczeń Życie S.A. Demande de décision préjudicielle, introduite par le Sąd Rejonowy dla Warszawy-Woli w Warszawie.**

Renvoi préjudiciel – Libre prestation de services – Assurance directe sur la vie – **Contrats d'assurance-vie à capital variable liés à des fonds de placement dits “unit-linked”** – Directive 2002/83/CE – Article 36 – Directive 2002/92/CE – Article 12, paragraphe 3 – **Obligation d'information précontractuelle** – Informations sur la nature des actifs représentatifs des contrats d'assurance “unit-linked” – Champ d'application – Portée – Directive 2005/29/CE – Article 7 – Pratiques commerciales déloyales – Omission trompeuse.

[EUR-Lex - 62020CJ0143](#)

**Affaire C-451/20 Arrêt de la Cour (quatrième chambre) du 24 février 2022. Airhelp Ltd contre Austrian Airlines AG. Demande de décision préjudicielle, introduite par le Landesgericht Korneuburg.**

Renvoi préjudiciel – Transports aériens – Règlement (CE) n° 261/2004 – Article 3, paragraphe 1 – Champ d'application – **Vol avec correspondance au départ et à destination d'un pays tiers** – Réservation unique auprès d'un transporteur aérien communautaire – Correspondance sur le territoire d'un État membre – Article 5, paragraphe 1, sous c), iii), et article 7 – **Vol de réacheminement retardé** – Prise en compte de l'heure d'arrivée effective aux fins de l'indemnisation.

[EUR-Lex - 62020CJ0451](#)

**Case C-160/20 Judgment of the Court (Grand Chamber) of 22 February 2022. Stichting Rookpreventie Jeugd and Others v Staatssecretaris van Volksgezondheid, Welzijn en Sport. Request for a preliminary ruling from the Rechtbank Rotterdam.**

Reference for a preliminary ruling – Directive 2014/40/EU – **Manufacture, presentation and sale of tobacco products – Products not complying with the maximum emission levels** – Prohibition on placing on the market – Measurement method – Filter cigarettes with small ventilation holes – Measurement of the emissions on the basis of ISO standards – Standards not published in the Official Journal of the European Union – Compliance with the publication requirements laid down in Article 297(1) TFEU read in the light of the principle of legal certainty – Compliance with the principle of transparency.

[EUR-Lex - 62020CJ0160](#)

**Case C-595/20 Judgment of the Court (Eighth Chamber) of 10 February 2022. UE v ShareWood Switzerland AG and VF. Request for a preliminary ruling from the Oberster Gerichtshof.**

Reference for a preliminary ruling – Judicial cooperation in civil matters – **Law applicable to contractual obligations** – Regulation (EC) No 593/2008 (Rome I) – Consumer contracts – Choice of applicable law – Article 6(4)(c) – **Exclusion of contracts relating to a right in rem in immovable property or to a tenancy of immovable property** – Contract of sale, including a lease agreement and a service agreement, relating to trees planted for the sole purpose of being harvested for profit.

[EUR-Lex - 62020CJ0595](#)



## 12. Human Rights

### Case Law

**Affaire C-582/20 Arrêt de la Cour (cinquième chambre) du 24 février 2022. SC Cridar Cons SRL contre Administrația Județeană a Finanțelor Publice Cluj et Direcția Generală Regională a Finanțelor Publice Cluj-Napoca. Demande de décision préjudicielle, introduite par l'Înalta Curte de Casație și Justiție.**

Renvoi préjudiciel – Système commun de taxe sur la valeur ajoutée – Directive 2006/112/CE – Articles 167 et 168 – Droit à déduction – Refus – Fraude fiscale – Administration des preuves – **Sursis à statuer sur une réclamation administrative visant un avis d'imposition refusant un droit à déduction, dans l'attente de l'issue d'une procédure pénale** – Autonomie procédurale des États membres – Principe de neutralité fiscale – Droit à une bonne administration – **Article 47 de la charte des droits fondamentaux de l'Union européenne.**

[EUR-Lex - 62020CJ0582](#)

**Joined Cases C-562/21 PPU and C-563/21 PPU Judgment of the Court (Grand Chamber) of 22 February 2022. X and Y v Openbaar Ministerie. Requests for a preliminary ruling from the Rechtbank Amsterdam.**

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Judicial cooperation in criminal matters – **European arrest warrant** – Framework Decision 2002/584/JHA – Article 1(3) – Surrender procedures between Member States – Conditions for execution – Charter of Fundamental Rights of the European Union – Second paragraph of Article 47 – **Fundamental right to a fair trial before an independent and impartial tribunal previously established by law** – Systemic or generalised deficiencies – Two-step examination – Criteria for application – Obligation of the executing judicial authority to determine, specifically and precisely, whether there are substantial grounds for believing that the person in respect of whom a European arrest warrant has been issued, if surrendered, runs a real risk of breach of his or her fundamental right to a fair trial before an independent and impartial tribunal previously established by law.

