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## **The effect of directives within the area of direct taxation on the interpretation and application of tax treaties**

Vergouwen, T.M.

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## Literature

- Adamczyk, Ł. & Majdańska, A., *The Sources of EU Law Relevant for Direct Taxation* in: *Introduction to European Tax Law on Direct Taxation* (Lang, M., Pistone, P., Schuch, J. & Staringer, C.), Wien: Linde Verlag 2014.
- Alvarez, J.E., *International Organizations as Law-Makers*, Online: Oxford University Press 2005.
- Ariginelli, P., *Multilingual Tax Treaties: Interpretation, Semantic Analysis and Legal*, Online: IBFD 2015.
- Ariginelli, P., *The ATAD and Third Countries*: in: *The External Tax Strategy of the EU in a Post-BEPS Environment* (Jiménez, A.M.), Online: IBFD 2019.
- Arnulf, A., *What is a General Principle of EU Law?* in: *Prohibition of abuse of law: a new general principle of EU law?* (De la Feria, R. & Vogenauer, S.), Oxford: Hart Publishing 2011.
- Arnold, B.J., *International Tax Primer*, Alphen aan den Rijn: Kluwer Law International 2019.
- Van Asselt, H., *'Managing the fragmentation of international environmental law: Forests at the intersection of the climate and biodiversity regimes'*, *New York University Journal of International Law and Politics* 2012/4.
- Aust, A., *Modern Treaty Law and Practice*, Cambridge: Cambridge University Press 2013.
- Avella, F., *'Using EU Law To Interpret Undefined Tax Treaty Terms: Article 31(3)(c) of the Vienna Convention on the Law of Treaties and Article 3(2) of the OECD Model Convention'*, *World Tax Journal* 2012/6.
- Avery Jones, J.F., Berg, C.J., Depret, H., Ellis, M., Fontaneau, P., Lenz, R., Miyatake, T., Roberts, S.I., Sandels, C. & Strobl, J., *'The Interpretation of Tax Treaties with Particular Reference to Article 3(2) of the OECD Model – Pt I'*, *British Tax Review* 1984/1.
- Avery Jones, J.F., Berg, C.J., Depret, H., Ellis, M., Fontaneau, P., Lenz, R., Miyatake, T., Roberts, S.I., Sandels, C. & Strobl, J., *'The Interpretation of Tax Treaties with Particular Reference to Article 3(2) of the OECD Model – Pt II'*, *British Tax Review* 1984/2.
- Avery Jones, J.F., *The Interaction between Tax Treaty Provisions and Domestic Law* in: *Tax Treaties and Domestic Law* (Maisto, G.), Online: IBFD 2006.
- Avery Jones, J.F., *'A Fresh Look at Article 3(2) of the OECD Model'*, *Bulletin for International Taxation* 2020/11.
- Avery Jones, J.F. & Hattingh, J., *Global Tax Treaty Commentaries: Treaty Interpretation*, Online: IBFD 2021.
- Baerentzen, S., Lejour, A. & Van 't Riet, M., *'Limitation of Holding Structures for Intra-EU Dividends: An End to Tax Avoidance?'*, *World Tax Journal* 2020/5.

- Baker, P., *Double Taxation Conventions*, London: Sweet & Maxwell's Tax Library 1996.
- Baker, P., 'Multilateral Tax Treaties', *Bulletin for International Taxation* 2021/11 & 12.
- Bernhardt, R., 'Interpretation and Implied (Tacit) Modification of Treaties – Comments on Arts. 27, 28, 29 and 38 of the ILC's 1966 Draft Articles on the Law of Treaties', *Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht* 1967, volume 27.
- Bobek, M., *The effect of EU law in the national legal systems in: European Union Law* (Barnard, C. & Peers, S.), Oxford: Oxford University Press 2017.
- Borgen, C.J., *Treaty Conflicts and Normative Fragmentation in: The Oxford Guide to Treaties* (Hollis, D.B.), Oxford: Oxford University Press 2012.
- Bosman, R.A., *Other Income Under Tax Treaties*, Online: Kluwer Law International 2015.
- Bosman, R.A., *Formele aspecten van het multilaterale instrument*, MBB 2017/4.
- Bosman, R.A. & Pötgens, F.P.G., *Belastingverdragen in: De toekomst van de vennootschapsbelasting* (van de Streek, J.), Online: Kluwer 2017.
- Bossuyt, J., *The Legal Status of Extrinsic Instruments for the Interpretation of Tax Treaties*, Online: IBFD 2021.
- Boulogne, G.F., *Shortcomings in the Merger Directive*, Deventer: Kluwer 2016.
- Boynes, N.D., *France in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network*, Online: IFA 2020.
- Bracco, P., *Italy in: IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions*, Online: IFA 2010.
- Brauner, Y. & Kofler, G., *The Interaction of Tax Treaties with International Economic Laws in: Global Tax Treaty Commentaries* 2022.
- Brauner, Y., 'The True Nature of Tax Treaties', *Tax Treaty Monitor* 2020/1.
- de Broe, L., *Chapter 16: Should Courts in EU Member States Take Account of the ECJ's Judgment in the Danish Beneficial Ownership Cases When Interpreting the Beneficial Ownership Requirement in Tax Treaties? in: Current Tax Treaty Issues* (Maisto, G.), Online: IBFD 2019.
- de Broe, L., *Chapter 23: Resolving Conflicts between Secondary EU Law and Commitments of Member States under Tax Treaties in: Building Global International Tax Law. Essays in Honour of Guglielmo Maisto* (Pistone, P.), Online: IBFD 2022.
- Broekhuijsen, D.M., 'A Modern Understanding of Article 31(3)(c) of the Vienna Convention (1969): a New Haunt for the Commentaries to the OECD Model', *Bulletin for International Taxation* 2013/9.
- Broekhuijsen, D.M., *A Multilateral Tax Treaty: Designing an Instrument to Modernise International Tax Law*, Alphen aan den Rijn: Kluwer Law International 2018.
- Brokelind, C., *Coordination of Negotiation of Member States' Double Tax Treaties with Third States in: The External Tax Strategy of the EU in a Post-BEPS Environment* (Jiménez, A.M.), Online: IBFD 2019.
- van den Bruggen, E., 'Good faith in the application and interpretation of double taxation conventions', *Bulletin for International Taxation* 2003/1.
- van den Bruggen, E., 'Unless the Vienna Convention Otherwise Requires: Notes on the Relationship between Article 3(2) of the OECD Model Tax Convention and Articles 31 and 32 of the Vienna Convention on the Law of Treaties', *European Taxation* 2003/5.
- Capotorti, F., *Legal Problems of Directives, Regulations and their Implementation in: Making European Policies Work: The Implementation of Community Legislation*

