



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

EU News: Click & Read

178 – November 2023

European Documentation Centre

Editor: [Henrik Westermark](#) Legal Adviser

This newsletter contains a selection of recent official documents of the European Union. It features information of particular interest to Swiss readers and aims to provide universities, cantonal and federal administrations, legal professionals, as well as corporations with information about the latest legal developments in the European Union. Written in English or French, the newsletter offers links to documents in one of those languages.

We hope you will find this issue both useful and a pleasure to read.

Table of contents

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

Highlights

Case C-148/22. Judgment of the Court (Grand Chamber) of 28 November 2023. OP v Commune d'Ans. Request for a preliminary ruling from the Tribunal du travail de Liège.

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Establishing a general framework for equal treatment in employment and occupation – Prohibition of discrimination on the grounds of religion or belief – Public sector – **Terms of employment of a public administration prohibiting the visible wearing of any philosophical or religious sign in the workplace** – Islamic headscarf – Requirement of neutrality in contacts with the public, hierarchical superiors and colleagues.

[EUR-Lex - 62022CJ0148](#)

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure

[EUR-Lex - 32023R2667](#)

Case C-376/22. Judgment of the Court (Second Chamber) of 9 November 2023. Google Ireland Limited and Others v Kommunikationsbehörde Austria (Komm Austria). Request for a preliminary ruling from the Verwaltungsgerichtshof.

Reference for a preliminary ruling – Directive 2000/31/EC – Information society services – Article 3(1) – Principle of control in the home Member State – Article 3(4) – Derogation from the principle of free movement of information society services – Concept of ‘measures taken against a given information society service’ – Article 3(5) – Possibility of a posteriori notification of measures restricting the free movement of information society services in urgent cases – Failure to provide notification – Enforceability of those measures – **Legislation of a Member State imposing on providers of communication platforms, whether established on its territory or not, a set of obligations relating to the monitoring and notification of allegedly unlawful content** – Directive 2010/13/EU – Audiovisual media services – Video-sharing platform service.

[EUR-Lex - 62022CJ0376](#)

1. EU-Swiss Relations

Community Legislation

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 693/2003 and (EC) No 694/2003 and **Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure**

[EUR-Lex - 32023R2667](#)

2. External Relations / Foreign Policy

Community Legislation

Council Decision (CFSP) 2023/2677 of 27 November 2023 amending Decision (CFSP) 2023/231 on an **assistance measure under the European Peace Facility to support the Ukrainian Armed Forces trained by the European Union Military Assistance Mission in support of Ukraine**

[EUR-Lex - 32023D2677](#)

Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the **protection of the Union and its Member States from economic coercion by third countries**

[EUR-Lex - 32023R2675](#)

Case Law

Case C-682/22. Judgment of the Court (Tenth Chamber) of 23 November 2023. LM v Ministarstvo financija Republike Hrvatske, Samostalni sektor za drugostupanjski upravni postupak. Request for a preliminary ruling from the Upravni sud u Zagrebu.

Reference for a preliminary ruling – Regulation (EC) No 1085/2006 – Assistance granted under the instrument for pre-accession assistance (IPA) – Regulation (EC) No 718/2007 – Article 7(1) and (3) – Conclusion of a framework agreement between the European Commission and the beneficiary country concerned – Rules for cooperation concerning the EU financial assistance granted to that beneficiary country – Taxes and fiscal charges – **IPA framework agreement Albania-EC** – Contract financed by the European Union – Expert having the status neither of an official nor of a member of staff of the European Union – Article 26(2)(c) – Tax exemption in Albania – Tax residence in Croatia – Income tax in Croatia.

[EUR-Lex - 62022CJ0682](#)

3. Agriculture and Fisheries / Maritime Affairs

Case Law

Case C-213/22. Judgment of the Court (Third Chamber) of 23 November 2023. Instituto de Financiamento da Agricultura e Pescas, IP v CS. Request for a preliminary ruling from the Supremo Tribunal Administrativo.

