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Coordination, ambiguity and divergence in legal acts of the European Union

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The semantics of the coordinators 'and' and 'or' play an important role in the multilingual legal acts of the European Union with its 24 official languages. The multiple readings of 'and' and 'or' can lead to ambiguities and content divergences both within a single language version and across several language versions in the synoptical perspective. Therefore, they are frequently at issue in legal interpretation at the Court of Justice of the EU.

The present analysis of exemplary cases heard by the CJEU distinguishes different types of ambiguities and divergences which are based on the use of coordinators: ambiguity of 'and' and 'or', of enumerations, and of scope ("ambit") are discussed here with the help of Germanic and Romance language examples. Scope ambiguity arises in the interaction of coordinators with each other and with other grammatical operators such as negation and modification. Divergences are based on semantically non-convergent uses of coordinators.

Context may cancel out the ambiguity or divergence effect of a coordinator. Several linguistic means are shown to serve as scope barriers which block ambiguities.

Awareness of these facts is of help in drafting legal texts and furnishes pertinent argumentation modules in comparing and interpreting multilingual legal acts.



Die Semantik der Koordinatoren 'und' und 'oder' spielt eine wichtige Rolle in den multilingualen Rechtsakten der Europäischen Union mit ihren 24 Amtssprachen. Die Bandbreiten der Lesarten von 'und' und 'oder' führen zu Ambiguitäten und inhaltlichen Divergenzen sowohl innerhalb einer Sprachfassung wie auch in synoptischer Perspektive über verschiedene Sprachfassungen hinweg. Daher sind Koordinatoren häufig Gegenstand der Rechtsauslegung am Europäischen Gerichtshof.

Die vorliegende Studie einschlägiger Fälle klassifiziert verschiedene Arten von Ambiguitäten und Textdivergenzen durch Koordinatoren: Ambiguität von 'und' und 'oder', von Aufzählungen und des Skopus werden anhand von Beispielen aus germanischen und romanischen Sprachen diskutiert. Skopusambiguität entsteht durch die Interaktion der Koordinatoren miteinander und mit anderen Operatoren, wie Negation und Modifikation. Divergenzen ergeben sich aus nicht-konvergentem Gebrauch von Koordinatoren.

Es wird gezeigt, wie mit dem Kontext den Ambiguitäten und Divergenzen gegengesteuert werden kann und sprachliche Mittel als Skopusbarrieren dienen, die Ambiguität blockieren.

Die Kenntnis solcher Strategien kann bei der Rechtsetzung genutzt werden und stellt für Rechtsvergleich und Rechtsauslegung Argumentationshilfen bereit.

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1. Preliminary remarks

1.1 The aim of this study

<1>

Among the cases brought before the Court of Justice of the European Union (CJEU), preliminary ruling procedures which center around divergent wordings in the 24 different language versions of EU legal acts are of special linguistic interest. The CJEU then takes a synoptical view in legal interpretation by comparing the different language versions. Coordination, along with the ambiguities and divergences it causes, features among several recurrent types of linguistic issues in multilingual legal texts.

The present study is a sequel to “Semantics of coordinators in EU languages - the multiple readings of ‘and’, ‘or’, ‘but’” by the same author. Having dealt with the coordinators from the grammatical point of view there, their use will be studied in legal acts of the European Union here. By taking up exemplary relevant CJEU cases, the interpretation of the coordinators ‘and’ and ‘or’ in different contexts will be outlined and classified, and linguistic concepts and terminology for their description provided.

In the context of EU institutions, awareness of the correspondences and disparateness of coordinators is of help in drafting legal texts in order to avoid unequal law in the Member States, and in legal interpretation with regard to the notorious “Wortlautgrenze”. Moreover, ‘and’ or ‘or’ may be interpreted by legal professionals in a way which does not correspond to the grammatical language usage and understanding of the forms (cf. VISCONTI 2018).

Language for special purposes, including legal language, has its own terminology and idioms, but not the sovereignty of interpretation over the functioning of grammar; grammatical rules are conventionalised among the community of native speakers. As it is language which is employed to materialise law, a legal text is subject to the grammatical rules of the language used for it. As an ultimate consequence, slightly overstated, the rule of law is subject to the rules of grammar.

<2>

In the following, a special focus is laid on

- (i) ambiguity and disambiguation of ‘and’ and ‘or’,
- (ii) exhaustivity of enumerations,
- (iii) different sets of referents ensuing from the use of ‘and’ and ‘or’,
- (iv) the interaction of coordinators with other grammatical operators, viz. negation and modification, in terms of scope (a linguistic technical term comparable to “ambit” or “purview”) and
- (v) strategies for avoiding such ambiguities and divergences in particular contexts.

Context frequently distinguishes problematic wordings from pseudo-ambiguities and pseudo-divergences (in the sense of BURR 2013: sections 6.1.2, 6.1.3). Pseudo-divergences look like,

but are not, a semantic deviation of one or more language versions.

The presentation will proceed as follows:

Section 2 discusses divergences in legal texts based on coordinators including ambiguities and exhaustivity of lists, section 3 presents linguistic means balancing such divergences. Section 4 deals with interaction of coordinators with each other in nexion chains and section 5 with interaction of coordinators with negation and modification. Section 6 treats different types of scope barriers as linguistic means of scopal disambiguation, while section 7 concludes.

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The presentation addresses linguists as much as lawyer-linguists and legal professionals. It should not be forgotten, however, that linguistics is a science of its own, complete with its own mode of thought, methods, concepts, classifications and terminology, which makes it difficult to follow a linguistic analysis even of a familiar language without training. Plain language, on the other hand, does not provide the necessary terminology.

The custom of using marginals (e.g. < 1 > above) follows jurisprudential practice. The customs of setting examples in italics, numbering them in round brackets (e.g. (1)), giving translations in single quotes and glossing examples of lesser known languages are international linguistic notational conventions. The glosses in the second of three aligned lines in an example explain the inherent structure of the language concerned, the third line furnishes an idiomatic translation. An expression marked by an asterisk * is ungrammatical.

Examples are taken primarily from French, German, Spanish and English, but the findings can be compared cross-linguistically not only among the official languages of the European Union (OLEU, see the list in the appendix < 40 >). Synoptical and French texts (working language of the CJEU) are not translated here, German, Spanish and Italian are given with only idiomatic translations.

1.2 The readings of coordinators

< 4 >

The previous study (MATTISSEN, submitted) discussed coordinators in several languages with a focus on words expressing conjunctive ('and'), disjunctive ('or') and adversative coordination ('but'). The notations 'and' and 'or' stand for the cross-linguistic translational equivalents of the coordinators. The idea of "translational equivalent" does not imply a direction, i.e. it does not take one language as the (primary) source, original or blueprint in relation to others, but it describes an equally-ranked bilateral meaning relation of expressions of any two languages under comparison.

This means that the term translational equivalent may legitimately be used for the description of legal texts of the European Union. These texts are equally authoritative in all their

language versions, i.e. no version is authoritative on its own or counts as the source text.

A structure conjoined to another one is called a connect here (regardless of its form), the conjoining of connects is called nexion.

The most important readings of the coordinators 'and' and 'or', as appearing in legal acts, are the following (for details see MATTISSEN, submitted):

< 5 >

Conjunctive 'and' can be read as

- (i) intersecting set 'and':
two or more properties applying at the same time or two or more entities forming a unitary set, i.e. the type *the friends of Anne and Mary = the friends they share*,
- (ii) set union 'and' with any intersecting set:
two or more properties or two or more entities forming one set, i.e. the type *the friends of Anne and Mary = two largely discrete groups of people*,
- (iii) disjunct set union 'and' without an intersecting set:
two or more discrete properties or entities forming one set (a "symmetrical difference" in mathematical set theory), i.e. the type *retired people and football professionals*,
- (iv) autonomous set union without unification of the sets:
two or more discrete properties or entities paralleled without forming one set, i.e. the type *both government and opposition*,
- (v) exhaustive list 'and', i.e. the type *Anne, Mary and Beth (and nobody else)*,
- (vi) associative-correlative reading ('respectively'), i.e. the type *Anne and Mary are 15 and 12 years old*.

< 6 >

Disjunctive 'or' can be read as

- (i) inclusive-disjunctive synchronous alternative:
one or both properties or entities being true at the same time, i.e. the type *Peter or Paul = Peter and/or Paul*,
- (ii) inclusive-disjunctive asynchronous alternative:
one or both properties or entities being true, but not at the same time, i.e. the type *Peter or Paul = sometimes Peter, sometimes Paul*,
- (iii) exclusive-disjunctive alternative:
one, but not both properties or entities being true, i.e. the type *Peter or Paul = either Peter or Paul*,
- (iv) non-exhaustive list 'or', i.e. the type *for example Peter, Paul or Harry (or others)*,
- (v) dissociative-correlative reading ('respectively'), i.e. the type *Recently, John or Peter have come by car or bus*.

2. Coordinators and divergences in legal texts

<7>

Studying ‘and’ and ‘or’ in action across the language versions of legal texts discloses several different types of peculiarities. Most conspicuous are ambiguities, synoptical divergences and synoptical pseudo-divergences.