- in the Member States (Volume I) (Siedentopf, H. & Ziller, J.), SAGE publications 1988.
- Chand, V., 'Exit Charges for Migrating Individuals and Companies: Comparative and Tax Treaty Analysis', *Bulletin for International Taxation* 2013/4/5.
- Chand, V., Turina, A. & Romanovska, K., 'Tax Treaty Obstacles in Implementing the Pillar Two Global Minimum Tax Rules and a Possible Solution for Eliminating the Various Challenges', *World Tax Journal* 2022/2.
- Churchill, R.R. & Foster, N.G., 'European Community Law and Prior Treaty Obligations of Member States: The Spanish Fisherman's Cases', *The International and Comparative Law Quarterly* 1987/3.
- Claes, M., *The Primacy of EU Law in European and National Law in: The Oxford Handbook of European Union Law* (Arnulf, A. & Chalmers, D.), Oxford: Oxford University Press 2015.
- Conway, G., *EU Law*, Abingdon: Routledge 2015.
- Cordewener, A., *The Interest and Royalty Directive in: European Tax Law* (Wattel, P.J., Marres, O.C.R. & Vermeulen, H.), Deventer: Kluwer 2018.
- Corredor Velásquez, D.O., 'Tax Treaty Interpretation: Interaction Between Article 3(2) Organisation for Economic Co-Operation and Development Model Convention and Article 31 Vienna Convention', *Intertax* 2016/12.
- Craig, P., 'The legal effect of Directives: policy, rules and exceptions', *European Law Review* 2009/3.
- Crawford, J., *The sources of international law in: Brownlie's Principles of Public International Law* (Crawford, J.), Oxford: Oxford University Press 2019.
- Dashwood, A., Dougan, M., Rodger, B., Spaventa, E. & Wyatt, D., *Wyatt and Dashwood's European Union Law*, Oxford: Hart Publishing 2011.
- David, E., *Treaties and Third States in: The Vienna Convention on the Law of Treaties* (Corten, O. & Klein, P.), Oxford: Oxford University Press 2011.
- Dimopoulos, A., 'The Validity and Applicability of International Investment Agreements between EU Member States under EU and International Law', *Common Market Law Review* 2011/1.
- Distaso, M. & Russo, R., 'The EC Interest and Royalties Directive – A Comment', *European Taxation* 2004/4.
- Docclo, C., 'EU-richtlijnen inzake BEPS en belastingverdragen: een moeilijk huwelijk', *Fiscoloog* 2017/406.
- Dörr, O. & Schmalenbach, K., *Vienna Convention on the Law of Treaties, A Commentary*, Berlin: Springer 2018.
- Douglas-Scott, S., *Constitutional Law of the European Union*, London: Longman 2002.
- Douma, S.C.W. & Engelen, F.A., *Introduction in: The Legal Status of the OECD Commentaries* (Douma, S.C.W. & Engelen, F.A.), Online: IBFD 2008.
- Douma, S.C.W., 'Gevoegde zaken N Luxembourg 1 e.a.', *BNB* 2020/9.
- Dourado, A.P., Kofler, G., Reimer, E., Rust, A., Ismer, R. & Ruß, J., *Article 3 in: Klaus Vogel on Double Taxation Conventions* (Reimer, E. & Rust, A.), Alphen aan den Rijn: Wolters Kluwer Law & Business 2022.
- Dubuisson, F., *Art. 59 1969 Vienna Convention in: The Vienna Convention on the Law of Treaties* (Corten, O. & Klein, P.), Oxford: Oxford University Press 2011.

- Eckes, C., 'Case C-188/07, Commune de Mesquer v. Total France and Total International Ltd., Judgment of the Court (Grand Chamber) of 24 June 2008 [2008] ECR I-4501; Case C-301/08, Iréne Bogiatzi v. Deutscher Luftpool, Société Luxair, European Communities, Luxembourg, Foyer Assurances SA, Judgment of the Court (Fourth Chamber) of 22 October 2009', *Common Market Law Review* 2010/3.
- Eckes, C., *The Role of the European Court of Justice in: International Law as Law of the EU* (Cannizzaro, E., Palchetti, P. & Wessel, R.A.), Leiden/Boston: Martinus Nijhoff Publishers 2011.
- Eckes, C. & Wessel, R.A., *An International Perspective in: Oxford Principles of European Union Law: The European Union Legal Order (Vol. I)* (Schütze, R. & Tridimas, T.), Oxford: Oxford University Press 2018.
- Eckes, C., 'The autonomy of the EU legal order', *Europe and the World: A law review* 2020/1.
- Edvinsson, D., Sweden in: *IFA Cahiers 2020: Volume 105A – Reconstructing the treaty network*, Online: IFA 2020.
- Eeckhout, P., *External Relations of the European Union*, Oxford: Oxford University Press 2011.
- Engelen, F.A., *Interpretation of Tax Treaties under International Law*, Online: IBFD 2004.
- Engelen, F.A., Vleggeert, J. & Vergouwen, T.M., 'Belastingverdragen en voorrang van richtlijnen op het gebied van directe belastingen', *WFR* 2019/257.
- Farmer, P., *The impact of EC law on groups of companies in: International and EC Tax Aspects of Groups of Companies* (Maisto, G.), Online: IBFD 2008.
- Fernandes, J.A. & De Sousa de Camara, F., Portugal in: *IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions*, Online: IFA 2010.
- Finke, J., *Regime-collisions: Tensions between treaties (and how to solve them) in: Research Handbook on the Law of Treaties* (Tams, C.J., Tzanakopoulos, A. & Zimmermann, A.), Cheltenham: Edward Elgar Publishing 2014.
- Franklin, C.N.K., 'Flexibility vs. Legal Certainty: Article 307 EC and Other Issues in the Aftermath of the Open Skies Cases', *European Foreign Affairs Review* 2005/10.
- Gardiner, R.K., *Treaty Interpretation in: The Oxford Guide to Treaties* (Hollis, D.B.), Oxford: Oxford University Press 2012.
- Gardiner, R.K., *Treaty Interpretation*, Oxford: Oxford University Press 2015.
- Gasbarri, L., 2018, *Regime Interactions and the Dual Legality of EU Law: The case of Slovak Republic v. Achmea*, *The Global*.
- Geiger, R., Article 351 [Former Agreements of Member States] in: *European Union Treaties* (Geiger, R., Khan, D.-E. & Kotzur, M.), Munich: C.H. Beck 2015.
- Glinksi, C., 'Achmea and its Implications for Investor Dispute Settlement', *Legal Studies Research Paper Series*, paper no. 2019/70.
- de Graaf, A.C.G.A.C., *De invloed van het EG-recht op het internationaal belastingrecht: beleids- en marktintegratie*, Deventer: Kluwer 2004.
- de Groot, I.M., 'Aan doorstroomvennootschap betaald dividend; misbruik van recht', *NLF* 2019/0597.
- de Groot, I.M., 'Implementation of the Controlled Foreign Company Rules in the Netherlands', *Intertax* 2019/8 & 9.

- Gutmann, D., Chapter 18: Is the Methodology of Tax Law Interpretation Still Able to Preserve the European Union's Tax Identity? in: *Building Global International Tax Law. Essays in Honour of Guglielmo Maisto* (Pistone, P.), Online: IBFD 2022.
- Hage, J., 'The Logic of Analogy in the Law', *Argumentation* 2005/4.
- Haket, S., 'Coherence in the Application of the Duty of Consistent Interpretation in EU Law', *Review of European Administrative Law* 2015/2.
- Hartley, T.C., *The Foundation of European Union Law*, Oxford: Oxford University Press 2010.
- Haslehner, W.C., 'A Multilateral Interpretation of the Multilateral Instrument (and Covered Tax Agreements)?', *Bulletin for International Taxation* 2020/4 & 5.
- Haslehner, W.C., *The General Scope of the ATAD and its Position in the EU Legal Order in: A Guide to the Anti-Tax Avoidance Directive* (Haslehner, W.C., Pantazatou, K., Kofler, G. & Rust, A.), Cheltenham: Edward Elgar Publishing Limited 2020.
- Haslehner, W.C., Introduction in: *Klaus Vogel on Double Taxation Conventions* (Reimer, E. & Rust, A.), Alphen aan den Rijn: Kluwer Law International 2021.
- Helminen, M., Chapter 17: The Principle of Elimination of Double Taxation under EU Law – Does it Exist? in: *Principles of Law: Function, Status and Impact in EU Tax Law* (Brokelind, C.), Online: IBFD 2017.
- Helminen, M., *EU Tax Law – Direct Taxation*, Online: IBFD 2021.
- Herdegen, M., *Interpretation in International Law in: Max Planck Encyclopedia of Public International Law* (Wolfrum, R.), 2013.
- Hindelang, S., 'Conceptualisation and Application of the Principle of Autonomy of EU Law – the CJEU's Judgment in Achmea Put in Perspective', *European Law Review* 2019/3.
- Hinneken, L., 'Compatibility of Bilateral Tax Treaties with European Community Law. The Rules', *EC Tax Review* 1994/4.
- Hinneken, L., 'The uneasy case and fate of article 293 second indent EC', *Intertax* 2009/11.
- Hohenwarter, D., *Austria in: Tax Treaties and Domestic Law* (Maisto, G.), Online: IBFD 2006.
- Hoor, O.R. & Medler, A., *Luxembourg in: IFA Cahiers 2020: Volume 105A – Reconstructing the treaty network*, Online: IFA 2020.
- Huhn, W., 'The Stages of Legal Reasoning: Formalism, Analogy, and Realism', *Villanova Law Review* 2003/1.
- van Hulten, L.C. & Korving, J.J.A.M., 'Svig og misbruk: de Deense antimisbruikzaken', *WFR* 2019/129.
- Jennings, R., & Watts, A., *Oppenheim's International Law* (Vol. I), London: Longman: 1992.
- Jiménez, A.J.M., *Beneficial Ownership – Global Tax Treaty Commentaries in: Global Tax Treaty Commentaries – Global Topics*, Online: IBFD 2022.
- Kellerbauer, M. & Klamert, M., *Article 351 TFEU in: The EU Treaties and the Charter of Fundamental Rights: A Commentary* (Kellerbauer, M., Klamert, M. & Tomkin, J.), Online: Oxford Scholarship 2021.
- Kelsen, H., *Principles of International Law*, New York: Rinehart & Company Inc 1952.

