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EU News: Click & Read

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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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References for a preliminary ruling – Single Market for financial services – Market abuse – **Insider dealing** – Directive 2003/6/EC – Article 12(2)(a) and (d) – Regulation (EU) No 596/2014 – Article 23(2)(g) and (h) – **Supervisory and investigatory powers of the Autorité des marchés financiers (AMF)** – General interest objective seeking to protect the integrity of financial markets in the European Union and public confidence in financial instruments – **Option open to the AMF to require the traffic data records held by an operator providing electronic communications services** – Processing of personal data in the electronic communications sector – Directive 2002/58/EC – Article 15(1) – Charter of Fundamental Rights of the European Union – Articles 7, 8 and 11 and Article 52(1) – Confidentiality of communications – Restrictions – Legislation providing for the general and indiscriminate retention of traffic data by operators providing electronic communications services – **Option for a national court to restrict the temporal effects of a declaration of invalidity in respect of provisions of national law that are incompatible with EU law** – Precluded.

[EUR-Lex - 62020CJ0339](#)

Case C-793/19. Judgment of the Court (Grand Chamber) of 20 September 2022. Bundesrepublik Deutschland v SpaceNet AG.

Reference for a preliminary ruling – Processing of personal data in the electronic communications sector – Confidentiality of communications – **Providers of electronic communications services – General and indiscriminate retention of traffic and location data** – Directive 2002/58/EC – Article 15(1) – Charter of Fundamental Rights of the European Union – Articles 6, 7, 8 and 11 and Article 52(1) – Article 4(2) TEU.

[EUR-Lex - 62019CJ0793](#)

Case C-391/20. Judgment of the Court (Grand Chamber) of 7 September 2022. Proceedings brought by Boriss Cilevičs and Others. Request for a preliminary ruling from the Satversmes tiesa.

Reference for a preliminary ruling – Article 49 TFEU – Freedom of establishment – Restriction – Justification – The organisation of education systems – **Institutions of higher education – Obligation to provide courses of study in the official language of the Member State concerned** – Article 4(2) TEU – **National identity of a Member State** – Defence and promotion of the official language of a Member State – Principle of proportionality.

[EUR-Lex - 62020CJ0391](#)

1. EU-Swiss Relations

Community Legislation

Decision No 1/2022 of the EU-Switzerland Joint Committee of 8 September 2022 amending Tables III and IV of Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972

[CELEX:22022D1635](#)

Information relating to the entry into force of the Protocol between the European Union, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the **criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland regarding access to Eurodac for law enforcement purposes**

[CELEX:22022X0916\(01\)](#)

2. External Relations / Foreign Policy

Community Legislation

Decision (EU) 2022/1628 of the European Parliament and of the Council of 20 September 2022 providing exceptional macro-financial assistance to Ukraine, reinforcing the common provisioning fund by guarantees by Member States and by specific provisioning for some financial liabilities related to Ukraine guaranteed under Decision No 466/2014/EU, and amending Decision (EU) 2022/1201

[CELEX:32022D1628](#)

Council Decision (EU) 2022/1664 of 20 September 2022 on the conclusion on behalf of the Union of the Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part

[CELEX:32022D1664](#)

Council Decision (EU) 2022/1643 of 20 September 2022 on the signing, on behalf of the Union, of the Comprehensive Air Transport Agreement between the Member States of the Association of Southeast Asian Nations, and the European Union and its Member State

[CELEX:32022D1643](#)

3. Agriculture and Fisheries / Maritime Affairs

Nothing to report for the period under review.

4. Audiovisual and Media and Information Society

Community Legislation

Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

[CELEX:32022R1925](#)

Case Law

Case C-793/19. Judgment of the Court (Grand Chamber) of 20 September 2022. Bundesrepublik Deutschland v SpaceNet AG.

Reference for a preliminary ruling – Processing of personal data in the electronic communications sector – Confidentiality of communications – **Providers of electronic communications services – General and indiscriminate retention of traffic and location data** – Directive 2002/58/EC – Article 15(1) – Charter of Fundamental Rights of the European Union – Articles 6, 7, 8 and 11 and Article 52(1) – Article 4(2) TEU.

[EUR-Lex - 62019CJ0793](#)

5. Competition and State Aid

Case Law

Case C-416/21. Judgment of the Court (Fourth Chamber) of 15 September 2022. Landkreis Aichach-Friedberg v J. Sch. Omnibusunternehmen and K. Reisen GmbH. Request for a preliminary ruling from the Bayerisches Oberstes Landesgericht.

