

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, lawyers, trading enterprises and financial businesses 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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Reference for a preliminary ruling – Jurisdiction, recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Jurisdiction in respect of individual contracts of employment – Provisions of Section 5 of Chapter II – Applicability – Contract entered into in a Member State for employment with a company established in another Member State – No work performed throughout the duration of the contract – Exclusion of the application of national rules of jurisdiction – Article 21(1)(b)(i) – Concept of the 'place where or from where the employee habitually carries out his work' – Contract of employment – Place of performance of the contract – Obligations of the employee towards his or her employer.

EUR-Lex - 62019CJ0804

Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (funding scheme to Member States in the context of the COVID-19 crises)

EUR-Lex - 32021R0241

Case C-481/19. Judgment of the Court (Grand Chamber) of 2 February 2021. DB v Commissione Nazionale per le Società e la Borsa (Consob). Request for a preliminary ruling from Corte costituzionale.

Reference for a preliminary ruling – Approximation of laws – Directive 2003/6/EC – Article 14(3) – Regulation (EU) No 596/2014 – Article 30(1)(b) – Market abuse – Administrative sanctions of a criminal nature – Failure to cooperate with the competent authorities – Articles 47 and 48 of the Charter of Fundamental Rights of the European Union – Right to remain silent and to avoid self-incrimination.

EUR-Lex - 62019CJ0481

1. EU-Swiss Relations

Community Legislation

Decision No 1/2021 of the EU-Switzerland Joint Committee of 12 February 2021 amending Tables III and IV of Protocol 2 to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products, as amended (2021/274) C/2021/806

EUR-Lex - 22021D0274

2. External Relations / Foreign Policy

Community Legislation

Council Decision (CFSP) 2021/257 of 18 February 2021 in support of the Oslo Action Plan for the implementation of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

EUR-Lex - 32021D0257

Regulation (EU) 2021/167 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) No 654/2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules

EUR-Lex - 32021R0167

Case Law

Case C-324/19. Judgment of the Court (Fourth Chamber) of 4 February 2021. eurocylinder systems AG v Hauptzollamt Hamburg. Request for a preliminary ruling from Finanzgericht Hamburg.

Reference for a preliminary ruling – Common commercial policy – **Anti-dumping duties** – Regulation (EC) No 384/96 – Article 3(9) – Threat of material injury – Factors – Article 9(4) – Regulation (EC) No 926/2009 – **Imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China** – Invalidity. EUR-Lex - 62019CJ0324

3. Agriculture and Fisheries / Maritime Affairs

Case Law

Case C-77/20. Judgment of the Court (Sixth Chamber) of 11 February 2021. Criminal proceedings against The Director of Public Prosecutions. Request for a preliminary ruling from Court of Appeal.

Reference for a preliminary ruling – Common fisheries policy – Regulation (EC) No 1224/2009 – Control system for ensuring compliance with the rules of the common fisheries policy – Use on board a fishing vessel of equipment which is capable of automatically grading fish by size – Article 89 – Measures to ensure compliance – Article 90 – Criminal sanctions – Principle of proportionality.

EUR-Lex - 62020CJ0077

4. Audiovisual and Media and Information Society

Case Law

Case C-555/19. Judgment of the Court (Third Chamber) of 3 February 2021. Fussl Modestraße Mayr GmbH v SevenOne Media GmbH and Others. Request for a preliminary ruling from Landgericht Stuttgart.

Reference for a preliminary ruling – Directive 2010/13/EU – Provision of audiovisual media services – Article 4(1) – Freedom to provide services – Equal treatment – Article 56 TFEU – Articles 11 and 20 of the Charter of Fundamental Rights of the European Union – Audiovisual commercial communication – National legislation prohibiting television broadcasters from inserting in their programmes broadcast throughout the national territory television advertisements whose broadcasting is limited to a regional level.