Reference for a preliminary ruling – Common agricultural policy – Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) – **Community aid scheme for forestry measures in agriculture** – Regulation (EEC) No 2080/92 – Article 3, first paragraph, points (b) and (c) – Aid scheme – Maintenance premiums and premiums for loss of income – Conditions for granting – **National legislation laying down a requirement of a minimum reforestation density of the plots** – Failure to comply with the requirement for a reason not attributable to the beneficiary – Obligation to repay the aid – Force majeure – Principle of proportionality.

[EUR-Lex - 62022CJ0213](#)

Case C-354/22. Judgment of the Court (Fifth Chamber) of 23 November 2023. Weingut A v Land Rheinland-Pfalz.

Request for a preliminary ruling from the Bundesverwaltungsgericht.

Reference for a preliminary ruling – Agriculture – Common organisation of the markets – **Labelling and presentation in the wine sector** – Designations of origin and geographical indications – Delegated Regulation (EU) 2019/33 – Second subparagraph of Article 54(1) – **Indication of the holding carrying out the winemaking** – Vineyards and winepress facility under lease from another wine-growing holding – Winemaking entirely carried out on the eponymous wine-growing holding.

[EUR-Lex - 62022CJ0354](#)

Case C-196/22. Judgment of the Court (Third Chamber) of 16 November 2023. IB v Regione Lombardia and Provincia di Pavia. Request for a preliminary ruling from the Corte suprema di cassazione.

Reference for a preliminary ruling – Common agricultural policy – Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) – **Community aid scheme for forestry measures in agriculture** – Regulation (EEC) No 2080/92 – Article 4 – Implementation of the aid scheme by the Member States by means of multiannual programmes – Protection of the Union’s financial interests – Regulation (EC, Euratom) No 2988/95 – Article 1 – Concept of ‘irregularity’ – Article 2 – Effective, proportionate and dissuasive nature of administrative measures and penalties – Article 4 – Withdrawal of the wrongly obtained advantage – Detailed rules for applying the integrated administration and control system for certain European Union aid schemes – **National legislation providing for disqualification from receiving aid and repayment of the sums received in the event that irregularities are found** – Principle of proportionality.

[EUR-Lex - 62022CJ0196](#)

4. Audiovisual and Media and Information Society

Case Law

Case C-333/22. Judgment of the Court (Fifth Chamber) of 16 November 2023. Ligue des droits humains ASBL and BA v Organe de contrôle de l’information policière. Request for a preliminary ruling from the Cour d’appel de Bruxelles.

Reference for a preliminary ruling – Protection of natural persons with regard to the processing of personal data – Directive (EU) 2016/680 – Article 17 – Exercise of the rights of the data subject through the supervisory authority – Verification of the lawfulness of the data processing – Article 17(3) – **Obligation to provide the data subject with a minimum of information** – Scope – Validity – Article 53 – **Right to seek an effective judicial remedy against the supervisory authority** – Concept of a ‘legally binding decision’ – Charter of Fundamental Rights of the European Union – Article 8(3) – Control by an independent authority – Article 47 – Right to effective judicial protection.

[EUR-Lex - 62022CJ0333](#)

Case C-376/22. Judgment of the Court (Second Chamber) of 9 November 2023. Google Ireland Limited and Others v Kommunikationsbehörde Austria (Komm Austria). Request for a preliminary ruling from the Verwaltungsgerichtshof.

Reference for a preliminary ruling – Directive 2000/31/EC – Information society services – Article 3(1) – Principle of control in the home Member State – Article 3(4) – Derogation from the principle of free movement of information society services – Concept of ‘measures taken against a given information society service’ – Article 3(5) – Possibility of a posteriori notification of measures restricting the free movement of information society services in urgent cases – Failure to provide notification – Enforceability of those measures – **Legislation of a Member State imposing on providers of communication platforms, whether established on its territory or not, a set of obligations relating to the monitoring and notification of allegedly unlawful content** – Directive 2010/13/EU – Audiovisual media services – Video-sharing platform service.

[EUR-Lex - 62022CJ0376](#)

5. Competition and State Aid

Case Law

Case C-210/21 P. Judgment of the Court (Fourth Chamber) of 23 November 2023. Ryanair DAC v European Commission.