Reference for a preliminary ruling – **Public procurement procedures** – Directive 2014/24/EU – Point (d) of the first subparagraph of Article 57(4) – Optional grounds for exclusion – **Agreements with other economic operators aimed at distorting competition** – Directive 2014/25/EU – Article 36(1) – Principles of proportionality and equal treatment of tenderers – Article 80(1) – Use of exclusion grounds and selection criteria provided for under Directive 2014/24/EU – **Tenderers which constitute an economic unit and have submitted separate tenders that were neither autonomous nor independent** – Need for sufficiently plausible indications to establish an infringement of Article 101 TFEU.

[EUR-Lex - 62021CJ0416](#)

Case T-604/18. Judgment of the General Court (Sixth Chamber, Extended Composition) of 14 September 2022. Google LLC and Alphabet, Inc. v European Commission.

Competition – Abuse of dominant position – Smart mobile devices – **Decision finding an infringement of Article 102 TFEU and Article 54 of the EEA Agreement – Concepts of multi-sided platform and market ('ecosystem') – Operating system (Google Android) – App store (Play Store)** – Search and browser applications (Google Search and Chrome) – Agreements with device manufacturers and mobile network operators – Single and continuous infringement – Concepts of overall plan and conduct implemented in the context of the same infringement (product bundles, exclusivity payments and anti-fragmentation obligations) – Exclusionary effects – Rights of the defence – Unlimited jurisdiction.

[EUR-Lex - 62018TJ0604](#)

6. Customs

Case Law

Case C-368/21. Judgment of the Court (Ninth Chamber) of 8 September 2022. R.T. v Hauptzollamt Hamburg. Request for a preliminary ruling from the Finanzgericht Hamburg.

Reference for a preliminary ruling – Customs union – Union Customs Code – Regulation (EU) No 952/2013 – Place where the customs debt is incurred – Value added tax (VAT) – Directive 2006/112/EC – Article 30 – Article 60 – Article 71(1) – Chargeable event and place where the import VAT becomes chargeable – Place where the tax liability is incurred – Finding of a failure to comply with an obligation imposed by EU customs legislation – **Determination of the place of importation of goods** – Means of transport registered in a third country and imported into the European Union in infringement of customs legislation.

[EUR-Lex - 62021CJ0368](#)

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

Regulation (EU) 2022/1917 of the European Central Bank of 29 September 2022 on infringement procedures in cases of non-compliance with statistical reporting requirements and repealing Decision ECB/2010/10 (ECB/2022/31)

[CELEX:32022R1917](#)

Case Law

Case C-235/21. Judgment of the Court (Seventh Chamber) of 29 September 2022. RAIFFEISEN LEASING, trgovina in leasing d. o. o. v Republika Slovenija. Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije.

Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 203 – Sale-and-lease back agreement – **Persons liable for payment of VAT – Possibility of treating a written contractual agreement as an invoice.**

[EUR-Lex - 62021CJ0235](#)

Case C-330/21. Judgment of the Court (Eighth Chamber) of 22 September 2022. The Escape Center BVBA v Belgische Staat. Request for a preliminary ruling from the Rechtbank van eerste aanleg Oost-Vlaanderen Afdeling Gent.

Reference for a preliminary ruling – Taxation – Value added tax (VAT) – Directive 2006/112/EC – Article 98 – **Option for the Member States to apply a reduced rate of VAT to certain supplies of goods and services** – Annex III, point 14 – Concept of the ‘use of sporting facilities’ – **Fitness centres** – Individual or group coaching.

[EUR-Lex - 62021CJ0330](#)

Case C-227/21. Judgment of the Court (Fourth Chamber) of 15 September 2022. UAB 'HA.EN.' v Valstybinė mokesčių inspekcija. Request for a preliminary ruling from the Lietuvos vyriausioji administracinis teismas.

Reference for a preliminary ruling – **Value added tax (VAT)** – Directive 2006/112/EC – Right to deduct input VAT – Sale of an item of immovable property between taxable persons – Vendor subject to insolvency proceedings – **National practice under which the purchaser is denied the right of deduction on the ground that he or she knew or should have known of the vendor's difficulties in paying the output tax** – Fraud and abuse of rights – Conditions.

[EUR-Lex - 62021CJ0227](#)

Case C-705/20. Judgment of the Court (Second Chamber) of 15 September 2022. Fossil (Gibraltar) Limited v Commissioner of Income Tax. Request for a preliminary ruling from the Income Tax Tribunal of Gibraltar (Royaume-Uni).