EUR-Lex - 62019CJ0555

5. Competition and State Aid

Case Law

Case C-857/19. Judgment of the Court (Eighth Chamber) of 25 February 2021. Slovak Telekom a.s. v Protimonopolný úrad Slovenskej republiky. Request for a preliminary ruling from Najvyšší súd Slovenskej republiky.

Reference for a preliminary ruling – Competition – Article 102 TFEU – Abuse of a dominant position – Division of competences between the European Commission and the national competition authorities – Regulation (EC) No 1/2003 – Article 11(6) – National competition authorities relieved of their competence – Principle ne bis in idem – Article 50 of the Charter of Fundamental Rights of the European Union.

EUR-Lex - 62019CJ0857

6. Customs

Case Law

Case C-760/19. Judgment of the Court (Ninth Chamber) of 4 February 2021. JCM Europe (UK) Ltd v Commissioners for Her Majesty's Revenue and Customs. Request for a preliminary ruling from First-tier Tribunal (Tax Chamber).

Reference for a preliminary ruling – Customs union – Common Customs Tariff – Combined Nomenclature – Tariff classification – Headings 8472 and 9031 – Bank note validator and cash boxes – Device intended to be integrated in a host device and connected to an external control centre – Implementing Regulation (EU) 2016/1760 – Validity.

EUR-Lex - 62019CJ0760

Affaire C-92/20. Arrêt de la Cour (septième chambre) du 3 février 2021. Rottendorf Pharma GmbH contre Hauptzollamt Bielefeld. Demande de décision préjudicielle, introduite par le Finanzgericht Düsseldorf.

Renvoi préjudiciel – Union douanière – Code des douanes communautaire – Règlement (CEE) no 2913/92 – Article 239, paragraphe 1, deuxième tiret – Remboursement des droits de douane légalement perçus – Situation particulière – Délivrance d'une autorisation de mise en libre pratique – Invalidation de l'autorisation et délivrance d'une autorisation de perfectionnement actif avec effet rétroactif – Réexportation des marchandises hors du territoire de l'Union européenne – Omission de présenter les marchandises en douane.

EUR-Lex - 62020CJ0092

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

Directive (EU) 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis (Text with EEA relevance)

EUR-Lex - 32021L0338

Regulation (EU) 2021/168 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) 2016/1011 as regards the exemption of certain third-country spot foreign exchange benchmarks and the designation of replacements for certain benchmarks in cessation, and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

EUR-Lex - 32021R0168

Case Law

Case C-604/19. Judgment of the Court (First Chamber) of 25 February 2021. Gmina Wrocław v Dyrektor Krajowej Informacji Skarbowej. Request for a preliminary ruling from Wojewódzki Sąd Administracyjny we Wrocławiu.

Reference for a preliminary ruling – Taxation – Value added tax (VAT) – Directive 2006/112/EC – Article 2(1)(a) – Article 9(1) – Article 13(1) – Article 14(1) and (2)(a) – Concept of 'supply of goods' – Transformation of the right of perpetual usufruct into full immovable property ownership rights by operation of law – Municipality collecting fees for the transformation – Concept of 'compensation' – Concept of 'taxable person acting as such' – Exception – Bodies governed by public law which engage in activities or transactions as public authorities.

EUR-Lex - 62019CJ0604

Case C-95/19. Judgment of the Court (Fifth Chamber) of 24 February 2021. Agenzia delle Dogane v Silcompa SpA. Request for a preliminary ruling from Corte suprema di cassazione.

Reference for a preliminary ruling – Directive 76/308/EEC – Articles 6 and 8 and Article 12(1) to (3) – Mutual assistance for the recovery of certain claims – Excise duty payable in two Member States for the same transactions – Directive 92/12/EC – Articles 6 and 20 – Release of products for consumption – Falsification of the accompanying administrative document – Offence or irregularity committed in the course of movement of products subject to excise duty under a duty suspension arrangement – Irregular departure of products from a suspension arrangement – 'Duplication of the tax claim' relating to the excise duties – Review carried out by the courts of the Member State in which the requested authority is situated – Refusal of the request for assistance made by the competent authorities of another Member State – Conditions.