Appeal – State aid – Article 107(2)(b) TFEU – French air transport market – Aid scheme notified by the French Republic – **Deferral of the payment of airline taxes and charges to support airlines amid the COVID-19 pandemic** – Temporary Framework for State aid measures – Decision by the European Commission not to raise objections – **Aid intended to make good the damage suffered as a result of an exceptional occurrence** – Principles of proportionality and non-discrimination – Free provision of services.

[EUR-Lex - 62021CJ0210](#)

6. Customs

Case Law

Case C-653/22. Judgment of the Court (Fourth Chamber) of 23 November 2023. J. P. Mali Kerékpárgyártó és Forgalmazó Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Customs union – Regulation (EU) No 952/2013 – Article 42(1) – **Obligation on the Member States to provide for effective, proportionate and dissuasive penalties for failure to comply with the customs legislation** – Incorrect declaration of the country of origin of the imported goods – **National legislation providing for a fine corresponding to 50% of the shortfall in customs duties** – Principle of proportionality.

[EUR-Lex - 62022CJ0653](#)

7. Economic and Monetary Affairs, Taxation, Enterprise

Case Law

Case C-532/22.

Judgment of the Court (Tenth Chamber) of 23 November 2023. Direcția Generală Regională a Finanțelor Publice Cluj-Napoca and Administrația Județeană a Finanțelor Publice Cluj v SC Westside Unicat.

Request for a preliminary ruling from the Curtea de Apel Cluj.

Reference for a preliminary ruling – **Common system of value added tax (VAT)** – Directive 2006/112/EC – Article 53 – **Services in respect of admissions to entertainment events** – Place of supply of services – Streaming of interactive video sessions – Making available of a location and of the equipment necessary for the video capture of performances and for the implementation of accompaniment in order to provide quality performances.

[EUR-Lex - 62022CJ0532](#)

Case C-391/22. Judgment of the Court (Tenth Chamber) of 16 November 2023. Tüke Busz Közösségi Közlekedési Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága. Request for a preliminary ruling from the Pécsi Törvényszék.

Reference for a preliminary ruling – **Taxation of energy products and electricity** – Directive 2003/96/EC – Article 7(2) and (3) – Differentiated rates of taxation according to the commercial or private use of gas oil – Concept of ‘commercial gas oil used as propellant’ – Gas oil used for the carriage of passengers by regular service – **National legislation providing for the reimbursement of excise duty with the exception of gas oil consumed during journeys made for the purpose of maintaining or refuelling passenger vehicles.**

[EUR-Lex - 62022CJ0391](#)

Case C-318/22. Judgment of the Court (Ninth Chamber) of 16 November 2023. GE Infrastructure Hungary Holding Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága. Request for a preliminary ruling from the Fővárosi Törvényszék.

Reference for a preliminary ruling – Approximation of laws – **Common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares** – Directive 2009/133/EC – Partial division – Purely internal situation – No reduction in share capital – Company holding 100% of the share capital of the transferring company.

[EUR-Lex - 62022CJ0318](#)

Case C-349/22. Judgment of the Court (Eighth Chamber) of 16 November 2023. NM v Autoridade Tributária e Aduaneira. Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa - CAAD).

Reference for a preliminary ruling – Article 110 TFEU – Internal taxation – **Prohibition of discriminatory taxation** – Tax on vehicles – **Second-hand vehicles imported from other Member States** – Application of different tax rates depending on the date of registration of a vehicle in Portugal.

[EUR-Lex - 62022CJ0349](#)

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

Nothing to report for the period under review.

9. Employment and Social Affairs

Community Legislation

Directive (EU) 2023/2668 of the European Parliament and of the Council of 22 November 2023 amending Directive 2009/148/EC on the **protection of workers from the risks related to exposure to asbestos at work**

[EUR-Lex - 32023L2668](#)

Case Law

Case C-270/22. Judgment of the Court (First Chamber) of 30 November 2023. G.D. and Others v Ministero dell'Istruzione and Istituto nazionale della previdenza sociale (INPS). Request for a preliminary ruling from the Tribunale ordinario di Ravenna.

Reference for a preliminary ruling – Social policy – Directive 1999/70/EC – **Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP** – Clause 4 – Public sector – Teachers – **Employment of fixed-term workers as career civil servants through recruitment based on qualifications** – Determination of the period of service deemed accrued.

