



Institut suisse de droit comparé
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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.

Table of contents

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

Highlights

Case C-289/20. Judgment of the Court (Third Chamber) of 25 November 2021. IB v FA.
Reference for a preliminary ruling – Judicial cooperation in civil matters – Regulation (EC) No 2201/2003 – **Jurisdiction to hear divorce applications** – Article 3(1)(a) – **'Habitual residence' of an applicant.**

[EUR-Lex - 62020CJ0289](#)

Joined Cases C-748/19 to C-754/19. Judgment of the Court (Grand Chamber) of 16 November 2021. Criminal proceedings against WB and Others. Requests for a preliminary ruling from the Sąd Okręgowy w Warszawie.

References for a preliminary ruling – Rule of law – **Independence of the judiciary** – Second subparagraph of Article 19(1) TEU – **National legislation providing the possibility for the Minister for Justice to second judges to higher courts and to terminate those secondments** – Adjudicating panels in criminal cases including judges seconded by the Minister for Justice – Directive (EU) 2016/343 – Presumption of innocence.

[EUR-Lex - 62019CJ0748](#)

Case C-821/19. Judgment of the Court (Grand Chamber) of 16 November 2021. European Commission v Hungary.

Actions for failure to fulfil obligations – Area of freedom, security and justice – Asylum policy – Directives 2013/32/EU and 2013/33/EU – Procedure for granting international protection – Grounds of inadmissibility – **Concepts of 'safe third country' and 'first country of asylum'** – Assistance given to asylum seekers – Criminalisation – Prohibition on entry to the border transit zone of the relevant Member State.

[EUR-Lex - 62019CJ0821](#)

Case C-91/20. Judgment of the Court (Grand Chamber) of 9 November 2021. LW v Bundesrepublik Deutschland. Request for a preliminary ruling from the Bundesverwaltungsgericht.

Reference for a preliminary ruling – Common policy on asylum and subsidiary protection – Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection – Directive 2011/95/EU – Articles 3 and 23 – **More favourable standards capable of being retained or introduced by the Member States for the purposes of extending the refugee or subsidiary protection status of a beneficiary of international protection to family members** – Grant of a parent's refugee status to his or her minor child as a derived right – Maintaining family unity – **Best interests of the child.**

[EUR-Lex - 62020CJ0091](#)

1. EU-Swiss Relations

Community Legislation

Council implementing decision on the suspension of certain provisions of Regulation (EC) 810/2009 of the European Parliament and of the Council with respect to The Gambia - notification from Switzerland

[EUR-Lex - ST 13697 2021 INIT](#)

Council Recommendation on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction - notification from Switzerland

[EUR-Lex - ST 10162 2020 ADD 15](#)

2. External Relations / Foreign Policy

Community Legislation

Council Regulation (EU) 2021/1985 of 15 November 2021 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus

[EUR-Lex - 32021R1985](#)

Council Decision (EU) 2021/1940 of 9 November 2021 on the partial suspension of the application of the Agreement between the European Union and the Republic of Belarus on the facilitation of the issuance of visas

[EUR-Lex - 32021D1940](#)

Case Law

Case C-833/19 P. Judgment of the Court (Grand Chamber) of 23 November 2021. Council of the European Union v Hamas.

Appeal – Common foreign and security policy – **Fight against terrorism** – Restrictive measures against certain persons and entities – **Freezing of funds** – Common Position 2001/931/CFSP – Regulation (EC) No 2580/2001 – **Continued inclusion of an organisation on the list of persons, groups and entities involved in terrorist acts** – Statement of individual reasons notified to the organisation set out in a separate document from that containing a general statement of reasons – Authentication of the statement of individual reasons – Article 297(2) TFEU.

[EUR-Lex - 62019CJ0833](#)

Case C-479/21 PPU. Judgment of the Court (Grand Chamber) of 16 November 2021. SN and SD v Governor of Cloverhill Prison and Others. Request for a preliminary ruling from the Supreme Court.