Reference for a preliminary ruling – State aid – **Aid schemes implemented by the Government of Gibraltar concerning corporate income tax** – Decision (EU) 2019/700 – **Non-taxation of passive interest and royalty income** – Decision of the European Commission declaring the aid scheme unlawful and incompatible with the internal market – Recovery obligation – Scope – Domestic provision which was not the subject of the Commission's investigation concerning the State aid at issue – Set-off of the tax paid abroad in order to prevent double taxation.

[EUR-Lex - 62020CJ0705](#)

Case C-326/21 P. Judgment of the Court (Tenth Chamber) of 15 September 2022. PNB Banka AS v European Central Bank.

Appeal – Economic and monetary policy – Prudential supervision of credit institutions – Insolvency proceedings – **Refusal by the European Central Bank (ECB) to grant the request of the board of directors of a credit institution seeking an order instructing the insolvency administrator of that institution to grant the lawyer authorised by that board access to the premises, information, staff and resources of that institution** – Competence of the author of the measure – Article 263 TFEU – Measure open to an annulment action – Inadmissibility.

[EUR-Lex - 62021CJ0326](#)

Case C-45/21. Judgment of the Court (Grand Chamber) of 13 September 2022. Banka Slovenije. Request for a preliminary ruling from the Upravno sodišče Republike Slovenije.

Reference for a preliminary ruling – European System of Central Banks – National central bank – Directive 2001/24/EC – **Reorganisation and winding up of credit institutions – Compensation for damage resulting from the adoption of reorganisation measures** – Article 123 TFEU and Article 21.1 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank – Prohibition of monetary financing of Member States in the euro area – Article 130 TFEU and Article 7 of that protocol – Independence – Disclosure of confidential information.

[EUR-Lex - 62021CJ0045](#)

Case C-98/21. Judgment of the Court (Seventh Chamber) of 8 September 2022. Finanzamt R v W-GmbH. Request for a preliminary ruling from the Bundesfinanzhof.

Reference for a preliminary ruling – **Value added tax (VAT)** – Directive 2006/112/EC – Article 2(1), Article 9(1), Article 167 and Article 168(a) – Deduction of input tax – Definition of ‘taxable person’ – Holding company – **Expenditure linked to a shareholder contribution in kind to its subsidiaries** – No contribution of expenditure to the general costs – Subsidiaries’ activities largely tax-exempt.

[EUR-Lex - 62021CJ0098](#)

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-3/21. Judgment of the Court (Seventh Chamber) of 29 September 2022. FS v Chief Appeals Officer and Others. Request for a preliminary ruling from the High Court (Irlande).

Reference for a preliminary ruling – **Social security for migrant workers** – Regulation (EC) No 883/2004 – **Coordination of social security systems – Family benefits** – Back payment – Relocation of the beneficiary to another Member State – Article 81 – Concept of ‘claim’ – Article 76(4) – Duty of mutual information and cooperation – Non-compliance – 12-month limitation period – Principle of effectiveness.

[EUR-Lex - 62021CJ0003](#)

Joined Cases C-518/20 and C-727/20. Judgment of the Court (First Chamber) of 22 September 2022. XP and AR v Fraport AG Frankfurt Airport Services Worldwide and St. Vincenz-Krankenhaus GmbH. Requests for a preliminary ruling from the Bundesarbeitsgericht.

Reference for a preliminary ruling – Social policy – Protection of the safety and health of workers – Organisation of working time – **Article 31(2) of the Charter of Fundamental Rights of the European Union** – Directive 2003/88/EC – Article 7(1) – Right to paid annual leave – **Total invalidity or incapacity for work due to illness occurring during a leave year** – National legislation providing for the loss of entitlement to paid annual leave on expiry of a certain period – **Employer’s obligation to enable the worker to exercise his or her right to paid annual leave.**

[EUR-Lex - 62020CJ0518](#)

Case C-120/21. Judgment of the Court (Sixth Chamber) of 22 September 2022. LB v TO. Request for a preliminary ruling from the Bundesarbeitsgericht.

Reference for a preliminary ruling – Social policy – Protection of the safety and health of workers – Organisation of working time – Article 31(2) of the Charter of Fundamental Rights of the European Union – Directive 2003/88/EC – Article 7 – Right to paid annual leave – **Allowance in lieu of leave not taken after the termination of the employment relationship** – Three-year limitation period – Starting point – Adequate information provided to the worker.

[EUR-Lex - 62021CJ0120](#)

10. Energy and Environment

Community Legislation

Commission Regulation (EU) 2022/1616 of 15 September 2022 on **recycled plastic materials and articles intended to come into contact with foods**, and repealing Regulation (EC) No 282/2008

[CELEX:32022R1616](#)

Case Law

Case C-659/20. Judgment of the Court (Fourth Chamber) of 8 September 2022. ET v Ministerstvo životního prostředí. Request for a preliminary ruling from the Nejvyšší správní soud.

