



PRINCIPLES OF LAW IN NATIONAL AND EUROPEAN VAT

First release of the corpus + draft annotation and validation guidelines

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List of Acronyms

AG	Advocate General
CJEU	Court of Justice of the European Union
HFD	Högsta förvaltningsdomstolen (Sweden)
JPOL	Judicial Principle of Law
LLM	Large Language Model
NOT	Notice (Sweden)
RÅ	Regeringsrätten (Sweden)
REF	Reference (Sweden)
VAT	Value Added Tax



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1. Introduction

The present deliverable (D2.2.) contains a first release of the corpus and a draft of the annotation and validation guidelines. The deliverable builds on the outcomes D2.1 - Ontology of VAT concepts. It results from the work on Tasks T2.2 - Selection and analysis of case-law and legal framework and T2.3 - Annotation and validation guidelines. The outcomes of D2.2 will feed subsequent works of the project, in particular D2.4 - Study of judicial principles of law, D2.3. – Second release of the corpus + final annotation and validation guidelines, and D3.1 – Report on the principles of law extraction tool.

The key concept of the POLINE Project is the Judicial Principle of Law (JPOL). This concept is not formally defined in general legal theory and overlaps with several others, such as *ratio decidendi*, interpretation, and citation of precedent. A JPOL can be considered an interpretative statement attributable to the judge (not the litigants), either formulated for the first time or as part of a precedent case citation (for a full definition, [see para. 3.1.1 – Definition of JPOL](#)).

Our idea to extract JPOLs is based on the assumption that JPOLs act as building blocks, akin to LEGO pieces, used by the European Court of Justice (CJEU) to construct legal propositions from pre-formed elements [1]. The primary goal of the project was to formalise a definition of JPOLs that could facilitate their automatic extraction from national and European case law.

Legal scholars have already examined a distinctive aspect of the Court's self-citations, specifically the use of so-called "formulas". These are described as legal texts or standards that the Court has developed in its case law. For instance, in Azoulai's work "La fabrication de la jurisprudence Communautaire" [2], the authors argue that the Court inconsistently repeats its formulas in subsequent judgments. Similarly, Komárek [3] claims that the extensive citation of its own formulas grants the CJEU a legal authority that extends not only to what was decided in a case but also to what was merely stated. Typically, the binding authority of a decision is limited to the parts which are essential for reaching the final conclusion of the Court. However, the CJEU frequently invokes not only these core elements but also other statements from prior decisions, extending the scope of its authority to encompass observations that are not strictly necessary to the resolution of the case.



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Moreover, Tiersma [4] observes that “rather than treating statutes as the common law, courts are beginning to treat the common law as legislation”.

All these analyses focused on the impact of the argumentative and rhetorical style adopted by the CJEU on the development of the European legal system. Most of them used the term “formula” to identify text fragments that are recurrently cited in European case law and serve as building blocks for constructing intricate legal frameworks. However, these studies generally seem to assume a shared understanding of what the so-called formulas are, without feeling the need to explicitly define them. The assumption is that any legal scholar can recognize a formula within a judgment and comprehend what is meant when discussing their use, often in the context of citing precedents.

Hence, our goal was to determine whether it is possible to describe and identify such formulas, both manually and automatically. We chose to call these formulas JPOL to adopt a more descriptive and less ambiguous term. At this stage, we are not focusing on analysing the impact of JPOLs on the development of the European VAT legislative and interpretative framework. Instead, our objective is to identify the JPOLs used in each judgment, whether they are cited from prior decisions or newly formulated. With the growing importance of case law in general, and the specific emphasis placed by the CJEU on adhering to previous decisions, particularly in harmonized areas of EU law such as VAT, case law assumes a crucial and “creative” role. It provides essential guidance for the interpretation and application of EU law, making an understanding of judicial precedents indispensable for ensuring consistency and coherence within the legal framework.

We also hypothesized that JPOLs could be found in national case law, particularly in a harmonized field of tax law such as Value Added Tax (VAT). First, because of harmonization, it is possible that national courts “took inspiration” from the CJEU. Second, supreme courts usually have an interpretative role in legal systems (e.g., ensuring the uniform and/or correct application of the law), which leads them to formulate interpretative statements to be followed by lower courts in the specific case at hand. Over time, these interpretative statements tend to be adopted by judges in subsequent cases, creating a form of judicial precedent. However, in some national experiences—specifically the Italian one—there exists a tradition where the court itself extracts the core legal principles from its decisions through “maxims.” Maxims are concise summaries of the main legal questions in a judgment of legitimacy and the solutions provided by the judges. These texts are written post-judgment by a third judge (from a specific section of the Court of Cassation) and have



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their own distinct wording. This means that while a maxim may be influenced by or summarize a JPOL, it is not itself a JPOL.

Thus, the aim of the project was also to explore whether the concept of JPOL was applicable to national case law and, if so, how the definition might vary according to different national traditions.

2. Methodology

2.1. General methodology

The methodology adopted for the extraction of JPOLs involved a structured and detailed analysis conducted along multiple steps, which led to the definition of the annotation and validation guidelines.

The guidelines have been developed to guide legal expert to identify JPOLs in the text of judicial decisions and manually annotate them. In addition, they provided a reference for the activity of prompt engineering (see para. 2.1.4.).

The whole set of manually annotated judgments is delivered together with this report (see para. 3.6.). The annotated cases will be used as validation and test sets (see para. 2.1.3.) for the machine learning experiments. In addition, they will be used to test how large language models (LLMs) perform in identifying JPOLs from the judgments in the four datasets.

Indeed, one of the POLINE pilot's module is the so-called "Customised Detection Test Module". This module should supports users in identifying and assessing judicial principles of law on VAT in a specific decision. The module will rely on an ad-hoc machine learning model, ensure replicability and free access, without depending on LLM. To this end, we use LLM to extract JPOLs from all the judgments in the dataset, except those part of the test set (see. [para 3.6.](#)). Meanwhile, we will use the JPOLs extracted from judgments that do not pertain either to the validation set, or test set as a tool to refine the NLP system developed in T.3.1., that will be presented in D.3.1. – Report on the Principle of Law extraction tool.