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Article 50 TEU – 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 217 TFEU – Trade and Cooperation Agreement with the United Kingdom – Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice – Judicial cooperation in criminal matters – European arrest warrant – Framework Decision 2002/584/JHA – **Continuation under the Withdrawal Agreement, on a transitional basis, of the European arrest warrant regime in respect of the United Kingdom** – Application to a European arrest warrant of provisions relating to the surrender mechanism established by the Trade and Cooperation Agreement with the United Kingdom – Regimes binding on Ireland.

[EUR-Lex - 62021CJ0479](#)

Case C-340/20. Judgment of the Court (First Chamber) of 11 November 2021. Bank Sepah v Overseas Financial Limited and Oaktree Finance Limited. Request for a preliminary ruling from the Cour de cassation.

Reference for a preliminary ruling – Common foreign and security policy (CFSP) – Restrictive measures against the Islamic Republic of Iran – Regulation (EC) No 423/2007 – Freezing of funds of persons, entities or bodies recognised by the Council of the European Union as being engaged in nuclear proliferation – Concepts of ‘freezing of funds’ and ‘freezing of economic resources’ – Possibility of applying a protective measure in respect of frozen funds and economic resources – **Claim pre-dating the freezing of assets and unrelated to Iran’s nuclear and ballistic programme.**

[EUR-Lex - 62020CJ0340](#)

3. Agriculture and Fisheries / Maritime Affairs

Case Law

Affaire C-106/20 P. Arrêt de la Cour (neuvième chambre) du 11 novembre 2021. République hellénique contre Commission européenne.

Pourvoi – Politique agricole commune – FEAGA et Feader – **Dépenses exclues du financement de l’Union européenne** – Dépenses effectuées par la République hellénique – Procédure d’apurement de conformité – Moyen invoqué pour la première fois lors de la procédure orale en première instance – Règlement (CE) no 796/2004 – Article 2, point 2 – Règlement (UE) no 1307/2013 – Article 4, paragraphe 1, sous h) – **Notion de “pâturages permanents”** – Dénaturation d’éléments de preuve – Règlement délégué (UE) no 907/2014 – Article 12, paragraphe 4 – Correction ponctuelle – Conditions – Charge de la preuve.

[EUR-Lex - 62020CJ0106](#)

4. Audiovisual and Media and Information Society

Case Law

Case C-102/20. Judgment of the Court (Third Chamber) of 25 November 2021. StWL Städtische Werke Lauf a.d. Pegnitz GmbH v eprimo GmbH.

Reference for a preliminary ruling – Directive 2002/58/EC – **Processing of personal data and the protection of privacy in the electronic communications sector** – Article 2(h) – Concept of ‘electronic mail’ – Article 13(1) – **Concept of ‘use of ... electronic mail for the purposes of direct marketing’** – Directive 2005/29/EC – Unfair commercial practices – Annex I, point 26 – Concept of ‘persistent and unwanted solicitations by email’ – Advertising messages – Inbox advertising.

[EUR-Lex - 62020CJ0102](#)

Case C-140/20. Opinion of Advocate General Campos Sánchez-Bordona delivered on 18 November 2021. G.D. v The Commissioner of the Garda Síochána, Minister for Communications, Energy and Natural Resources, Attorney General. Request for a preliminary ruling from the Supreme Court (Ireland).

(Reference for a preliminary ruling – Telecommunications – **Processing of personal data** – Confidentiality of communications – Electronic communications service providers – Directive 2002/58/EC – Article 15(1) – Article 4(2) TEU – Charter of Fundamental Rights of the European Union – Articles 7, 8, 11 and 52(1) – **General and indiscriminate retention of traffic and location data** – Access to retained data – Use of retained data as evidence in criminal proceedings)

[EUR-Lex - 62020CC0140](#)

5. Competition and State Aid

Case Law

Affaire C-306/20. Arrêt de la Cour (septième chambre) du 18 novembre 2021. « Visma Enterprise » SIA contre Konkurences padome. Demande de décision préjudicielle, introduite par l'Administratīvā apgabaltiesa.

Renvoi préjudiciel – Concurrence – Ententes – Article 101, paragraphes 1 et 3, TFUE – Accords verticaux – **Restriction “par objet” ou “par effet”** – Exemption – Enregistrement par le distributeur de la transaction potentielle avec l'utilisateur final – **Clause conférant au distributeur une “priorité pour la réalisation de l'opération de vente” pendant six mois à compter de l'enregistrement** – Exception – Opposition de l'utilisateur – Compétence de la Cour – Situation purement interne – Législation nationale se conformant aux solutions retenues par le droit de l'Union.