[EUR-Lex - 62022CJ0270](#)

Case C-148/22. Judgment of the Court (Grand Chamber) of 28 November 2023. OP v Commune d'Ans. Request for a preliminary ruling from the Tribunal du travail de Liège.

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Establishing a general framework for equal treatment in employment and occupation – Prohibition of discrimination on the grounds of religion or belief – Public sector – **Terms of employment of a public administration prohibiting the visible wearing of any philosophical or religious sign in the workplace** – Islamic headscarf – Requirement of neutrality in contacts with the public, hierarchical superiors and colleagues.

[EUR-Lex - 62022CJ0148](#)

Joined Cases C-583/21 to C-586/21. Judgment of the Court (Fourth Chamber) of 16 November 2023. NC and Others v BA and Others. Requests for a preliminary ruling from the Juzgado de lo Social de Madrid.

Reference for a preliminary ruling – Directive 2001/23/EC – Article 1(1) – **Safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses – Transfer of a notarial practice** – Declaration as to the nullity or unfairness of the dismissal of employees – Determination of seniority for the calculation of compensation – Applicability of the directive – Conditions.

[EUR-Lex - 62021CJ0583](#)

Joined Cases C-271/22 to C-274/22. Judgment of the Court (First Chamber) of 9 November 2023. XT and Others v Keolis Agen SARL. Requests for a preliminary ruling from the Conseil de Prud’hommes d’Agen.

Reference for a preliminary ruling – Social policy – **Organisation of working time** – Directive 2003/88/EC – Article 7 – Right to paid annual leave – **Carry-over of entitlements to paid annual leave in the event of long-term illness** – Charter of Fundamental Rights of the European Union – Article 31(2).

[EUR-Lex - 62022CJ0271](#)

Case C-477/22. Judgment of the Court (Third Chamber) of 9 November 2023. ARST SpA – Azienda regionale sarda trasporti v TR and Others. Request for a preliminary ruling from the Corte suprema di cassazione.

Reference for a preliminary ruling – **Road transport – Harmonisation of certain social legislation** – Regulation (EC) No 561/2006 – Article 3(a) – Concept of ‘route covered by the service in question [not exceeding] 50 km’ – Carriage by road by vehicles used for the carriage of passengers on regular services – Route covered by the service in question not exceeding 50 km – Non-application of Regulation No 561/2006 – Mixed-use vehicles – Article 4(e) and (j) – Concepts of ‘other work’ and ‘driving time’ – Article 6(3) and (5) – Total driving time over two consecutive weeks – **Time spent driving a vehicle excluded from the scope of that regulation.**

[EUR-Lex - 62022CJ0477](#)

10. Energy and Environment

Case Law

Case C-84/22. Judgment of the Court (Fourth Chamber) of 23 November 2023. Right to Know CLG v An Taoiseach. Request for a preliminary ruling from the High Court (Ireland).

Reference for a preliminary ruling – Environment – **Aarhus Convention** – Directive 2003/4/EC – **Public access to environmental information** – Refusal of a request for information – Records of government meetings – Discussions relating to greenhouse gas emissions – Article 4(1) and (2) – Exceptions to the right of access to information – Concepts of ‘internal communications’ and ‘proceedings of public authorities’ – Judicial review – Quashing of the decision refusing access – Applicable exception identified in the judgment – Res judicata.

[EUR-Lex - 62022CJ0084](#)

Case C-391/22. Judgment of the Court (Tenth Chamber) of 16 November 2023. Tüke Busz Közösségi Közlekedési Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága. Request for a preliminary ruling from the Pécsi Törvényszék.

Reference for a preliminary ruling – **Taxation of energy products and electricity** – Directive 2003/96/EC – Article 7(2) and (3) – Differentiated rates of taxation according to the commercial or private use of gas oil – Concept of ‘commercial gas oil used as propellant’ – Gas oil used for the carriage of passengers by regular service – **National legislation providing for the reimbursement of excise duty with the exception of gas oil consumed during journeys made for the purpose of maintaining or refuelling passenger vehicles.**

[EUR-Lex - 62022CJ0391](#)

11. Food Safety, Public Health and Consumers

Case Law

Case C-321/22. Judgment of the Court (Fourth Chamber) of 23 November 2023. ZL and Others v Provident Polska S.A. Request for a preliminary ruling from the Sąd Rejonowy dla Warszawy - Śródmieścia w Warszawie. Reference for a preliminary ruling – Consumer protection – Directive 93/13/EEC – Unfair terms in consumer contracts – **Consumer credit agreement** – Article 3(1) – Significant imbalance – **Non-interest credit costs** – Article 7(1) – Action for a declaratory judgment – Interest in bringing proceedings – Article 6(1) – Finding that a term is unfair – Consequences.