2.1.1. Theoretical analysis



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Initially, we performed a theoretical study to explore the fundamental aspects of JPOL across national legal systems and the European Court of Justice (further analysed in D2.4. - Study of judicial principles of law). This phase included an in-depth examination of the core elements of each national tax legal system. We investigated aspects such as the judicial structure—identifying the court of last instance and its nature (administrative or otherwise)—and its competencies, such as whether it could adjudicate on the merit of cases or focus exclusively on the correct interpretation and application of the law. Additionally, we studied the structure, content, and decision-making styles of the tax judgments issued by these courts.

We also analysed the concept of JPOL within each national legal system, examining the existence and usage of public databases cataloguing these principles or the *ratio decidendi* of the last-instance courts. This analysis extended to understanding how these databases are employed by tax judges and legal experts. Another focus was the role of precedents in national tax case law, determining whether they were binding and exploring the proximity of each legal system to common law or civil law traditions. The study included examining citation practices and discussions of precedents within judgments and exploring debates on the creative role of judges in the tax domain, particularly in relation to constitutional principles like the separation of powers or rule of law in tax matters.

For the CJEU, our analysis emphasized its role in interpreting tax law, particularly within the VAT framework. We assessed the court's formal competencies, the significance of its VAT case law, and the frequency and features of preliminary rulings. The study included a review of the concept of JPOL in the CJEU's interpretative functions, particularly concerning the evolution of fundamental concepts under the VAT Directive. We explored the use and citation of precedents in the CJEU's VAT case law, analysing whether the Court invoked previous rulings as interpretative tools or more formally as rules derived from past judgments. Furthermore, we examined the relationship between national judges and the CJEU, focusing on the level of autonomy granted to national judges in applying JPOLs and the effects of these principles on national law interpretation. The study also covered whether certain interpretations—like those involving tax exemptions—exhibited varying degrees of bindingness.

The theoretical analysis resulted in four documents drafted by legal experts of each unit which contained an in-depth description of the above-mentioned points in each legal system, and that will be integral part of D2.4. The documents were shared among all the



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partners so that each unit knew the features of the other legal systems and further work (especially the guidelines) could be carried out within a comparative perspective.

2.1.2. Empirical analysis

Following the theoretical analysis, we conducted an empirical analysis to evaluate its applicability across national legal systems and at the EU level. This involved manually analysing a set of judicial decisions (not part of our dataset) to test our theoretical framework.

For the CJEU, this empirical phase included identifying examples of JPOLs in case law. We also studied the citation techniques for both legislation and case law, and how the CJEU refers to the opinions of the Advocate Generals. Similarly, for national systems, we studied features such as overruling, distinguishing, cross-references to European and national precedents. For both the EU and the national legal systems we analysed the relationship between the structure of decisions and appearance of JPOLs within texts. For example, in CJEU case law in most cases each paragraph of the decision corresponds to a single JPOL, while in national case law, a JPOL may span multiple paragraphs, or it can be shorter than one paragraph.

The empirical analysis resulted in four documents drafted by legal experts of each unit, that will be part of D2.4. as well. The documents were shared among all the partners so that each unit knew the features of the other legal systems, and further work (and namely these guidelines) could be carried out within a comparative perspective.

2.1.3. From the theoretical and empirical analysis to the manual annotation

The insights gained from these studies led to the development of a definition of JPOL that is broadly applicable across legal systems, with specific adjustments to deal with national particularities. This definition served as the foundation for drafting guidelines. These guidelines comprised a general framework and tailored sections for each legal system to ensure their accuracy (see para. 3.1. to 3.5. for the details).

The first draft of the guidelines was based on the theoretical and empirical studies. The annotators worked together on a shared set of documents (set A: 2 decisions), interacting



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to refine the guidelines until they agreed no ambiguities seemed to be left. To validate the guidelines, they annotated a new set of decisions (set B: 10 decisions), never seen before, in a double-blind process. The preliminary measure of Inter-Annotator's Agreement (IAA) helps the annotators to validate their work and find potential gaps in the guidelines. Based on the results of this first phase, the annotators discussed further and refined the guidelines. This last version of the guidelines was tested on a third set of decisions (set C: 2 decisions), achieving a high agreement score, which led to the guidelines being considered finalized. The final measure of agreement between annotators certifies the quality of the annotation, and consequently the quality of the guidelines.

The key difference between set A/B and set C is that, after annotating C, there is NO refinement of the guidelines. Thus, while sets A and B have contributed to the development of the guidelines themselves and it is therefore possible that the guidelines contain examples taken from these two sets, set C had no influence on the guidelines.

Since we wanted to use the guidelines as an additional source of information for the NLP methods, to be rigorous, the test set had to contain only data that the models never had access to in any form.

Therefore, we used sets A and B to create the validation set and set C to create the test set (see [para. 3.6.](#)). Since set C is smaller, we increased the size of the test set with 8 additional decisions, which have been tagged by a single annotator each.

2.1.4. From the theoretical and empirical analysis to prompts

The theoretical and empirical findings also informed the creation of a prompt for automatic JPOL extraction using large language models (LLMs). An iterative process of theoretical study, empirical validation, and refinement supported the robust methodology for identifying and defining JPOLs across diverse legal systems.

The methodology for automatically extracting JPOLs from legal judgments was structured to ensure precision and consistency. A JPOL, as defined for this project, follows the definition introduced in [para. 3.1.1.](#) and, for the purposes of improving the extraction, we assume it is found in approximately one paragraph (~200 tokens), which we found to be the minimum extract of text that encapsulates the core reasoning from a judge. This definition was refined with specific requirements and illustrative examples to differentiate what constitutes a JPOL versus what is accessory to it, as shown in section b.

