

3. Must the phrase 'his or her possessions' (with reference to citizens) in the second sentence of Article 17(1) of the Charter of Fundamental Rights of the European Union be interpreted as also covering remuneration rights?
4. Must the phrase 'in the public interest' in the second sentence of Article 17(1) of the Charter of Fundamental Rights of the European Union be interpreted as relating to 'economic crisis'?
5. Must the words 'use of property, in so far as is necessary for the general interest' in the third sentence of Article 17(1) of the Charter of Fundamental Rights of the European Union be interpreted as covering a '25 % reduction of the salaries of public sector employees'?
6. If the Romanian State were to reduce by 25 % the remuneration of employees paid from public funds, citing as justification the economic crisis and the need to balance the State budget, would that mean that, subsequently, in accordance with the second sentence of Article 17(1) of the Charter of Fundamental Rights of the European Union, the State would be under an obligation to pay those employees fair compensation in good time for the loss sustained?

**Reference for a preliminary ruling from the Landgericht Rostock (Germany) lodged on 13 August 2012 — Criminal proceedings against Per Harald Lökkevik**

(Case C-384/12)

(2012/C 343/05)

*Language of the case: German*

**Referring court**

Landgericht Rostock

**Parties to the main proceedings**

Per Harald Lökkevik

*Other party: Staatsanwaltschaft Rostock*

**Question referred**

Should the concept of an advantage within the meaning of Article 4(3) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995<sup>(1)</sup> be interpreted as meaning that it includes a situation in which it appears that simply a lack of competence of the European Commission has been brought about by statements made in a subsidy procedure for the purposes of avoiding the prescribed notification of regional investment aid projects with total project costs of at least

EUR 50 million laid down in Section 2(1)(i) of the Multisectoral framework on regional aid for large investment projects of 7 April 1998 (OJ 1998 C 107, p. 7)?

<sup>(1)</sup> OJ 1995 L 312, p. 1.

**Reference for a preliminary ruling from the Bundesgerichtshof (Germany), lodged on 15 August 2012 — Hi Hotel HCF SARL v Uwe Spoering**

(Case C-387/12)

(2012/C 343/06)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Appellant on a point of law: Hi Hotel HCF SARL*

*Respondent on a point of law: Uwe Spoering*

**Question referred**

Is Article 5(3) of Regulation (EC) No 44/2001<sup>(1)</sup> to be interpreted as meaning that the harmful event occurred in one Member State (Member State A) in the case where the tort or delict which forms the subject-matter of the proceedings or from which claims are derived was committed in another Member State (Member State B) and consists in participation in the tort or delict (principal act) committed in the first Member State (Member State A)?

<sup>(1)</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

**Reference for a preliminary ruling from the Unabhängiger Verwaltungssenat des Landes Oberösterreich (Austria) lodged on 20 August 2012 — 1. Robert Pfleger and Others**

(Case C-390/12)

(2012/C 343/07)

*Language of the case: German*

**Referring court**

Unabhängiger Verwaltungssenat des Landes Oberösterreich (Austria)

### Parties to the main proceedings

Applicants: Robert Pflieger, Autoart a.s., Mladen Vucicevic, Maroxx Software GmbH, Hans-Jörg Zehetner

### Questions referred

1. Does the principle of proportionality laid down in Article 56 TFEU and in Articles 15 to 17 of the Charter of Fundamental Rights preclude national legislation like the relevant provisions in the main proceedings, Paragraphs 3 to 5 and Paragraphs 14 and 21 of the GSpG, which permits the organisation of games of chance using machines only on the condition — which may be enforced by both criminal penalties and direct intervention — of the prior issue of a licence, which is available only in limited numbers, even though — as far as can be seen — the State has not shown thus far in a single judicial or administrative procedure that associated crime and/or addiction to gambling actually constitute a significant problem which cannot be remedied by a controlled expansion of authorised gaming activities to a large number of individual providers, but only by a controlled expansion, coupled with only moderate advertising, by one monopoly holder (or a small number of oligopolists)?
2. In the event that the first question is to be answered in the negative: Does the principle of proportionality laid down in Article 56 TFEU and in Articles 15 to 17 of the Charter of Fundamental Rights preclude national legislation like Paragraphs 52 to 54 of the GSpG, Paragraph 56a of the GSpG and Paragraph 168 of the StGB by which, as a result of imprecise legal definitions, there is almost complete criminal liability, even for various forms of only very remotely involved (possibly resident in other European Union Member States) persons (such as the mere sellers or lessors of gaming machines)?
3. In the event that the second question is also to be answered in the negative: Do the requirements relating to democracy and the rule of law on which Article 16 of the Charter of Fundamental Rights is clearly based and/or the requirement of fairness and efficiency under Article 47 of the Charter of Fundamental Rights and/or the obligation of transparency under Article 56 TFEU and/or the right not to be tried or punished twice under Article 50 of the Charter of Fundamental Rights preclude national rules like Paragraphs 52 to 54 of the GSpG, Paragraph 56a of the GSpG and Paragraph 168 of the StGB, the delimitation between which is not really foreseeable or predictable *ex ante* for a citizen, in the absence of clear legislative provision, and can be clarified in each specific case only through an expensive formal procedure, but which are associated with extensive differences in terms of competences (administrative authority or court), powers of intervention, the connected stigmatisation in each case and procedural position (e.g. reversal of the burden of proof)?

4. In the event that one of the first three questions is to be answered in the affirmative: Does Article 56 TFEU and/or Articles 15 to 17 of the Charter of Fundamental Rights and/or Article 50 of the Charter of Fundamental Rights preclude the punishment of persons who have one of the close connections with a gaming machine mentioned in Paragraph 2(1)(1) and Paragraph 2(2) of the GSpG and/or the seizure or confiscation of such machines and/or the closure of the entire undertaking owned by such persons?

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**Reference for a preliminary ruling from the Bundesgerichtshof (Germany), lodged on 22 August 2012 — RLvS Verlagsgesellschaft mbH v Stuttgarter Wochenblatt GmbH**

(Case C-391/12)

(2012/C 343/08)

*Language of the case: German*

### Referring court

Bundesgerichtshof

### Parties to the main proceedings

*Appellant on a point of law:* RLvS Verlagsgesellschaft mbH

*Respondent on a point of law:* Stuttgarter Wochenblatt GmbH

### Question referred

Do Article 7(2) and point 11 of Annex I, in conjunction with Articles 4 and 3(5), of the Directive<sup>(1)</sup> preclude the application of a national provision (in this case, Paragraph 10 of the Landespressegesetz Baden-Württemberg (Law governing the Press of the *Land* of Baden-Württemberg)) which is intended not only to protect consumers against misleading practices but also to protect the independence of the press and which, in contrast to Article 7(2) and point 11 of Annex I to the Directive, prohibits any publication for remuneration, irrespective of the purpose thereby pursued, if that publication is not identified by the use of the term 'advertisement', unless it is already evident from the arrangement and layout of the publication that it is an advertisement?

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<sup>(1)</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).