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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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Highlights

Case C-61/22. Judgment of the Court (Grand Chamber) of 21 March 2024. RL v Landeshauptstadt Wiesbaden.

Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden. Reference for a preliminary ruling - Regulation (EU) 2019/1157 - Strengthening the security of identity cards of EU citizens - Validity - Legal basis - Article 21(2) TFEU - Article 77(3) TFEU -Regulation (EU) 2019/ 1157 - Article 3(5) - Obligation for Member States to include two fingerprints in interoperable digital formats in the storage medium of identity cards – Article 7 of the Charter of Fundamental Rights of the European Union – Respect for private and family life – Article 8 of the Charter of Fundamental Rights – Protection of personal data – Regulation (EU) 2016/679 - Article 35 - Obligation to carry out a data protection impact assessment -Maintaining the effects for a certain time of a regulation which has been declared invalid. EUR-Lex - 62022CJ0061

Case C-516/22. Judgment of the Court (Fifth Chamber) of 14 March 2024. European Commission v United Kingdom of Great Britain and Northern Ireland.

Failure of a Member State to fulfil obligations - Default procedure - Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community - Article 127(1) - Transition period -Jurisdiction of the Court of Justice - Judgment of the Supreme Court of the United Kingdom -Enforcement of an arbitral award granting the payment of compensation - Decision of the European Commission declaring that that payment constitutes State aid which is incompatible with the internal market - Article 4(3) TEU - Sincere cooperation - Obligation to stay proceedings - First paragraph of Article 351 TFEU - International agreement between Member States and third countries concluded before the date of their accession to the European Union - Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) – Application of EU law – Article 267 TFEU – National court or tribunal adjudicating at last instance - Obligation to make a reference to the Court for a preliminary ruling – Article 108(3) TFEU – Suspension of implementation of the aid. EUR-Lex - 62022CJ0516

Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising Regulation - EU - 2024/900

1. **EU-Swiss Relations**

Community Legislation

Council Decision (EU, Euratom) 2024/995 of 12 March 2024 authorising the opening of negotiations with the Swiss Confederation on institutional provisions in agreements between the European Union and the Swiss Confederation related to the internal market, on an agreement on the Swiss Confederation's participation in Union programmes and on an agreement that forms the basis for the Swiss Confederation's permanent contribution to the Union's cohesion

Decision - EU, Euratom - 2024/995

Council Decision (EU) 2024/988 of 4 March 2024 authorising the opening of negotiations with the Swiss Confederation for an agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data from the European Union to the Swiss Confederation for the prevention, detection, investigation and prosecution of terrorist offences and serious crime Decision - EU - 2024/988

2. External Relations / Foreign Policy

Community Legislation

Council Decision (EU) 2024/829 of 4 March 2024 on the conclusion, on behalf of the Union, of the Sustainable Investment Facilitation Agreement between the European Union and the Republic of Angola Decision - EU - 2024/829

3. Agriculture and Fisheries / Maritime Affairs

Nothing to report for the period under review.

Audiovisual and Media and Information Society 4.

Community Legislation

Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising Regulation - EU - 2024/900

Case Law

Case C-639/23 P(R). Order of the Vice-President of the Court of 27 March 2024. European Commission v Amazon Services Europe Sàrl.

Appeal – Interim relief – Approximation of laws – Regulation (EU) 2022/2065 – Single market for digital services - Additional online advertising transparency - Decision to designate a very large online platform - Action for annulment.

EUR-Lex - 62023CO0639(01)

Case C-46/23. Judgment of the Court (Fifth Chamber) of 14 March 2024. Budapest Főváros IV. Kerület Újpest Önkormányzat Polgármesteri Hivatala v Nemzeti Adatvédelmi és Információszabadság Hatóság. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Protection of natural persons with regard to the processing of personal data – Regulation (EU) 2016/679 – Article 58(2)(d) and (g) – Powers of the supervisory authority of a Member State – Article 17(1) – Right to erasure ('right to be forgotten') – Erasure of unlawfully processed personal data – Power of the national supervisory authority to order the controller or processor to erase those data without a prior request from the data subject.

EUR-Lex - 62023CJ0046

Case C-604/22. Judgment of the Court (Fourth Chamber) of 7 March 2024. IAB Europe v Gegevensbeschermingsautoriteit. Request for a preliminary ruling from the Hof van beroep te Brussel.