- Klabbers, J., *The changing image of international organizations in: The Legitimacy of International Organizations* (Coicaud, J.-M. & Heiskanen, V.), Tokyo: United Nations University Press 2001.
- Klabbers, J., *Treaty Conflict and the European Union*, Cambridge: Cambridge University Press 2008.
- Klabbers, J., *An Introduction to International Institutional Law*, Cambridge: Cambridge University Press 2009.
- Klabbers, J., *Beyond the Vienna Convention in: The Law of Treaties Beyond the Vienna Convention* (Cannizzaro, E.), Oxford: Oxford University Press 2011.
- Klabbers, J., 'Unity, Diversity, Accountability: the ambivalent concept of international organisation', *Melbourne Journal of International Law* 2013/6.
- Klabbers, J., *Advanced Introduction to the Law of International Organizations*, Online: Edward Elgar Publishing 2015.
- Klabbers, J., *Sui Generis? The European Union as an International Organization in: A Companion to European Union Law and International Law* (Patterson, D. & Söderston, A.), Chichester: Wiley Blackwell 2016.
- Klabbers, J., *International Law*, Cambridge: Cambridge University Press 2017.
- Klamert, M., *The Principle of Loyalty in EU Law*, Oxford: Oxford University Press 2014.
- Kofler, G.W., *Direct Applicability and Direct Effect in: Principles of Law: Function, Status and Impact in EU Tax Law* (Brokelind, C.), Online: IBFD 2014.
- Kolb, R., *The International Court of Justice*, Oxford: Hart Publishing 2013.
- Kolb, R., *The Law of Treaties. An Introduction*, Cheltenham: Edward Elgar Publishing 2016.
- Kolozs, B. & Koszegi, A., *Hungary in: IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions*, Online: 2010.
- Kontou, N., *The Termination and Revision of Treaties in the Light of New Customary International Law*, Oxford: Clarendon Press 1994.
- Koops, C.E., *Contemplating compliance: European compliance mechanisms in international perspective*, Amsterdam: University of Amsterdam 2014.
- Koroncziová, A., & Kacaljak, M., 'GAAR as tax treaty override: Slovak perspective', *Economics and Social Issues Review* 2017/3.
- Kozowski, M., *Analogical Reasoning in Law*, Newcastle-upon-Tyne: Cambridge Scholars Publisher 2019.
- Koutrakos, P., *International Agreements Concluded by Member States Prior to their Membership of The European Union in: EU International Relations Law* Oxford: Hart Publishing Ltd. 2006.
- Krenzler, H.G. & Landwehr, O., 'A New Legal Order of International Law': *On the Relationship between Public International Law and European Union Law after Kadi in: From Bilateralism to Community Interest: Essays in Honour of Bruno Simma* (Fastenrath, U., Geiger, R., Khan, D.-E., Paulus, A., von Schorlemer, S. & Vedder, C.), Oxford: Oxford University Press 2011.
- ter Kuile, B.H., 'Juridische aspecten van de fiscale soevereiniteit in de interne markt', *WFR*, 1991/10.
- Lang, M., *The interpretation of double taxation conventions in: Introduction to the Law of Double Taxation Conventions* Amsterdam: IBFD 2016.
- Lang, M., 'Tax Treaty Interpretation – A Response to John F. Avery Jones', *Bulletin for International Taxation* 2020/11.

- Lasiniski-Sulecki, K. & Morawski, W., Poland in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network, Online: IFA 2020.
- Lavranos, N., 2022, Lex superior: How EU law trumps investment law (28 June 2022), Thomson Reuters. Practical Law. Arbitration Blog.
- Lenaerts, K. & Gutiérrez-Fons, J.A., 'The Constitutional Allocation of Powers and General Principles of EU Law', *Common Market Law Review* 2010/6
- Lenaerts, K. & van Nuffel, P., *European Union Law*, London: Sweet & Maxwell 2011.
- Lenaerts, K. & Gutiérrez-Fons, J.A., 'To Say What the Law of the EU Is: Methods of Interpretation and the European Court of Justice', *EUI Working Papers* 2013/9.
- Lenaerts, K. & van Nuffel, P., *Europees Recht*, Antwerpen – Cambridge: Intersentia 2017.
- Lenaerts, K. 'The autonomy of European Union Law', *Post AISDUE* 2019/I.
- Linderfalk, U., 'Who are 'The Parties' Article 31, paragraph 3(c) of the 1969 Vienna Convention and the 'Principle of Systemic Integration' Revisited', *Netherlands International Law Review* 2008/3.
- Linn, A., Germany in: IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions, Online: 2010.
- Lindroos, A., 'Addressing Norm Conflicts in a Fragmented Legal System: The Doctrine of *Lex Specialis*', *Nordic Journal of International Law* 2005/1.
- Lowe, V., *International Law*, Oxford: Oxford University Press 2007.
- Maisto, G., Chapter 25: Counteracting Tax Treaty Abuses from a European Perspective: Frictions and Interactions between the OECD PPT and the ATAD GAAR in: *Thinker, Teacher, Traveler: Reimagining International Tax Essays in 1 Honor of H. David Rosenbloom* (Kofler, G., Mason, R. & Rust, A.), Online: IBFD 2021.
- Manzini, P., 'The Priority of Pre-Existing Treaties of EC Member States within the Framework of International Law', *European Journal of International Law* 2001/4.
- Marres, O.C.R., Chapter 16: CCCTB and tax treaties in: *The KPMG Guide to the CCCTB* 2012.
- Marres, O.C.R. & de Groot, I.M., 'Combatting Abuse by Conduit Companies. The Doctrine of Abuse under EU Law and its Influence on Tax Treaties', *European Taxation* 2021/8.
- Matz-Lück, N., *Conflicts between Treaties in: The Max Planck Encyclopedia of Public International Law* (Wolfrum, R.), Oxford: Oxford University Press 2010.
- Mayer, F.C., *Van Gend en Loos: The Foundation of a Community of Law in: The Past and Future of EU Law: The Classics of EU Law Revisited on the 50th Anniversary of the Rome Treaty* (Maduro, M. & Azoulai, L.), Oxford: Hart Publishing 2010.
- McLachlan, C., 'The Principle of Systemic Integration and Article 31(3)(c) of the Vienna Convention', *International and Comparative Law Quarterly* 2005/2.
- McNair, P., *The Law of Treaties*, Oxford: Clarendon Press 1961.
- Meessen, K.M., 'The Application of Rules of Public International Law within Community Law', *Common Market Law Review* 1974/4.
- de Melo, C.R. & Ramos, T.C., Portugal in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network, Online: IFA 2020.
- Merkouris, P., *Article 31(3)(c) of the VCLT and the Principle of Systemic Integration*, London: Queen Mary University of London 2010.
- Message, N. France in: *Tax Treaties and Domestic Law* (Maisto, G.), Online: IBFD 2006.