[EUR-Lex - 62022CJ0321](#)

Case C-598/21. Judgment of the Court (Fourth Chamber) of 9 November 2023. SP and CI v Všeobecná úverová banka a.s. Request for a preliminary ruling from the Krajský súd v Prešove.

Reference for a preliminary ruling – Unfair terms in consumer contracts – Consumer credit contract – Directive 93/13/EEC – Article 1(2) – Term reflecting a mandatory statutory provision – Article 3(1), Article 4(1), Article 6(1) and Article 7(1) – Acceleration clause – Judicial review – **Proportionality with regard to the consumer breaches of contract** – Articles 7 and 38 of the Charter of Fundamental Rights of the European Union – **Contract secured by a charge on immovable property** – Extrajudicial sale of the consumer's home.

[EUR-Lex - 62021CJ0598](#)

12. Human Rights

Case Law

Joined Cases C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21. Judgment of the Court (Second Chamber) of 30 November 2023. Ministero dell'Interno, Dipartimento per le Libertà civili e l'Immigrazione – Unità Dublino and Others v CZA and Others.

Requests for a preliminary ruling from the Corte suprema di cassazione, Tribunale ordinario di Roma, Tribunale Ordinario di Firenze, Tribunale di Milano and Tribunale di Trieste.

Reference for a preliminary ruling – Asylum policy – Regulation (EU) No 604/2013 – Articles 3 to 5, 17 and 27 – Regulation (EU) No 603/2013 – Article 29 – Regulation (EU) No 1560/2003 – Annex X – Right to information of the applicant for international protection – Common leaflet – Personal interview – **Application for international protection previously lodged in a first Member State – New application lodged in a second Member State** – Illegal stay in the second Member State – Take back procedure – Infringement of the right to information – No personal interview – Protection against the risk of indirect refoulement – Mutual trust – Judicial review of the transfer decision – Scope – **Finding of the existence, in the requested Member State, of systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection** – Discretionary clauses – Risk of infringement of the principle of non-refoulement in the requested Member State.

[EUR-Lex - 62021CJ0228](#)

Case C-148/22. Judgment of the Court (Grand Chamber) of 28 November 2023. OP v Commune d'Ans. Request for a preliminary ruling from the Tribunal du travail de Liège.

Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Establishing a general framework for equal treatment in employment and occupation – Prohibition of discrimination on the grounds of religion or belief – Public sector – **Terms of employment of a public administration prohibiting the visible wearing of any philosophical or religious sign in the workplace** – Islamic headscarf – Requirement of neutrality in contacts with the public, hierarchical superiors and colleagues.

[EUR-Lex - 62022CJ0148](#)

Case C-333/22. Judgment of the Court (Fifth Chamber) of 16 November 2023. Ligue des droits humains ASBL and BA v Organe de contrôle de l'information policière. Request for a preliminary ruling from the Cour d'appel de Bruxelles.

Reference for a preliminary ruling – Protection of natural persons with regard to the processing of personal data – Directive (EU) 2016/680 – Article 17 – Exercise of the rights of the data subject through the supervisory authority – Verification of the lawfulness of the data processing – Article 17(3) – **Obligation to provide the data subject with a minimum of information** – Scope – Validity – Article 53 – **Right to seek an effective judicial remedy against the supervisory authority** – Concept of a 'legally binding decision' – Charter of Fundamental Rights of the European Union – Article 8(3) – Control by an independent authority – Article 47 – Right to effective judicial protection.