The ambiguities arise because of the ranges of different readings of both ‘and’ and ‘or’ (cf. <5> and <6>), especially with respect to the exhaustivity of enumerations (see section 2.5).

Even more frequently, CJEU cases are concerned with synoptical ‘and’ vs. ‘or’ in European legal texts, i.e. with an ‘and’ occurring in one language version where another language version has ‘or’. In these cases, a divergence results when the use of the coordinators creates different numbers of sets to choose from (see <10>). Another very frequent type of issue results from the interaction of coordinators with each other in nexion chains (see section 4) and with other grammatical operators, such as negation and especially modification (see section 5).

Linguistic means and the context may circumvent or balance ambiguities and divergences to the degree that synoptical ‘and’ vs. ‘or’ constitutes a pseudo-divergence (see 2.4). Such means are, for instance, “factoring out” of (non-)exhaustivity, modulation of specificity and various kinds of scope barriers (see sections 3 and 6). Thus, coordinators should not be considered in isolation, as context proves to be important in distinguishing ambiguity and pseudo-ambiguity, divergence and pseudo-divergence.

2.1 Ambiguity of conjunctive (‘and’) readings

<8>

As the coordinator ‘and’ has several different readings, a text passage using ‘and’ may lend itself to several interpretations. A frequently arising ambiguity with relevance for legal texts is between intersecting set vs. set union ‘and’. Before studying a concrete case, consider the following fictitious example:

(1) *Adult and disabled persons may file a petition.*

This clause has several possible readings: in an intersecting set reading, only disabled adults may file a petition (one set), in a set-union-with-intersecting-set reading adults (set 1), disabled persons (set 2) and disabled adults (set 3) may file a petition, whereas in a disjunct-set-union reading, adults (set 1) as well as disabled persons (set 2), but not disabled adults may file a petition. In a legal act, these readings offer a different number of referent sets to choose from (from one to three sets) when they specify conditions for a legal consequence (see <10>).

A CJEU case in point (C-52/13¹) is concerned with the expression *misleading and unlawful comparative advertising* in its English version and the translational equivalents in other lan-

guage versions. For the sake of brevity, the French, German and English versions are cited in (2), and relevant parts are printed in bold.

The coordination with 'and' could - in the English and German wordings - be interpreted as an intersecting set of properties characterising advertising; or as a set union of different types of advertising. The linguistic context provides no clue as to the reading. The French version is not ambiguous: it expresses a set union by repeating the head noun *publicité* (see < 11 >, < 18 >, < 34 > for further explanations).

(2) Directive 2006/114/EC, recitals 3, 16, 18; cf. C-52/13 ¹

(3) | Irreführende **und** unzulässige vergleichende **Werbung** ist geeignet, zur Verfälschung des Wettbewerbs im Binnenmarkt zu führen.

(3) | Misleading **and** unlawful comparative **advertising** can lead to distortion of competition within the internal market.

(3) | La **publicité trompeuse et la publicité comparative** illicite peuvent entraîner une distorsion de la concurrence au sein du marché intérieur.

(16) | Personen oder Organisationen, die nach dem nationalen Recht ein berechtigtes Interesse an der Angelegenheit haben, sollten die Möglichkeit besitzen, vor Gericht oder bei einer Verwaltungsbehörde, die über Beschwerden entscheiden oder geeignete gerichtliche Schritte einleiten kann, gegen irreführende **und** unzulässige vergleichende **Werbung** vorzugehen.

(16) | Persons or organisations regarded under national law as having a legitimate interest in the matter should have facilities for initiating proceedings against misleading **and** unlawful comparative **advertising**, either before a court or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings.

(16) | Les personnes ou organisations ayant, selon la législation nationale, un intérêt légitime en la matière, devraient avoir la possibilité d'introduire un recours contre **toute publicité trompeuse ou toute publicité comparative** illicite soit devant un tribunal, soit devant un organe administratif qui est compétent pour statuer sur les plaintes ou pour engager les poursuites judiciaires appropriées.

(18) | Freiwillige Kontrollen, die durch Einrichtungen der Selbstverwaltung zur Unterbindung irreführender **und** unzulässiger vergleichender **Werbung** durchgeführt werden, können die Einleitung eines Verwaltungs- oder Gerichtsverfahrens entbehrlich machen und sollten deshalb gefördert werden.

(18) | The voluntary control exercised by self-regulatory bodies to eliminate misleading **or** unlawful comparative **advertising** may avoid recourse to administrative or judicial action and ought therefore to be encouraged.

(18) | Les contrôles volontaires exercés par des organismes autonomes pour supprimer la **publicité trompeuse ou la publicité comparative** illicite peuvent éviter le recours à une action administrative ou judiciaire et devraient donc être encouragés.

2.2 Ambiguity of disjunctive ('or') readings

< 9 >

Among the different readings of disjunctive coordinators, the distinction of inclusive and exclusive 'or' constitutes a frequent issue for legal interpreters. A prominent case concerns C-304/02 ², the "action under Article 228 EC for failure to fulfil obligation", in which the financial imposition hinges on the possibility of both an inclusive and an exclusive reading of *or* in the following sentence of the treaty:

- (3) Treaty establishing the European Community, art. 228 para. 2 sub. 3²
*If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum **or** penalty payment on it.*

The inclusive reading of ‘or’ would allow to impose both a lump sum and a penalty payment, whereas the exclusive reading allows either the one or the other. The linguistic context provides no interpretation clues here. The case is treated in more detail by VISCONTI (2018: 124-125).

The ambiguity is of special interest when the two different readings of ‘or’ occur in one sentence. In German national law texts, for instance, the two readings of disjunctive coordination are frequently used in the constituent elements part on the one hand (inclusive-disjunctive ‘or’) and the legal consequences part of a legal act on the other (exclusive-disjunctive ‘or’), as in (adapted for reasons of conciseness):

- (4) *Wer Banknoten nachmacht **oder** gefälschte in Verkehr bringt, wird mit einer Freiheitsstrafe **oder** Geldbuße belegt.*
‘Who forges or circulates counterfeited banknotes will be punished by prison or by a fine.’

The first *oder* is read inclusively (forging banknotes and/or circulating counterfeited ones) and the second one exclusively (either prison or a fine). This is usually not evident from the wording, but falls out from legal systematics: a judge has to consider which constituent elements apply in sum (one or the other or both), but there will only be one punishment (either one or the other, cf. *Handbuch der Rechtsförmlichkeit* 2008:45, marginal 91) because of the principle prohibiting double punishment (“ne bis in idem”).

In order to disambiguate the inclusive-disjunctive and exclusive-disjunctive reading, the coordinator ‘either – or’ is used for the exclusive type and *and/or, et/ou, und/oder* for the inclusive type. However, ‘and/or’ is not considered an elegant solution by legal professionals (cf. for instance, the discussion by ADAMS/KAYE 2006:1189-1190 and the *Handbuch der Rechtsförmlichkeit* 2008:45, marginal 93). The *Joint Handbook* says (2018: D.4.4.2) that

“where it is not possible to insert introductory wording, the expression “and/or” may be used”.

ADAMS/KAYE recommend using disambiguation signals even in unambiguous contexts to avoid misinterpretation (2006:1193).

In (5), *et/ou* in the French version does not create a divergence, as nothing prevents ‘or’ from being read inclusively in the other language versions.

(5) Directive 2012/27/EU, art. 7 para. 4; cf. C-561/16³

..., wobei er in seinem Hoheitsgebiet tätige Verkehrskraftstoffverteiler oder Verkehrskraftstoff-Einzelhandelsunternehmen einbeziehen kann.	... and may include transport fuel distributors or transport fuel retailers operating in its territory.	...; il peut inclure les distributeurs de carburants destinés aux transports et/ou les entreprises de vente au détail de carburants destinés aux transports exerçant leurs activités sur son territoire.	..., y podrán incluir a distribuidores o minoristas de combustible para transportes que operen en su territorio.
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2.3 Synoptical 'and' vs. 'or' in EU legal texts

< 10 >

An issue more frequent in EU legal acts is a non-homogeneous use of 'and' and 'or' across the language versions (called synoptical 'and' vs. 'or' here).

Stating an inhomogeneity, of course, requires that the coordinators in the languages concerned can be clearly compared and matched with 'and' and 'or'. Polish, for instance, employs *lub, albo, czy* or *bądź* in European Union legal texts where English uses *or* or *either – or*; and it uses *i, oraz* and *a* where English uses *and*. The Polish coordinator *a* has an oppositive reading and is found where English uses *but*, as well, while there are further Polish translational equivalents of 'but', viz. *ale* and *lecz* (cf. ENGEL 1999:1140-1168 for a grammatical presentation).

Once this difficulty settled, when 'or' is used in a place in one language version where 'and' can be found in another language version, this leads to a different number of sets of referents, which are, moreover, not congruent. Table 1 gives an overview of the most frequent possibilities.