- Michaels, R. & J. Pauwelyn, J., 'Conflict of Norms of Conflict of Laws? Different Techniques in the Fragmentation of International Law' (accessible via: [https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2933&context=faculty\\_scholarship](https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2933&context=faculty_scholarship)).
- Mifsud, I., *Constitutional Law in Malta*, Alphen aan den Rijn: Kluwer Law International 2022.
- Molnar, T., *The interplay between the EU's return *acquis* and international law*, Northampton: Edward Elgar Publishing 2021.
- Moser, K., 'Recent Developments and Challenges Regarding Exit Taxes in the Context of Tax Treaties: Article 13 of the OECD Model and Change of Residence', *Bulletin for International Taxation* 2019/10.
- Müller, D., 2022, *EU Law And Arbitration Under International Investment Instruments: The Surprising Award In Green Power v. Spain* (28 June 2022), *Jus Mundi*.
- Mus, J.B., *Conflicts between Treaties in International Law*, *Netherlands International Law Review* 1998/2.
- Navez, E.-J., *Belgium in: Taxation of Companies on Capital Gains on Shares under Domestic Law, EU Law and Tax Treaties* (Maisto, G.), Online: IBFD 2013.
- Nevill, P., *The European Union as a Source of Public International Law*, *Hungarian Yearbook of International Law and European Law* 2013.
- Niemelä, P., *The Relationship of EU Law and Bilateral Investment Treaties of EU Member States: Treaty Conflict, Harmonious Coexistence and the Critique of Investment Arbitration*, 2017.
- Noone, D. & Quinn, A., *Ireland in: IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions*, Online: IFA 2010.
- Öberg, M.-L., 'Autonomy of the EU Legal Order: A Concept in Need of Revision?', *European Public Law* 2020/3.
- Odermatt, J., 'When a Fence Becomes a Cage: The Principle of Autonomy in EU External Relations Law', *EUI Working Papers* 2016/7.
- Odermatt, J., 'Is EU Law International? Case C-741/19 *Republic of Moldova v Komstroy LLC* and the Autonomy of the EU Legal Order', *European Papers* 2021/3.
- Oppenheim, L.F., *International Law. A Treatise* (Vol. I), London: Longmans, Green 2012.
- Orakhelashvili, A., *The Interpretation of Acts and Rules in Public International Law*, Oxford: Oxford University Press 2008.
- Orakhelashvili, A., *Application and Interpretation of Treaties, s.2 Application of Treaties, Art. 30 1969 Vienna Convention in: The Vienna Conventions on the Law of Treaties* (Corten, O. & Klein, P.), Oxford: Oxford University Press 2011.
- Pancham, S., *Permanent Establishment Mismatches under ATAD II in: The Implementation of Anti-BEPS legislation in the European Union: A Comprehensive Study* (Pistone, P. & Weber, D.), Online: IBFD 2018.
- Pantaleo, L., 'Member States Prior Agreements and Newly EU Attributed Competence: What Lesson from Foreign Investment', *European Foreign Affairs Review* 2014/2.
- Panzeri, I. 'Tax Treaties versus EU Law: Which Should Prevail?', *European Taxation* 2021/4.

- von Papp, K., 'Solving Conflicts with International Investment Treaty Law from an EU Law Perspective: Article 351 TFEU Revisited', *Legal Issues of Economic Integration* 2015/4.
- Pauwelyn, J., *Conflict of Norms in Public International Law: How WTO Law Relates to other Rules of International Law*, Cambridge: Cambridge University Press 2003.
- Pellet, A. & Müller, D., Article 38 in: *The Statute of the International Court of Justice: A Commentary* (3rd Edition) (Zimmermann, A. Tams, C.J., Oellers-Frahm, K. & Tomuschat, C.), Online: Oxford University Press 2019.
- Peters, F.G.F. & Roelofsen, A., Netherlands in: *IFA Cahiers 2010 – Volume 95A: Tax Treaties and tax avoidance: application of anti-avoidance provisions*, Online: IFA 2010.
- Pirlot, A., *When EU Law and International Law Pursue Seemingly Contradictory Paths: A Mapping of Potential Conflicts in Tax Matters in: European Tax Integration: Law, Policy and Politics* (Pistone, P.), Online: IBFD 2018.
- Pit, H.M., *The EU Arbitration Convention*, Groningen: Rijksuniversiteit Groningen 2017.
- Pötgens, F.P.G. & Vergouwen, T.M., 'Supreme Court Issues Third Ruling on Fictitious Wage and Tax Treaties: Decision of the Netherlands Supreme Court of 18 November 2016, BNB 2017/34', *European Taxation* 2017/8.
- Pötgens, F.P.G., Chapter 20: *How the EU Tax Arbitration Directive Relates to Other International Dispute Resolution Mechanisms: A Dutch Perspective in: Building Global International Tax Law. Essays in Honour of Guglielmo Maisto* (Pistone, P.), Online: IBFD 2022.
- Pötgens, F.P.G. & Vergouwen, T.M., *De toenemende invloed van de EU-wetgever op belastingverdragen in: Jubileumbundel 150 jaar WFR* (Jansen, J.J. & Stevens, L.G.M.), Deventer: Kluwer 2022.
- Prechal, S., 'Joined Cases C-397/01 to C-403/01, *Bernhard Pfeiffer et al'*, *Common Market Law Review* 2005/5.
- Prechal, S., *Directives in EC Law*, Oxford: Oxford University Press 2009.
- Prost, M., Sources and the Hierarchy of International Law: Source Preferences and Scales of Values in: *The Oxford Handbook of the Sources of International Law* (Besson, S. & d'Aspremont, J.), Online: Oxford University Press 2018.
- Resch, X.R., *Tax Treaty Interpretation: The Meaning and Application of Article 3(2)*, Leiden: 2020.
- Ribes, A.R., Spain in: *IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network*, Online: IFA 2020.
- Rosas, A., 'The Status in EU Law of International Agreements Concluded by EU Member States', *Fordham International Law Journal* 2011/5.
- Rosenne, S., *Breach of treaty*, Cambridge: Cambridge University Press 1985.
- Rust, A., Germany in: *Tax Treaties and Domestic Law* (Maisto, G.), Online: IBFD 2006.
- Rust, A., *Controlled Foreign Company Rule (Articles 7 and 8 ATAD) in: A Guide to the Anti-Tax Avoidance Directive* (Haslehner, W.C., Pantazatou, K., Kofler, G. & Rust, A.), Cheltenham: Edward Elgar Publishing Limited 2020.
- Sadat-Akhavi, S.A., *Methods of Resolving Conflicts between Treaties*, Leiden / Boston: Martinus Nijhoff Publishers 2003.
- Salmon, J., Art. 26 1969 Vienna Convention in: *The Vienna Conventions on the Law of Treaties* (Vol. I) (Corten, O. & Klein, P.), Oxford: Oxford University Press 2011.