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The methodology was executed in four primary stages, as shown in Figure 1:

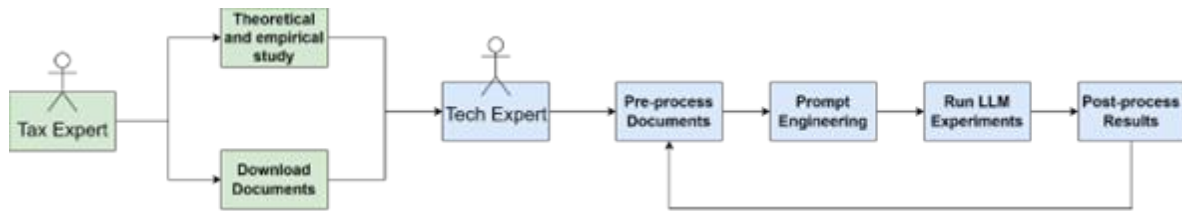


Figure 1– Workflow for JPOL Extraction

a) Preprocessing

To minimize irrelevant input that could lead to errors, a preprocessing phase was implemented. This phase involved:

- **Exclusion of irrelevant sections:** the preamble and conclusion of judgments, which often contain procedural or formal language, were removed. The focus was narrowed to the substantive "questions considered" in the case.
- **Identification of non-JPOL content:** specific paragraphs and expressions deemed irrelevant according to the guidelines were excluded.
- **Structuring the text:** the remaining content was reorganized into a structured dictionary format: {Par Number: #, Text: ""}. This allowed for streamlined processing in subsequent steps.

b) Prompt Engineering

Prompt engineering was critical for enabling the effective extraction of JPOLs using LLMs. The approach chosen, paragraph classification, proved to deliver the best results. This method involved determining whether an entire paragraph qualified as a JPOL. Although we considered other standards, such as sentence-level classification, their performance on the CJEU dataset was not comparable. Each paragraph was classified as either a JPOL or not, based on its content and alignment with the JPOL semantic definition. We also tested various approaches:

- **Zero-shot approach:** This method involves providing only the definition without any examples and has been iteratively refined through a trial-and-error process based on the results obtained and the mistakes identified. It yielded strong results by relying on model

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inference, demonstrating the validity of the definition provided.

- **Few-shot approach:** This approach includes a small number of correctly labelled examples illustrating what qualifies as a JPOL and what does not, in addition to the definition. Contrary to expectations, this method underperformed, likely due to overfitting caused by over-reliance on the limited examples provided.
- **De-structuring input:** In this approach we aimed at removing the paragraph division made by the CJEU, the model was tasked with processing unstructured input by defining and delineating paragraphs autonomously. This approach did not outperform structured approaches.

Prompts underwent a refinement process to identify the optimal structure. This process involved testing the pipeline with various prompts and maximizing its confidence and effectiveness. To improve the consistency of the output, the prompt was further refined using the LLM itself.

In Figure 2 is an example of the prompts used:

```
Extract portions of the text from the argumentative part of the judgment that fit the definition of a JPOL.

(txt)

A JPOL (Judicial Principle of Law) should:

Source and Content:
  Be a portion of text extracted from the argumentative part of a judgment.
  Contain the interpretation provided by the deciding court or an endorsed interpretation from a previous decision.

Nature of Interpretation:
  Interpretate a rule, a general principle, or the consequences stemming from the application of a rule or principle within the legal system.
  Not be a rephrase of the legislation or a previous paragraph.
  Not be a question concerning the application of facts to the current case.
  Not be what the referring court asks.

Citations and Endorsements:
  A JPOL can cite another JPOL.
  A JPOL can endorse a precedent of a European Court or an Advocate General's statement.

Use the following format for the output:
Paragraph number: Y if JPOL
Paragraph number: N if not JPOL.
```

Figure 2 – Final version of the GPT4o Prompt

c) LLM Experiments



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Experiments were conducted on Google Colab¹ using various GPT models and open-source alternatives, such as LLama. These trials aimed to identify the optimal model for extracting JPOLs, balancing accuracy, and computational efficiency.

d) Post-Processing and Validation

The extracted JPOLs were subject to post-processing and validation to ensure alignment with the predefined requirements. These steps included:

- **Comparison against a validation set:** the JPOLs were evaluated against a benchmark created through double-blind annotations by legal experts.
- **Iterative refinement:** Insights from validation informed adjustments to the preprocessing and prompt engineering phases, enhancing the overall extraction methodology.

3. Guidelines

The guidelines consist of common rules and specific rules for the identification of JPOLs in European and national case law. The following paragraphs contain the rules applicable to all the legal systems (common rules, [para. 3.1](#)) and respectively to the CJEU ([para. 3.2](#)) Bulgarian ([para. 3.3](#)), the Italian ([para. 3.4](#)), and the Swedish ([para. 3.5](#)) legal systems.

3.1. Common rules

3.1.1. Definition of a JPOL

A JPOL is a portion of text, extracted from the argumentative part of a judgement which contains the:

- Interpretation of a rule, of the portion of a rule, or of a general principle.
- Consequences stemming from the interpretation/application of a rule or a principle in a legal system.
- Subsumption of a fact within a rule.

¹ A cloud-based platform developed by Google that allows users to write and execute Python code.



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- Qualification of a factual hypothesis as a concept contained within a rule.

Example of hypothesis n. 1:

C-449/17

Consequently, the concept of 'school or university education' for the purposes of the VAT system refers generally to an integrated system for the transfer of knowledge and skills covering a wide and diversified set of subjects, and to the furthering and development of that knowledge and those skills by the pupils and students in the course of their progress and their specialisation in the various constituent stages of that system.