The sets of referents are (cf. < 5 > and < 6 >):

inclusive 'or'	(xxx) = set 1, (yyy) = set 2, ((xxxyyy)) = set 3
exclusive 'or'	(xxx) = set 1, (yyy) = set 2 (alternatively)
intersecting set 'and'	((xxxyyy)) = set 1 (intersection of two sets)
set union 'and'	(xxx(xy)yyy) = set 1 (two sets + intersection in one set)
disjunct set union 'and'	((xxx)(yyy)) = set 1 (two sets without intersection in one set)

Language Version A uses	Sets of referents	Language Version B uses	Sets of referents	Congruent sets between versions A and B
inclusive 'or'	3	intersecting set 'and'	1	1 (the intersecting set)
inclusive 'or'	3	set union 'and'	3 in 1	1 (the intersecting set)
inclusive 'or'	3	disjunct set union 'and'	2 in 1	0
exclusive 'or'	2	intersecting set 'and'	1	0
exclusive 'or'	2	set union 'and'	3 in 1	0
exclusive 'or'	2	disjunct set union 'and'	2 in 1	0

Table 1: Comparison of referent sets of 'and' and 'or'

Only inclusive ‘or’ shares a referent set with intersecting set ‘and’ and set union ‘and’: As inclusive-disjunctive ‘or’ coordination includes the reading of both connects applying, it overlaps with conjunctive ‘and’ coordination in meaning. Both clauses in (6) are true for red fabrics with stripes. (7a, b) are true if Peter’s and Paul’s common friends said the same thing. The REAL ACADEMIA ESPAÑOLA allows for indistinct use of (7c, d) (2013:429; cf. also HUDDLESTON ET AL. 2002:1297 for English).

- (6) a. *Rote oder gestreifte Stoffe können verwendet werden.*
 b. *Rote und gestreifte Stoffe können verwendet werden.*
 ‘red or / and striped fabrics may be used’
- (7) a. *Peters oder Pauls Freunde haben das gesagt.*
 b. *Peters und Pauls Freunde haben das gesagt.*
 ‘Peter’s or / and Paul’s friends said so’
- c. *Se puede entrar por esta puerta y por aquella.*
 d. *Se puede entrar por esta puerta o por aquella.*
 ‘you can enter by this door and / or by that one’

Insofar, the use of *or* (and translational equivalents) in one text and *and* (and translational equivalents) in another need not necessarily lead to a divergence in meaning – an important point in the interpretation of European legal texts.

< 11 >

In other constellations, however, a relevant divergence in a EU legal act arises where synoptical ‘and’ vs. ‘or’ occurs, because ‘and’ in one language version creates a non-convergent set of referents to ‘or’ in another language version. This is the case in example (2) above: it exhibits several non-homogeneous uses of ‘and’ vs. ‘or’, both across the three recitals and the three languages.

In (8), most language versions, including English and French, use an intersecting set ‘and’ whereas German uses ‘or’ which could be read either as inclusive or as exclusive.

(8) Directive 2001/29/EC, recital 41; cf. C-510/10 ⁴

<p>(41) <i>Bei Anwendung der Ausnahme oder Beschränkung für ephemere Aufzeichnungen, die von Sendeunternehmen vorgenommen werden, wird davon ausgegangen, dass zu den eigenen Mitteln des Sendeunternehmens auch die Mittel einer Person zählen, die im Namen oder unter der Verantwortung des Sendeunternehmens handelt.</i></p>	<p>(41) <i>When applying the exception or limitation in respect of ephemeral recordings made by broadcasting organisations it is understood that a broadcaster’s own facilities include those of a person acting on behalf of and under the responsibility of the broadcasting organisation.</i></p>	<p>(41) <i>Lors de l’application de l’exception ou de la limitation pour les enregistrements éphémères effectués par des organismes de radiodiffusion, il est entendu que les propres moyens d’un organisme de radiodiffusion comprennent les moyens d’une personne qui agit au nom et sous la responsabilité de celui-ci.</i></p>
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A third party not acting ‘on behalf of’ the broadcasting organisation, but only ‘under the responsibility’ of that organisation is included in the German version (using ‘or’). The other ver-

sions state that a third party must fulfill both conditions (using ‘and’). That we are dealing with an intersecting ‘and’ is clear from the fact that the two modifiers *acting on behalf of* and *acting under the responsibility of the broadcasting organisation* modify a single referent *person* (in the singular). If the wording had been “include those of persons acting...”, i.e. with a plural of ‘person’, a set union reading would have been equally possible, according to the rules of grammar.

A similar divergence is found in the following Position of the European Parliament adopted at first reading concerning the General Data Protection Regulation:

- (9) EP-PE_TC1-COD(2012)0011, art. 5 lit. eb / art. 5 point e ter ⁵
- a. ... *using appropriate technical **or** organisational measures* ...
 - b. ... *à l’aide de mesures techniques **ou** organisationnelles appropriées* ...
 - c. ... *durch geeignete technische **und** organisatorische Maßnahmen* ...

In this case the German version demands both technical and organisational measures be taken (set union), whereas the English and French version put these kinds of measures at a choice (inclusive-disjunctive), thus allowing for a lower degree of security.

< 12 >

Another example is found in the following case (C-561/16 ³), where a non-convergence of referent sets arises from the more specific inclusive-disjunctive coordinator ‘and/or’ in the French, English and German versions being used in synopsis with ‘and’ and ‘or’ in the Spanish version of Directive 2012/27/EU, article 7, paragraph 4 ³:

- (10) Directive 2012/27/EU, art. 7 para. 4; cf. C-561/16 ³
- | | | | |
|--|--|---|--|
| <i>Unbeschadet der Berechnung der Energieeinsparungen für das Ziel gemäß Absatz 1 Unterabsatz 2 benennt jeder Mitgliedstaat für die Zwecke des Absatzes 1 Unterabsatz 1 nach objektiven und nichtdiskriminierenden Kriterien verpflichtete Parteien unter den in seinem Hoheitsgebiet tätigen Energieverteilern und/oder Energieeinzelhandelsunternehmen, ...</i> | <i>Without prejudice to the calculation of energy savings for the target in accordance with the second subparagraph of paragraph 1, each Member State shall, for the purposes of the first subparagraph of paragraph 1, designate, on the basis of objective and non-discriminatory criteria, obligated parties amongst energy distributors and/or retail energy sales companies operating in its territory</i> | <i>Sans préjudice du calcul des économies d’énergie pour l’objectif conformément au paragraphe 1, deuxième alinéa, chaque État membre désigne, aux fins du paragraphe 1, premier alinéa, sur la base de critères objectifs et non discriminatoires, des parties obligées parmi les distributeurs d’énergie et/ou les entreprises de vente d’énergie au détail exerçant leurs activités sur son territoire; ...</i> | <i>Sin perjuicio del cálculo de ahorro de energía para cumplir con el objetivo de acuerdo con el apartado 1, párrafo segundo, cada Estado miembro designará, a los efectos de lo dispuesto en el apartado 1, párrafo primero, con arreglo a criterios objetivos y no discriminatorios, a las partes obligadas entre los distribuidores de energía y las empresas minoristas de venta de energía que operen en su territorio,...</i> |
|--|--|---|--|

Whereas, according to the rules of grammar, in the language versions using ‘and/or’ the Member State may choose whether to designate obligated parties among the energy distribu-

tors or the retail energy sales companies or from a set comprising both, in the divergent Spanish version with *y* 'and' alone the Member State does not have a choice but has to designate obligated parties from the set comprising both energy distributors and retail energy sales companies. From the jurisprudential point of view, the question is which legal consequences ensue, of course.

2.4 Resolving divergence: the role of context

< 13 >

On the other hand, even synoptical 'and' vs. exclusive 'or' does not necessarily lead to a divergence because the context may balance the coordinator.

A relevant case recently adjudicated upon by the CJEU (Joined Cases C-391/16, C-77/17 and C-78/17 ⁶) deals with the following disputed paragraph, of which we consider the French version first:

(11) Directive 2011/95/EU, art. 14, para. 6; cf. C-391/16, C-77/17 and C-78/17 ⁶

<p>(6) <i>Personen, auf die die Absätze 4 oder 5 Anwendung finden, können die in den Artikeln 3, 4, 16, 22, 31, 32 und 33 der Genfer Flüchtlingskonvention genannten Rechte oder vergleichbare Rechte geltend machen, sofern sie sich in dem betreffenden Mitgliedstaat aufhalten.</i></p>	<p>6. <i>Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.</i></p>	<p>6. <i>Les personnes auxquelles les paragraphes 4 et 5 s'appliquent ont le droit de jouir des droits prévus aux articles 3, 4, 16, 22, 31, 32 et 33 de la convention de Genève ou de droits analogues, pour autant qu'elles se trouvent dans l'État membre.</i></p>
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The paragraphs 4 and 5 referred to in paragraph 6 cited above state under which conditions a refugee may lose this status (para. 4) or may not be granted this status (para. 5). The French version uses *et* and thus creates a disjunct set union of a) persons with a refugee status who lose it and b) persons without a refugee status and not eligible for it. This set union does not have an intersecting set. It is located within a single relative clause (*auxquelles les paragraphes 4 et 5 s'appliquent*) modifying *personnes* 'people' (in the plural).

The text passage could alternatively be read as containing an intersecting set as long as the contents of paragraphs 4 and 5 are not taken into account. In the intersecting case, paragraph 6 would be applicable to persons who are both encompassed by paragraph 4 and paragraph 5 at the same time. As these two paragraphs describe states of affairs in a complementary (i.e. semantically mutually exclusive and bipartite) relation, the intersecting reading is ruled out, however.