- Samson, M., 'High Hopes, Scant Resources: A Word of Scepticism about the Anti-Fragmentation Function of Article 31(3)(c) of the Vienna Convention on the Law of Treaties', *Leiden Journal of International Law* 2011/3.
- Sands, P., 'Treaty, Custom and the Cross-fertilization of International Law', *Yale Human Rights and Development Law Journal* 1998/1.
- Sawyer, K., 'The Principle of *'interprétation conforme'*: How Far Can or Should National Courts Go when Interpreting National Legislation Consistently with European Community Law?', *Statute Law Review* 2007/3.
- Schermers, H.G. & Blokker, N.M., *International Institutional Law*, Leiden/Boston: Martinus Nijhoff Publishers 2011.
- Schmidt, P.K., Denmark in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network, Online: IFA 2020.
- Schütze, R., 'On 'Federal' Ground: the European Union as an (Inter)national Phenomenon', *Common Market Law Review* 2009/4.
- Schütze, R., *European law and Member State agreements in: Foreign Affairs and the EU Constitution: Selected Essays (Schütze, R.)*, Cambridge: Cambridge University Press 2014.
- Schütze, R., *European Union Law*, Online: Cambridge University Press 2021.
- Schwarzenberger, G., 'Myths and Realities of Treaty Interpretation: Articles 27-29 of the Vienna Draft Convention on the Law of Treaties', *Virginia Journal of International Law* 1968/1.
- Simma, B. & Pulkowski, D., 'Of Planets and the Universe: Self-contained Regimes in International Law', *European Journal of International Law* 2006/3.
- Simma, B. & Kill, T., Harmonizing investment protection and international human rights: first steps towards a methodology in: *International Investment Law for the 21st Century: Essays in Honour of Christoph Schreuer (Binder, C., Kriebaum, U., Reinisch A. & Wittich, S.)*, Oxford: Oxford University Press 2009.
- Simma, B. & Tams, C.J., Termination and Suspension of the Operation of Treaties, Art. 60 1969 Vienna Convention in: *The Vienna Convention on the Law of Treaties (Corten, O. & Klein, P.)*, Oxford: Oxford University Press 2011.
- Sinclair, I., *The Vienna Convention on the Law of Treaties*, Manchester: Manchester University Press 1984.
- Smit, D.S., The Anti-Tax-Avoidance Directive (ATAD) in: *European Tax Law (Wattel, P.J, Marres, O.C.R. & Vermeulen, H.)*, Deventer: Kluwer 2018.
- Sorel, J.-M. & Eveno, V.B., Application and Interpretation of Treaties in: *The Vienna Convention on the Law of Treaties (Corten, O. & Klein, P.)*, Oxford: Oxford University Press 2011.
- Sunstein, C.R., 'On Analogical Reasoning', *Harvard Law Review* 1993/3.
- Switzer, S., *European Law Essentials*, Edinburgh: Edinburgh University Press 2009.
- Szudoczky, R., The sources of EU law and their relationship: Lessons for the field of taxation, Online: IBFD 2014.
- Szudoczky, R. & Blum, D., Unveiling the MLI: An Analysis of Its Nature, Relationship to Covered Tax Agreements and Interpretation in Light of the Obligations of Its Parties in: *International and EU Tax Multilateralism: Challenges Raised by the MLI (Dourado, A.P.)*, Online: IBFD 2020.
- Szurek, S., Article 11 in: *The Vienna Conventions on the Law of Treaties (Corten, O. & Klein, P.)*, Online: Oxford University Press 2011.

- Tiesinga, D. & Nuku, E., Netherlands in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network, Online: IFA 2020.
- Timmermans, C.W.A., 'Directives: their effect within national legal systems', *Common Market Law Review* 1997/4.
- Tomuschat, C., Article 36 in: *The Statute of the International Court of Justice: A Commentary* (3rd Edition) (Zimmermann, A., Tams, C.J., Oellers-Frahm, K. & Tomuschat, C.), Online: Oxford University Press 2019.
- Trstenjak, V., 'National Sovereignty and the Principle of Primacy in EU Law and Their Importance for the Member States', *Beijing Law Review* 2013/2.
- Vergouwen, T.M. & Broekhuijsen, D.M., 'De duur van onderhandelingen van belastingverdragen', *NLF-W* 2022/5.
- Villiger, M.E., *Commentary on the 1969 Vienna Convention on the Law of Treaties*, Leiden/Boston: Martinus Nijhoff Publishers 2009.
- Vita, V., 'The Romanian Constitutional Court and the Principle of Primacy: To Refer or Not to Refer?', *Germany Law Journal* 2015/6.
- Vleggeert, J., *Over onafhankelijkheid, de verschaling van het fiscale debat en wat we daaraan kunnen doen*, Leiden: 2020.
- Vleggeert, J., *Een burgerperspectief op belangenverstrengeling*, Leiden: 2022.
- Vogel, K., 'Double Tax Treaties and Their Interpretation', *Berkeley Journal of International Law* 1986/1.
- Vogel, K. & Prokisch, R.G., General Report in: *Interpretation of double taxation conventions*, Online: IFA 1993.
- Vöneky, S., *Analogy in International Law in: Max Planck Encyclopedias of International Law*, Online: Oxford Public International Law 2008.
- de Vos, P. & Docclo, C., Belgium in: IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network, Online: IFA 2020.
- Vranes, E., 'Lex Superior, Lex Specialis, Lex Posterior – Zur Rechtsnatur der 'Konfliktlösungsregeln'', *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 2005/2.
- Vranes, E., 'The Definition of 'Norm Conflict' in International Law and Legal Theory', *European Journal of International Law* 2006/2.
- Vranken, J., 'Exciting times for Legal Scholarship', *Recht en Methode in onderzoek en onderwijs* 2012/2.
- Ward, D.A., Avery Jones, J.F., de Broe, L., Ellis, M.J., Goldberg, S.H., Killius, J., Gall, J.-P.L., Maisto, G., Miyatake, T., Torrione, H., van Raad, C. & Wiman, B., *The Interpretation of Income Tax Treaties with Particular Reference to the Commentaries on the OECD Model*, International Fiscal Association 2005.
- Warner, J.P., 'The Relationship between European Community Law and the National Laws of Member States', *The Law Quarterly Review* 1977/93.
- Wessel, R.A., 'Studying International and European Law. Confronting Perspectives and Combining Interests', *Grotius Centre Working Paper Series No 2018 2018/071 PIL*.
- de Witte, B., *Direct Effect, Primacy, and the Nature of the Legal Order in: The Evolution of EU Law* (Craig, P. & De Búrca, G.), Oxford: Oxford University Press 2011.
- de Witte, B., *The European Union as an international legal experiment in: The Worlds of European Constitutionalism* (De Búrca, G. & Weiler, J.H.H.), Cambridge: Cambridge University Press 2012.

- de Witte, B., *EU law: is it international law?* in: *European Union Law* (Barnard, C. & Peers, S.), Oxford: Oxford University Press 2017.
- Wouters, J., Ryngaert, C., Ruys, T. & De Baere, G., *International Law: A European Perspective*, Oxford: Hart Publishing 2019.
- Zaimaj, A., *Italy* in: *IFA Cahiers 2020 – Volume 105A: Reconstructing the treaty network*, Online: IFA 2020.