Reference for a preliminary ruling – Protection of natural persons with regard to the processing of personal data – Regulation (EU) 2016/679 – Standard-setting sectoral organisation proposing to its members rules on the processing of users' consent – Article 4(1) – Concept of 'personal data' – String of letters and characters capturing, in a structured and machine-readable manner, the preferences of an internet user relating to the consent of that user to the processing of his or her personal data – Article 4(7) – Concept of 'controller' – Article 26(1) – Concept of 'joint controllers' – Organisation which does not itself have access to the personal data processed by its members – Responsibility of the organisation extending to the subsequent processing of data carried out by third parties.

EUR-Lex - 62022CJ0604

Case C-740/22. Judgment of the Court (Sixth Chamber) of 7 March 2024. Request for a preliminary ruling from the Itä-Suomen hovioikeus.

Reference for a preliminary ruling – Protection of personal data – Regulation (EU) 2016/679 – Articles 2, 4, 6, 10 and 86 – Data held by a court relating to the criminal convictions of a natural person – Oral disclosure of such data to a commercial company on account of a competition organised by that company – Concept of 'processing of personal data' – National legislation governing access to those data – Reconciliation between the right of public access to official documents and the protection of personal data.

EUR-Lex - 62022CJ0740

5. Competition and State Aid

Nothing to report for the period under review.

6. Customs

Nothing to report for the period under review.

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

Directive (EU) 2024/927 of the European Parliament and of the Council of 13 March 2024 amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services and loan origination by alternative investment funds

Directive - EU - 2024/927

Regulation (EU) 2024/886 of the European Parliament and of the Council of 13 March 2024 amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366 as regards instant credit transfers in euro

Regulation - EU - 2024/886

Case Law

Case C-606/22. Judgment of the Court (Seventh Chamber) of 21 March 2024. Dyrektor Izby Administracji Skarbowej w Bydgoszczy v B. sp. z o.o., anciennement B. sp.j. Request for a preliminary ruling from the Naczelny Sąd Administracyjny.

Reference for a preliminary ruling – Taxation – Value added tax (VAT) – Directive 2006/112/EC – Provision of recreational services and services to improve physical fitness – Sale of passes giving access to services whose existence is evidenced by a cash register and by cash register receipts – Taxable amount – Error in the tax rate – Principle of fiscal neutrality – Adjustment of the tax debt as a result of a change in the taxable amount – National practice that does not permit, in the absence of an invoice, a correction of the VAT and a refund of the overpaid VAT – No risk of loss of tax revenue – Plea of unjust enrichment. EUR-Lex - 62022CJ0606

Case C-336/22. Judgment of the Court (Third Chamber) of 14 March 2024. f6 Cigarettenfabrik GmbH & Co. KG v Hauptzollamt Bielefeld. Request for a preliminary ruling from the Finanzgericht Düsseldorf.

Reference for a preliminary ruling – Taxation – General arrangements for excise duty – Directive 2008/118/EC – Article 1(2) – Other indirect taxes on excise goods – Conditions for levying such a tax – Specific purpose pursued by the tax – Excise duty applied to manufactured tobacco – Directive 2011/64/EU – Article 14 – Taxation rules – Compliance with those rules by other indirect taxes on excise goods – Heated tobacco – National legislation establishing, for heated tobacco, a tax structure and tax rate differing from those applicable to 'other smoking tobaccos'.

EUR-Lex - 62022CJ0336

Case C-341/22. Judgment of the Court (Third Chamber) of 7 March 2024. Feudi di San Gregorio Aziende Agricole SpA v Agenzia delle Entrate. Request for a preliminary ruling from the Corte suprema di cassazione. Reference for a preliminary ruling – Taxation – Common system of value added tax (VAT) – Directive 2006/112/EC – Right to deduct VAT – Concept of taxable person – Principle of fiscal neutrality – Principle of proportionality – Non-operating company – National legislation denying the right of deduction, refund or offsetting of input VAT.

EUR-Lex - 62022CJ0341

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

Nothing to report for the period under review.

9. Employment and Social Affairs

Nothing to report for the period under review.

10. Energy and Environment

Community Legislation

Case Law

Case C-671/22. Judgment of the Court (Seventh Chamber) of 21 March 2024. T GmbH v Bezirkshautpmannschaft Spittal an der Drau. Request for a preliminary ruling from the Verwaltungsgerichtshof.