Now, the English and German versions use *oder* and *or* where French uses *et*. This exclusive-disjunctive use of 'or' is motivated by the fact that the paragraphs 4 and 5 cannot both apply to one and the same person. Still, the coordination is internal to a single relative clause modi-

fying ‘persons’, which unites the two disjunct sets under one cover term ‘persons’ (in the plural). In the main clause, it is predicated about these persons (the cover term) that they are entitled to rights of the Geneva Convention.

In sum, whereas the English and German versions encode the **alternative of conditions** for being entitled to the rights of the Geneva Convention, the French version encodes the **set union of ambits** for the Geneva Convention. Thus, the same state of affairs is seen from two perspectives. In this regard, the versions are divergent in wording but convergent in meaning and effect: no-one is excluded from claiming rights.

The problem the Advocate General saw in this case was that paragraph 6 could be interpreted in such a way that either refugees who lost their status or refugees not eligible for the status may be entitled to the rights, as emerges from the marginals 102, 120, 121 and 122 of the opinion of the Advocate General ⁶. This would correspond to an exclusive disjunction or **alternative of ambits** of the convention. The rules of grammar do not license this interpretation, however. If this reading had been intended, the preferred wording in German would have been “(entweder) Personen, auf die Absatz 4 Anwendung findet, oder Personen, auf die Absatz 5 Anwendung findet, ...”, ‘either persons to whom paragraph 4 applies or persons to whom paragraph 5 applies ...’, i.e. the two conditions would have been split up syntactically (two relative clauses modifying two cover terms).

2.5 Exhaustivity of lists

< 14 >

Another complication lies in the exhaustivity of lists when synoptical ‘and’ vs. ‘or’ are employed.

Usually, conjunctive coordination (‘and’) is thought to create exhaustive lists, disjunctive coordination (‘or’) to create non-exhaustive or exemplary lists (e.g. HUDDLESTON ET AL. 2002: 1293). This need not be the case, however (cf. MATTISSEN, submitted: 2.2 (ii-b), 3.1 (iv)). For Spanish, *El Buen Uso* notes that for exemplary enumerations, both *y* and *o* may be used without distinction, whereas for a closed list, *y* must be used (REAL ACADEMIA ESPAÑOLA 2013: 429). In addition, a language may have two conjunctive or two disjunctive coordinators, one for an exhaustive list, the other for a non-exhaustive list. This is the case in Japanese (which has a disjunctive coordinator, too) and in colloquial Italian (MAURI/GIACALONE RAMAT 2015: 55-56; BAROTTO/MAURI 2019):

(12) Japanese

- a. *Tarô to Jirô ga yatte kita.*
T. and J. NOMINATIVE came round
‘Taro and Jiro came for a visit.’ (these two only)

b. *Tarô ya Jirô ga yatte kita.*
 T. and.so.on J. NOMINATIVE came round
 'Taro and Jiro and so on came for a visit.'

c. Italian (MAURI/GIACALONE RAMAT 2015:56)
Stasera andiamo a mangiare la pizza piuttosto che il pesce ...?
 'Tonight, shall we go out and have pizza or fish or something?'

In languages without such a distinction, the context plays an important role in clarifying the reading. According to their effect, the following different context classes can be established, which will be considered in turn in section 3:

- (i) factoring out of exhaustivity
- (ii) use of resumptive expressions
- (iii) full coverage of the frame of reference
- (iv) modulation of referentiality values (specificity).

3. Linguistic means resolving exhaustivity disparateness

3.1 "Factoring out" exhaustivity

< 15 >

The difference in exhaustivity reading between conjunctive and disjunctive coordinators in enumerations can be cancelled by "factoring out" (to borrow another mathematical term) the exemplariness (non-exhaustivity) with the help of forms like *for example*, *zum Beispiel* (z.B.) or *wie* (WABNER 2014:632-633). The phrases in (13a, a') are exhaustive lists with 'and' coordination introduced by *d.h.* 'i.e.' and *also* 'viz.'. The same introductory expressions before 'or' do not lead to an exhaustive list reading in (13b), i.e. the coordinators determine the reading. In (13c-d), however, the enumeration is headed by an expression indicating that the list is to be read as non-exhaustive, independent of (and therefore overriding) the coordinator.

- | | |
|--|---------------------|
| (13) a. <i>Waffen, d.h. Feuer-, Stich- und ABC-Waffen</i> | exhaustive list |
| 'weapons, i.e. firearms, pointed and ABC weapons' | |
| a'. <i>Waffen, also Feuer-, Stich- und ABC-Waffen</i> | exhaustive list |
| b. <i>Waffen, d.h. / also Feuer-, Stich- oder ABC-Waffen</i> | non-exhaustive list |
| c. <i>Waffen, z.B. Feuer-, Stich- und ABC-Waffen</i> | non-exhaustive list |
| c'. <i>Waffen, wie Feuer-, Stich- und ABC-Waffen</i> | non-exhaustive list |
| d. <i>Waffen, z.B. / wie Feuer-, Stich- oder ABC-Waffen</i> | non-exhaustive list |

On the other hand, the exhaustivity of a list can be factored out by "introductory wording" as the *Joint Handbook* (2018: D.4.4.2) puts it, viz. by "[each/both/all]/one/one or more of the following".

As a result, the synoptical use of 'and' vs. 'or' in such lists does not lead to a divergence in

meaning, both versions are equivalent. WAßNER (2014: 3.2.2.2) discusses further relevant contextual conditions for the exchangeability of ‘and’ and ‘or’.

3.2 Use of resumptive expressions

< 16 >

In the regulation cited in (14), the German, English, Dutch, Bulgarian, Spanish, Italian, Greek, Romanian and Hungarian versions use a conjunctive coordinator, whereas the French and Portuguese versions use a disjunctive one. As all items enumerated are exempt from a definition in the text immediately preceding (14), the reading is set union for the former and inclusive-disjunctive for the latter versions, with one congruent set of referents (cf. table 1). A divergence arises, however, with respect to the exhaustivity of the list (and with respect to modification, dealt with in section 5.2).

- (14) Regulation (EC) No 273/2004, art. 2 lit. a; cf. Joined Cases C-627/13 and C-2/14 ⁷
- a. ... *Ausgenommen sind Arzneimittel gemäß der Definition der Richtlinie 2001/83/EG [...], pharmazeutische Zubereitungen, Mischungen, Naturprodukte **und** sonstige Zubereitungen, die erfasste Stoffe enthalten und so zusammengesetzt sind, dass ...*
 - b. ... *This excludes medicinal products as defined by Directive 2001/83/EC [...], pharmaceutical preparations, mixtures, natural products **and** other preparations containing scheduled substances that are compounded in such a way that ...*
 - c. ... *à l'exclusion des médicaments, tels que définis par la directive 2001/83/CE [...], des préparations pharmaceutiques, mélanges, produits naturels **ou** autres préparations contenant des substances classifiées qui sont composées de manière telle que ...*

According to the rules of grammar, the enumeration using ‘and’ is read as an exhaustive one, the one using ‘or’ as a non-exhaustive one. This means that in the French and Portuguese versions, further substances could theoretically fall under the exception, but not in the other language versions. However, as the resumptive expression *other preparations* (and translational equivalents) opens up an ample spectrum of further referents, it makes up for the exhaustivity of the enumeration. Therefore, there is no significant divergence between the language versions with ‘and’ and those with ‘or’.

The wording of the regulation was amended by Regulation (EU) No 1258/2013 ⁷ in 2013 in a way that eliminates all ambiguities of (14) discussed in < 16 >, < 29 >, < 32 > and < 33 >. Nevertheless, the older versions serve as an example of several relevant phenomena here.

A frequently occurring form of resumptive (less specific) expressions are “general extenders” like *et cetera*, *o altro* ‘or other’, *e simili* ‘and the like’. They are treated in ROMA (to appear).

3.3 Full coverage of the frame of reference

< 17 >

In contrast to a resumptive expression, which opens up an exhaustive list, an enumeration of concepts which cover the whole frame of reference closes a non-exhaustive list and thus overrides the use of synoptical ‘and’ vs. ‘or’. In (15), ‘duplication’ and ‘overlap’ with their modifiers describe all possible relations of sets from a proper subset up to congruency, so the difference in coordinators across the versions does not lead to a difference in coverage.

(15) Regulation (EU) 2018/1724, art. 19 para. 6 ⁸

- a. ... *que les liens [...] ne comportent pas de doublons ou de chevauchements inutiles, qu'ils soient complets ou partiels, ...*
- b. ... *que los enlaces [...] no contengan ninguna duplicidad ni ningún solapamiento innecesario, total o parcial, ...*
- c. ... *that the links [...] do not contain any unnecessary full or partial duplication and overlaps ...*

Further means of signalling full coverage of the reference frame are an identifying copula (‘to be’) or equivalence constructions (e.g. ‘to mean’) serving as (legal) definitions, such as

(16) Regulation (EU) 2019/787, annex I, no 23 lit a ⁹

- a. *A caraway-flavoured spirit drink or Kümmel is a spirit drink produced by flavouring ethyl alcohol of agricultural origin with caraway (Carum carvi L.).*
- b. Regulation (EU) No 1169/2011, annex I, no 2 ¹⁰
‘fat’ means total lipids, and includes phospholipids

In fact, identifying constructions are not consistently employed in this sense in EU legal texts. In the following extract of Regulation (EU) 2019/787 ⁹, lit. a defines “egg liqueur” with the help of an identifying construction using the definite article *the* (*the ingredients of which are ...*) followed by an apparently exhaustive enumeration with *and*. The definite article is used for a referent concerned in totality. However, the contained alcohol, the flavours (mentioned in the modifier to “liqueur” *whether flavoured or not* in lit. a, as well as in lit. c) and the milk products mentioned in lit. d are not included in this list and thus in the definition.