## List of cases

- CJEU, 27 February 1962, Case 10/61 (*Commission v Italy*).
- CJEU, 5 February 1963, Case 26/62 (*Van Gend en Loos*).
- CJEU, 15 July 1964, Case 6/64 (*Costa v ENEL*).
- CJEU, 13 February 1969, Case 14/68 (*Walt Wilhelm and Others*).
- CJEU, 18 February 1970, Case 38/69 (*Commission v Italy*).
- CJEU, 5 April 1979, Case 148/78 (*Ratti*).
- CJEU, 14 October 1980, Case 812/79 (*Burgoa*).
- CJEU, 18 March 1980, Case 91/79 (*Commission v Italy*).
- CJEU, 19 January 1982, Case 8/81 (*Becker*).
- CJEU, 6 October 1982, Case 283/91 (*CILFIT*).
- CJEU, 10 April 1984, Case 14/83 (*Von Colson*).
- CJEU, 14 February 1984, Case 278/82 (*Rewe and Hauptzollämter*).
- CJEU, 15 January 1986, Case 44/84 (*Hurd*).
- CJEU, 26 February 1986, Case 152/84 (*Marshall*).
- CJEU, 8 October 1987, Case 80/86 (*Kolpinghuis*).
- CJEU, 22 September 1988, Case 286/86 (*Deserbais*).
- CJEU, 27 September 1988, Case 235/87 (*Matteucci*).
- CJEU, 13 November 1990, Case C-106/89 (*Marleasing*).
- CJEU, 14 December 1991, Opinion 1/91 (*Draft agreement creation EEA*).
- CJEU, 19 November 1991, Joined Cases C-6/90 & C-9/90 (*Francovich*).
- CJEU, 2 August 1993, Case C-158/91 (*Levy*).
- CJEU, 16 December 1993, Case C-334/92 (*Wagner Miret and De Garantia Salarial*).
- CJEU, 9 August 1994, Case C-327/91 (*France v European Commission*).
- CJEU, 28 March 1995, Case C-324/93 (*Evans Medical Care*).
- CJEU, 8 October 1996, Joined Cases C-178/94, C-179/94, C-188/94, C-189/94 and C-190/94 (*Dillenkofer*).
- CJEU, 14 January 1997, Case C-124/95 (*Centro-Com*).
- CJEU, 18 December 1997, Case C-129/96 (*Inter Environment Wallonie*).
- CJEU, 10 March 1998, Joined Cases C-364/95 & C-365/95 (*T-Port*).
- CJEU, 21 September 1999, Case C-307/97 (*Saint Gobain*).
- CJEU 26 September 2000, Case C-267/97 (*Engelbrecht*).
- CJEU, 4 July 2000, Case C-62/98 (*Commission v Portugal*).
- CJEU, 4 July 2000, Case C-84/98 (*Commission v Portugal*).
- CJEU, 20 September 2001, Case C-453/99 (*Courage and Crehan*).
- CJEU, 4 October 2001, Case C-294/99 (*Athinaiki Zinthopia*).
- CJEU, 5 November 2002, Case C-466/98 (*Commission v United Kingdom*).
- CJEU, 5 November 2002, Case C-466/98 (*Open Skies – Commission v United Kingdom*).
- CJEU, 5 November 2002, Case C-467/98 (*Commission v Denmark – Open Skies*).
- CJEU, 5 November 2002, Case C-476/98 (*Commission v Germany – Open Skies*).

- CJEU, 15 January 2002, Case C-55/00 (*Gottardo*).
- Press Release No 89/02 (Judgments in Cases C-466/98, C-467/98, C-468/98, C-469/98, C-471/98, C-475/98 & C-476/98).
- CJEU, 18 November 2003, Case C-216/01 (*Budějovický Budvar*).
- CJEU, 20 May 2003, Case C-469/00 (*Ravil*).
- CJEU 7 January 2004, Case C-60/02 (X).
- CJEU, 29 April 2004, Case C-371/02 (*Björnekulla Fruktindustrier*).
- CJEU, 5 October 2004, Joined Cases C-397/01 to C-403/01 (*Pfeiffer and Others*).
- CJEU, 1 February 2005, Case C-203/03 (*Commission v Austria*).
- CJEU, 8 December 2005, Case C-220/03 (*ECB v Germany*).
- CJEU, 4 July 2006, Case C-212/04 (*Adeneler and Others*).
- CJEU, 26 October 2006, Case C-199/05 (*European Community v Belgium*).
- CJEU, 5 July 2007, Case C-321/05 (*Kofoed*).
- CJEU, 3 September 2008, Joined Cases C-402/05 P & C-415/05 P (*Kadi and Al Barakaat*).
- CJEU, 24 June 2008, Case C-188/08 (*Commune de Mesquer*).
- CJEU, 3 March 2009, Case C-205/06 (*Commission v Austria*).
- CJEU, 3 March 2009, Case C-249/06 (*Commission v Sweden*).
- CJEU, 8 September 2009, Case C-478/07 (*Budějovický Budvar*).
- CJEU, 19 November 2009, Case C-118/07 (*Commission v Finland*).
- CJEU, 22 October 2009, Case C-301/08 (*Bogiatzi*).
- CJEU, 25 February 2010, Case C-386/08 (*Brita*).
- CJEU, 15 September 2011, Case C-264/09 (*Commission v Slovak Republic*).
- CJEU, 6 September 2012, Joined Cases C-147/11 & C-148/11 (*Czop and Punakova*).
- CJEU, 9 February 2012, Case C-277/10 (*Luksan*).
- CJEU, 24 January 2012, Case C-282/10 (*Dominguez*).
- CJEU, 24 May 2012, Case C-97/11 (*Amia*).
- CJEU, 10 October 2013, Case C-306/12 (*Spedition Welter*).
- CJEU, 13 June 2013, Joined Cases C-671/11 to C-676/11 (*FranceAgriMer*).
- CJEU, 6 February 2014, Case C-613/12 (*Helm*).
- CJEU, 13 February 2014, Case C-466/12 (*Svensson and Others*).
- CJEU, 18 December 2014, Joined Cases C-131/13, C-163/13 & C-164/13 (*Schoenimport 'Italmoda' Mariano Previti*).
- CJEU, 16 May 2017, Case C-682/15 (*Berlioz*).
- CJEU, 16 May 2017, Opinion 2/15 (*EU-Singapore Free Trade Agreement*).
- CJEU, 15 February 2017, Case C-592/15 (*British Film Institute v HMRC*).
- CJEU, 20 December 2017, Joined Cases C-504/16 & C-613/16 (*Deister and Juhler*).
- CJEU, 22 November 2017, Case C-251/16 (*Cussens*).
- CJEU, 29 June 2017, Case C-579/15 (*Poplawski*).
- CJEU, 6 March 2018, Case C-284/16 (*Achmea*).
- CJEU, 17 April 2018, Case C-414/16 (*Egenberger*).
- CJEU, 6 November 2018, Joined Cases C-569/16 & C-570/16 (*Wuppertal*).
- CJEU, 7 August 2018, Case C-122/17 (*Smith*).
- CJEU, 11 July 2018, Case C-15/17 (*Bosphorus Queen Shipping Ltd Corp.*).
- CJEU, 24 October 2018, Case C-602/17 (*Sauvage*).
- CJEU, 27 February 2018, Case C-266/16 (*Western Sahara Campaign*).
- CJEU, 26 February 2019, Joined Cases C-115/16, C-118/16, C-119/16 & C-299/16 (*N Luxembourg 1*).
- CJEU, 26 February 2019, Joined Cases C-116/16 & C-117/16 (*T Denmark*).

- CJEU, 24 June 2019, Case C-573/17 (*Poplawski*).
- CJEU, 4 March 2020, Case C-183/18 (*Bank BGŻ BNP Paribas*).
- CJEU, 22 October 2020, Joined Cases C-720/18 & C-721/18 (*Ferrari*).
- CJEU, 2 September 2021, Case C-741/19 (*Komstroy*).
- CJEU, 17 March 2021, Case C-585/19 (*Academia de Studii Economice din Bucureşti*).
- CJEU, 21 December 2021, Case C-357/19 (*Euro Box Promotion and Others*).
- CJEU, 21 January 2021, Case C-308/19 (*Consiliul Concurenţei*).
- CJEU, 13 January 2022, Case C-282/19 (*MIUR and Ufficio Scolastico Regionale per la Campania*).
- CJEU, 18 January 2022, Case C-261/20 (*Thelen Technopark Berlin*).
- CJEU, 25 January 2022, Case C-181/20 (*Vysocina Wind*).
- CJEU, 22 October 2022, Case C-435/22 PPU (*Generalstaatsanwaltschaft München*).
  