EUR-Lex - 62019CJ0095

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-940/19. Arrêt de la Cour (première chambre) du 25 février 2021. Les Chirurgiens-Dentistes de France e.a. contre Ministre des Solidarités et de la Santé e.a. Demande de décision préjudicielle, introduite par le Conseil d'État (France).

Renvoi préjudiciel – Reconnaissance des qualifications professionnelles – Directive 2005/36/CE – Article 4 septies, paragraphe 6 – Réglementation nationale – Admission de la possibilité d'un accès partiel à l'une des professions relevant du mécanisme de la reconnaissance automatique des qualifications professionnelles. EUR-Lex - 62019CJ0940

Case C-129/20. Judgment of the Court (Eighth Chamber) of 25 February 2021. XI v Caisse pour l'avenir des enfants.

Reference for a preliminary ruling – Social policy – Directive 2010/18/EU – Revised Framework Agreement on parental leave – National legislation making the grant of a right to parental leave subject to a condition of employment and to the mandatory affiliation in that regard of the worker to the social security scheme concerned on the date on which the child was born.

EUR-Lex - 62020CJ0129

Case C-804/19. Judgment of the Court (First Chamber) of 25 February 2021. BU v Markt24 GmbH. Request for a preliminary ruling from Landesgericht Salzburg.

Reference for a preliminary ruling – Jurisdiction, recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Jurisdiction in respect of individual contracts of employment – Provisions of Section 5 of Chapter II – Applicability – Contract entered into in a Member State for employment with a company established in another Member State – No work performed throughout the duration of the contract – Exclusion of the application of national rules of jurisdiction – Article 21(1)(b)(i) – Concept of the 'place where or from where the employee habitually carries out his work' – Contract of employment – Place of performance of the contract – Obligations of the employee towards his or her employer. EUR-Lex - 62019CJ0804

Case C-760/18. Judgment of the Court (Seventh Chamber) of 11 February 2021. M.V. e.a. v Organismos Topikis Aftodioikisis (O.T.A.) «Dimos Agiou Nikolaou». Request for a preliminary ruling from Monomeles Protodikeio Lasithiou.

Reference for a preliminary ruling – Social policy – Directive 1999/70/EC – Framework agreement on fixed-term employment concluded by ETUC, UNICE and CEEP – Clause 5 – Measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships – Fixed-term employment contracts in the public sector – Successive contracts or extended initial contract – Equivalent legal measure – Absolute constitutional prohibition on conversion of fixed-term employment contracts to contracts of indefinite duration – Obligation to interpret in conformity with EU law.

EUR-Lex - 62018CJ0760

Joined Cases C-407/19 and C-471/19. Judgment of the Court (Fourth Chamber) of 11 February 2021. Katoen Natie Bulk Terminals NV and Others v Belgische Staat and Ministerraad. References for a preliminary ruling from Raad van State and Grondwettelijk Hof.

Reference for a preliminary ruling – Article 45 TFEU – Freedom of movement for workers – Article 49 TFEU – Freedom of establishment – Article 56 TFEU – Freedom to provide services – Carrying out of port activities – Dockers – Access to the profession and recruitment – Arrangements for the recognition of dockers – Dockers not part of the quota of workers provided for in national legislation – Limitation of the duration of the work contract – Mobility of dockers between different port areas – Workers carrying out logistical work – Safety certificate – Overriding reasons in the public interest – Safety in port areas – Protection of workers – Proportionality. EUR-Lex - 62019CJ0407