Reference for a preliminary ruling – Environment – EU action in the field of water policy – Directive 2000/60/EC – Environmental objectives relating to surface water – **Prevention of deterioration of the status of all bodies of** surface water – Point 1.2.2 of Annex V – Definitions for 'high', 'good' and 'moderate' ecological status in lakes – Criteria for assessing the biological quality element 'fish fauna'. EUR-Lex - 62022CJ0671

Case C-558/22. Judgment of the Court (Second Chamber) of 7 March 2024. Autorità di Regolazione per Energia Reti e Ambiente (ARERA) v Fallimento Esperia spa and Gestore dei Servizi Energetici SpA - GSE. Request for a preliminary ruling from the Consiglio di Stato.

Reference for a preliminary ruling – National support scheme providing for the award of tradable green certificates to national producers of electricity from renewable energy sources – Import of electricity produced from renewable energy sources in another Member State – Obligation to purchase green certificates – Penalty – Exemption – Directive 2001/77/EC – Directive 2009/28/EC – Support scheme – Guarantees of origin – Free movement of goods – Articles 18, 28, 30, 34 and 110 TFEU – State aid – Articles 107 and 108 TFEU – State resources – Selective advantage.

EUR-Lex - 62022CJ0558

Case C-234/22. Judgment of the Court (Fourth Chamber) of 7 March 2024. Roheline Kogukond MTÜ and Others v Keskkonnaagentuur. Request for a preliminary ruling from the Tallinna Halduskohus.

Reference for a preliminary ruling – Environment – Aarhus Convention – Directive 2003/4/EC – Right of access to environmental information – Exceptions – Data relating to the location of permanent sample plots used to draw up a forest inventory.

EUR-Lex - 62022CJ0234

11. Food Safety, Public Health and Consumers

Case Law

Case C-10/23. Judgment of the Court (Seventh Chamber) of 21 March 2024. Remia Com Impex SRL v Autoritatea Naţională Sanitară Veterinară și pentru Siguranța Alimentelor and Direcția Sanitară Veterinară și pentru Siguranța Alimentelor Dolj. Request for a preliminary ruling from the Înalta Curte de Casație și Justiție. Reference for a preliminary ruling – Food safety – Hygiene rules for food of animal origin – Regulation (EC) No 853/2004 – Scope – Exceptions – Supply of food between retail establishments constituting a marginal, localised and restricted activity – Concept of 'marginal, localised and restricted activity' – National legislation departing from the definition of that concept provided by that regulation. <u>EUR-Lex - 62023CJ0010</u>

Case C-76/23. Judgment of the Court (Third Chamber) of 21 March 2024. Cobult UG v TAP Air Portugal SA.

Request for a preliminary ruling from the Landgericht Frankfurt am Main. Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 7(3) – Article 8(1)(a) – **Right to reimbursement of the cost of the airline ticket in the event of cancellation of a flight** – Reimbursement in travel vouchers – Concept of the 'signed agreement of the passenger' – Reimbursement procedure through a form available on the website of the operating air carrier. **EUR-Lex - 62023CJ0076**

Case C-714/22. Judgment of the Court (Ninth Chamber) of 21 March 2024. S.R.G. v Profi Credit Bulgaria EOOD. Request for a preliminary ruling from the Sofiyski rayonen sad.

Reference for a preliminary ruling – Consumer protection – Consumer credit agreements – Directive 2008/48/EC - Article 3(g), Article 10(2)(g) and Article 23 - Total cost of the credit to the consumer - No indication of the relevant costs - Penalty - Directive 93/13/EEC - Unfair terms in consumer contracts - Article 3(1), Article 4(2), Article 6(1) and Article 7(1) – Point 1(0) of the annex to Directive 93/13/EEC – Services ancillary to a credit agreement – Terms giving priority to the examination of the credit application of a consumer purchasing those services and to the making available of the sum borrowed as well as providing that consumer with the option of deferring or rescheduling the monthly loan instalments, in return for payment of additional costs. EUR-Lex - 62022CJ0714

12. Human Rights

Case Law

Case C-61/22. Judgment of the Court (Grand Chamber) of 21 March 2024. RL v Landeshauptstadt Wiesbaden. Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden.

Reference for a preliminary ruling – Regulation (EU) 2019/1157 – Strengthening the security of identity cards of EU citizens – Validity – Legal basis – Article 21(2) TFEU – Article 77(3) TFEU – Regulation (EU) 2019/1157 – Article 3(5) – Obligation for Member States to include two fingerprints in interoperable digital formats in the storage medium of identity cards – Article 7 of the Charter of Fundamental Rights of the European Union – Respect for private and family life – Article 8 of the Charter of Fundamental Rights – Protection of personal data – Regulation (EU) 2016/679 – Article 35 – Obligation to carry out a data protection impact assessment – Maintaining the effects for a certain time of a regulation which has been declared invalid.