(17) Regulation (EU) 2019/787, Annex I No 39 ⁹

- (a) *Egg liqueur or advocaat or avocat or advokat is a liqueur, whether flavoured or not, produced from ethyl alcohol of agricultural origin, distillate of agricultural origin or spirit drink, or a combination thereof, and the ingredients of which are quality egg yolk, egg white and sugar or honey or both. [...]*
- (c) *Only flavouring foodstuffs, flavouring substances and flavouring preparations may be used in the production of egg liqueur or advocaat or avocat or advokat.*

(d) *Milk products may be used in the production of egg liqueur or advocaat or avocat or advokat.*

In this regard, the list of ingredients in lit. a is by no means an exhaustive enumeration within the given context here, so the identifying construction does **not** cover the full frame of reference, contrary to its grammatical function (totality and equation). This means it is not an appropriate formulation here, as it contravenes its context (which mentions further ingredients).

3.4 Modulation of referentiality values

<18>

Referentiality markers such as articles and quantifiers determine whether an expression is read as generic (true for a whole class), non-specific (of unknown actual existence), indefinite (not known before and a subset of the totality) or definite (known, total set, uniquely identifiable; cf. HAWKINS 1978, CHESTERMAN 1991).

In (18), the English and French versions use expressions of non-specificity, viz. *any* and *éventuels*, together with disjunction. Disjunction creates a non-exhaustive list, and the non-specific expressions do not refer to identifiable entities, but anything that may fall under the description. Thus, an all-embracing reading in the sense of ‘any costs whatsoever’ results. The German version, on the other hand, uses the definite article, signifying a totality, and conjunctive coordination, creating an exhaustive list. The effect is an all-embracing reading, as well, in the sense of ‘all costs’ (cf. also HUDDLESTON ET AL. 2002:1297). Insofar, the versions are not divergent.

(18) Directive (EU) 2015/2302, art. 9 para. 2 ¹¹

- a. ... *and for **any** additional fees, charges **or** other costs arising ...*
- b. ... *ainsi que des frais, redevances **ou** autres coûts supplémentaires **éventuels** occasionnés ...*
- c. ... *und **die** [...] entstehenden zusätzlichen Gebühren, Entgelte **und** sonstigen Kosten ...*

In example (2), *toute* as determiner of *publicité* creates the same non-specific all-embracing effect. Note that in example (14) ‘other preparations’ has no article and is unspecific, as well.

4. Interaction of operators: nexion chains

<19>

Coordinators are grammatical/syntactic operators operating over clauses. Other operators are, for example, negation, modality (expressions of wish, permission, possibility, source of information and evaluation by the speaker), illocution (declaration, pledge, question, command, etc.), quantification or modification (further characterisation). When more than one

such operator is present in a clause, these operators interact semantically, according to the rules of grammar. As they are applied one after the other, the operator applied later takes the outcome of the one applied earlier as its input, i.e. has scope (“ambit” or “purview” in less technical terms) over the operator applied earlier. The final outcome thus differs in dependence on the order of application of operators, as will be shown now.

< 20 >

When at least three connects are conjoined, bracketing ambiguities ensue because of at least two different possible orders of application of the coordinators. The nexion (coordination) effected later takes scope over the earlier one (cf. also ADAMS/KAYE 2006:1191).

(19) a. *Anne and Mary and Beth played against each other.*

b. *Der Antragsteller ist EU-Bürger oder hat seinen Wohnsitz in einem Mitgliedsstaat und steht in einem Beschäftigungsverhältnis.*

‘The applicant is an EU citizen or is a resident of a Member State and is in employment.’

(19a) has several different interpretations licenced by the rules of grammar: either all three played for themselves, or Anne and Mary formed a team against Beth, or Mary and Beth formed a team against Anne.

The fictitious example (19b) illustrates the possible grammatical and semantic complications in clause nexion: The structure is ambiguous as to which clause is in the scope of which other one (with the exception of the clauses at the margins which cannot be directly within each other’s scope). Logically stated, the (single) propositions are

p *Der Antragsteller ist EU-Bürger.*
‘The applicant is an EU citizen.’

q *Der Antragsteller hat seinen Wohnsitz in einem Mitgliedsstaat.*
‘The applicant is a resident of a Member State.’

r *Der Antragsteller steht in einem Beschäftigungsverhältnis.*
‘The applicant is in employment.’

and the two possible nexions – stated in the propositional formula of logic - are

$(p \vee q) \wedge r$, i.e. (p OR q) AND r, shown in (20a) and

$p \vee (q \wedge r)$, i.e. p OR (q AND r), shown in (20b) by bracketing.

When (19b) sets the condition, say, for asserting a legal right, the interpretation is unclear: variant (20a) demands an employed person being either an EU citizen or resident, variant

(20b) either an EU citizen or an employed resident of any Member State.

(20) a. [Der Antragsteller ist EU-Bürger oder hat seinen Wohnsitz in einem Mitgliedsstaat] und steht in einem Beschäftigungsverhältnis.

b. Der Antragsteller ist EU-Bürger oder [hat seinen Wohnsitz in einem Mitgliedsstaat und steht in einem Beschäftigungsverhältnis].

Graphic means could ensure disambiguation in such a case.

5. Interaction of operators: negation and modification

< 21 >

The two most common operators in legal texts, besides coordinators, are negation and modification. In addition, modality comes into play, which in the OLEU is generally expressed by modal verbs (such as 'must', 'may', 'can'). ADAMS/KAYE (2006:1174) discuss the effects of scope interaction between coordination, negation and modality in English (cf. also QUIRK ET AL. 2008:934).

The present treatise focuses on negation and modification.

5.1 Negation

< 22 >

Besides the affirmative ("positive") types of coordination, one connect or both (or all) may be negated. For negation of both connects, a correlative pair of conjunctions is usually employed, such as *neither – nor*, *weder – noch*, *ne ... ni – ni*, distributed over usually two structural units (phrases or clauses). Although *nor* and *weder* recall *or* and *entweder*, they are negated conjunctive coordinators (QUIRK ET AL. 2008: 937).

According to the rules of grammar, English cannot use its correlative pair for clause negation with different subjects. Italian cannot use its nominal correlative pair *ne ... ne* in clause negation, nor does Irish Gaelic have a negative correlative pair at its disposition (HASPELMATH 2007:18).

< 23 >

As with other operators, the order of application of negation and coordination is relevant for the meaning of a sentence. In this point, language is different from logic. Whereas for logical NOR the forms $\neg A \wedge \neg B$ and $\neg (A \vee B)$ (NOT-A AND NOT-B and NOT (A OR B)) are equivalent and true iff (= if and only if) both connects are false (as in table 2), in linguistics these two forms are not universally equivalent.

p	q	$p \downarrow q$	1 = true
1	1	0	0 = false
1	0	0	
0	1	0	
0	0	1	

Table 2: Truth values for logical NOR

Transferred to linguistics, $\neg A \wedge \neg B$ would represent the order of application “negation first, coordination second”, as in (21a). The order of application “coordination first, negation second” would have to be written as $\neg (A \wedge B)$ (NOT (A AND B)). This notation represents logical NAND, which does not describe the intended linguistic relation (e.g. in (21b)) at all (see also MATTISSEN, submitted: 3.1 (v)).

p	q	$p \mid q$	1 = true
1	1	0	0 = false
1	0	1	
0	1	1	
0	0	1	

Table 3: Truth values for logical NAND

In English, later application of negation yields the intersecting set reading (21b), and the negation has wide scope over the coordination. Later application of coordination yields the disjoint set union reading, and the coordination has wide scope over the negation (21a):

- (21) a. *[Neither John] [nor Mary] scored as many goals as the 10-year-old.*
 b. *[John and Mary] did not score as many goals as the 10-year-old.*

As the examples show, using the negative correlative pair yields a different reading from a simple coordinator within the scope of a negated verb (*pace* HASPELMATH 2007:17). In (21b) John and Mary most probably formed a team against the child, whereas in (21a), each of them tried to beat the child separately. This is the effect of the two differing scopes: whereas in (21b), the negation has scope over the coordination, in (21a) each connect is negated separately before coordination, i.e. coordination has scope over negation.

In Spanish, the distinction is paralleled by the following idioms.

- (22) a. *No se puede vivir de [pan y cebolla].*
 ‘You cannot live on love and air alone.’ (lit. ‘on bread and onion’)

b. *Esto [no tiene pies] [ni cabeza].*

'There is neither rhyme nor reason in that.' (lit. 'has neither feet nor head')

< 24 >

In addition to scope, a further complication lies in the fact that the OLEU have different structures with respect to negation harmony, as the following examples show.