[EUR-Lex - 62021CJ0562](#)

**Case C-483/20 Judgment of the Court (Grand Chamber) of 22 February 2022. XXXX v Commissaire général aux réfugiés et aux apatrides. Request for a preliminary ruling from the Conseil d'État.**

Reference for a preliminary ruling – **Common policy on asylum** – Common procedures for granting and withdrawing international protection – Directive 2013/32/EU – Article 33(2)(a) – Inadmissibility of an application for international protection lodged in a Member State by a third-country national who has obtained refugee status in another Member State, where the minor child of that third-country national, who is a beneficiary of subsidiary protection status, resides in the first Member State – Charter of Fundamental Rights of the European Union – Article 7 – **Right to respect for family life** – Article 24 – **Best interests of the child** – No infringement of Articles 7 and 24 of the Charter of Fundamental Rights due to the inadmissibility of the application for international protection – Directive 2011/95/EU – Article 23(2) – Obligation on the Member States to ensure the family unity of beneficiaries of international protection is maintained.

[EUR-Lex - 62020CJ0483](#)

**Case C-430/21 Judgment of the Court (Grand Chamber) of 22 February 2022. Proceedings brought by RS. Request for a preliminary ruling from the Curtea de Apel Craiova.**

Reference for a preliminary ruling – Rule of law – Independence of the judiciary – Second subparagraph of Article 19(1) TEU – Article 47 of the Charter of Fundamental Rights of the European Union – Primacy of EU law – **Lack of jurisdiction of a national court to examine the conformity with EU law of national legislation found to be constitutional by the constitutional court of the Member State concerned** – Disciplinary proceedings.

[EUR-Lex - 62021CJ0430](#)

## 13. Internal Market and Free Movement

### Case Law

**Case C-257/20 Judgment of the Court (Fifth Chamber) of 24 February 2022. „Viva Telecom Bulgaria“ EOOD v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ - Sofia. Request for a preliminary ruling from the Varhoven administrativen sad.**

Reference for a preliminary ruling – Taxation – **Withholding tax on notional interest on an interest-free loan granted to a resident subsidiary by a non-resident parent company** – Directive 2003/49/EC – Payments of interest between associated companies of different Member States – Article 1(1) – Exemption from withholding tax – Article 4(1)(d) – Exclusion of certain payments – Directive 2011/96/EU – Corporation tax – Article 1(1)(b) – Distribution of profits by a resident subsidiary to its non-resident parent company – Article 5 – Exemption from withholding tax – Directive 2008/7/EC – Raising of capital – Article 3 – Contributions of capital – Article 5(1)(a) – Indirect tax exemption – Articles 63 and 65 TFEU – Free movement of capital – Taxation of the gross amount of notional interest – Recovery procedure for the purposes of the deduction of expenses related to the grant of the loan and a possible refund – Difference in treatment – Justification – Balanced allocation of the power to impose taxes between the Member States – Effective collection of tax – Combating of tax avoidance.

[EUR-Lex - 62020CJ0257](#)

**Affaires jointes C-52/21 et C-53/21. Arrêt de la Cour (septième chambre) du 24 février 2022. Pharmacie populaire – La Sauvegarde SCRL contre État belge et Pharma Santé – Réseau Solidaris SCRL contre État belge. Demande de décision préjudicielle, introduite par la cour d'appel de Liège.**

Renvoi préjudiciel – Libre prestation des services – Article 56 TFUE – Restrictions – Législation fiscale – Impôt sur les sociétés – **Obligation pour les acheteurs de services d'établir et de transmettre à l'administration fiscale des pièces justificatives relatives aux sommes facturées par des prestataires de services établis dans un autre État membre** – Absence d'une telle obligation s'agissant de prestations de services purement internes – Justification – Efficacité des contrôles fiscaux – Proportionnalité.