Example(s) of hypothesis n. 2:

C-717/19

41 *It is apparent from Article 90(1) of the VAT Directive, which relates to cases of cancellation, refusal or total or partial non-payment or where the price is reduced after the supply takes place, that the Member States are required to reduce the taxable amount and, consequently, the amount of VAT payable by the taxable person whenever, after a transaction has been concluded, part or all of the consideration has not been received by the taxable person. That provision embodies one of the fundamental principles of the VAT Directive, according to which the taxable amount is the consideration actually received and the corollary of which is that the tax authorities may not collect an amount of VAT exceeding the tax which the taxable person received (judgment of 15 October 2020, E. (VAT - Reduction of the taxable amount), C-335/19, EU:C:2020:829, paragraph 21 and the case-law cited).*

C-228/20

34 *In that regard, it should be borne in mind that the terms used to specify the exemptions laid down in Article 132 of the VAT Directive are to be interpreted strictly, as they are a departure from the general principle that VAT is to be paid on each supply of services made for consideration by a taxable person. However, the interpretation of those terms must comply with the requirements of the principle of fiscal neutrality inherent in the common system of VAT and be consistent with the objectives underlying those exemptions. Accordingly, the requirement of strict interpretation does not mean that the terms used to specify the exemptions referred to in Article 132 must be construed in such a way as to deprive the exemptions of their intended effect (judgment of 15 April 2021, Administration de l'Enregistrement, des Domaines et de la TVA, C-846/19, EU:C:2021:277, paragraph 57).]*



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Example of hypothesis n. 3:

C-326/15

45 *In the light of all of the foregoing, the answer to the request for a preliminary ruling is that Article 132(1)(f) of Directive 2006/112 must be interpreted to the effect that the exemption provided for in that provision relates only to IGPs whose members carry on an activity in the public interest referred to in Article 132 of that directive and that, therefore, the services supplied by a group whose members carry on an economic activity in the area of financial services, which does not constitute such an activity in the public interest, are not entitled to that exemption.*

Example of hypothesis n. 4:

Thus, the concept of 'school or university education' within the meaning of Article 132(1)(i) and (j) of Directive 2006/112 covers activities which are different both because of their specific nature and by reason of the framework in which they are carried out (see, to that effect, judgment of 14 June 2007, Horizon College, C-434/05, EU:C:2007:343, paragraph 20).

Decision No. 13024 of 2.12.2015 of the Bulgarian Supreme Administrative Court, case No. 12123/2014, Judge rapporteur Vesela Pavlova

It can be seen from the regulations contained in Ordinance No. 36/2006 regarding the conditions to be met by persons wishing to carry out psychological research / first and second under Art. 152, para. 1, item 1 and item 2 of the ZDvP/, these services are performed by psychologists who should have a diploma for a completed higher education majoring in "psychology", a "master's" degree. This means that psychological testing is not carried out by medical professionals. The fact that DKC Rhythm 2010 Ltd. is registered as a medical institution with the registered subject of activity "clinical psychology" is irrelevant in this case, insofar as the psychological research activities in accordance with Ordinance No. 36/2006 are carried out in psychological laboratories in Stara Zagora and Sofia. Therefore, these services are not aimed at diagnosing, preventing or treating a specific disease.

Cass. civ., Sez. V, Sent., (data ud. 24/05/2023) 28/09/2023, n. 27549 2.6.2. *It follows that it is unreasonable to make the benefit of the VAT exemption, of direct Union origin, dependent on the issuance of a ministerial regulation governing its implementation, since the teaching of the Court of Justice summarised above, which*



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reserves it to qualified persons in possession of the necessary qualifications, irrespective of their enrolment in a professional register, precludes this.

Swedish HFD 2021 ref 29.

If the staff provided performs the medical procedures on behalf of the buyer and is part of the buyer's organisation, this indicates that it is a staff leasing arrangement. In order to determine whether this is the case, consideration should be given to who has overall responsibility for the tasks to be performed, the patients to whom the procedures are to be provided and the times during which they are to be provided. The fact that health care professionals decide how care is to be provided and are responsible by law for the fulfilment of tasks and are under the supervision of the Health and Social Care Inspectorate does not affect the assessment.

Where a purchasing healthcare provider engages a subcontractor to provide healthcare professionals to carry out medical procedures relating to the purchaser's patients, the provision may normally be regarded as a staffing service. In such circumstances, the purpose of the contract between the purchaser and its subcontractor may be considered to be the provision of a resource with a certain level of competence to enable the purchaser to fulfil its obligations.

3.1.2. What a JPOL is not

A JPOL is not a rephrase of the legislation.

C-122/23

31 In that respect, it must be recalled that the VAT Directive allows Member States to apply their special schemes for small enterprises, as set out in recital 49 of the directive (see, to that effect, judgment of 17 May 2018, Vámos, C-566/16, EU:C:2018:321, paragraph 30).

A JPOL is not a recall of what the CJEU said in a previous paragraph of the same decision.

C-228/20



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62 Furthermore, as pointed out in paragraph 42 above, the discretion conferred by Article 132(1)(b) of the VAT Directive is limited by the requirements arising from the principle of fiscal neutrality.

A JPOL is not the objective nor the rationale of a certain rule.

C-228/20

80 Next, it follows from the objective of the exemption provided for in Article 132(1)(b) of the VAT Directive, as noted in paragraph 78 above, that the costs of the services supplied by private hospitals which remain payable by patients must be taken into account.

C-236/15

33 As regards the aim of Article 132(1)(f), within Directive 2006/112, it is necessary to recall the purpose of all of the provisions of Article 132 of that directive, which is to exempt from VAT certain activities in the public interest with a view to facilitating access to certain services and the supply of certain goods by avoiding the increased costs that would result if they were subject to VAT (judgment of 5 October 2016, TMD, C-412/15, EU:C:2016:738, paragraph 30 and the case-law cited).

When the Court makes a revirement, a distinguishing or an overruling of a previous JPOL repeating it explicitly, the overruled/distinguished JPOL is not a cited JPOL.