Standard German uses only a single negative item in a clause, i.e. either a negator (*nicht*), or a negative pronoun (*niemand*, *nichts*, etc.) with an affirmative verb. There is no negation harmony; two negative items in one clause cancel each other out and the meaning is affirmative and all-embracing, as in (24).

- (23) a. *Ich esse nicht.* 'I don't eat'
b. *Ich sehe niemanden.* 'I don't see anybody.'
c. *Ich sehe jemanden nicht.* 'There is somebody I do not see.'

- (24) *Niemand hat das nicht getan.*
nobody has that not done
'Everybody did it.'

In German it is possible to combine an affirmative indefinite pronoun with a negative verb as in (23c), which presupposes the existence of a referent (a person or thing) which is not affected by the action.

Standard English uses a single negator with a verb (*not*) and either a negated pronoun (*nobody*, *nothing* etc.) with an affirmative verb or a negated verb + unspecific pronoun (*not ... anybody* etc.) when a pronoun is needed. The scope of negation always starts from the negative item to the right over the rest of the clause (PULLUM/HUDDLESTON 2002:813), and in this scope, pronouns are unspecific ones (leaving aside minor complications, QUIRK ET AL. 2008: 777-784). (25g, h) show that two negative elements may cancel each other out, for instance two pronouns when the verb is affirmative.

- (25) a. *I do not eat.*
b. *I see nobody.*
c. *I do not see anybody.* **I do not see somebody.*
but: d. *I do not understand some of the points.* (HUDDLESTON ET AL. 2002:829)
e. *Nobody did that.* **Anybody did not do that.*
f. *I don't give any money to any of them at any time.* (cf. QUIRK ET AL. 2008:787)
g. *None of the meat wasn't fresh.* (PAYNE/HUDDLESTON 2002:359)
h. *No one has nothing to offer to society.*
= *Everybody has something to offer.* (QUIRK ET AL. 2008:798)

French, on the other hand, takes the form of a pair of negators (*ne ... pas*) around the verb and of negator + negative pronoun (*ne ... personne/rien* etc.) when a pronoun is needed.

- (30) a. *sin retrasos ni gastos excesivos* (without both) (cf. C-486/12¹²)
 b. *sin retrasos o gastos excesivos* (without one or the other)
 'without delay nor / or excessive expenses'

For French, GREVISSE/GOOSSE note that *ou* has been replacing *ni* more and more under negation (2016:1517).

< 26 >

In English, negation practically inverts the readings of *and* and *or* according to the rules of grammar, as HUDDLESTON ET AL. (2002:1298f) and QUIRK ET AL. (2008:934, 938f) show: Coordination with *or* **within** the scope of negation is equivalent to *and*-coordination of negated connects (i.e. with scope **over** negation). This fits the logical NOR (cf. < 23 >). Reading (ii) of (31d) is less preferred.

- (31) a. *no books or magazines = no books and no magazines* (QUIRK ET AL. 2008:966)
 b. *He doesn't have long hair or wear jeans.* < = >
He doesn't have long hair and he doesn't wear jeans.
 c. *He doesn't have long hair and wear jeans.* < = >
Either he doesn't have long hair or he doesn't wear jeans or both.
 d. *He wasn't at work on Monday or Tuesday.* (HUDDLESTON ET AL. 2002:1298-1299)
 (i) 'He wasn't at work on Monday and he wasn't at work on Tuesday.'
 (ii) 'On Monday or Tuesday (I can't remember precisely which day it was) he wasn't at work.'

5.2 Modification

< 27 >

Modifiers interact with coordination, as well. A modifier modifies either a noun (this function is called attribute, as in (32a)) or a verb phrase or clause (this function is called adverbial, as in (32c)). An attribute may take the form of an adjective (32a), participle, relative clause or even adverb or prepositional phrase (32b). An adverbial may take the form of an adverb (phrase) (32c), a prepositional phrase or an adverbial clause (32d).

- (32) a. *ein wilder Tanz* 'a wild dance'
 b. *ein Tanz auf dem Vulkan* 'a dance on the volcano'
 c. *er tanzt wild* 'he dances wildly'
 d. *er tanzt, weil er fröhlich ist* 'he dances because he is happy'

< 28 >

With modifiers in the context of coordination, the order of application has an impact on the meaning, too. In fact, the intersecting reading of ‘and’ is best described by the coordination being the innermost operation, within the scope of other operations such as modification, attribution, or grammatical government. In (33a) the connects as a unit are the complement, and therefore in the scope, of the preposition *von* ‘of’.

Set union, on the other hand, is not within the scope of the functions listed above, but takes these functions in its scope: in (33b), two prepositional phrases are coordinated.

Scope differences get particularly clear from (33c): the quantifier *ten* takes the union of “boys and girls” as one entity in its scope, thus indicating that there is a mixed group of ten children altogether. Compare this to *ten knives and forks*, which are understood as twenty pieces of cutlery (QUIRK ET AL. 2008:966, 971).

- (33) a. *die Freunde von [Peter und Paul]*
b. *die Freunde [von Peter] und [von Paul]*
 ‘the friends of Peter and (of) Paul’

c. *ten [boys and girls]* vs. *ten [knives] and [forks]*

Example (34) is ambiguous as to whether the modifier *alte* ‘old’ refers to books, newspapers and brochures (wide scope over all connects, the result of application after coordination) or just to its adjacent head noun *Bücher* ‘books’ (narrow scope over the adjacent connect only, the result of application before coordination). Example (35) shows two conjoined clauses in the scope of the adverbial *yesterday*.

- (34) a. *alte Bücher, Zeitungen und Broschüren*
b. *alte Bücher, Zeitungen oder Broschüren*
 ‘old books, newspapers and / or brochures’

- (35) *Yesterday [the sun was warm and the ice melted].* (QUIRK ET AL. 2008:950)

Thus, the order of application is relevant both for the reading of the coordinator and the scope interpretation of the modifier.

< 29 >

A CJEU case in point is

- (36) Directive 95/46/EC, art. 12 lit. a; cf. C-486/12 ¹²
a. *zonder bovenmatige vertraging of kosten*
b. *without excessive delay or expense*
c. *sans délais ou frais excessifs*

All three language versions (and the corresponding Spanish version in (30a)) contain the same ambiguity: it is unclear whether the adjective *bovenmatig/excessive/excessif/excesivo* modifies only its adjacent noun ('delay' in the English and Dutch cases, 'expenses' in the French and Spanish cases) or both nouns coordinated by 'or'. Both structures are licensed by the rules of grammar. Direction of modification is rightward for the Germanic languages as the modifier is placed to the left of the head it modifies, and leftward for the Romance languages, where the modifier is placed to the right of its head. Because of the position of the modifying adjective and the direction of modification, the ambiguities lead to a divergence in the texts. Only the synopsis of the two divergent version types suggests that the modifier is most probably intended to modify both nouns.

The English version in (37) (analogously in German) leaves open whether the adjectives *unnecessary full or partial* modify both *duplication* and *overlaps*.

(37) Regulation (EU) 2018/1724, art. 19 para. 6⁸

- a. *that the links [...] do **not** contain **any unnecessary full or partial duplication and overlaps** ...*
- b. *dass es [...] **nicht** zu unnötigen teilweisen oder vollständigen Überschneidungen **und** Überlagerungen kommt ...*

From the point of view of sense, a "full duplication" is somewhat tautological and a "partial duplication" questionable.

To cite a last example, the relative clause in the English version "that are compounded in such a way that ..." in (38a) may either modify "scheduled substances" (its directly adjacent noun phrase) or "other preparations containing scheduled substances" (its adjacent noun phrase containing the directly adjacent noun phrase) or the whole enumeration (with the restriction discussed in < 32 >).

(38) Regulation (EC) No 273/2004, art. 2 lit. a; cf. Joined Cases C-627/13 and C-2/14⁷

- a. *... This excludes medicinal products as defined by Directive 2001/83/EC [...], pharmaceutical preparations, mixtures, natural products **and** other preparations containing scheduled substances that are compounded in such a way that ...*
- b. *... Ausgenommen sind Arzneimittel gemäß der Definition der Richtlinie 2001/83/EG [...], pharmazeutische Zubereitungen, Mischungen, Naturprodukte **und** sonstige Zubereitungen, die erfasste Stoffe enthalten und so zusammengesetzt sind, dass ...*

In the German version, the relative clause (*die erfasste Stoffe enthalten und so zusammengesetzt sind, dass ...*) comprises the contents of both the relative clause (*that are compounded in such a way that*) and the participial clause (*containing scheduled substances*) of the English version in coordination, so it is "only" ambiguous in a twofold manner: (i) as the modifier of "sonstige Zubereitungen" or (ii) of the whole enumeration (with the restriction discussed in < 32 >).

6. Scope barriers under coordination

< 30 >

Scope ambiguities can be avoided with simple linguistic means. Such “scope barriers” block scope from extending over more than its adjacent item. From the point of view of law-linguistics, it is important to note that the choice of a coordinator can serve as a scope barrier: German *sowie* and English *both – and* for example, create such a barrier for conjunctive coordination, German *oder aber*, English *either – or* (ADAMS/KAYE 2006:1191) create a barrier in disjunctive coordination. In (39), no ambiguities arise – the adjective only modifies its adjacent noun in both cases, i.e. has narrow scope forced upon it by the barrier.