[EUR-Lex - 62020CJ0306](#)

Case C-933/19 P. Judgment of the Court (Second Chamber) of 11 November 2021. Autostrada Wielkopolska S.A. v European Commission.

Appeal – State aid – **Toll-motorway concession** – Law providing for an exemption from tolls for certain vehicles – Compensation granted to the concession holder by the Member State for loss of revenue – Shadow toll – **Compensation found by the European Commission to be excessive and to include State aid** – Commission decision declaring that aid incompatible with the internal market and ordering its recovery – Procedural rights of the aid beneficiary – Commission's obligation to exercise particular vigilance – Concept of 'State aid' – Advantage – Improvement of the concession holder's expected financial situation – Criterion of the private operator in a market economy – Distortion of the evidence – Breach of the obligation to state reasons – Misreading of the decision at issue – Substitution of grounds – Reversal of the burden of proof – Breach of the principle of primacy of EU law – Judicial review to be conducted by the General Court – Requirements and limits.

[EUR-Lex - 62019CJ0933](#)

Affaire C-819/19. Arrêt de la Cour (deuxième chambre) du 11 novembre 2021. Stichting Cartel Compensation et Equilib Netherlands BV contre Koninklijke Luchtvaart Maatschappij NV e.a. Demande de décision préjudicielle, introduite par le rechtbank Amsterdam.

Renvoi préjudiciel – Articles 81, 84 et 85 CE – Article 53 de l'accord EEE – Ententes – **Comportements d'entreprises dans le secteur des transports aériens entre l'Espace économique européen (EEE) et les pays tiers qui ont eu lieu sous l'empire des articles 84 et 85 CE** – Action en réparation du préjudice – Compétence des juridictions nationales pour appliquer l'article 81 CE et l'article 53 de l'accord EEE.

[EUR-Lex - 62019CJ0819](#)

Case T-612/17. Judgment of the General Court (Ninth Chamber, Extended Composition) of 10 November 2021. Google LLC, anciennement Google Inc. and Alphabet, Inc. v European Commission.

Competition – Abuse of dominant position – Online general search services and specialised product search services – Decision finding an infringement of Article 102 TFEU and Article 54 of the EEA Agreement – Leveraging abuse – Competition on the merits or anticompetitive practice – Conditions of access by competitors to a dominant undertaking's service the use of which cannot be effectively replaced – **Dominant undertaking favouring the display of results from its own specialised search service** – Effects – Need to establish a counterfactual scenario – None – Objective justifications – None – Possibility of imposing a fine having regard to certain circumstances – Guidelines on the method of setting fines – Unlimited jurisdiction.

[EUR-Lex - 62017TJ0612](#)

6. Customs

Community Legislation

Council Regulation (EU) 2021/2048 of 23 November 2021 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands

[EUR-Lex - 32021R2048](#)

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

Commission Regulation (EU) 2021/2036 of 19 November 2021 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard 17 (Text with EEA relevance)

[EUR-Lex - 32021R2036](#)

Case Law

Case C-437/19. Judgment of the Court (Third Chamber) of 25 November 2021. État du Grand-duché de Luxembourg v L.

Reference for a preliminary ruling – **Administrative cooperation in the field of taxation** – Directive 2011/16/EU – Article 1(1), Article 5 and Article 20(2) – Request for information – Decision ordering that information be provided – Refusal to comply with the order – Penalty – ‘Foreseeable relevance’ of the requested information – Absence of identification of the taxpayers concerned individually and by name – **Concept of ‘identity of the person under examination or investigation’** – Statement of reasons of the request for information – Scope – Charter of Fundamental Rights of the European Union – Article 47 – **Right to an effective remedy against the decision ordering that information be provided** – Article 52(1) – Limitation – Respect for the essence of the right.

[EUR-Lex - 62019CJ0437](#)

Case C-334/20. Judgment of the Court (Seventh Chamber) of 25 November 2021. Amper Metal Kft v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága.