- ECtHR, 18 December 1996, Application no. 15318/89 (*Loizidou v. Turkey*).
- ECtHR, 18 December 1999, Application no. 24833/94 (*Matthews v United Kingdom*).
- Concurring opinion of Judge Wojtyczek in ECtHR 8 April 2014, Application no. 31045/10 (*National Union of Rail, Maritime and Transport Workers v. the United Kingdom*).
- ECtHR, 30 June 2005, Application no. 45036/98 (*Bosphorus*).
- ECtHR, 12 September 2012, Application No. 10593/09 (*Case of Nada v. Switzerland*).
  
- FR: Conseil d'État, 28 June 2022, no. 232 276 (*Schneider Electric*).
  
- ICJ, Separate opinion of Judge Torres Bernárdez of 11 September 1992, *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.
- ICJ, Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase, Advisory Opinion, I.C.J. Reports 1950.
- ICJ, Anglo-Iranian Oil Co. case (jurisdiction), Judgment of July 22nd, 1952: I.C.J. Reports 1952.
- ICJ, Case concerning right of passage over Indian territory (Preliminary Objections), Judgment of 26 November 1957: I.C.J. Reports 1957.
- ICJ, Case concerning Right of Passage over Indian Territory (*Portugal v. India*), Merits, Judgment of 12 April 1960, I.C.J. Reports 1960.
- ICJ, Case concerning the Temple of Preah Vihear (*Cambodia v. Thailand*), Preliminary Objections, Judgment of 26 May 1961, I.C.J. Reports 1961.
- ICJ, North Sea Continental Shelf Cases (*Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands*), Judgment of 20 February 1969, I.C.J. Reports 1969.
- ICJ, Aegean Sea Continental Shelf, (*Greece v Turkey*), Judgment of 19 December 1978, I.C.J. Reports 1978.
- ICJ, Case concerning the Continental Shelf (*Tunisia/Libyan Arab Jamahiriya*), Judgment of 24 February 1982, I.C.J. Reports 1982.
- ICJ, Case concerning Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v. United States of America*), Jurisdiction and Admissibility, Judgment of 26 November 1984, I.C.J. Reports 1984.
- ICJ, Case concerning Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v. United States of America*), Judgment of 27 June 1986, I.C.J. Reports 1986.
- ICJ, Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial ICJ, Incident at Lockerbie (*Libyan Arab Jamahiriya v. United Kingdom*), Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992.



- ICJ, Territorial Dispute (*Libyan Arab Jamahiriya/Chad*), Judgment of 3 February 1994, I.C.J. Reports 1994.
- ICJ, Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion of 8 July 1996, I.C.J. Reports 1996.
- ICJ, Gabcikovo-Nagymaros project (*Hungary/Slovakia*), Judgment of 25 September 1997, I.C.J. Reports 1997.
- ICJ, Kasikili/Sedudu Island (*Botswana/Namibia*), Judgment of 13 December 1999, I.C.J. Reports 1999.
- ICJ, Legality of Use of Force (*Serbia and Montenegro v. Belgium*), Preliminary Objections, Judgment of 15 December 2004, I.C.J. Reports 2004.
- ICJ, Territorial and Maritime Dispute (*Nicaragua v. Colombia*), Preliminary Objections, Judgment of 13 December 2007, I.C.J. Reports 2007.
- ICJ, Certain Questions of Mutual Assistance in Criminal Matters (*Djibouti v. France*), Judgment of 4 June 2008, I.C.J. Reports 2008.
- ICJ, Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion of 22 July 2010, I.C.J. Reports 2010.
- ICJ, Maritime Delimitation in the Indian Ocean (*Somalia v. Kenya*), Preliminary Objections, Judgment of 2 February 2017, I.C.J. Reports 2017.
  
- ICSID, 25 November 2015, Case No. ARB/07/19 (*Electrabel v Hungary*).
- ICSID, 6 June 2016, Case No. ARB/13/30 (*RREEF*).
- ICSID, 31 August 2018, Case No. ARB/12/12 (*Vattenfall*).
- ICSID, 25 February 2019, Case No. ARB/15/45 (*Landesbank Baden-Württemberg and Others v. Kingdom of Spain*), Intra-EU Jurisdictional Objection.
- ICSID, 7 May 2019, Case No. ARB/15/50 (*Eskosol S.p.a. v. Italian Republic*).
- ICSID, 1 February 2022, Case No. ARB/16/18 (*Infracapital F1 S.a.r.l. and Infracapital Solar B.V. v. Kingdom of Spain*).
  
- IUSCT, 14 July 1987, Case No. 56 (*Amoco International Finance Corporation v. Islamic Republic of Iran*), Partial Award (Award No. 310-56-3).
  
- Opinion of Advocate General Capotorti, 15 September 1981, Case 181/80 (*Arbelaiz-Amazabel*).
- Opinion of Advocate General Ruiz-Jarabo Colomer, 10 February 2009, Case C-284/05 (*Commission v Finland*).
- Opinion of Advocate General Jääskinen, 15 March 2011, Case C-264/09 (*Commission v Slovakia*).
- Opinion of Advocate General Kokott, 13 March 2008, Case C-188/07 (*Commune de Mesquer*).
- Opinion of Advocate General Kokott, 6 October 2011, Case C-366/10 (*Air Transport Association of America*).
- Opinion of Advocate General Kokott, 16 February 2017, Case C-74/16 (*Congregación de Escuelas Pías Provincia Betania*).
- Opinion of Advocate General Kokott, 1 March 2018, Case C-117/17 (*Y Denmark Aps*).
- Opinion of Advocate General Maduro, 10 July 2008, Joined Case C-205/06 (*Commission v Austria*) & C-249/06 (*Commission v Sweden*).
- Opinion of Advocate General Maduro, 16 January 2008, Joined Cases C-402/05 P & C-415/05 P (*Kadi*).

- Opinion of Advocate General Mischo, 20 October 1999, Joined Cases C-62/98 & C-84/98 (*Commission v Portugal*).
- Opinion of Advocate General Szpunar, 3 March 2021, Case C-741/19 (*Komstroy*).
- Opinion of Advocate General Tizzano, 31 January 2002, Joined Cases C-466/98, C-467/98, C-468/98, C-471/98, C-472/98, C-475/98 & C-476/98 (*Open Skies*).
- Opinion of Advocate General Wathelet, 19 September 2017, Case C-284/16 (*Achmea*).
  
- PCA, 26 October 2010, Case No. 2008-13 (*Eureka B.V.*).
- PCA, 22 October 2012, Case No. 2010-17 (*EURAM*).
- PCA, 11 May 2020, Case No. 2017-15 (*A.M.F. Aircraftleasing vs. Czech Republic*).
  
- PCIJ, 30 August 1924, Judgment No. 2 (*The Mavrommatis Palestine Concessions*), P.C.I.J. (ser. B), no. 3.
- PCIJ, 8 December 1927, Advisory Opinion No. 14 (*Jurisdiction of European Commission of Danube Between Galatz and Braila*), 1927 P.C.I.J. (ser. B) No. 14.
- PCIJ, 4 February 1932, Advisory Opinion No. 23 (*Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in Danzig Territory*), P.C.I.J. (ser. A/B) No. 23.
  
- SCC Arbitration V (2016/135) (*Green Power Partners K/S & SCE Solar Don Benito Aps*).
  
- US: Brief of the European Commission on behalf of the European Union as *Amicus Curiae* in support of neither party (*United States v Microsoft*) ([https://www.supremecourt.gov/docketpdf/17/17-2/23655/20171213123137791\\_17-2%20ac%20european%20commission%20for%20filing.pdf](https://www.supremecourt.gov/docketpdf/17/17-2/23655/20171213123137791_17-2%20ac%20european%20commission%20for%20filing.pdf)).
  
- WTO Appellate Body Report of 5 June 1998, European Communities – Customs Classification of Certain Computer Equipment, WT/DS62/AB/R, WT/DS67/AB/R, WT/DS/68/AB/R.