Cass. civ., Sec. V, Sent., (date of hearing 24/05/2023) 28/09/2023, n. 27549

2.2. Precisely because of the failure to issue the implementing ministerial decrees, for a long time the case law of the Supreme Court was oriented in the direction of disallowing the VAT exemption to the activity performed by chiropractors. In particular, Supreme Court of Cassation No. 11085 of 30/05/2016, pointed out that the univocal orientation was that "the exemption provided for by Presidential Decree No. 633 of 1972, Article 10, paragraph 1, No. 18, applies only if the service is performed by persons with a special qualification for the exercise of the corresponding health profession (Cass. No. 4987 of 2003; Court of Cassation No. 5084 of 2001; Court of Cassation No. 7411 of 2001: Court of Cassation No. 7422 of 2001; Court of Cassation No. 21703/2010)", so that chiropractors' services cannot be



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included among the healthcare services that benefit from the exemption from the tax, given that L. No. 244 of 2007, art. 2, par. 335, even though it classifies the chiropractor among the first-class health professionals, refers to an implementing regulation, which has never been adopted and is indispensable to identify the type of services provided and to regulate the profiles of the profession, along the lines indicated by Presidential Decree No. 633.P.R. No. 633 of 1972, Article 10(18), and Article 13 of the Sixth Directive, as amended by Article 132(1)(e) of the VAT Directive (thus, substantially, Cass. nos. 22812, 22813 and 22814 of 28/10/2014).

2.2.1. This orientation was, likewise, confirmed by Cass No. 8145 of 22/03/2019 and Cass No. 34169 of 20/12/2019.

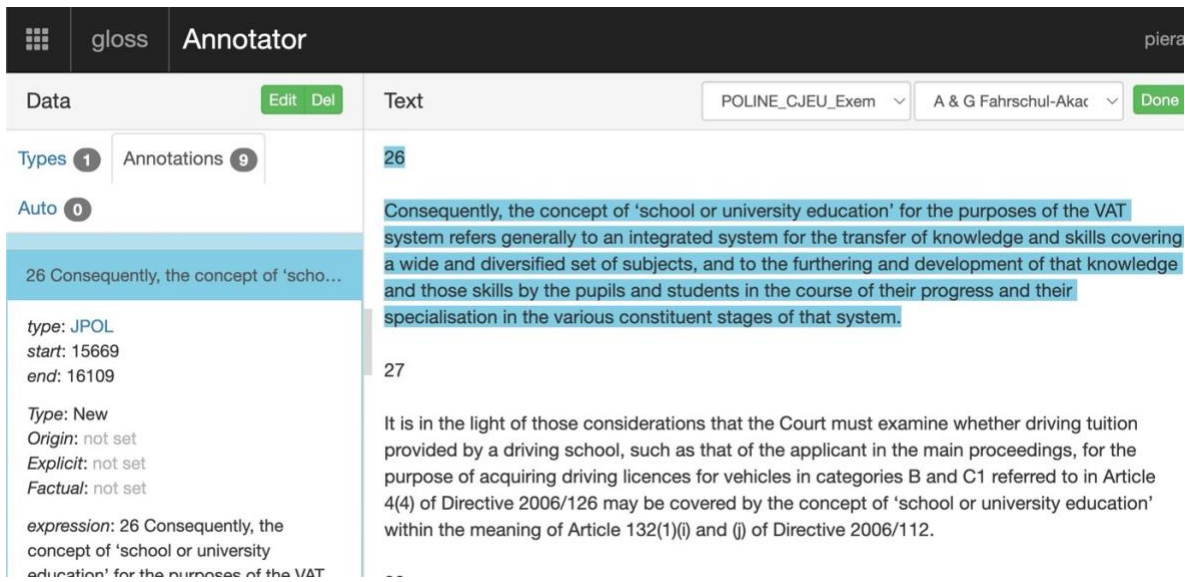
2.3. Recently, however, the S.C. has substantially revised this orientation, stating that "On the subject of VAT, the recognition of the exemption, provided for by Presidential Decree No. 633 of 1972, Article 10, paragraph 1, no. 18), to the chiropractor who renders a personal care service, requires the verification that the service guarantees a sufficient level of quality and that the person rendering it is adequately trained. 18), to the chiropractor who renders a personal care service, requires the verification that the service guarantees a sufficient level of quality and that the person rendering it is provided with adequate training, administered by teaching institutions recognised by the State, even in the absence of the institution of the register of doctors of chiropractic and the activation of the relevant degree course' (Court of Cassation no. 21108 of 02/10/2020, then followed also by Court of Cassation no. 6868 of 11/03/2021).

3.1.3. Classification of JPOLs

A JPOL can be:

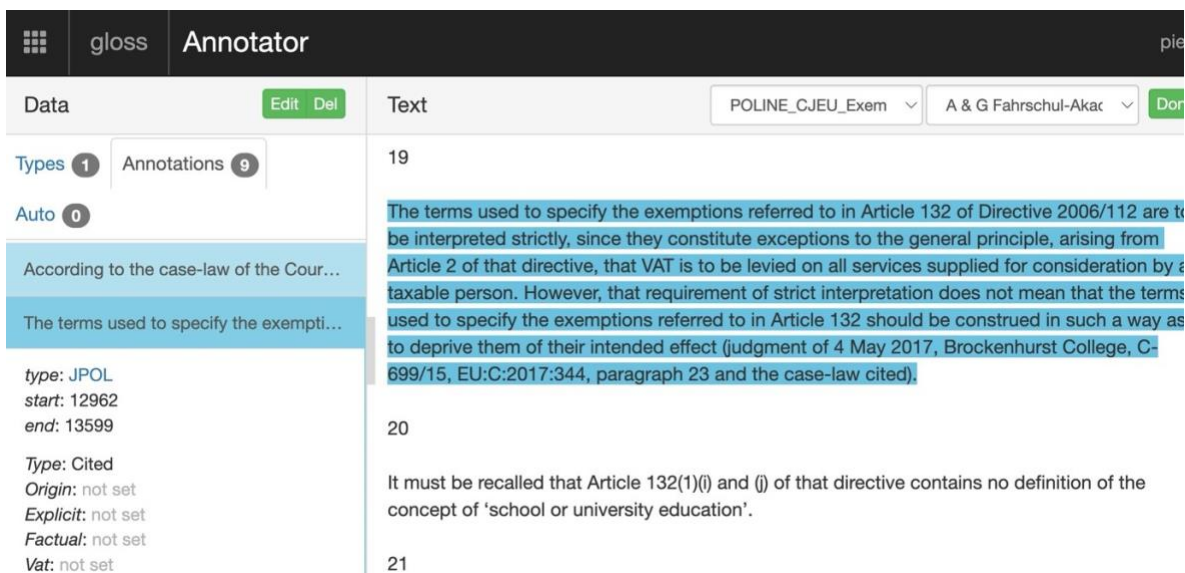
- **NEW** or **CITED**. A new JPOL is a principle that the Court provides for the first time. This is to be intended in a formal sense. Hence, a JPOL is new if there is no explicit citation of previous case law after the JPOL. A cited JPOL is a JPOL which contains the reference to a previous judgement in which that JPOL was already mentioned.