[EUR-Lex - 62021CJ0052](#)

**Affaire C-532/20 Arrêt de la Cour (neuvième chambre) du 24 février 2022. Alstom Transport SA contre Compania Națională de Căi Ferate CFR SA e.a. Demande de décision préjudicielle, introduite par la Curtea de Apel București.**

Renvoi préjudiciel – Directive 92/13/CEE – **Procédures de passation des marchés des entités opérant dans les secteurs de l'eau, de l'énergie, des transports et des télécommunications** – Article 1er, paragraphes 1 et 3 – Accès aux procédures de recours – Article 2 quater – Délais d'introduction d'un recours – Calcul – **Recours contre une décision d'admission d'un soumissionnaire.**

[EUR-Lex - 62020CJ0532](#)

**Case C-219/20 Judgment of the Court (Sixth Chamber) of 10 February 2022. LM v Bezirkshauptmannschaft Hartberg-Fürstenfeld and Österreichische Gesundheitskasse. Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark.**

Reference for a preliminary ruling – Freedom to provide services – **Posting of workers** – Directive 96/71/EC – Article 3(1)(c) – **Terms and conditions of employment** – Remuneration – Article 5 – Penalties – Limitation period – Charter of Fundamental Rights of the European Union – Article 41 – Right to good administration – Article 47 – Effective judicial protection.

[EUR-Lex - 62020CJ0219](#)

**Case C-499/20 Judgment of the Court (Ninth Chamber) of 10 February 2022. DIMCO Dimovasili M.I.K.E. v Ypourgos Perivallontos kai Energeias. Request for a preliminary ruling from the Symvoulío tis Epikrateias.**

Reference for a preliminary ruling – Approximation of laws – Directive 97/23/EC – Pressure equipment – CE marking – Placing on the market and putting into service – Restrictions aimed at ensuring the protection of persons – Articles 34 and 36 TFEU – **National legislation imposing restrictions on the method of installation of gas pipes.**

[EUR-Lex - 62020CJ0499](#)

**Case C-522/20 Judgment of the Court (Third Chamber) of 10 February 2022. OE v VY. Request for a preliminary ruling from the Oberster Gerichtshof.**

Reference for a preliminary ruling – Validity – Judicial cooperation in civil matters – **Jurisdiction to hear and determine an application for divorce** – Article 18 TFEU – Regulation (EC) No 2201/2003 – Fifth and sixth indents of Article 3(1)(a) – Difference between the length of the residence period required for the purposes of determining which court has jurisdiction – **Distinction between a resident who is a national of the Member State of the court before which the application is brought and a resident who is not a national of that Member State** – No discrimination on grounds of nationality.

[EUR-Lex - 62020CJ0522](#)

**Case C-461/20 Judgment of the Court (Fourth Chamber) of 3 February 2022. Advania Sverige AB and Kammarkollegiet v Dustin Sverige AB. Request for a preliminary ruling from the Högsta förvaltningsdomstolen.**

Reference for a preliminary ruling – **Directive 2014/24/EU** – Article 72 – Modification of contracts during their term – Transfer of a framework agreement – **New contractor assuming on the insolvency of the initial contractor the rights and obligations attributed to the latter under a framework agreement** – Whether need for a new procurement procedure.

[EUR-Lex - 62020CJ0461](#)

## 14. Intellectual Property

Nothing to report for the period under review.

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

### Case Law

**Case C-501/20 M P A v LC D N M T. Opinion of Advocate General Szpunar delivered on 24 February 2022. Request for a preliminary ruling from the Audiencia Provincial de Barcelona (Provincial Court, Barcelona, Spain)**

Reference for a preliminary ruling – Judicial cooperation in civil matters – **Jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility** – Regulation (EC) No 2201/2003 – Articles 3, 7, 8 and 14 – **Concept of ‘habitual residence’** – Jurisdiction, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations – Regulation (EC) No 4/2009 – Articles 3 and 7 – Nationals of two different Member States, residing in a third State as members of the contract staff of the European Union – Determination of jurisdiction – Forum necessitatis – Article 47 of the Charter of Fundamental Rights of the European Union.