Reference for a preliminary ruling – **Protection of species of wild fauna and flora by regulating trade therein** – Regulation (EC) No 338/97 – Article 8(3)(d) – **Concept of ‘specimens of animal species that are born and bred in captivity’** – Regulation (EC) No 865/2006 – Article 1(3) – Concept of ‘breeding stock’ – Article 54(2) – Establishment of the breeding stock – Controlled ancestry.

[EUR-Lex - 62020CJ0659](#)

11. Food Safety, Public Health and Consumers

Community Legislation

Commission Regulation (EU) 2022/1616 of 15 September 2022 on **recycled plastic materials and articles intended to come into contact with foods**, and repealing Regulation (EC) No 282/2008

[CELEX:32022R1616](#)

Case Law

Case C-597/20. Judgment of the Court (Third Chamber) of 29 September 2022. Polskie Linie Lotnicze "LOT" SA v Budapest Főváros Kormányhivatala. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 16 – Compensation and assistance to passengers – Task of the national body responsible for the enforcement of that regulation – **National legislation conferring on that body the power to order an air carrier to pay compensation due to a passenger** – Charter of Fundamental Rights of the European Union – Article 47 – **Right to seek remedy before a tribunal.**

[EUR-Lex - 62020CJ0597](#)

Case C-215/21. Judgment of the Court (Ninth Chamber) of 22 September 2022. Zulima v Servicios prescriptor y medios de pagos EFC SAU.

Reference for a preliminary ruling – Unfair terms in consumer contracts – Revolving credit agreement – **Unfairness of the term relating to the rate of remunerative interest** – Action brought by a consumer for a declaration that that agreement is void – Satisfaction of that consumer’s claims out of court – Costs incurred having to be borne by the consumer – Principle of effectiveness – **National legislation capable of dissuading the consumer from exercising the rights conferred by Directive 93/13/EEC.**

[EUR-Lex - 62021CJ0215](#)

Case C-335/21. Judgment of the Court (Ninth Chamber) of 22 September 2022. Vicente v Delia.

Reference for a preliminary ruling – Unfair terms in consumer contracts – Directive 93/13/EEC – **Unfair business-to-consumer commercial practices** – Principle of effectiveness – Article 47 of the Charter of Fundamental Rights of the European Union – Summary procedure for the recovery of lawyers' fees – Potentially unfair terms contained in a fee agreement – **National law not providing for the possibility of review by a court** – Article 4(2) – Scope of the exception – Directive 2005/29/EC – Article 7 – Misleading commercial practice – **Contract concluded between lawyer and client prohibiting the client from withdrawing, without the knowledge or against the advice of the lawyer, on pain of a financial penalty.**

[EUR-Lex - 62021CJ0335](#)

Case C-4/21. Judgment of the Court (Second Chamber) of 15 September 2022. Fédération des entreprises de la beauté v Agence nationale de sécurité du médicament et des produits de santé (ANSM). Request for a preliminary ruling from the Conseil d'État (France).

Reference for a preliminary ruling – Approximation of laws – Cosmetic products – Regulation (EC) No 1223/2009 – Article 27 – Safeguard clause – Article 27(1) – Scope – Provisional national safeguard measures – General measure – Application to a category of cosmetic products containing the same substance – Individual measure – Application to an identified cosmetic product – **Provisional national measure imposing certain labelling requirements on a category of leave-on products containing phenoxyethanol.**

[EUR-Lex - 62021CJ0004](#)

Joined Cases C-80/21 to C-82/21. Judgment of the Court (Ninth Chamber) of 8 September 2022. E.K. and Others v D.B.P. and Others. Requests for a preliminary ruling from the Sąd Rejonowy dla Warszawy - Śródmieścia w Warszawie.

Request for a preliminary ruling – Directive 93/13/EEC – Unfair terms in consumer contracts – Article 6(1) and Article 7(1) – **Mortgage credit agreements – Effects of a finding that a term is unfair – Period of limitation** – Principle of effectiveness.

[EUR-Lex - 62021CJ0080](#)

12. Human Rights

Case Law

Case C-597/20. Judgment of the Court (Third Chamber) of 29 September 2022. Polskie Linie Lotnicze "LOT" SA v Budapest Főváros Kormányhivatala. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 16 – Compensation and assistance to passengers – Task of the national body responsible for the enforcement of that regulation – **National legislation conferring on that body the power to order an air carrier to pay compensation due to a passenger** – Charter of Fundamental Rights of the European Union – Article 47 – **Right to seek remedy before a tribunal.**

[EUR-Lex - 62020CJ0597](#)

Joined Cases C-518/20 and C-727/20. Judgment of the Court (First Chamber) of 22 September 2022. XP and AR v Fraport AG Frankfurt Airport Services Worldwide and St. Vincenz-Krankenhaus GmbH. Requests for a preliminary ruling from the Bundesarbeitsgericht.