(39) a. *alte Bücher sowie Zeitungen und Broschüren*
‘old books as well as newspapers and brochures’

b. *alte Bücher oder aber Zeitungen oder Broschüren*
‘old books or else newspapers and brochures’

< 31 >

Besides a special coordinator, other means have a scope barrier effect as well:

- (i) punctuation, see < 32 > ,
- (ii) graphical segmentation (e.g. by numbering and indenting text),
- (iii) and, in legal texts, also cross-references, see < 32 > ,
- (iv) grammatical agreement, see < 33 > ,
- (v) avoiding the ellipsis of an article, preposition, head noun/verb or modifier on non-first connects, see < 34 >
- (vi) word order, see < 35 > ,
- (vii) framing, see < 36 > ,
- (viii) explication of indefinite legal concepts, see < 37 > .

< 32 >

Punctuation rules of the language concerned allowing, a simple semicolon or comma, as in (40a) and (41a), serves as a scope barrier. In (41a), the adjectives set off by a comma signal that these modifiers have wide scope as they are considered separated from their adjacent head. In contrast to German, where any relative clause has to be set off by commas, in English in (40b) and French in (41b), the comma before a relative clause can signal both non-restrictiveness and wide scope according to the rules of punctuation: it is not only the potatoes which are not peeled.

(40) a. *alte Zeitungen; CDs und Broschüren*

- b. (EU) No 1169/2011, art. 19 para. 1 lit. a ¹⁰
fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated

- (41) Regulation (EU) 2018/1724, art. 19 para. 6 ⁸
a. *que los enlaces [...] no contengan ninguna duplicidad ni ningún solapamiento innecesario, total o parcial, ...*
b. *que les liens [...] ne comportent pas de doublons ou de chevauchements inutiles, qu'ils soient complets ou partiels, ...*

A cross-reference is contained in example (38) from Regulation (EC) No 273/2004 ⁷, art. 2 lit. a in “*medicinal products as defined by Directive 2001/83/EC of the European Parliament and of the Council [...]*”. It is the content of Directive 2001/83/EC ¹³ which specifies the “*medicinal products*”, the first item of the enumeration directly preceding the cross-reference. Therefore the relative clause (“*that are compounded in such a way that ...*”) which follows the later items of the enumeration after the cross-reference (“*pharmaceutical preparations, mixtures, natural products and other preparations*”) may not be understood as modifying “*medicinal products*” in the English version (analogously in German; cf. Judgment of the court of 5 February 2015 in Joined Cases C-627/13 and C-2/14, para. 51 ⁷). From the point of view of grammar, the relative clause can have scope over and thus modify “*medicinal products*”.

< 33 >

In Romance and Slavic languages, grammatical agreement in gender and number creates a scope barrier along the way. In French, for instance, an adjective or participle modifying more than one noun has to be masculine plural according to the rules of grammar:

- (42) *une veste et un pantalon noirs*

In Regulation (EC) No 273/2004, art. 2 lit. a ⁷, it remains unclear whether the modifying relative clause *die erfasste Stoffe enthalten und so zusammengesetzt sind, dass ...* and the gerund clause *containing scheduled substances that are compounded in such a way that ...* have only their adjacent noun phrases in their scope or all coordinated nouns. In the French version, grammatical agreement disambiguates the scope relations.

- (43) *des préparations pharmaceutiques, mélanges, produits naturels ou autres préparations contenant des substances classifiées qui sont composées de manière telle que ...*

The past participles *classifiées* and *composées* are both feminine plural and therefore cannot refer to any masculine noun. The list contains both masculine and feminine nouns, which together would trigger masculine plural agreement. Therefore, the participles can only modify

the last items *autres préparations* or *substances*, but not *médicaments*. Still, an ambiguity remains: whereas it is fairly clear that *classifiées* modifies *substances* (wavy underline in (43)), the relative clause *qui sont composées de manière telle que ...* may modify either *substances* or *autres préparations* (bold and underline).

In Spanish, agreement is a scope barrier in an analogous fashion. In

- (44) *Llevaba siempre sombrero y corbata negra.*
 ‘he always wore a sombrero and a black tie’

the feminine singular adjective *negra* ‘black’ can only refer to its adjacent (feminine) noun, otherwise it would have to be masculine plural because *sombrero* is masculine (REAL ACADEMIA ESPAÑOLA 2013:430-431). However, if all connects are feminine plural, or the adjective is utrum plural or preposed, ambiguities arise:

- (45) a. *camisas y corbatas negras* ‘(black) shirts and black ties’
 b. *hombres y mujeres jóvenes* ‘(young) men and young women’
 c. *quedamos en vernos en el mismo día y hora*
 ‘we agreed to meet on the same day and hour’

< 34 >

Avoidance of ellipsis by using

- (i) an overt (explicit) modifier for each nominal connect (as in (46a), compare synoptical (36) and (30a)), or
 (ii) an overt head noun with each modifier (as in (46b)) prevents ambiguity.

- (46) a. Directive 95/46/EC, art. 12 lit. a; cf. C-486/12¹²
ohne unzumutbare Verzögerung oder übermäßige Kosten
 b. Directive 2006/114/EC, recital 16; cf. C-52/13¹
toute publicité trompeuse ou toute publicité comparative illicite

Another example of non-ellipsis is the explicit article *des* after the cross-reference in the French version in (43). The indefinite article is placed before *préparations pharmaceutiques* but not before the enumerates following it, thus reinforcing the preceding scope barrier and joining the following connects more closely.

< 35 >

Changing the order of connects can help avoid scope ambiguities of modifiers, as well. This method can cause different orders of connects in different languages, however, because of different modifier positions and modifying directions (see < 29 >). In Germanic languages, for instance, modifying adjectives are preposed, in Romance, they are generally postposed.

- (47) a. *CDs, Broschüren und französische Zeitungen*
b. *des journaux français, des CD et des brochures*

< 36 >

Framing an enumeration by having attributes which modify each of the connects surround the coordination on both sides can have a similar effect. This is, of course, only possible in languages which allow both pre-posed and post-posed attributes and/or ellipsis of articles, such as German, English, Hungarian, Polish and even French (cf. ZIFONUM 2016; FISCHER 2016). In the reading pointed out in (48a) by the brackets, both *its still life* and *by Van Gogh* modify *paintings and drawings*. Of course, especially with context lacking, other interpretations cannot completely be excluded (e.g. (48b)).

- (48) (QUIRK ET AL. 2008:966)
a. *its still life [paintings and drawings] by Van Gogh*
b. *its [still life paintings] and [drawings by Van Gogh]*

< 37 >

The scope barrier is more evident when the framing elements stand in a content relationship to each other.

In (49), the indefinite legal concept *temporary* is explicated by the participle clause *having a validity of 12 months or less*. Together they create a scope barrier by framing *passports and travel documents* (cf. also FABRICIUS-HANSEN 2016:160). In addition, the preposition *to* (governed by the verb *apply*) is not elided before *temporary*, but before *travel documents*. So the participle clause does not modify *identity cards*, as well.

- (49) Regulation (EC) No 2252/2004, art. 1 para. 3 s. 2; cf. Joined Cases C-446/12 to C-449/12¹⁴
It does not apply to identity cards issued by Member States to their nationals or to temporary passports and travel documents having a validity of 12 months or less.

7. Overview and conclusion

< 38 >

The coordinators 'and' and 'or' have been discussed in their usage in EU legal acts with a focus on passages where they are at the base of ambiguities or clear divergences in multilingual wordings. As such, they constitute one reason for multilingual legal interpretation not being possible according to the wording.

It has been shown, however, that the context plays a significant role as it can balance or override the effect of a coordinator and may thus disambiguate the text, or turn a divergence into a pseudo-divergence.

Coordinators interact with each other as well as with other grammatical operators, especially

negation and modification, where EU legal acts are concerned. This interaction frequently leads to scope ambiguities.

Ambiguities of reading and scope can be avoided by contextual means:

- (i) factoring out of (non-)exhaustivity
- (ii) use of resumptive expressions
- (iii) full coverage of the frame of reference
- (iv) modulation of referentiality values (specificity)

and especially by scope barriers, such as

- (i) the choice of coordinator
- (ii) punctuation
- (iii) graphical segmentation
- (iv) cross-references
- (v) grammatical agreement
- (vi) avoiding an ellipsis of syntactic elements
- (vii) word order
- (viii) framing and
- (ix) explication of indefinite legal concepts.

< 39 >

A multilingual catalogue of listed linguistic means for avoiding ambiguities in the context of coordination, negation and modification agreed upon by the European legislator could not only contribute to the efficient drafting of legal acts. Together with a classification of possible readings of coordinators, ambiguities and divergences set out here and in MATTISSEN (submitted) it could also provide European jurisprudence with further argumentation modules in comparing and interpreting multilingual legal acts.