[EUR-Lex - 62022CJ0333](#)

Case C-175/22. Judgment of the Court (Fourth Chamber) of 9 November 2023. Criminal proceedings against BK. Request for a preliminary ruling from the Spetsializiran nakazatelen sad.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive 2012/13/EU – Right to information in criminal proceedings – Article 6 – Right to information about the accusation – Article 6(4) – Changes in the information given – **Amendment of the classification of the criminal offence – Obligation to inform the accused person in due time and to offer him or her the opportunity to put forward his or her arguments regarding the new envisaged classification** – Effective exercise of the rights of the defence – Fairness of the proceedings – 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 3 – Presumption of innocence – Article 7(2) – Right not to incriminate oneself – Second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union – Requirement that the criminal court or tribunal be impartial – Reclassification of the offence on the initiative of the criminal court or tribunal or on the basis of a proposal from the accused person.

[EUR-Lex - 62022CJ0175](#)

Joined Cases C-271/22 to C-274/22. Judgment of the Court (First Chamber) of 9 November 2023. XT and Others v Keolis Agen SARL. Requests for a preliminary ruling from the Conseil de Prud'hommes d'Agen.

Reference for a preliminary ruling – Social policy – **Organisation of working time** – Directive 2003/88/EC – Article 7 – Right to paid annual leave – **Carry-over of entitlements to paid annual leave in the event of long-term illness** – Charter of Fundamental Rights of the European Union – Article 31(2).

[EUR-Lex - 62022CJ0271](#)

Case C-819/21. Judgment of the Court (Fourth Chamber) of 9 November 2023. Staatsanwaltschaft Aachen v M.D. Request for a preliminary ruling from the Landgericht Aachen.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – **Recognition of judgments imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in another Member State** – Framework Decision 2008/909/JHA – Article 3(4) and Article 8 – Refusal to enforce – Second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union – **Fundamental right to a fair trial before an independent and impartial tribunal previously established by law** – Systemic or generalised deficiencies in the issuing Member State – Two-step examination – Revocation of the suspension of execution attached to a custodial sentence imposed by a Member State – Enforcement of that sentence by another Member State.

[EUR-Lex - 62021CJ0819](#)

13. Internal Market and Free Movement

Case Law

Case C-480/22. Judgment of the Court (Tenth Chamber) of 23 November 2023. Request for a preliminary ruling from the Verwaltungsgerichtshof.

Reference for a preliminary ruling – Public contracts – **Review procedures relating to the award of public contracts** – Directive 2014/25/EU – Article 57(3) – **Contracting entity having its head office in a Member State other than that of the head office of a central purchasing body acting in its name and on its behalf** – Access to the review procedures – Applicable procedural rules and jurisdiction of review bodies.

[EUR-Lex - 62022CJ0480](#)

Affaire C-360/22. Arrêt de la Cour (sixième chambre) du 16 novembre 2023. Commission européenne contre Royaume des Pays-Bas.

Manquement d'État – Article 258 TFUE – Libre circulation des travailleurs – Libre prestation de services – Libre circulation des capitaux – Articles 45, 56 et 63 TFUE – Articles 28, 36 et 40 de l'accord sur l'Espace économique européen – **Transfert de la valeur des droits à pension** – Retraite complémentaire constituée par l'intermédiaire de l'employeur – Situation transfrontalière.

[EUR-Lex - 62022CJ0360](#)

Case C-349/22. Judgment of the Court (Eighth Chamber) of 16 November 2023. NM v Autoridade Tributária e Aduaneira. Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa - CAAD).

Reference for a preliminary ruling – Article 110 TFEU – Internal taxation – **Prohibition of discriminatory taxation** – Tax on vehicles – **Second-hand vehicles imported from other Member States** – Application of different tax rates depending on the date of registration of a vehicle in Portugal.

[EUR-Lex - 62022CJ0349](#)

Case C-319/22. Judgment of the Court (Third Chamber) of 9 November 2023. Gesamtverband Autoteile-Handel e.V. v Scania CV AB. Request for a preliminary ruling from the Landgericht Köln.

Reference for a preliminary ruling – Market for motor vehicle repair and maintenance information services – Regulation (EU) 2018/858 – **Approval and market surveillance of repair and maintenance information services for motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles** – Article 61(1) and (2) – Annex X, point 6.1 – Independent operators – Information 'easily accessible in the form of machine-readable and electronically readable data sets' – Regulation (EU) 2016/679 – Article 6(1)(c) – Processing of personal data – Legal obligation on car manufacturers to make vehicle identification numbers (VIN) available to independent operators.