Reference for a preliminary ruling – Social policy – Protection of the safety and health of workers – Organisation of working time – **Article 31(2) of the Charter of Fundamental Rights of the European Union** – Directive 2003/88/EC – Article 7(1) – Right to paid annual leave – **Total invalidity or incapacity for work due to illness occurring during a leave year** – National legislation providing for the loss of entitlement to paid annual leave on expiry of a certain period – **Employer's obligation to enable the worker to exercise his or her right to paid annual leave.**

[EUR-Lex - 62020CJ0518](#)

Case C-335/21. Judgment of the Court (Ninth Chamber) of 22 September 2022. Vicente v Delia.

Reference for a preliminary ruling – Unfair terms in consumer contracts – Directive 93/13/EEC – **Unfair business-to-consumer commercial practices** – Principle of effectiveness – Article 47 of the Charter of Fundamental Rights of the European Union – Summary procedure for the recovery of lawyers' fees – Potentially unfair terms contained in a fee agreement – **National law not providing for the possibility of review by a court** – Article 4(2) – Scope of the exception – Directive 2005/29/EC – Article 7 – Misleading commercial practice – **Contract concluded between lawyer and client prohibiting the client from withdrawing, without the knowledge or against the advice of the lawyer, on pain of a financial penalty.**

[EUR-Lex - 62021CJ0335](#)

Case C-793/19. Judgment of the Court (Grand Chamber) of 20 September 2022. Bundesrepublik Deutschland v SpaceNet AG.

Reference for a preliminary ruling – Processing of personal data in the electronic communications sector – Confidentiality of communications – **Providers of electronic communications services – General and indiscriminate retention of traffic and location data** – Directive 2002/58/EC – Article 15(1) – Charter of Fundamental Rights of the European Union – Articles 6, 7, 8 and 11 and Article 52(1) – Article 4(2) TEU.

[EUR-Lex - 62019CJ0793](#)

Case C-339/20. Judgment of the Court (Grand Chamber) of 20 September 2022. Request for a preliminary ruling from the Cour de cassation.

References for a preliminary ruling – Single Market for financial services – Market abuse – **Insider dealing** – Directive 2003/6/EC – Article 12(2)(a) and (d) – Regulation (EU) No 596/2014 – Article 23(2)(g) and (h) – **Supervisory and investigatory powers of the Autorité des marchés financiers (AMF)** – General interest objective seeking to protect the integrity of financial markets in the European Union and public confidence in financial instruments – **Option open to the AMF to require the traffic data records held by an operator providing electronic communications services** – Processing of personal data in the electronic communications sector – Directive 2002/58/EC – Article 15(1) – Charter of Fundamental Rights of the European Union – Articles 7, 8 and 11 and Article 52(1) – Confidentiality of communications – Restrictions – Legislation providing for the general and indiscriminate retention of traffic data by operators providing electronic communications services – **Option for a national court to restrict the temporal effects of a declaration of invalidity in respect of provisions of national law that are incompatible with EU law** – Precluded.

[EUR-Lex - 62020CJ0339](#)

Case C-420/20. Judgment of the Court (First Chamber) of 15 September 2022. HN v Sofiyska rayonna prokuratura. Request for a preliminary ruling from the Sofiyski rayon sad.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Charter of Fundamental Rights of the European Union – Articles 47 and 48 – European Convention for the Protection of Human Rights and Fundamental Freedoms – Article 6 – Directive (EU) 2016/343 – **Strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings** – Article 8 – Right to be present at the trial – Return decision accompanied by an entry ban of five years – Conditions for holding a trial in the absence of the person concerned – Obligation to be present at the trial provided for under national law.

[EUR-Lex - 62020CJ0420](#)

13. Internal Market and Free Movement

Case Law

Case C-633/20. Judgment of the Court (First Chamber) of 29 September 2022. Bundesverband der Verbraucherzentralen und Verbraucherverbände - Verbraucherzentrale Bundesverband e.V. v TC Medical Air Ambulance Agency GmbH. Request for a preliminary ruling from the Bundesgerichtshof.