10. Energy and Environment

Community Legislation

Commission Regulation (EU) 2021/341 of 23 February 2021 amending Regulations (EU) 2019/424, (EU) 2019/1781, (EU) 2019/2019, (EU) 2019/2020, (EU) 2019/2021, (EU) 2019/2022, (EU) 2019/2023 and (EU) 2019/2024 with regard to ecodesign requirements for servers and data storage products, electric motors and variable speed drives, refrigerating appliances, light sources and separate control gears, electronic displays, household dishwashers, household washing machines and household washer-dryers and refrigerating appliances with a direct sales function (Text with EEA relevance)

EUR-Lex - 32021R0341

Case Law

Case C-389/19 P. Judgment of the Court (First Chamber) of 25 February 2021. European Commission v Kingdom of Sweden.

Appeal – Regulation (EC) No 1907/2006 – Registration, evaluation, authorisation and restriction of chemicals – European Commission decision authorising certain uses of lead sulfochromate yellow and lead chromate molybdate sulfate red, substances listed in Annex XIV of that regulation – Substances of very high concern – Conditions of authorisation – Assessment of the lack of suitable alternatives.

EUR-Lex - 62019CJ0389

Case C-458/19 P. Opinion of Advocate General Kokott delivered on 25 February 2021. ClientEarth v European Commission

Appeal – Action for annulment – Regulation (EC) No 1367/2006 – Aarhus Convention – Access to justice in environmental matters – Internal review – Rejection – Subject of the review – Regulation (EC) No 1907/2006 – Registration, Evaluation, Authorisation and Restriction of Chemicals – Authorisation requirement – Implementing decision C(2016) 3549 final granting an authorisation for uses of bis(2-ethylhexyl) phthalate (DEHP) – Overriding socio-economic benefits – Consideration of risks.

EUR-Lex - 62019CC0458

Affaire C-637/18. Arrêt de la Cour (septième chambre) du 3 février 2021. Commission européenne contre Hongrie.

Manquement d'État – Environnement – Directive 2008/50/CE – Qualité de l'air ambiant – Article 13, paragraphe 1, et annexe XI – Dépassement systématique et persistant des valeurs limites fixées pour les microparticules (PM10) dans certaines zones de Hongrie – Article 23, paragraphe 1 – Annexe XV – Période de dépassement "la plus courte possible" – Mesures appropriées.

EUR-Lex - 62018CJ0637

11. Food Safety, Public Health and Consumers

Case Law

Case C-922/19. Judgment of the Court (Sixth Chamber) of 3 February 2021. Stichting Waternet v MG. Request for a preliminary ruling from Hoge Raad der Nederlanden.

Reference for a preliminary ruling – Directive 97/7/EC – Article 9 – Directive 2011/83/EU – Article 27 – Directive 2005/29/EC – Article 5(5) – Annex I, point 29 – **Unfair commercial practices – Concept of 'inertia selling' – Supply of drinking water.**

EUR-Lex - 62019CJ0922

12. Human Rights

Case Law

Case C-481/19. Judgment of the Court (Grand Chamber) of 2 February 2021. DB v Commissione Nazionale per le Società e la Borsa (Consob). Request for a preliminary ruling from Corte costituzionale.

Reference for a preliminary ruling – Approximation of laws – Directive 2003/6/EC – Article 14(3) – Regulation (EU) No 596/2014 – Article 30(1)(b) – Market abuse – Administrative sanctions of a criminal nature – Failure to cooperate with the competent authorities – Articles 47 and 48 of the Charter of Fundamental Rights of the European Union – Right to remain silent and to avoid self-incrimination.

EUR-Lex - 62019CJ0481

13. Internal Market and Single Market

Community Legislation

Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (funding to Member States in the context of the COVID-19 crises)

EUR-Lex - 32021R0241

Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (help national authorities to implement institutional, administrative and structural reforms that are sustainable and resilience-enhancing, strengthen economic, social and territorial cohesion)

EUR-Lex - 32021R0240

Case Law

Affaire C-712/19. Arrêt de la Cour (septième chambre) du 25 février 2021. Novo Banco SA contre Junta de Andalucía. Demande de décision préjudicielle, introduite par le Tribunal Supremo.