Reference for a preliminary ruling – Common system of value added tax (VAT) – Directive 2006/112/EC – Article 2 – **Transaction subject to VAT** – Concept – Article 168(a), and Article 176 – Right to deduct input VAT – Refusal – **Advertising services categorised as excessively expensive and not beneficial by the tax authority** – Lack of turnover generated by the taxable person.

[EUR-Lex - 62020CJ0334](#)

Case C-281/20. Judgment of the Court (Fifth Chamber) of 11 November 2021. Ferimet SL v Administración General del Estado. Request for a preliminary ruling from the Tribunal Supremo.

Reference for a preliminary ruling – Taxation – **Value added tax (VAT)** – Directive 2006/112/EC – Article 168 – Right of deduction – Article 199 – Reverse charge procedure – Principle of fiscal neutrality – Material conditions governing the right to deduct – Supplier’s status as taxable person – Burden of proof – Fraud – Abusive practice – **Invoice referring to a fictitious supplier.**

[EUR-Lex - 62020CJ0281](#)

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-233/20. Judgment of the Court (Seventh Chamber) of 25 November 2021. WD v job-medium GmbH, en liquidation.

Reference for a preliminary ruling – Social policy – Directive 2003/88/EC – Protection of the safety and health of workers – Article 7(1) – **Right to an allowance in lieu of paid annual leave not taken before the end of the employment relationship** – Early termination of the employment relationship by the employee.

[EUR-Lex - 62020CJ0233](#)

Case C-214/20. Judgment of the Court (Fifth Chamber) of 11 November 2021. MG v Dublin City Council. Request for a preliminary ruling from the The Labour Court, Ireland.

Reference for a preliminary ruling – Protection of the safety and health of workers – Organisation of working time – Directive 2003/88/EC – Article 2 – **Concept of ‘working time’ – Retained firefighter** – Stand-by time according to a stand-by system – Pursuit, during the period of stand-by time, of a self-employed professional activity – Constraints arising from the stand-by system.

[EUR-Lex - 62020CJ0214](#)

Affaire C-948/19. Arrêt de la Cour (deuxième chambre) du 11 novembre 2021. UAB « Manpower Lit » contre E.S. e.a. Demande de décision préjudicielle, introduite par le Lietuvos Aukščiausiasis Teismas.

Renvoi préjudiciel – Politique sociale – **Travail intérimaire** – Directive 2008/104/CE – Article 1er – Champ d’application – Notions d’“entreprise publique” et d’“exercice d’une activité économique” – Agences de l’Union européenne – Institut européen pour l’égalité entre les hommes et les femmes (EIGE) en tant qu’“entreprise utilisatrice”, au sens de l’article 1er, paragraphe 2, de cette directive – Article 5, paragraphe 1 – **Principe d’égalité de traitement** – Conditions essentielles de travail et d’emploi – Notion de “même poste” – Règlement (CE) no 1922/2006 – Article 335 TFUE – Principe de l’autonomie administrative des institutions de l’Union – Article 336 TFUE – Statut des fonctionnaires de l’Union européenne et régime applicable aux autres agents de l’Union.

[EUR-Lex - 62019CJ0948](#)

10. Energy and Environment

Case Law

Case C-271/20. Judgment of the Court (Fifth Chamber) of 25 November 2021. Aurubis AG v Bundesrepublik Deutschland.

Reference for a preliminary ruling – **Scheme for greenhouse gas emission allowance trading** – Free allocation of allowances – Decision 2011/278/EU – Article 3(d) – Fuel benchmark sub-installation – Concepts of ‘combustion’ and ‘fuel’ – Primary copper production by flash smelting – Request for allocation – **Allowances requested and not yet allocated on the date of expiry of a trading period** – Possibility of issuing such allowances during the subsequent trading period by way of enforcement of a judicial decision given after that date.

[EUR-Lex - 62020CJ0271](#)

Affaire C-315/20. Arrêt de la Cour (huitième chambre) du 11 novembre 2021. Regione Veneto contre Plan Eco S.r.l. Demande de décision préjudicielle, introduite par le Consiglio di Stato.