## Documents published by governments or international organisations

- European Union, 2003, Voting Result, 3 June 2003, session 2513, regarding the Council Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, Document 5926/3/03.
- European Union, 2005, EC Law and Tax Treaties – Annex A: The Articles of the OECD Model Convention. A Community Perspective (TAXUD E1/FR DOC (05) 2306/A).
- European Union, 2009, Report from the Commission to the Council in accordance with Article 8 of Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.
- European Union, 2011, Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2011) 121).
- European Union, 2011, Voting Result, 17 February 2011, no. 6695/11, regarding Council Directive on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC.
- European Union, 2011, Voting result, 30 November 2011, no. 17931/11, Council Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (Recast).
- European Union, 2013, Room Document # 1, Working Party on Tax Questions – Direct Taxation, Proposal for a CCCTB of 15 January 2013.
- European Union, 2014, Voting Result, 5 December 2014, no. 11621/1/14, regarding the Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.
- European Union, 2015, Voting result, 2 February 2015, no. 5636/15, regarding the Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.
- European Union, 2016, Voting Result, 13 July 2016, no. 11171/16, regarding Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market.
- European Union, 2017, Voting Result, 29 May 2017, no. 9740/17, regarding Council Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries.
- European Union, 2017, Voting Result, 10 October 2017, no. 13104/17, regarding the Council Directive on Tax Dispute Resolution Mechanisms in the European Union.
- European Union, 2018, Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence (COM(2018) 147 final).
- European Union, 2019, Commission Notice on the recovery of unlawful and incompatible State aid (2019/C 247/01).

- European Union, 2021, Proposal for a Council Directive on ensuring a global minimum level of taxation for multinational groups in the Union, COM(2021) 823 final.
- European Union, 2021, Proposal for a Council Directive laying down rules to prevent the misuse of shell entities for tax purposes and amending Directive 2011/16/EU, COM(2021) 565 final, 2021/0434 (CNS).
  
- ILC, 1964, Summary record of the 772nd meeting (Extract from the Yearbook of the International Law Commission).
- ILC, 1966, Yearbook of the International Law Commission, Volume II.
- ILC, United Nations Conference on the Law of Treaties, First session, 26 March – 24 May 1968, A/CONF.39/C.1/SR.33, 33rd meeting of the Committee of the Whole.
- United Nations Conference on the Law of Treaties, Second session, Vienna, 9 April–22 May 1969, Summary of the plenary meetings and of the meetings of the Committee of the Whole.
- ILC, 1969, United Nations Conference on the Law of Treaties, 85th meeting of the Committee of the Whole, A/CONF.39/C1/SR.85.
- ILC, 2001, United Nations Conference on the Law of Treaties, 91st meeting of the Committee of the Whole, A/CONF.39/C.1/SR.91.
- ILC, 2001, Draft articles on Responsibility of States for Internationally Wrongful Acts with commentaries.
- ILC, 2006, Conclusions of the work of the Study Group on the Fragmentation of International Law: Difficulties arising from the Diversification and Expansion of International Law.
- ILC, 2006, Report of the International Law Commission, Fifty-eighth session, No. 10 (A/61/10).
- ILC, 2006, Fragmentation of International Law: Difficulties arising from the diversification and expansion of international law, Report of the Study Group of the International Law Commission (Finalized by Martti Koskenniemi), A/CN.4/L.682.
  
- OECD, 1989, Report on Tax Treaty Override, adopted by the OECD Council on 2 October 1989.
- OECD, 2015, Developing a Multilateral Instrument to Modify Bilateral Tax Treaties (Action 15: 2015 Final Report).
- OECD, 2017, 2017 Update to the OECD Model Tax Convention, 21 November 2017.
- OECD, 2021, Opinion of the Conference of the Parties of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, Interpretation and Implementation Questions, Approved by the Parties to the MLI under written procedure on 3 May 2021.
  
- UN, 2005, Comments and observations received from Governments and international organizations, A/CN.4/556.
  
- NL: *Parliamentary Proceedings II* 2018–2019, 35 241, no. 3.
- NL: *Parliamentary Proceedings II* 2020–21, 25 087, no. 260.
- NL: *Parliamentary Proceedings II* 2021–2022, 22 112, no. 3397.

## List of treaties

- The Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
- Treaty on European Union.
- Charter of the United Nations.
- Treaty between the Member States of the European Communities, the Kingdom of Denmark, Ireland, the Kingdom of Norway, and the United Kingdom of Great Britain and Northern Ireland concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway, and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and to the European Atomic Energy Community, done at 22 January 1972.
- Treaty between the Member States of the European Communities and the Hellenic Republic concerning the accession of the Hellenic Republic to the European Economic Community and to the European Atomic Energy Community, done at 28 May 1979.
- Treaty between the Member States of the European Communities and the Kingdom of Spain, the Portuguese Republic, concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, done at 12 June 1985.
- Agreement on encouragement and reciprocal protection of investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic.
- Security Council Resolution 748 of 31 March 1992, S/RES/748.
- Treaty on the European Union, as signed in Maastricht on 7 February 1992.
- Treaty between the Member States of the European Union and the Kingdom of Norway, the Republic of Austria, the Republic of Finland, the Kingdom of Sweden, concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland, the Kingdom of Sweden, done at 24 June 1994.
- Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed at Amsterdam, 2 October 1997, 97/C 340/01.
- Treaty between the Member States of the European Union and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak, done at 16 April 2003.
- Treaty between Member States of the European Union and the Republic of Bulgaria and Romania concerning the accession of the Republic of Bulgaria and Romania to the European Union, done at 25 April 2005.
- Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, 2007/C 306/01.

- Treaty between Member States of the European Union and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union, done at 9 December 2011.
- Vienna Convention on the Law of Treaties, done at 23 May 1969.
- Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations, done at 21 March 1986.

#### EU LEGISLATION

- Decision No 66/532/EEC of 26 July 1966 concerning the abolition of customs duties, the prohibition of quantitative restrictions between Member States and the application of the duties in the Common Customs Tariff for products other than those listed in Annex II to the Treaty.
- Council Directive No 73/404/EEC of 22 November 1973 on the approximation of the laws of the Member States relating to detergents.
- Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes.
- Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation (Mutual Assistance Directive (77/799/EEC)).
- Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office, of an SE or SCE between Member States.
- Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.
- Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.
- Council Directive 2005/19/EC of 17 February 2005 amending Directive 90/434/EEC 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States.
- Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States.
- Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC.
- Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.
- Council Directive 2014/86/EU of 8 July 2014 amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.
- Council Directive (EU) 2015/121 of 27 January 2015 amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.

- Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.
- Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries.
- Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union.

#### OTHER

- Commentaries on the Articles of the OECD Model Tax Convention on Income and on Capital (2017).
- Statute of the International Court of Justice.
- Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/463/EEC).
- Explanatory Statement to the Multilateral Convention to implement tax treaty related measures to prevent base erosion and profit shifting.
- Note for the Chairman of the Committee of Permanent Representative, Proposal for a Council Directive on the elimination of double taxation in connection with the adjustment of transfers of profits between associated enterprises (arbitration procedure), 11 May 1978.
- OECD Model Tax Convention on Income and on Capital (2017).





## Curriculum vitae

Thomas Mees Vergouwen (Amsterdam, 1993) graduated in tax law at the Vrije Universiteit (LL.M. in 2017, cum laude). From 2017 through 2023, he worked as a Ph.D-fellow and lecturer at the Institute for Tax Law and Economics (0,6 fte and, as of September 2022, 0,4 fte) at Leiden Law School of Leiden University. He also worked as a tax advisor at De Brauw Blackstone Westbroek (between 0,4 fte and, as of September 2022, 0,6 fte). At Leiden University, he teaches in the courses Introduction to Tax Law, International Tax Law I and European Tax Law while also supervising LL.B and LL.M. theses. He lives in Amsterdam with Philippine.