Renvoi préjudiciel – Liberté d'établissement Libre circulation des capitaux – Fiscalité Impôt grevant les dépôts de clients détenus par les établissements de crédit – Déductions fiscales accordées uniquement aux établissements ayant leur siège social ou des agences sur le territoire de la communauté autonome d'Andalousie – Déductions fiscales accordées uniquement pour des investissements relatifs à des projets réalisés dans cette communauté autonome – Système commun de taxe sur la valeur ajoutée (TVA) Directive 2006/112/CE Article 401 Interdiction de percevoir d'autres impôts nationaux ayant le caractère de taxes sur le chiffre d'affaires Notion de "taxe sur le chiffre d'affaires" Caractéristiques essentielles de la TVA Absence.

EUR-Lex - 62019CJ0712

Case C-403/19. Judgment of the Court (Second Chamber) of 25 February 2021. Société Générale SA v Ministre de l'Action et des Comptes publics. Request for a preliminary ruling from the Conseil d'État.

Reference for a preliminary ruling – Article 63 TFEU – Free movement of capital – Corporation tax – Bilateral conventions for the avoidance of double taxation – Taxation of dividends distributed by a non-resident already subject to a levy in another Member State – Maximum amount of tax credit accorded – Legal double taxation. <u>EUR-Lex - 62019CJ0403</u>

Joined Cases C-407/19 and C-471/19. Judgment of the Court (Fourth Chamber) of 11 February 2021. Katoen Natie Bulk Terminals NV and Others v Belgische Staat and Ministerraad. References for a preliminary ruling from Raad van State and Grondwettelijk Hof.

Reference for a preliminary ruling – Article 45 TFEU – Freedom of movement for workers – Article 49 TFEU – Freedom of establishment – Article 56 TFEU – Freedom to provide services – Carrying out of port activities – Dockers – Access to the profession and recruitment – Arrangements for the recognition of dockers – Dockers not part of the quota of workers provided for in national legislation – Limitation of the duration of the work contract

Mobility of dockers between different port areas – Workers carrying out logistical work – Safety certificate –
 Overriding reasons in the public interest – Safety in port areas – Protection of workers – Proportionality.
 EUR-Lex - 62019CJ0407

Case C-535/19. Opinion of Advocate General Saugmandsgaard Øe delivered on 11 February 2021. A in the presence of Latvijas Republikas Veselības ministrija (request for a preliminary ruling from the Augstākā tiesa (Senāts), (Supreme Court (Senate), Latvia))

Reference for a preliminary ruling – Citizenship of the Union – Right to move and reside freely within the territory of the Member States – Economically inactive Union citizen who has left his Member State of origin to settle in a host Member State for family reunification purposes – Refusal to affiliate that Union citizen to the social security system of the host Member State and to provide public health care benefits – Directive 2004/38/EC – Article 7(1)(b) – Condition requiring 'comprehensive sickness cover' – Concept of 'unreasonable burden' – Article 24 – Right to equal treatment – Regulation (EC) No 883/2004 – Article 3(1)(a) – Concept of 'sickness benefit' – Article 4 and Article 11(3)(e) – Scope – Genuine link of integration with the host Member State – Consequences. EUR-Lex - 62019CC0535

Joined Cases C-155/19 and C-156/19. Judgment of the Court (Fourth Chamber) of 3 February 2021. Federazione Italiana Giuoco Calcio (FIGC) and Consorzio Ge.Se.Av. S. c. arl v De Vellis Servizi Globali Srl. References for a preliminary ruling from Consiglio di Stato.

Reference for a preliminary ruling – Public procurement – Public procurement procedure – Directive 2014/24/EU – Article 2(1)(4) – Contracting authority – Bodies governed by public law – Concept – National sports federation – Meeting of needs in the general interest – Supervision of the federation's management by a body governed by public law.

