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### RULINGS IN CRIMINAL CASES

**93** I. The separate lapse of the partial actions of the crimes constituting an aggregate is not possible irrespective of the type of the legal aggregate, even in case of a summary crime.

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II. The fact, if the court refers to the announced individual decisions in its order shall not be related to the lawfulness of the evaluation related to the qualification of the judged action, and shall not deprive the court from the freedom of decision-making. These serve the establishment of a uniform judicial practice, orientation in debated legal issues and thus legal certainty. Knowing the separate decisions issued in the Rulings of the Curia enhances law enforcement, and is a means of legal arguments

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II. The private expert opinion attached to the renewal motion by the defendant shall be considered as a comment, thus it is not an evidence means in line with the conditions specified in the Code of Criminal Procedure, thus is not suitable for the establishment of evidence serving as the foundation of new proceedings. In accordance with Section 641, Paragraph (2), the court is entitled to order new proceedings, if the prosecution did not order the same, and the content of the motion for new proceedings makes it possible

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## **RULINGS OF THE COURT OF THE EUROPEAN UNION**

I. Judgement passed in case C-394/18 – I.G.I. Srl versus Maria Grazia Cicenìa and Co. on 20 January 2020

1. Article 12 of Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54(3)(g) of the Treaty, concerning the division of public limited liability companies, as amended by Directive 2007/63/EC of the European Parliament and of the Council of 13 November 2007, read in conjunction with Articles 21 and 22 of Directive 82/891, must be interpreted as not precluding the creditors of the company being divided whose credit interests antedate that division, who did not take advantage of the creditor protection tools provided for in the national legislation implementing that article, from bringing an *actio pauliana* after the division has been implemented, in order to obtain a declaration that the division in question has no effect against them and to bring enforcement or protective action in relation to the assets transferred to the newly formed company.

2. Article 19 of Directive 82/891, as amended by Directive 2007/63, read in conjunction with Articles 21 and 22 of Directive 82/891, which lays down nullity rules for divisions, must be interpreted as not precluding the creditors of the company being divided from bringing, after the division has been implemented, an *actio pauliana* which does not affect the validity of that division but merely allows for that division to be rendered unenforceable against those creditors. 549

II. Judgement passed in case C-395/18 – Tim SpA – Direzione e coordinamento Vivendi SA versus Consip SpA és Ministero dell’Economia e delle Finanze on 30 January 2020

Article 57(4)(a) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC does not preclude national legislation under which the contracting authority has the option, or even the

obligation, to exclude the economic operator who submitted the tender from participation in the contract award procedure where the ground for exclusion referred to in that provision is established in respect of one of the subcontractors mentioned in that operator's tender. However, that provision, read in conjunction with Article 57(6) of that directive, and the principle of proportionality preclude national legislation providing for the automatic nature of such an exclusion. 554

III. Judgement passed in case C-524/18 – Dr. Willmar Schwabe GmbH & Co. KG versus Queisser Pharma GmbH & Co. KG on 30 January 2020

1. Article 10(3) of Regulation number 1924/2006/EC of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods, as amended by Commission Regulation number 107/2008/EC of 15 January 2008 of the European Parliament and of the Council, must be interpreted as meaning that the requirement which it lays down that any reference to general, non-specific benefits of the nutrient or food must be accompanied by a specific health claim included in the lists provided for in Articles 13 or 14 of that regulation, is not satisfied where the packaging of a food supplement contains a reference to general, non-specific health benefits of a nutrient or food on the front of the packaging, whereas the specific health claim intended to accompany it appears only on the back of that packaging and there is no clear reference, such as an asterisk, between the two.

2. Article 10(3) of Regulation number 1924/2006 as amended by Regulation number 107/2008 must be interpreted as meaning that references to general, non-specific benefits of a nutrient or food for overall good health or health-related well-being must be justified by scientific evidence within the meaning of Articles 5(1)(a) and 6(1) of that regulation. To that end, it suffices for such references to be accompanied by specific health claims included in the lists provided for in Article 13 or Article 14 of that regulation. 558

IV. Judgement passed in case C-32/19 – AT versus Pensionsversicherungsanstalt on 22 January 2020

Article 17(1)(a) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation number 1612/68/EEC and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that, for the purpose of acquiring the right of permanent residence in the host Member State before completion of a continuous period of 5 years of residence, the conditions that a person must have been working in that Member State at least for the preceding 12 months and must have resided in that Member State continuously for more than 3 years apply to workers who, at the time they stop working, have reached the age laid down by the law of that Member State for entitlement to an old age pension. 562

## FORUM

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