Reference for a preliminary ruling – Freedom of establishment and freedom to provide services – **Single market in insurance** – Directive 2002/92/EC – **Definition of ‘insurance intermediary’** – Activity of ‘insurance mediation’ – Directive (EU) 2016/97 – Activity of ‘distribution of insurance’ – Scope of those directives – Membership of a group insurance policy – Assignment of rights under the insurance contract – Insurance benefits in the event of sickness or accident abroad – Remuneration paid by the member in consideration for the insurance cover acquired – Consumer protection – **Equal treatment of insurance intermediaries.**

[EUR-Lex - 62020CJ0633](#)

Joined Cases C-475/20 to C-482/20. Judgment of the Court (Second Chamber) of 22 September 2022. Admiral Gaming Network Srl and Others v Agenzia delle Dogane e dei Monopoli and Others. Requests for a preliminary ruling from the Consiglio di Stato.

References for a preliminary ruling – Freedom of establishment – Restrictions – Betting and gambling – **Licences for the management of games played on gaming machines – National legislation imposing a levy on licence holders** – Principle of the protection of legitimate expectations.

[EUR-Lex - 62020CJ0475](#)

Case C-538/20. Judgment of the Court (Fourth Chamber) of 22 September 2022. Finanzamt B v W AG.

Reference for a preliminary ruling – Freedom of establishment – Articles 49 and 54 TFEU – **Deduction of final losses incurred by a non-resident permanent establishment** – State which has waived its power to impose taxes under a double taxation convention – Comparability of situations.

[EUR-Lex - 62020CJ0538](#)

Case C-22/21. Judgment of the Court (Third Chamber) of 15 September 2022. SRS and AA v Minister for Justice and Equality. Request for a preliminary ruling from the Supreme Court.

Reference for a preliminary ruling – Directive 2004/38/EC – Right of Union citizens and their family members to move and reside freely within the territory of the Member States – Article 3(2), first subparagraph, point (a) – **Concept of ‘other family members who are members of the household of the Union citizen having the primary right of residence’** – Assessment criteria.

[EUR-Lex - 62021CJ0022](#)

Case C-416/21. Judgment of the Court (Fourth Chamber) of 15 September 2022. Landkreis Aichach-Friedberg v J. Sch. Omnibusunternehmen and K. Reisen GmbH. Request for a preliminary ruling from the Bayerisches Oberstes Landesgericht.

Reference for a preliminary ruling – **Public procurement procedures** – Directive 2014/24/EU – Point (d) of the first subparagraph of Article 57(4) – Optional grounds for exclusion – Agreements with other economic operators aimed at distorting competition – Directive 2014/25/EU – Article 36(1) – Principles of proportionality and equal treatment of tenderers – Article 80(1) – Use of exclusion grounds and selection criteria provided for under Directive 2014/24/EU – **Tenderers which constitute an economic unit and have submitted separate tenders that were neither autonomous nor independent** – Need for sufficiently plausible indications to establish an infringement of Article 101 TFEU.

[EUR-Lex - 62021CJ0416](#)

Case C-4/21. Judgment of the Court (Second Chamber) of 15 September 2022. Fédération des entreprises de la beauté v Agence nationale de sécurité du médicament et des produits de santé (ANSM). Request for a preliminary ruling from the Conseil d'État (France).

Reference for a preliminary ruling – Approximation of laws – Cosmetic products – Regulation (EC) No 1223/2009 – Article 27 – Safeguard clause – Article 27(1) – Scope – Provisional national safeguard measures – General measure – Application to a category of cosmetic products containing the same substance – Individual measure – Application to an identified cosmetic product – **Provisional national measure imposing certain labelling requirements on a category of leave-on products containing phenoxyethanol.**

[EUR-Lex - 62021CJ0004](#)

Case C-669/20. Judgment of the Court (Fourth Chamber) of 15 September 2022. Veridos GmbH v Ministar na vatreshnite raboti na Republika Bulgaria and Mühlbauer ID Services GmbH – S&T. Request for a preliminary ruling from the Varhoven administrativen sad.

Reference for a preliminary ruling – Directive 2009/81/EC – **Coordination of procedures for the award of certain works contracts, supply contracts and service contracts** – Articles 38 and 49 – Obligation to verify whether an abnormally low tender exists – **Criterion laid down by a piece of national legislation for assessing the abnormally low nature of a tender** – Not applicable – Requirement that there be at least three tenders – Criterion based on the requirement that a tender be more than 20% lower than the mean value of the tenders submitted by the other tenderers – Judicial review.

[EUR-Lex - 62020CJ0669](#)

Case C-399/21. Judgment of the Court (Ninth Chamber) of 8 September 2022. IRnova AB v FLIR Systems AB. Request for a preliminary ruling from the Svea Hovrätt.