Renvoi préjudiciel – Environnement – Règlement (CE) no 1013/2006 – **Transferts de déchets** – Article 3, paragraphe 5, et article 11, paragraphe 1, sous i) – Directive 2008/98/CE – Gestion des déchets – Article 16 – Principes d'autosuffisance et de proximité – Décision 2000/532/CE – Catalogue européen des déchets (CED) – Déchets municipaux en mélange soumis à un traitement mécanique ne modifiant pas leur nature.

[EUR-Lex - 62020CJ0315](#)

Case C-938/19. Judgment of the Court (Fifth Chamber) of 11 November 2021. Energieversorgungszentrum Dresden-Wilschdorf GmbH & Co. KG v Bundesrepublik Deutschland. Request for a preliminary ruling from the Verwaltungsgericht Berlin.

Reference for a preliminary ruling – Environment – Directive 2003/87/EC – **Greenhouse gas emission allowance trading scheme** – Article 2(1) – Scope – Article 3(e) – Concept of 'installation' – Effect on emissions and pollution – Ancillary units not generating as such greenhouse gas emissions – Article 10a – Transitional rules for free allocation of allowances – Data Collection Template – Corrected eligibility ratio – Method of calculation – Decision 2011/278/EU – Third subparagraph of Article 6(1) – Export of cooling to an entity that belongs to a sector exposed to a significant risk of carbon leakage.

[EUR-Lex - 62019CJ0938](#)

11. Food Safety, Public Health and Consumers

Community Legislation

Commission Implementing Regulation (EU) 2021/2071 of 25 November 2021 subjecting **certain vaccines and active substances used for the manufacture of such vaccines to export surveillance**

[EUR-Lex - 32021R2071](#)

Case Law

Case C-102/20. Judgment of the Court (Third Chamber) of 25 November 2021. StWL Städtische Werke Lauf a.d. Pegnitz GmbH v eprimo GmbH.

Reference for a preliminary ruling – Directive 2002/58/EC – **Processing of personal data and the protection of privacy in the electronic communications sector** – Article 2(h) – Concept of 'electronic mail' – Article 13(1) – **Concept of 'use of ... electronic mail for the purposes of direct marketing'** – Directive 2005/29/EC – Unfair commercial practices – Annex I, point 26 – Concept of 'persistent and unwanted solicitations by email' – Advertising messages – Inbox advertising.

[EUR-Lex - 62020CJ0102](#)

Affaire C-212/20. Arrêt de la Cour (septième chambre) du 18 novembre 2021. M.P. et B.P. contre « A. » prowadzący działalność za pośrednictwem « A. » S.A. Demande de décision préjudicielle, introduite par le Sąd Rejonowy dla Warszawy – Woli w Warszawie II Wydział Cywilny.

Renvoi préjudiciel – **Protection des consommateurs** – Directive 93/13/CEE – Clauses abusives dans les contrats conclus avec les consommateurs – **Contrat de prêt hypothécaire indexé sur une devise étrangère** – Clause contractuelle relative au cours d'achat et de vente d'une devise étrangère – Exigence d'intelligibilité et de transparence – Pouvoirs du juge national.

[EUR-Lex - 62020CJ0212](#)

Affaire C-388/20. Arrêt de la Cour (huitième chambre) du 11 novembre 2021. Bundesverband der Verbraucherzentralen und Verbraucherverbände – Verbraucherzentrale Bundesverband eV contre Dr. August Oetker Nahrungsmittel KG. Demande de décision préjudicielle, introduite par le Bundesgerichtshof.

Renvoi préjudiciel – Règlement (UE) no 1169/2011 – **Information des consommateurs sur les denrées alimentaires** – Article 9, paragraphe 1, point l – Déclaration nutritionnelle – Article 31, paragraphe 3, second alinéa – Calcul de la valeur énergétique et des quantités de nutriments – Possibilité de fournir ces informations pour la denrée alimentaire une fois préparée – Conditions – Article 33, paragraphe 2, second alinéa – Expression par portion ou par unité de consommation.

[EUR-Lex - 62020CJ0388](#)

12. Human Rights

Case Law

Case C-437/19. Judgment of the Court (Third Chamber) of 25 November 2021. État du Grand-duché de Luxembourg v L.