EUR-Lex - 62019CJ0155

14. Intellectual Property

Nothing to report for the period under review.

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

Case Law

Case C-804/19. Judgment of the Court (First Chamber) of 25 February 2021. BU v Markt24 GmbH. Request for a preliminary ruling from Landesgericht Salzburg.

Reference for a preliminary ruling – Jurisdiction, recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Jurisdiction in respect of individual contracts of employment – Provisions of Section 5 of Chapter II – Applicability – Contract entered into in a Member State for employment with a company established in another Member State – No work performed throughout the duration of the contract – Exclusion of the application of national rules of jurisdiction – Article 21(1)(b)(i) – Concept of the 'place where or from where the employee habitually carries out his work' – Contract of employment – Place of performance of the contract – Obligations of the employee towards his or her employer. EUR-Lex - 62019CJ0804

Case C-658/19. Judgment of the Court (Eighth Chamber) of 25 February 2021. European Commission v Kingdom of Spain.

Failure of a Member State to fulfil obligations – Article 258 TFEU – Directive (EU) 2016/680 – Processing of personal data – Prevention, investigation, detection or prosecution of criminal offences – Failure to transpose and notify the transposition measures – Article 260(3) TFEU – Application for the imposition of a lump sum and a penalty payment.

EUR-Lex - 62019CJ0658

Case C-673/19. Judgment of the Court (Fifth Chamber) of 24 February 2021. M and Others v Staatssecretaris van Justitie en Veiligheid and T. Request for a preliminary ruling from Raad van State.

Reference for a preliminary ruling – Asylum and immigration – Directive 2008/115/EC – Articles 3, 4, 6 and 15 – Refugee staying illegally in the territory of a Member State – Detention for the purpose of transfer to another Member State – Refugee status in that other Member State – Principle of non-refoulement – No return decision – Applicability of Directive 2008/115.

EUR-Lex - 62019CJ0673

Case C-603/20 PPU. Opinion of Advocate General Rantos delivered on 23 February 2021. SS v MCP. (Request for a preliminary ruling from the High Court of Justice (England & Wales), Family Division (United Kingdom))

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Area of freedom, security and justice – Judicial cooperation in civil matters – Regulation (EC) No 2201/2003 – Jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility – Article 10 – Jurisdiction in cases of child abduction – Child wrongfully removed to a non-Member State in which it has acquired its habitual residence – Best interests of the child – Retention of jurisdiction, for an unlimited period of time, by the courts of the Member State in which the child was habitually resident immediately before its wrongful removal

EUR-Lex - 62020CC0603

Case C-800/19. Opinion of Advocate General Bobek delivered on 23 February 2021. Mittelbayerischer Verlag KG v SM (Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland))

Reference for a preliminary ruling – Judicial cooperation in civil and commercial matters – Jurisdiction in matters relating to tort, delict or quasi-delict – Centre of interests of a natural person requesting protection of personality rights – Online publication – Place of the event giving rise to the damage EUR-Lex - 62019CC0800

16. Transport

Community Legislation

Regulation (EU) 2021/250 of the European Parliament and of the Council of 16 February 2021 amending Council Regulation (EEC) No 95/93 as regards temporary relief from the slot utilisation rules at Union airports due to the COVID-19 crisis (Text with EEA relevance)

EUR-Lex - 32021R0250

Regulation (EU) 2021/267 of the European Parliament and of the Council of 16 February 2021 laying down specific and temporary measures in view of the persistence of the COVID-19 crisis concerning the renewal or extension of certain certificates, licences and authorisations, the postponement of certain periodic checks and periodic training in certain areas of transport legislation and the extension of certain periods referred to in Regulation (EU) 2020/698 (Text with EEA relevance)

EUR-Lex - 32021R0267

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

Nothing to report for the period under review.