[EUR-Lex - 62020CC0501 - EN - EUR-Lex \(europa.eu\)](#)

**Joined Cases C-562/21 PPU and C-563/21 PPU Judgment of the Court (Grand Chamber) of 22 February 2022. X and Y v Openbaar Ministerie. Requests for a preliminary ruling from the Rechtbank Amsterdam.**

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Judicial cooperation in criminal matters – **European arrest warrant** – Framework Decision 2002/584/JHA – Article 1(3) – Surrender procedures between Member States – Conditions for execution – Charter of Fundamental Rights of the European Union – Second paragraph of Article 47 – **Fundamental right to a fair trial before an independent and impartial tribunal previously established by law** – Systemic or generalised deficiencies – Two-step examination – Criteria for application – Obligation of the executing judicial authority to determine, specifically and precisely, whether there are substantial grounds for believing that the person in respect of whom a European arrest warrant has been issued, if surrendered, runs a real risk of breach of his or her fundamental right to a fair trial before an independent and impartial tribunal previously established by law.

[EUR-Lex - 62021CJ0562](#)

**Case C-483/20 Judgment of the Court (Grand Chamber) of 22 February 2022. XXXX v Commissaire général aux réfugiés et aux apatrides. Request for a preliminary ruling from the Conseil d'État.**

Reference for a preliminary ruling – **Common policy on asylum** – Common procedures for granting and withdrawing international protection – Directive 2013/32/EU – Article 33(2)(a) – **Inadmissibility of an application for international protection lodged in a Member State by a third-country national who has obtained refugee status in another Member State, where the minor child of that third-country national, who is a beneficiary of subsidiary protection status, resides in the first Member State** – Charter of Fundamental Rights of the European Union – Article 7 – Right to respect for family life – Article 24 – Best interests of the child – No infringement of Articles 7 and 24 of the Charter of Fundamental Rights due to the inadmissibility of the application for international protection – Directive 2011/95/EU – Article 23(2) – Obligation on the Member States to ensure the family unity of beneficiaries of international protection is maintained.

[EUR-Lex - 62020CJ0483](#)

**Case C-595/20 Judgment of the Court (Eighth Chamber) of 10 February 2022. UE v ShareWood Switzerland AG and VF. Request for a preliminary ruling from the Oberster Gerichtshof.**

Reference for a preliminary ruling – Judicial cooperation in civil matters – **Law applicable to contractual obligations** – Regulation (EC) No 593/2008 (Rome I) – Consumer contracts – Choice of applicable law – Article 6(4)(c) – **Exclusion of contracts relating to a right in rem in immovable property or to a tenancy of immovable property** – Contract of sale, including a lease agreement and a service agreement, relating to trees planted for the sole purpose of being harvested for profit.

[EUR-Lex - 62020CJ0595](#)

**Case C-522/20 Judgment of the Court (Third Chamber) of 10 February 2022. OE v VY. Request for a preliminary ruling from the Oberster Gerichtshof.**

Reference for a preliminary ruling – Validity – Judicial cooperation in civil matters – **Jurisdiction to hear and determine an application for divorce** – Article 18 TFEU – Regulation (EC) No 2201/2003 – Fifth and sixth indents of Article 3(1)(a) – Difference between the length of the residence period required for the purposes of determining which court has jurisdiction – Distinction between a resident who is a national of the Member State of the court before which the application is brought and a resident who is not a national of that Member State – No discrimination on grounds of nationality.

[EUR-Lex - 62020CJ0522](#)

## 16. Transport

### Community Legislation

**Directive (EU) 2022/362 of the European Parliament and of the Council of 24 February 2022 amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the **charging of vehicles for the use of certain infrastructures****

[EUR-Lex - 32022L0362 - EN - EUR-Lex \(europa.eu\)](#)

### Case Law

**Case C-563/20 Judgment of the Court (Fourth Chamber) of 24 February 2022. ORLEN KolTrans sp. z o.o. v Prezes Urzędu Transportu Kolejowego. Request for a preliminary ruling from the Sąd Okręgowy w Warszawie.**

Reference for a preliminary ruling – Rail transport – Directive 2001/14/EC – Article 4 – Setting of infrastructure charges by decision of the manager – Article 30(2) – **Railway undertakings' right to bring an administrative action** – Article 30(6) – Judicial review of the decisions of the regulatory body.