Appendix

< 40 >

Genetic affiliations of the official languages of the European Union

Indo-European family

- | | |
|---------------------|---|
| Celtic subfamily: | Irish-Gaelic |
| Germanic subfamily: | English, Dutch, German, Danish, Swedish |
| Romance subfamily: | Portuguese, Spanish, French, Italian, Romanian |
| Baltic subfamily: | Lithuanian, Latvian |
| Slavic subfamily: | Czech, Slovak, Polish, Slovene, Croatian, Bulgarian |
| Hellenic subfamily: | Greek |

Finno-Ugric family: Finnish, Estonian, Hungarian

Afroasiatic family, Semitic subfamily: Maltese

Endnotes

- 1 C-52/23: Judgment of the Court of 13 March 2014, Posteshop SpA, Divisione Franchising Kipoint v Autorità Garante della Concorrenza e del Mercato and Presidenza del Consiglio dei Ministri, Request for a preliminary ruling from the Consiglio di Stato, ECLI:EU:C:2014:150; <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-52%252F13&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1873265> (Access 19/11/2019)

based on Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) *OJ L 376*, 27.12.2006: 21–27, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/qid=1573750328476&uri=CELEX:32006L0114&from=EN> (Access 19/11/2019).

This case was chosen for a term paper by Nina Diedel and Leona Jackson during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2014” under the supervision of Isolde Burr-Haase in the summer term of 2015. The present analysis is my own.
- 2 C-304/02: Judgment of the Court of 12 July 2005, Commission of the European Communities v French Republic, ECLI:EU:C:2005:444, [http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-304%252F02&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1869121](http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-304%252F02&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1869121) (Access 19/11/2019)

based on Treaty establishing the European Community (Consolidated version 2006), *OJ C 321E*, 29.12.2006: 37–186, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573750144311&uri=CELEX:12006E/TXT&from=EN> (Access 19/11/2019).
- 3 C-561/16: Judgment of the Court of 7 August 2018, Saras Energía SA v Administración del Estado, Request for a preliminary ruling from the Tribunal Supremo, ECLI:EU:C:2018:633, <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-561%252F16&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1873265> (Access 19/11/2019)

based on Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, *OJ L 315*, 14.11.2012: 1–56, <https://eur-lex.europa.eu/legal-content/EN-DE-FR/TXT/?qid=1573749925106&uri=CELEX:32012L0027&from=EN> (Access 19/11/2019).

This case was chosen for a term paper by Pemba Toto-Kiesa during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH” under the supervision of Isolde Burr-Haase in the summer term of 2019. The present analysis is my own.

- 4 C-510/10: Judgment of the Court of 26 April 2012, DR and TV2 Danmark A/S v NCB, Nordisk Copyright Bureau, Reference for a preliminary ruling from the Østre Landsret, ECLI:EU:C:2012:244, <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=de&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-510%252F10&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=3579548> (Access 19/11/2019) based on Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, *OJ L* 167, 22.06.2001: 10–19, <https://eur-lex.europa.eu/legal-content/EN-DE-FR/TXT/?qid=1573751931551&uri=CELEX:32001L0029&from=EN> (Access 19/11/2019).

This case was chosen for a term paper by Magdalena Klatt during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2011” under the supervision of Isolde Burr-Haase in the summer term of 2012. The present analysis is my own.

- 5 POSITION OF THE EUROPEAN PARLIAMENT adopted at first reading on 12 March 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (EP-PE_TC1-COD(2012)0011). <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TC+P7-TC1-COD-2012-0011+0+DOC+PDF+V0//EN>, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TC+P7-TC1-COD-2012-0011+0+DOC+PDF+V0//DE>, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TC+P7-TC1-COD-2012-0011+0+DOC+PDF+V0//FR> (Access 19/11/2019).

This example was chosen for a term paper by Tanja Lischka und Anne-Sophie Sander during the course “Multilinguale Aspekte bei der Rechtsetzung in der Europäischen Union anhand des Standpunkts des Europäischen Parlaments zur europäischen Datenschutzverordnung 2015” under the supervision of Isolde Burr-Haase in the winter term of 2014/2015. The present analysis is my own.

- 6 Joined Cases C-391/16, C-77/17 and C-78/17: Judgment of the Court of 14 May 2019, M and Others v Commissaire général aux réfugiés et aux apatrides, Requests for a preliminary ruling from the Nejvyšší správní soud and Conseil du Contentieux des Étrangers, ECLI:EU:C:2019:403, Opinion of Advocate General M. Wathelet, ECLI:EU:C:2018:486, both at <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-391%252F16&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1880901> (Access 19/11/2019)

based on Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, *OJ L* 337, 20.12.2011: 9–26, <https://eur-lex.europa.eu/legal-content/EN-DE-FR/TXT/?qid=1573753357622&uri=CELEX:32011L0095>

&from=EN (Access 19/11/2019).

This case was kindly brought to my attention by Ellen Heinemann. The present analysis is my own.

- 7 Joined Cases C-627/13 and C-2/14: Judgment of the Court of 5 February 2015, Miguel M. and Others, Requests for a preliminary ruling from the Bundesgerichtshof, ECLI:EU:C:2015:59, <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-627%252F13&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1884151> (Access 19/11/2019) based on Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors, *OJ L* 47, 18.02.2004: 1–10, <https://eur-lex.europa.eu/legal-content/EN-DE-FR/TXT/?qid=1573754170222&uri=CELEX:32004R0273&from=EN> (Access 19/11/2019) amended by Regulation (EU) No 1258/2013 of the European Parliament and of the Council of 20 November 2013 amending Regulation (EC) No 273/2004 on drug precursors, *OJ L* 330, 10.12.2013: 21–29, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573754609814&uri=CELEX:32013R1258&from=EN> (Access 19/11/2019).

This case was chosen for a term paper by Sarah Sandführ and Yasmin Vlase-West during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2015” under the supervision of Isolde Burr-Haase in the summer term of 2016. The present analysis is my own.

- 8 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012, PE/41/2018/REV/2, *OJ L* 295, 21.11.2018: 1–38, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573754735864&uri=CELEX:32018R1724&from=EN> (Access 19/11/2019).

This example was chosen for a term paper by Monika Oblonczek during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2017” under the supervision of Isolde Burr-Haase in the summer term of 2018. The present analysis is my own.

- 9 Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008, PE/75/2018/REV/1, *OJ L* 130, 17.05.2019: 1–54, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573754849268&uri=CELEX:32019R0787&from=EN> (Access 19/11/2019).

- 10 Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and

2008/5/EC and Commission Regulation (EC) No 608/2004, *OJ L* 304, 22.11.2011: 18–63, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573755000800&uri=CELEX:32011R1169&from=EN> (Access 19/11/2019).

A case (C-462/17) based on an earlier version of the regulation ((EG) No 110/2008) was chosen for a term paper by Charlotte Mann during the course “Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2018” under the supervision of Isolde Burr-Haase in the summer term of 2019. The present analysis is my own.

- 11 Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, *OJ L* 326, 11.12.2015: 1–33, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573755273916&uri=CELEX:32015L2302&from=EN> (Access 19/11/ 2019).

This example was chosen for a term paper by Agata Miksiewicz and Yasmin Vlase-West during the course “Multilinguale Aspekte bei der Rechtsetzung in der Europäischen Union am Beispiel der Richtlinie (EU) 2015/2302 des Europäischen Parlaments und des Rates über Pauschalreisen und verbundene Reiseleistungen” under the supervision of Isolde Burr-Haase in the winter term of 2015/2016. The present analysis is my own.

- 12 C-486/12: Judgment of the Court, 12 December 2013, X, Request for a preliminary ruling from the Gerechtshof te ‘s-Hertogenbosch, ECLI:EU:C:2013:836, [http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-486%252F12&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1886571](http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-486%252F12&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1886571) (Access 19/11/2019)

based on Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, *OJ L* 281, 23.11.1995: 31–50, no longer in force since 24/05/2018; Repealed by 32016R0679, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573755578595&uri=CELEX:31995L0046&from=EN> (Access 19/11/2019).

This case was chosen for a term paper by group 4 during the course “ Auslegung des mehrsprachig verbindlichen Unionsrechts in der Rechtsprechung des EuGH 2013” under the supervision of Isolde Burr-Haase in the summer term of 2014. The present analysis is my own.

- 13 Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, *OJ L* 311, 28.11.2001: 67–128, <https://eur-lex.europa.eu/legal-content/EN-DE-FR/TXT/?qid=1574472020670&uri=CELEX:32001L0083&from=EN> (Access 19/11/2019).

- 14 Joined Cases C-446/12 to C-449/12: Judgment of the Court of 16 April 2015, W. P. Willems and Others v Burgemeester van Nuth and Others, Requests for a preliminary ruling from the Raad van State, ECLI:EU:C:2015:238, <http://curia.europa.eu/juris/liste.jsf?oqp=&for=&mat=or&lgrec=de&jge=&td=%3BALL&jur=C%2CT%2CF&num=C-446%252F12&page=1&dates=&pcs=Oor&lg=&pro=&>

nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=1895934 (Access 19/11/2019)

based on Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, *OJ L* 385, 29.12.2004: 1–6, <https://eur-lex.europa.eu/legal-content/EN-FR-DE/TXT/?qid=1573755958006&uri=CELEX:32004R2252&from=EN> (Access 19/11/2019).

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