[EUR-Lex - 62022CJ0319](#)

Case C-376/22. Judgment of the Court (Second Chamber) of 9 November 2023. Google Ireland Limited and Others v Kommunikationsbehörde Austria (Komm Austria). Request for a preliminary ruling from the Verwaltungsgerichtshof.

Reference for a preliminary ruling – Directive 2000/31/EC – Information society services – Article 3(1) – Principle of control in the home Member State – Article 3(4) – Derogation from the principle of free movement of information society services – Concept of 'measures taken against a given information society service' – Article 3(5) – Possibility of a posteriori notification of measures restricting the free movement of information society services in urgent cases – Failure to provide notification – Enforceability of those measures – **Legislation of a Member State imposing on providers of communication platforms, whether established on its territory or not, a set of obligations relating to the monitoring and notification of allegedly unlawful content** – Directive 2010/13/EU – Audiovisual media services – Video-sharing platform service.

[EUR-Lex - 62022CJ0376](#)

14. Intellectual Property

Case Law

Case C-260/22. Judgment of the Court (First Chamber) of 23 November 2023. Seven.One Entertainment Group GmbH v Corint Media GmbH. Request for a preliminary ruling from the Landgericht Erfurt.

Reference for a preliminary ruling – Harmonisation of certain aspects of copyright and related rights in the information society – Directive 2001/29/EC – Article 2(e) – Broadcasting organisations – **Reproduction right of fixations of broadcasts** – Article 5(2)(b) – Private copying exception – Fair compensation – Harm to broadcasting organisations – Equal treatment – **National legislation excluding broadcasting organisations from the right to fair compensation.**

[EUR-Lex - 62022CJ0260](#)

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

Community Legislation

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 693/2003 and (EC) No 694/2003 and **Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure**

[EUR-Lex - 32023R2667](#)

Case Law

Joined Cases C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21. Judgment of the Court (Second Chamber) of 30 November 2023. Ministero dell'Interno, Dipartimento per le Libertà civili e l'Immigrazione – Unità Dublino and Others v CZA and Others.

Requests for a preliminary ruling from the Corte suprema di cassazione, Tribunale ordinario di Roma, Tribunale Ordinario di Firenze, Tribunale di Milano and Tribunale di Trieste.

Reference for a preliminary ruling – Asylum policy – Regulation (EU) No 604/2013 – Articles 3 to 5, 17 and 27 – Regulation (EU) No 603/2013 – Article 29 – Regulation (EU) No 1560/2003 – Annex X – Right to information of the applicant for international protection – Common leaflet – Personal interview – **Application for international protection previously lodged in a first Member State – New application lodged in a second Member State** – Illegal stay in the second Member State – Take back procedure – Infringement of the right to information – No personal interview – Protection against the risk of indirect refoulement – Mutual trust – Judicial review of the transfer decision – Scope – **Finding of the existence, in the requested Member State, of systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection** – Discretionary clauses – Risk of infringement of the principle of non-refoulement in the requested Member State.

[EUR-Lex - 62021CJ0228](#)

Case C-175/22. Judgment of the Court (Fourth Chamber) of 9 November 2023. Criminal proceedings against BK. Request for a preliminary ruling from the Spetsializiran nakazatelen sad.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive 2012/13/EU – Right to information in criminal proceedings – Article 6 – Right to information about the accusation – Article 6(4) – Changes in the information given – **Amendment of the classification of the criminal offence – Obligation to inform the accused person in due time and to offer him or her the opportunity to put forward his or her arguments regarding the new envisaged classification** – Effective exercise of the rights of the defence – Fairness of the proceedings – 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 3 – Presumption of innocence – Article 7(2) – Right not to incriminate oneself – Second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union – Requirement that the criminal court or tribunal be impartial – Reclassification of the offence on the initiative of the criminal court or tribunal or on the basis of a proposal from the accused person.

[EUR-Lex - 62022CJ0175](#)

Case C-257/22. Judgment of the Court (Tenth Chamber) of 9 November 2023. CD v Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky. Request for a preliminary ruling from the Krajský soud v Brně.