[EUR-Lex - 62020CJ0563](#)

**Affaire C-451/20 Arrêt de la Cour (quatrième chambre) du 24 février 2022. Airhelp Ltd contre Austrian Airlines AG. Demande de décision préjudicielle, introduite par le Landesgericht Korneuburg.**

Renvoi préjudiciel – Transports aériens – Règlement (CE) n° 261/2004 – Article 3, paragraphe 1 – Champ d’application – **Vol avec correspondance au départ et à destination d’un pays tiers** – Réservation unique auprès d’un transporteur aérien communautaire – Correspondance sur le territoire d’un État membre – Article 5, paragraphe 1, sous c), iii), et article 7 – **Vol de réacheminement retardé** – Prise en compte de l’heure d’arrivée effective aux fins de l’indemnisation.

[EUR-Lex - 62020CJ0451](#)

**Case C-20/21 Judgment of the Court (Ninth Chamber) of 3 February 2022. JW and Others v LOT Polish Airlines. Request for a preliminary ruling from the Landgericht Frankfurt am Main.**

Reference for a preliminary ruling – Judicial cooperation in civil matters – Jurisdiction and the enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Second indent of Article 7(1)(b) – **Special jurisdiction in matters relating to a contract** – Concept of ‘place of performance of the obligation in question’ – Contract for the provision of services – Air transport – **Flight consisting of a confirmed single booking and performed in several legs by two separate air carriers** – Regulation (EC) No 261/2004 – Common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights – Article 7 – Right to compensation – Delay on the first leg of the journey – Claim for compensation brought against the air carrier operating that first leg of the journey before the court for the place of arrival of that first flight.

[EUR-Lex - 62021CJ0020](#)

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

### Case Law

**Case C-430/21 Judgment of the Court (Grand Chamber) of 22 February 2022. Proceedings brought by RS. Request for a preliminary ruling from the Curtea de Apel Craiova.**

Reference for a preliminary ruling – Rule of law – Independence of the judiciary – Second subparagraph of Article 19(1) TEU – Article 47 of the Charter of Fundamental Rights of the European Union – **Primacy of EU law – Lack of jurisdiction of a national court to examine the conformity with EU law of national legislation found to be constitutional by the constitutional court of the Member State concerned** – Disciplinary proceedings.

[EUR-Lex - 62021CJ0430](#)

**Case C-156/21 Judgment of the Court (Full Court) of 16 February 2022. Hungary v European Parliament and Council of the European Union.**

Action for annulment – Regulation (EU, Euratom) 2020/2092 – General regime of conditionality for the protection of the European Union budget – **Protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States** – Legal basis – Article 322(1)(a) TFEU – Alleged circumvention of Article 7 TEU and Article 269 TFEU – Alleged infringements of Article 4(1), Article 5(2) and Article 13(2) TEU and of the principles of legal certainty, proportionality and equality of Member States before the Treaties.

[EUR-Lex - 62021CJ0156](#)

**Case C-157/21 Judgment of the Court (Full Court) of 16 February 2022. Republic of Poland v European Parliament and Council of the European Union.**

Action for annulment – Regulation (EU, Euratom) 2020/2092 – General regime of conditionality for the protection of the European Union budget – **Protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States** – Legal basis – Article 322(1)(a) TFEU – Article 311 TFEU – Article 312 TFEU – Alleged circumvention of Article 7 TEU and Article 269 TFEU – Alleged infringements of Article 4(1), Article 5(2) and Article 13(2) TEU, of the second paragraph of Article 296 TFEU, of Protocol (No 2) on the application of the principles of subsidiarity and proportionality and of the principles of conferral, legal certainty, proportionality and equality of the Member States before the Treaties – Alleged misuse of powers.

[EUR-Lex - 62021CJ0157](#)

**Affaire C-121/21 République tchèque contre République de Pologne. Conclusions de l'avocat général M. P. Pikamäe, présentées le 3 février 2022.**

Manquement d'État – Article 259 TFUE – **Prolongation d'une autorisation d'exploitation de la mine de Turów en Pologne proche de la frontière tchèque** – Différend entre la République tchèque et la République de Pologne quant aux incidences sur l'environnement en République tchèque – Directive 2011/92/UE – Évaluation des incidences de certains projets sur l'environnement (EIE) – Contrariété au droit de l'Union de la législation nationale, de la décision EIE et de l'autorisation d'exploitation.

[EUR-Lex - 62021CC0121 - FR - EUR-Lex \(europa.eu\)](#)