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The screenshot shows the POLINE Annotator interface. The top bar has a grid icon, 'gloss', and 'Annotator'. Below this, there's a 'Data' section with 'Types' (1) and 'Annotations' (9). The 'Auto' section shows '0'. The main text area displays a paragraph starting with 'Consequently, the concept of 'school or university education' for the purposes of the VAT system refers generally to an integrated system for the transfer of knowledge and skills covering a wide and diversified set of subjects, and to the furthering and development of that knowledge and those skills by the pupils and students in the course of their progress and their specialisation in the various constituent stages of that system.' The annotation is highlighted in blue. The left sidebar shows the annotation details: 'type: JPOL', 'start: 15669', 'end: 16109', 'Type: New', 'Origin: not set', 'Explicit: not set', 'Factual: not set', and 'expression: 26 Consequently, the concept of 'school or university education' for the purposes of the VAT'.

Figure 3 – Example of a JPOL type "new"



The screenshot shows the POLINE Annotator interface. The top bar has a grid icon, 'gloss', and 'Annotator'. Below this, there's a 'Data' section with 'Types' (1) and 'Annotations' (9). The 'Auto' section shows '0'. The main text area displays a paragraph starting with 'The terms used to specify the exemptions referred to in Article 132 of Directive 2006/112 are to be interpreted strictly, since they constitute exceptions to the general principle, arising from Article 2 of that directive, that VAT is to be levied on all services supplied for consideration by a taxable person. However, that requirement of strict interpretation does not mean that the terms used to specify the exemptions referred to in Article 132 should be construed in such a way as to deprive them of their intended effect (judgment of 4 May 2017, Brockenhurst College, C-699/15, EU:C:2017:344, paragraph 23 and the case-law cited).' The annotation is highlighted in blue. The left sidebar shows the annotation details: 'type: JPOL', 'start: 12962', 'end: 13599', 'Type: Cited', 'Origin: not set', 'Explicit: not set', 'Factual: not set', and 'Vat: not set'.

Figure 4 – Example of a JPOL type "cited"

A cited JPOL can be:

- **NATIONAL, EUROPEAN, or BOTH.** A JPOL is national when it refers to a previous

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national judgement. A JPOL is a European one, when it refers to a previous European judgement. A JPOL is 'both' when the citing JPOL refers to both previous EU and national decisions.

gloss

Annotator

piera.s

Data

Edit Del

Text

Poline_Cassazione_IT

Cass. 2023_28512.txt

Done

Types 1

Annotations 3

Auto 0

4. Secondo un'interpretazione letterale...

type: JPOL

start: 5775

end: 6316

Type: Cited

Origin: EU

Explicit: not set

Factual: not set

Vat: not set

expression: 4. Secondo un'interpretazione letterale dell'art. 132 , par. 1, lettera c), della citata direttiva IVA

4. Secondo un'interpretazione letterale dell'art. 132 , par. 1, lettera c), della citata direttiva IVA , una prestazione va esentata se soddisfa due condizioni, cioè, da una parte, se costituisce una prestazione medica e, dall'altra, se viene effettuata nel contesto dell'esercizio delle professioni mediche e paramediche quali definite dallo Stato membro interessato (CGUE, 5 marzo 2020, x-GmbH, C-48/19, punto 17; CGUE, C-597/17, cit., punto 19 e giurisprudenza ivi citata; in termini analoghi CGUE, 4 marzo 2021, Frenetikexito, C-581/19).

5. In conformità con la giurisprudenza dell'Unione, questa Corte ha ritenuto che il riconoscimento dell'esenzione, prevista dal D.P.R. n. 633 del 1972 , art. 10 , comma 1, n. 18), al chiropratico che renda una prestazione di cura alla persona, richiede l'accertamento che la prestazione garantisca un sufficiente livello di qualità e che chi la rende sia munito di formazione adeguata, somministrata da istituti d'insegnamento riconosciuti dallo Stato, anche in mancanza dell'istituzione del registro dei dottori in chiropratica e dell'attivazione del relativo corso di laurea magistrale (Cass., Sez. V, 2 ottobre 2020, n. 21108). In quel caso era stato richiesto al giudice del rinvio di accertare se il contribuente potesse dimostrare di avere ricevuto formazione somministrata da istituti d'insegnamento riconosciuti dallo Stato e che l'attività fosse qualitativamente sufficiente ad offrire la cura della persona.