EUR-Lex - 62022CJ0061

Case C-588/21 P. Judgment of the Court (Grand Chamber) of 5 March 2024. Public. Resource.Org, Inc. and Right to Know CLG v European Commission.

Appeal – Access to documents of the institutions of the European Union – Regulation (EC) No 1049/2001 – Article 4(2) – Exceptions – Refusal to grant access to a document whose disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property - Overriding public interest in disclosure - Harmonised standards adopted by the European Committee for Standardisation (CEN) -Protection deriving from copyright – Principle of the rule of law – Principle of transparency – Principle of openness – Principle of good governance.

EUR-Lex - 62021CJ0588

Case C-755/21 P. Judgment of the Court (Grand Chamber) of 5 March 2024. Marián Kočner v European Union Agency for Law Enforcement Cooperation.

Appeal – Law enforcement cooperation – Regulation (EU) 2016/794 – Article 49(3) and Article 50 – Protection of personal data – Unlawful data processing – Criminal proceedings brought in Slovakia against the appellant – Expert's report drawn up by the European Union Agency for Law Enforcement Cooperation (Europol) for the purposes of the investigation - Retrieval of data from a mobile phone and a USB storage device belonging to the appellant - Disclosure of those data - Non-material damage - Actions for damages - Nature of noncontractual liability.

EUR-Lex - 62021CJ0755

13. Internal Market and Free Movement

Community Legislation

Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) **Regulation - EU - 2024/903**

Case Law

Case C-234/21. Judgment of the Court (Grand Chamber) of 5 March 2024. Défense Active des Amateurs d'Armes ASBL and Others v Conseil des ministres. Request for a preliminary ruling from the Cour constitutionnelle.

Reference for a preliminary ruling – Approximation of laws – Directive 91/477/EEC – Control of the acquisition and possession of weapons – Firearms prohibited or subject to authorisation – Semi-automatic firearms – Directive 91/477, as amended by Directive (EU) 2017/853 – Article 7(4a) – Power of Member States to confirm, renew or prolong authorisations – Presumed impossibility of using that power in respect of semi-automatic firearms converted to fire blanks or into salute or acoustic weapons – Validity – Article 17(1) and Articles 20 and 21 of the Charter of Fundamental Rights of the European Union – Principle of the protection of legitimate expectations.

EUR-Lex - 62021CJ0234

Affaire C-652/22 Kolin Inșaat Turizm Sanayi ve Ticaret A.Ș. contre Državna komisija za kontrolu postupaka javne nabave, autres parties à la procédure : HŽ Infrastruktura d.o.o., Strabag AG, Strabag d.o.o., Strabag Rail a.s. Conclusions de l'avocat général M. A. M. Collins, présentées le 7 mars 2024.

Renvoi préjudiciel – Marchés publics dans les secteurs de l'eau, de l'énergie, des transports et des services postaux – Directive 2014/25/UE – Article 43 – Accès des opérateurs économiques établis dans un pays tiers n'ayant pas conclu d'accord international avec l'Union européenne en matière de marchés publics – Présentation des offres – Possibilité pour un soumissionnaire de fournir des preuves supplémentaires concernant ses qualifications techniques et professionnelles après l'expiration du délai de présentation des offres – Principe d'égalité de traitement

EUR-Lex - 62022CC0652

14. Intellectual Property

Case Law

Case C-10/22. Judgment of the Court (Fifth Chamber) of 21 March 2024. Liberi editori e autori (LEA) v Jamendo SA. Request for a preliminary ruling from the Tribunale ordinario di Roma.

Reference for a preliminary ruling – Directive 2014/26/EU – **Collective management of copyright and related rights** – Collective management organisations – Independent management entities – Access to the activity of managing copyright and related rights – Directive 2000/31/EC – Material scope – Article 3(3) – Directive 2006/123/EC – Material scope – Article 17(11) – Article 56 TFEU. <u>EUR-Lex - 62022CJ0010</u>

Case T-647/22. Judgment of the General Court (Sixth Chamber) 6 March 2024. Puma SE v European Union Intellectual Property Office.