Reference for a preliminary ruling – Judicial cooperation in civil matters – Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Article 24(4) – Exclusive jurisdiction – **Jurisdiction over the registration or validity of patents** – Scope – Patent application deposited and patent granted in a third State – Status of inventor – Proprietor of the right to an invention.

[EUR-Lex - 62021CJ0399](#)

Case C-624/20. Judgment of the Court (Grand Chamber) of 7 September 2022. E.K. v Staatssecretaris van Justitie en Veiligheid. Request for a preliminary ruling from the Rechtbank Den Haag, zittingsplaats Amsterdam.

Reference for a preliminary ruling – Directive 2003/109/EC – **Status of third-country nationals who are long-term residents** – Scope – Third-country national with a right of residence under Article 20 TFEU – Article 3(2)(e) – Residence solely on temporary grounds – Autonomous concept of EU law.

[EUR-Lex - 62020CJ0624](#)

Case C-391/20. Judgment of the Court (Grand Chamber) of 7 September 2022. Proceedings brought by Boriss Cilevičs and Others. Request for a preliminary ruling from the Satversmes tiesa.

Reference for a preliminary ruling – Article 49 TFEU – Freedom of establishment – Restriction – Justification – The organisation of education systems – **Institutions of higher education – Obligation to provide courses of study in the official language of the Member State concerned** – Article 4(2) TEU – **National identity of a Member State** – Defence and promotion of the official language of a Member State – Principle of proportionality.

[EUR-Lex - 62020CJ0391](#)

14. Intellectual Property

Case Law

Case C-716/20. Judgment of the Court (Fifth Chamber) of 8 September 2022. RTL Television GmbH v Grupo Pestana S.G.P.S., S.A. and SALVOR - Sociedade de Investimento Hoteleiro, S.A. Request for a preliminary ruling from the Supremo Tribunal de Justiça.

Reference for a preliminary ruling – **Copyright and related rights** – Satellite broadcasting and cable retransmission – Directive 93/83/EEC – Article 1(3) – Concept of ‘cable retransmission’ – **Provider of the retransmission not having the status of a cable operator** – Simultaneous, unaltered and unabridged distribution of television and radio programmes broadcast by satellite and intended for reception by the public, performed by the operator of a hotel establishment, by means of a satellite dish, a cable and television or radio sets – None.
[EUR-Lex - 62020CJ0716](#)

Case C-263/21. Judgment of the Court (Fifth Chamber) of 8 September 2022. Asociación Multisectorial de Empresas de la Electrónica, las Tecnologías de la Información y la Comunicación, de las Telecomunicaciones y de los contenidos Digitales (AMETIC) v Administración General del Estado and Others. Request for a preliminary ruling from the Tribunal Supremo.

Reference for a preliminary ruling – Copyright and related rights – Directive 2001/29/EC – Article 5(2)(b) – **Exclusive reproduction right** – Exception – Copies for private use – Levy – Ex ante exemption – **Exemption certificate issued by a private law entity controlled solely by copyright management societies** – Powers of review of that entity.
[EUR-Lex - 62021CJ0263](#)

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

Case Law

Joined Cases C-245/21 and C-248/21. Judgment of the Court (First Chamber) of 22 September 2022. Bundesrepublik Deutschland vertreten durch Bundesministerium des Innern, für Bau und Heimat v MA and Others.

Request for a preliminary ruling – Regulation (EU) No 604/2013 – **Determination of the Member State responsible for examining an application for international protection** – Articles 27 and 29 – Transfer of the person concerned to the Member State responsible for the examination of his or her request – **Suspension of the transfer due to the COVID-19 pandemic** – Impossibility of carrying out the transfer – Judicial protection – Consequences for the time limit for transfer.
[EUR-Lex - 62021CJ0245](#)

Case C-497/21. Judgment of the Court (Tenth Chamber) of 22 September 2022. SI and Others v Bundesrepublik Deutschland.

Reference for a preliminary ruling – Area of freedom, security and justice – Border controls, asylum and immigration – Asylum policy – Directive 2013/32/EU – Common procedures for granting and withdrawing international protection – Application for international protection – Grounds for inadmissibility – Article 2(q) – Concept of ‘subsequent application’ – Article 33(2)(d) – **Rejection by a Member State of an application for international protection as inadmissible on account of the rejection of a previous application made by the person concerned in the Kingdom of Denmark** – Final decision taken by the Kingdom of Denmark.
[EUR-Lex - 62021CJ0497](#)

Case C-159/21. Judgment of the Court (First Chamber) of 22 September 2022. GM v Országos Idegenrendészeti Főigazgatóság and Others.