Figure 5 – Example of a European cited JPOL

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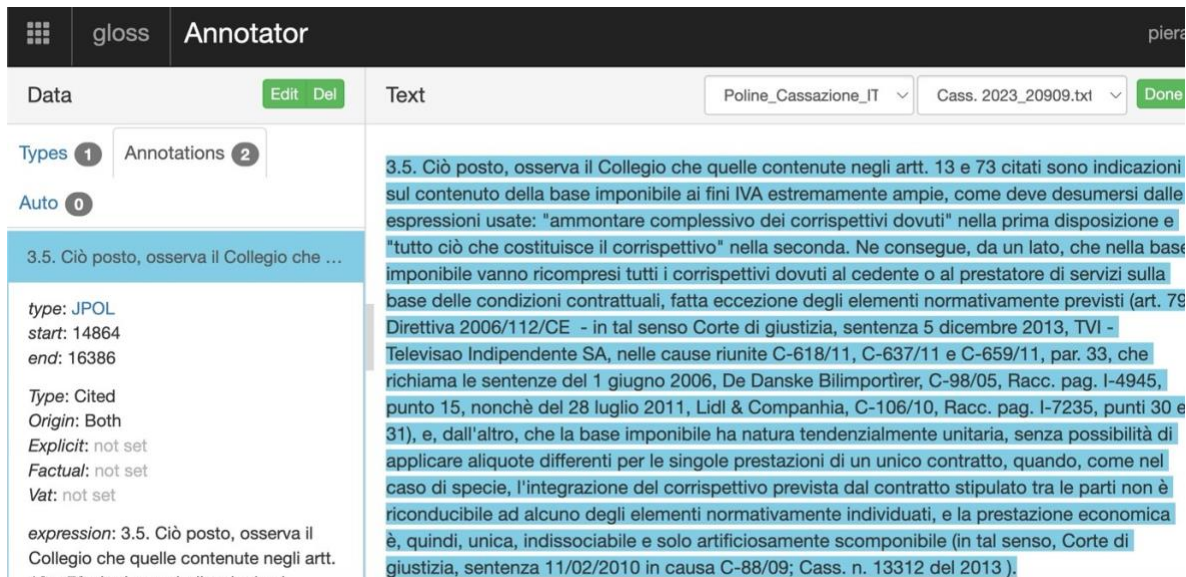


Figure 6 – Example of both national and EU cited JPOL

A JPOL can be:

- **VAT or NON-VAT.** It is a VAT JPOL when the statement refers to VAT discipline. It is non-VAT when it refers to other topics. For our purposes, we will highlight non-VAT JPOLs only when they concern general principles of the legal system or principles concerning the interpretation of the law.

C-326/15

29 *However, according to settled case-law, it is necessary, when interpreting a provision of EU law, to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgments of 26 April 2012, Able UK, C-225/11, EU:C:2012:252, paragraph 22, and of 4 April 2017, Fahimian, C-544/15, EU:C:2017:255, paragraph 30 and the case-law cited).*

A JPOL can be:

- **FACTUAL or NON-FACTUAL:** the definition of factual JPOL varies depending on the national legal system (see below). Non-factual JPOLs are the interpretation of the law/principle in abstract terms, without references to the facts.



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A JPOL can be:

- **EXPLICIT** or **NON-EXPLICIT**: an explicit JPOL is a JPOL which is identified as such (or with a similar term) by the Court itself. This is an issue which mainly concerns the Italian Court of Cassation, that must express the ‘principio di diritto’ according to Italian law (see [para. 3.4.2.](#) “Explicit qualification as JPOL” in the Court of Cassation Chapter).

3.1.4. Annotation instructions

When annotating decisions, the annotator must select, as a first element, the JPOL **type**, i.e. if a JPOL is new or cited.

The screenshot shows the 'Annotator' interface with a dark header bar containing a grid icon, the word 'gloss', and 'Annotator'. Below this is a 'Data' section with 'Cancel' and 'Save' buttons. The main area has two tabs: 'Types' (with a count of 1) and 'Annotations' (with a count of 9). Below the tabs is an 'Auto' section with a count of 0. A dropdown menu is open, showing the selection of 'Cited' (indicated by a checkmark) from a list that includes '13599', '--not set--', and 'New'.

Figure 7 – GLOSS selection for type of JPOL



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Only in the case of cited JPOLs, the annotator must set the **origin**, which may be European, national, or both European and national.

N.B. This applies only to national decisions.

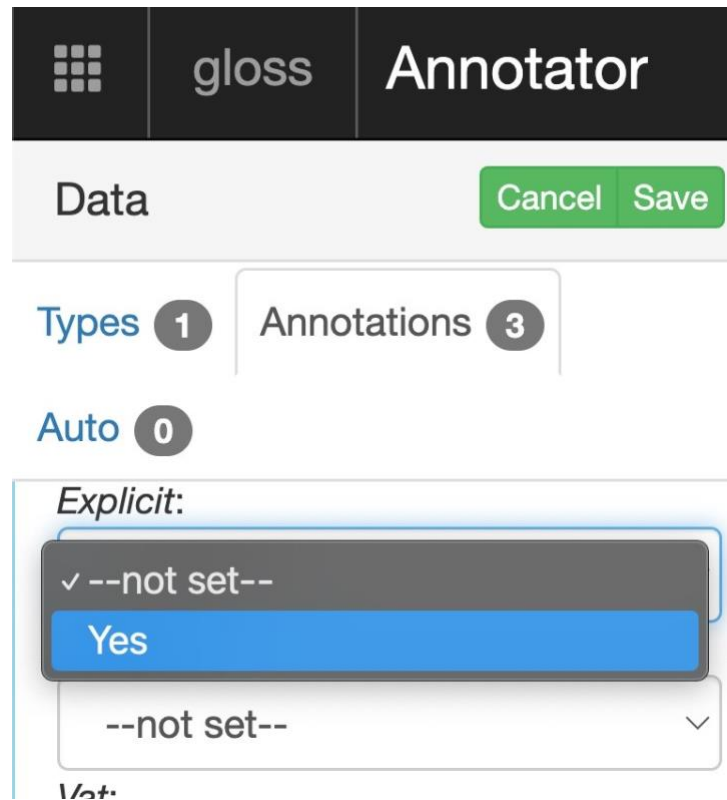
The screenshot shows the 'Annotator' interface with a 'Data' tab. It includes a 'Cancel' and 'Save' button. Below the tab, there are counts for 'Types' (1), 'Annotations' (9), and 'Auto' (0). A text input field contains '13599'. The 'Type' dropdown is set to 'Cited'. The 'Origin' dropdown is open, showing options: '--not set--' (checked), 'National' (highlighted in blue), 'EU', and 'Both'. Below the 'Origin' dropdown, there is a 'Factual' dropdown set to '--not set--'.