Community design – Invalidity proceedings – Registered community design representing a shoe – Disclosure of the prior design – Article 7 of Regulation (EC) No 6/2002 (The prior disclosure of a Puma shoe model by the artist Rihanna results in the invalidity of a registered Community design) <u>EUR-Lex - 62022TJ0647</u>

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

Case Law

Case C-90/22. Judgment of the Court (First Chamber) of 21 March 2024. "Gjensidige" ADB v "Rhenus Logistics" UAB and "ACC Distribution" UAB. Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas. 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 45 – Refusal to recognise a judgment – Article 71 – Relationship between that regulation and conventions governing particular matters – Convention on the Contract for the International Carriage of Goods by Road (CMR) – Article 31(3) – Lis pendens – Agreement conferring jurisdiction – Concept of 'public policy'. EUR-Lex - 62022CJ0090

Case C-752/22. Judgment of the Court (Second Chamber) of 14 March 2024. EP v Maahanmuuttovirasto. Request for a preliminary ruling from the Korkein hallinto-oikeus.

Reference for a preliminary ruling – Immigration policy – **Status of third-country nationals who are long-term** residents – Directive 2003/109/EC – Articles 12 and 22 – Reinforced protection against expulsion – Applicability – Third-country national residing in the territory of a Member State other than the one which had granted him long-term resident status – Decision taken by that other Member State on grounds of public policy and public security to remove the person concerned to the Member State which had granted him that status – Temporary ban on entering the territory of that other Member State imposed by that other Member State – Breach of the obligation to apply to that other Member State for a residence permit in accordance with the provisions of Chapter III of Directive 2003/109 – Decision taken by that Member State on the same grounds to remove that third-country national to his country of origin.

EUR-Lex - 62022CJ0752

16. Transport

Case Law

Case C-76/23. Judgment of the Court (Third Chamber) of 21 March 2024. Cobult UG v TAP Air Portugal SA. Request for a preliminary ruling from the Landgericht Frankfurt am Main.

Reference for a preliminary ruling – Air transport – Regulation (EC) No 261/2004 – Article 7(3) – Article 8(1)(a) – **Right to reimbursement of the cost of the airline ticket in the event of cancellation of a flight** – Reimbursement in travel vouchers – Concept of the 'signed agreement of the passenger' – Reimbursement procedure through a form available on the website of the operating air carrier.

EUR-Lex - 62023CJ0076

Case C-703/22. Judgment of the Court (Eighth Chamber) of 21 March 2024. WU v Directie van het Centraal Bureau Rijvaardigheidsbewijzen (CBR). Request for a preliminary ruling from the Raad van State. Reference for a preliminary ruling – Transport – Road transport – Directive 2006/126/EC – Driving licences – Conditions for issue or renewal – Minimum standards for physical and mental fitness – Eyesight – Point 6.4 of Annex III – Principle of proportionality – Person not meeting the field of vision requirement – Favourable opinion on fitness to drive issued by medical experts – Discretion in an individual case failing an express exception. EUR-Lex - 62022CJ0703

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

Case Law

C-516/22. (Fifth 2024. Case Judgment of the Court Chamber) of 14 March European Commission v United Kingdom of Great Britain and Northern Ireland. Failure of a Member State to fulfil obligations – Default procedure – Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community – Article 127(1) – Transition period – Jurisdiction of the Court of Justice – Judgment of the Supreme Court of the United Kingdom - Enforcement of an arbitral award granting the payment of compensation -Decision of the European Commission declaring that that payment constitutes State aid which is incompatible with the internal market – Article 4(3) TEU – Sincere cooperation – Obligation to stay proceedings – First paragraph of Article 351 TFEU – International agreement between Member States and third countries concluded before the date of their accession to the European Union - Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) – Application of EU law – Article 267 TFEU – National court or tribunal adjudicating at last instance – Obligation to make a reference to the Court for a preliminary ruling – Article 108(3) TFEU – Suspension of implementation of the aid. EUR-Lex - 62022CJ0516

Case C-439/22. Judgment of the Court (Ninth Chamber) of 14 March 2024. European Commission v Ireland. Failure of a Member State to fulfil obligations – Article 258 TFEU – Directive (EU) 2018/1972 – European Electronic Communications Code – Failure to transpose and notify the transposition measures – Article 260(3) TFEU – Application for the imposition of a lump sum and a periodic penalty payment – Criteria for determining the amount of the penalty. EUR-Lex - 62022CJ0439

Case C-479/22 P. Judgment of the Court (Sixth Chamber) of 7 March 2024. OC v European Commission. Appeal – Actions for damages – Non-contractual liability of the European Union – Alleged unlawful conduct of the European Anti-Fraud Office (OLAF) – Press release from OLAF – Protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies – Regulation (EU) 2018/1725 – Article 3, point 1 – Concepts of 'personal data' and of 'identifiable natural person' – Investigations conducted by OLAF – Regulation (EU, Euratom) No 883/2013 – Presumption of innocence – Right to good administration. EUR-Lex - 62022CJ0479