Reference for a preliminary ruling – **Administrative cooperation in the field of taxation** – Directive 2011/16/EU – Article 1(1), Article 5 and Article 20(2) – Request for information – Decision ordering that information be provided – Refusal to comply with the order – Penalty – ‘Foreseeable relevance’ of the requested information – Absence of identification of the taxpayers concerned individually and by name – **Concept of ‘identity of the person under examination or investigation’** – Statement of reasons of the request for information – Scope – **Charter of Fundamental Rights of the European Union – Article 47 – Right to an effective remedy against the decision ordering that information be provided** – Article 52(1) – Limitation – Respect for the essence of the right.

[EUR-Lex - 62019CJ0437](#)

Case C-140/20. Opinion of Advocate General Campos Sánchez-Bordona delivered on 18 November 2021. G.D. v The Commissioner of the Garda Síochána, Minister for Communications, Energy and Natural Resources, Attorney General. Request for a preliminary ruling from the Supreme Court (Ireland).

(Reference for a preliminary ruling – Telecommunications – **Processing of personal data** – Confidentiality of communications – Electronic communications service providers – Directive 2002/58/EC – Article 15(1) – Article 4(2) TEU – **Charter of Fundamental Rights of the European Union – Articles 7, 8, 11 and 52(1) – General and indiscriminate retention of traffic and location data** – Access to retained data – Use of retained data as evidence in criminal proceedings)

[EUR-Lex - 62020CC0140](#)

Case C-564/19. Judgment of the Court (Grand Chamber) of 23 November 2021. Request for a preliminary ruling from the Pesti Központi Kerületi Bíróság (Central District Court, Pest, Hungary)

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive 2010/64/EU – Article 5 – Quality of the interpretation and translation – Directive 2012/13/EU – **Right to information in criminal proceedings** – Article 4(5) and Article 6(1) – Right to information about the accusation – **Right to interpretation and translation** – Directive 2016/343/EU – **Right to an effective remedy and to a fair trial** – Article 48(2) of the Charter of Fundamental Rights of the European Union – Article 267 TFEU – Second subparagraph of Article 19(1) TEU – Admissibility – Appeal in the interests of the law against a decision ordering a reference for a preliminary ruling – Disciplinary proceedings – Power of the higher court to declare the request for a preliminary ruling unlawful.

[EUR-Lex - 62019CJ0564](#)

Joined Cases C-748/19 to C-754/19. Judgment of the Court (Grand Chamber) of 16 November 2021. Criminal proceedings against WB and Others. Requests for a preliminary ruling from the Sąd Okręgowy w Warszawie. References for a preliminary ruling – Rule of law – **Independence of the judiciary** – Second subparagraph of Article 19(1) TEU – **National legislation providing the possibility for the Minister for Justice to second judges to higher courts and to terminate those secondments** – Adjudicating panels in criminal cases including judges seconded by the Minister for Justice – Directive (EU) 2016/343 – Presumption of innocence.

[EUR-Lex - 62019CJ0748](#)

Affaire C-852/19. Arrêt de la Cour (première chambre) du 11 novembre 2021. Procédure pénale contre Ivan Gavanozov. Demande de décision préjudicielle, introduite par le Spetsializiran nakazatelen sad.

Renvoi préjudiciel – Coopération judiciaire en matière pénale – Directive 2014/41/UE – **Décision d'enquête européenne en matière pénale** – Article 14 – Recours – Charte des droits fondamentaux de l'Union européenne – Article 47 – **Absence de voies de recours dans l'État membre d'émission** – Décision ordonnant des perquisitions, des saisies et une audition de témoin par vidéoconférence.

[EUR-Lex - 62019CJ0852](#)

13. Internal Market and Free Movement

Case Law

Case C-488/20. Judgment of the Court (Third Chamber) of 25 November 2021. Delfarma Sp. z o.o. v Prezes Urzędu Rejestracji Produktów Leczniczych, Wyrobów Medycznych i Produktów Biobójczych.

Reference for a preliminary ruling – Articles 34 and 36 TFUE – Free movement of goods – Measure having equivalent effect to a quantitative restriction – Medicinal products for human use – Parallel import of medicinal products – **Legislation of a Member State under which a parallel import licence is to expire automatically after one year from the expiry of the marketing authorisation for the reference medicinal product** – Protection of the health and life of humans – Proportionality – Directive 2001/83/EC – Pharmacovigilance.