Reference for a preliminary ruling – Area of freedom, security and justice – **Return of illegally staying third-country nationals** – Directive 2008/115/EC – Article 3(2) – Concept of ‘illegal stay’ – Directive 2013/32/EU – Applicant for international protection – Article 9(1) – Right to remain in the Member State pending the examination of the application – **Return decision adopted before the adoption of the first-instance decision rejecting the application for international protection.**

[EUR-Lex - 62022CJ0257](#)

Case C-819/21. Judgment of the Court (Fourth Chamber) of 9 November 2023. Staatsanwaltschaft Aachen v M.D. Request for a preliminary ruling from the Landgericht Aachen.

Reference for a preliminary ruling – Judicial cooperation in criminal matters – **Recognition of judgments imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in another Member State** – Framework Decision 2008/909/JHA – Article 3(4) and Article 8 – Refusal to enforce – Second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union – **Fundamental right to a fair trial before an independent and impartial tribunal previously established by law** – Systemic or generalised deficiencies in the issuing Member State – Two-step examination – Revocation of the suspension of execution attached to a custodial sentence imposed by a Member State – Enforcement of that sentence by another Member State.

[EUR-Lex - 62021CJ0819](#)

16. Transport

Community Legislation

Directive (EU) 2023/2661 of the European Parliament and of the Council of 22 November 2023 amending Directive 2010/40/EU on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport

[EUR-Lex - 32023L2661](#)

Case Law

Case C-283/22. Judgment of the Court (Eighth Chamber) of 16 November 2023. DZ and Others v Ministerstvo vnútra Slovenskej republiky. Request for a preliminary ruling from the Okresný súd Prešov.

Reference for a preliminary ruling – Carriage by air – Montreal Convention – Article 1(1) and (2) – Scope – Concept of ‘international carriage’ – Article 2(1) – Concept of ‘Carriage performed by the State’ – Article 17(1) – **Liability of air carriers in the event of death or bodily injury of a passenger** – Air carrier and aircraft operator insurance – Regulation (EC) No 785/2004 – Article 1(1) and Article 2(1) and (2)(a) – Scope – Concept of ‘State aircraft’ – Article 4(1) – Minimum insurance requirements for air carriers and aircraft operators – **Crash of a helicopter operated by the public administration of a Member State during a specialised evacuation and rescue training exercise** – Death of an officer of the firefighting and rescue unit participating in that exercise – Compensation.

[EUR-Lex - 62022CJ0283](#)

Case C-319/22. Judgment of the Court (Third Chamber) of 9 November 2023. Gesamtverband Autoteile-Handel e.V. v Scania CV AB. Request for a preliminary ruling from the Landgericht Köln.

Reference for a preliminary ruling – Market for motor vehicle repair and maintenance information services – Regulation (EU) 2018/858 – **Approval and market surveillance of repair and maintenance information services for motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles** – Article 61(1) and (2) – Annex X, point 6.1 – Independent operators – Information ‘easily accessible in the form of machine-readable and electronically readable data sets’ – Regulation (EU) 2016/679 – Article 6(1)(c) – Processing of personal data – Legal obligation on car manufacturers to make vehicle identification numbers (VIN) available to independent operators.

[EUR-Lex - 62022CJ0319](#)

Case C-477/22. Judgment of the Court (Third Chamber) of 9 November 2023. ARST SpA – Azienda regionale sarda trasporti v TR and Others. Request for a preliminary ruling from the Corte suprema di cassazione.

Reference for a preliminary ruling – **Road transport – Harmonisation of certain social legislation** – Regulation (EC) No 561/2006 – Article 3(a) – Concept of ‘route covered by the service in question [not exceeding] 50 km’ – Carriage by road by vehicles used for the carriage of passengers on regular services – Route covered by the service in question not exceeding 50 km – Non-application of Regulation No 561/2006 – Mixed-use vehicles – Article 4(e) and (j) – Concepts of ‘other work’ and ‘driving time’ – Article 6(3) and (5) – Total driving time over two consecutive weeks – **Time spent driving a vehicle excluded from the scope of that regulation.**

[EUR-Lex - 62022CJ0477](#)

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

Nothing to report for the period under review.