Reference for a preliminary ruling – Common asylum and immigration policy – Directive 2011/95/EU – **Standards for granting refugee status or subsidiary protection status – Withdrawal of the status** – Directive 2013/32/EU – Common procedures for granting and withdrawing international protection – **Danger to national security** – Position taken by a specialist authority – Access to the file.
[EUR-Lex - 62021CJ0159](#)

Case C-18/21. Judgment of the Court (Third Chamber) of 15 September 2022. Uniqa Versicherungen AG v VU. Request for a preliminary ruling from the Oberster Gerichtshof.

Reference for a preliminary ruling – Judicial cooperation in civil matters – **European order for payment procedure** – Regulation No 1896/2006 – Article 16(2) – 30-day time limit for lodging a statement of opposition to the European order for payment – Article 20 – Review procedure – Article 26 – Application of national law for procedural issues not specifically dealt with in that regulation – COVID-19 pandemic – **National legislation which interrupted the procedural periods in civil matters for several weeks.**

[EUR-Lex - 62021CJ0018](#)

Case C-347/21. Judgment of the Court (Eighth Chamber) of 15 September 2022. Criminal proceedings against DD. Request for a preliminary ruling from the Spetsializiran nakazatelen sad.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive (EU) 2016/343 – Strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings – Article 8(1) – **Right of an accused person to be present at the trial** – Examination of an incriminating witness in the absence of the accused person – **Possibility of remedying the infringement of a right at a later stage in the proceedings – Additional examination of the same witness** – Directive 2013/48/EU – Right of access to a lawyer in criminal proceedings – Article 3(1) – Examination of an incriminating witness in the absence of the lawyer of the accused person.

[EUR-Lex - 62021CJ0347](#)

Case C-420/20. Judgment of the Court (First Chamber) of 15 September 2022. HN v Sofiyska rayonna prokuratura. Request for a preliminary ruling from the Sofiyski rayonen sad.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Charter of Fundamental Rights of the European Union – Articles 47 and 48 – European Convention for the Protection of Human Rights and Fundamental Freedoms – Article 6 – Directive (EU) 2016/343 – **Strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings** – Article 8 – Right to be present at the trial – Return decision accompanied by an entry ban of five years – Conditions for holding a trial in the absence of the person concerned – Obligation to be present at the trial provided for under national law.

[EUR-Lex - 62020CJ0420](#)

16. Transport

Community Legislation

Council Decision (EU) 2022/1643 of 20 September 2022 on the signing, on behalf of the Union, of the **Comprehensive Air Transport Agreement between the Member States of the Association of Southeast Asian Nations, and the European Union and its Member State**

[CELEX:32022D1643](#)

Case Law

Case C-597/20. Judgment of the Court (Third Chamber) of 29 September 2022. Polskie Linie Lotnicze "LOT" SA v Budapest Főváros Kormányhivatala. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 16 – Compensation and assistance to passengers – Task of the national body responsible for the enforcement of that regulation – **National legislation conferring on that body the power to order an air carrier to pay compensation due to a passenger** – Charter of Fundamental Rights of the European Union – Article 47 – **Right to seek remedy before a tribunal.**

[EUR-Lex - 62020CJ0597](#)

Case C-614/20. Judgment of the Court (First Chamber) of 8 September 2022. Lux Express Estonia v Majandus- ja Kommunikatsiooniministeerium. Request for a preliminary ruling from the Tallinna Halduskohus.

Reference for a preliminary ruling – Regulation (EC) No 1370/2007 – Public passenger transport services by rail and by road – **Imposition by means of general rules of an obligation to carry certain categories of passenger free of charge – Obligation for the competent authority to grant public service compensation to operators** – Calculation method.

[EUR-Lex - 62020CJ0614](#)

17. Community Institutions, Principles and the Communities' own Resources

Case Law

Joined Cases C-619/20 P and C-620/20 P. Judgment of the Court (Second Chamber) of 22 September 2022. International Management Group (IMG) v European Commission.

Appeal – Development cooperation – Implementation of the EU budget under indirect management by an international organisation – **Decision to not entrust any new budget implementation tasks to an entity due to doubts as to its status as an international organisation** – Action for annulment – Compliance with a judgment annulling a measure – Res judicata – Obligations and powers of the author of the annulled act – Preparatory act – Admissibility – Claim for damages – Rule of law intended to confer rights on individuals – EU financial regulations – Duty of diligence – Existence of a sufficiently serious infringement of that obligation – Specific examination on a case-by-case basis – Non-material harm – Appropriate and sufficient compensation by the annulment of the unlawful act – Material harm – Dispute not in a condition to be adjudicated upon – Referral back to the General Court.

[EUR-Lex - 62020CJ0619](#)