[EUR-Lex - 62020CJ0488](#)

14. Intellectual Property

Nothing to report for the period under review.

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

Case Law

Case C-25/20. Judgment of the Court (Ninth Chamber) of 25 November 2021. Proceedings brought by ALPINE BAU GMBH, Salzburg - Podružnica Celje - v stečaju and NK, syndic de la procédure principale d'insolvabilité contre ALPINE BAU GmbH.

Reference for a preliminary ruling – Judicial cooperation in civil matters – Insolvency proceedings – Regulation (EC) No 1346/2000 – Articles 4 and 28 – Article 32(2) – Time limit for the lodging of claims in insolvency proceedings – Lodging, in secondary insolvency proceedings ongoing in a Member State, of claims by the liquidator in the main proceedings pending in another Member State – **Compulsory time limit laid down by the law of the State in which secondary insolvency proceedings have been opened.**

[EUR-Lex - 62020CJ0025](#)

Case C-289/20. Judgment of the Court (Third Chamber) of 25 November 2021. IB v FA.

Reference for a preliminary ruling – Judicial cooperation in civil matters – Regulation (EC) No 2201/2003 – **Jurisdiction to hear divorce applications** – Article 3(1)(a) – **‘Habitual residence’ of an applicant.**

[EUR-Lex - 62020CJ0289](#)

Case C-564/19. Judgment of the Court (Grand Chamber) of 23 November 2021. Request for a preliminary ruling from the Pesti Központi Kerületi Bíróság (Central District Court, Pest, Hungary)

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive 2010/64/EU – Article 5 – Quality of the interpretation and translation – Directive 2012/13/EU – **Right to information in criminal proceedings** – Article 4(5) and Article 6(1) – Right to information about the accusation – **Right to interpretation and translation** – Directive 2016/343/EU – **Right to an effective remedy and to a fair trial** – Article 48(2) of the Charter of Fundamental Rights of the European Union – Article 267 TFEU – Second subparagraph of Article 19(1) TEU – Admissibility – Appeal in the interests of the law against a decision ordering a reference for a preliminary ruling – Disciplinary proceedings – Power of the higher court to declare the request for a preliminary ruling unlawful.

[EUR-Lex - 62019CJ0564](#)

Case C-479/21 PPU. Judgment of the Court (Grand Chamber) of 16 November 2021. SN and SD v Governor of Cloverhill Prison and Others. Request for a preliminary ruling from the Supreme Court.

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Article 50 TEU – 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 217 TFEU – Trade and Cooperation Agreement with the United Kingdom – Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice – Judicial cooperation in criminal matters – European arrest warrant – Framework Decision 2002/584/JHA – **Continuation under the Withdrawal Agreement, on a transitional basis, of the European arrest warrant regime in respect of the United Kingdom** – Application to a European arrest warrant of provisions relating to the surrender mechanism established by the Trade and Cooperation Agreement with the United Kingdom – Regimes binding on Ireland.

[EUR-Lex - 62021CJ0479](#)

Case C-821/19. Judgment of the Court (Grand Chamber) of 16 November 2021. European Commission v Hungary.

Actions for failure to fulfil obligations – Area of freedom, security and justice – Asylum policy – Directives 2013/32/EU and 2013/33/EU – Procedure for granting international protection – Grounds of inadmissibility – **Concepts of ‘safe third country’ and ‘first country of asylum’** – Assistance given to asylum seekers – Criminalisation – Prohibition on entry to the border transit zone of the relevant Member State.

[EUR-Lex - 62019CJ0821](#)

Affaire C-852/19. Arrêt de la Cour (première chambre) du 11 novembre 2021. Procédure pénale contre Ivan Gavanzov. Demande de décision préjudicielle, introduite par le Spetsializiran nakazatelen sad.

Renvoi préjudiciel – Coopération judiciaire en matière pénale – Directive 2014/41/UE – **Décision d’enquête européenne en matière pénale** – Article 14 – Recours – Charte des droits fondamentaux de l’Union européenne – Article 47 – **Absence de voies de recours dans l’État membre d’émission** – Décision ordonnant des perquisitions, des saisies et une audition de témoin par vidéoconférence.

[EUR-Lex - 62019CJ0852](#)

Case C-91/20. Judgment of the Court (Grand Chamber) of 9 November 2021. LW v Bundesrepublik Deutschland. Request for a preliminary ruling from the Bundesverwaltungsgericht.

Reference for a preliminary ruling – Common policy on asylum and subsidiary protection – Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection – Directive 2011/95/EU – Articles 3 and 23 – **More favourable standards capable of being retained or introduced by the Member States for the purposes of extending the refugee or subsidiary protection status of a beneficiary of international protection to family members** – Grant of a parent’s refugee status to his or her minor child as a derived right – Maintaining family unity – **Best interests of the child.**

[EUR-Lex - 62020CJ0091](#)

16. Transport

Community Legislation

Commission Implementing Regulation (EU) 2021/2070 of 25 November 2021 amending Regulation (EC) No 474/2006 as regards the **list of air carriers banned from operating or subject to operational restrictions within the Union** (Text with EEA relevance)

[EUR-Lex - 32021R2070](#)

Case Law

Case C-413/20. Judgment of the Court (Ninth Chamber) of 18 November 2021. État belge v LO and Others. Request for a preliminary ruling from the Tribunal de première instance francophone de Bruxelles.

Reference for a preliminary ruling – Air transport – Regulation (EU) No 1178/2011 – **Technical requirements and administrative procedures related to civil aviation aircrew** – Points 9 and 10 of Subpart A of Appendix 3 to Annex I – Training course for the issue of a commercial pilot licence – Flying training – Instrument ground time – Calculation – Simulator training – Skill test – Principle of legal certainty – Temporal limitation of the effects of a preliminary ruling.

[EUR-Lex - 62020CJ0413](#)

Case C-933/19 P. Judgment of the Court (Second Chamber) of 11 November 2021. Autostrada Wielkopolska S.A. v European Commission.

Appeal – State aid – **Toll-motorway concession** – Law providing for an exemption from tolls for certain vehicles – Compensation granted to the concession holder by the Member State for loss of revenue – Shadow toll – **Compensation found by the European Commission to be excessive and to include State aid** – Commission decision declaring that aid incompatible with the internal market and ordering its recovery – Procedural rights of the aid beneficiary – Commission’s obligation to exercise particular vigilance – Concept of ‘State aid’ – Advantage – Improvement of the concession holder’s expected financial situation – Criterion of the private operator in a market economy – Distortion of the evidence – Breach of the obligation to state reasons – Misreading of the decision at issue – Substitution of grounds – Reversal of the burden of proof – Breach of the principle of primacy of EU law – Judicial review to be conducted by the General Court – Requirements and limits.

[EUR-Lex - 62019CJ0933](#)

Affaire C-819/19. Arrêt de la Cour (deuxième chambre) du 11 novembre 2021. Stichting Cartel Compensation et Equilib Netherlands BV contre Koninklijke Luchtvaart Maatschappij NV e.a. Demande de décision préjudicielle, introduite par le rechtbank Amsterdam.

Renvoi préjudiciel – Articles 81, 84 et 85 CE – Article 53 de l’accord EEE – Ententes – **Comportements d’entreprises dans le secteur des transports aériens entre l’Espace économique européen (EEE) et les pays tiers qui ont eu lieu sous l’empire des articles 84 et 85 CE** – Action en réparation du préjudice – Compétence des juridictions nationales pour appliquer l’article 81 CE et l’article 53 de l’accord EEE.

[EUR-Lex - 62019CJ0819](#)

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

Case Law

Joined Cases C-748/19 to C-754/19. Judgment of the Court (Grand Chamber) of 16 November 2021. Criminal proceedings against WB and Others. Requests for a preliminary ruling from the Sąd Okręgowy w Warszawie. References for a preliminary ruling – Rule of law – Independence of the judiciary – Second subparagraph of Article 19(1) TEU – **National legislation providing the possibility for the Minister for Justice to second judges to higher courts and to terminate those secondments** – Adjudicating panels in criminal cases including judges seconded by the Minister for Justice – Directive (EU) 2016/343 – Presumption of innocence.

[EUR-Lex - 62019CJ0748](#)