Figure 8 – GLOSS selection of origin for cited JPOL

A JPOL can be either explicit or not. If the JPOL is explicit, the annotator must select “explicit”. If the JPOL is implicit, selecting the right option in the annotation process is not necessary.

N.B. This applies only to national decisions, especially Italian ones.

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gloss Annotator

Data Cancel Save

Types 1 Annotations 3

Auto 0

Explicit:

✓ --not set--

Yes

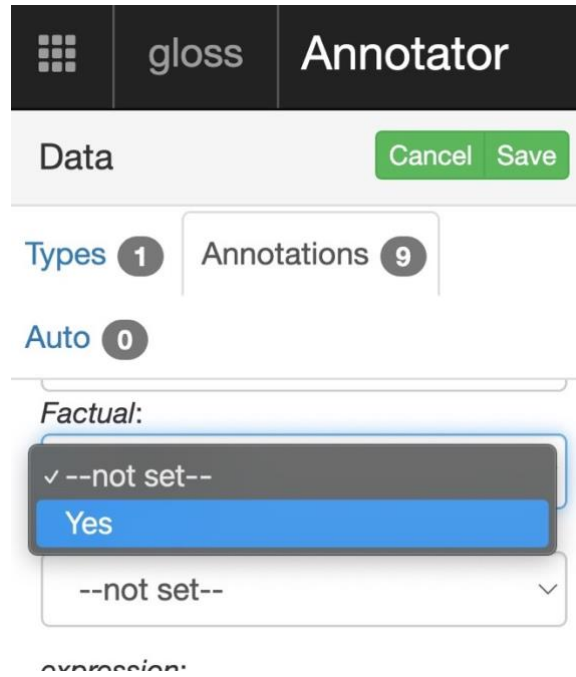
--not set--

Vat:

Figure 9 – GLOSS selection for explicit JPOL

Afterwards, if the JPOL is a factual one, the annotator must select 'FACTUAL = YES'. If the JPOL is non-factual, the selection of the option is not needed.

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gloss Annotator

Data Cancel Save

Types 1 Annotations 9 Auto 0

Factual:

✓ --not set--
Yes
--not set--

expression:

Figure 10 – GLOSS selection for factual JPOL

Next, if the JPOL is not VAT-related (e.g., it is related to more general issues like the scope of the law, the relationship between legal systems, or direct effect of EU law), the annotator must select 'VAT = NO'. If the JPOL is VAT-related, the annotator can avoid selecting.

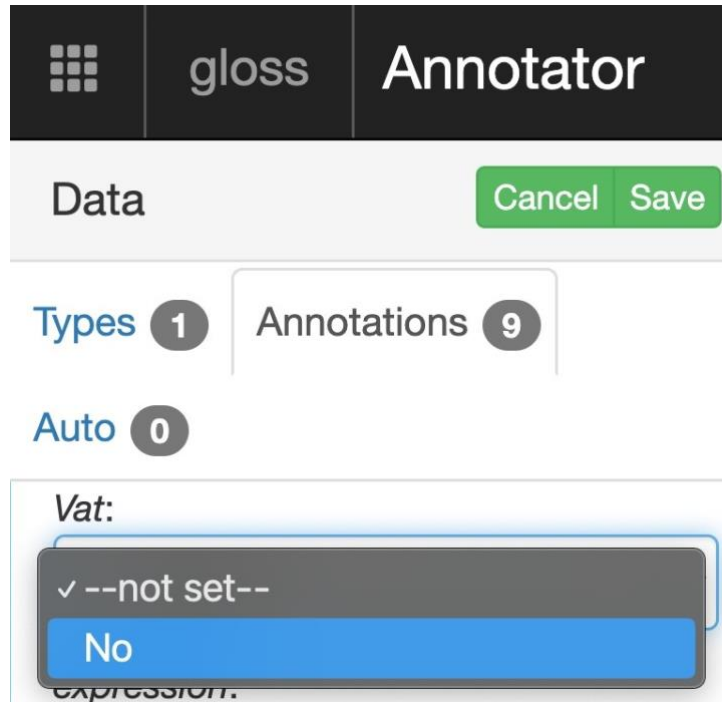


Figure 11 – GLOSS selection for non-VAT JPOL

3.2. Court of Justice of the European Union

3.2.1. Specification of the general definition of JPOL applicable to the CJEU

In most cases, JPOLs have purely legal content (i.e. interpretation of the law/principle in abstract terms, without references to the facts). However, CJEU decisions have a final part, which is the answer to the questions referred for preliminary ruling, which consists of the interpretation of the law as applied to the facts. The reason why these are JPOLs is that these portions contain the impact of the correct interpretation of the EU rule on the interpretation of the national rule/praxis applicable to the case at stake. For our purposes, these are JPOLs, and we will refer to them as “factual JPOLs”.

A factual JPOL in European case law is a statement in which the Court interprets the rule by explicitly referring to the case at stake or to the characterising elements of the case. In the latter case, these characterising elements are presented as if they were a theoretical hypothesis and not a specific case. Often these elements then become parameters or criteria for the interpretation and application of the rule in subsequent cases.



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Specific expressions can be considered indexes of a factual JPOL:

- In the light of the foregoing considerations, the answer to...
- Consequently, the answer to the question referred for a preliminary ruling is...
- Therefore, the answer to the first question is that...
- Article Y of the VAT Directive must be interpreted as precluding...
- ...such as those at issue in the main proceedings....

3.2.2. What a CJEU JPOL is not

A JPOL is not the rephrase or reformulation of the preliminary ruling questions or the fact.

C-228/20

30 *Thus, it is for the Court to answer the national court's questions as they have been framed and within the limits set by the national court.*

31 *The first question should therefore be examined having regard to the matters of law described by the referring court, which poses that question in the light of the conditions laid down in Paragraph 108 of the SGB V. The administrative circular referred to by the German Government does not affect the relevance of that question, particularly since that government does not dispute the applicability of the conditions thus mentioned by the referring court, but, at most, refers to additional alternative conditions which were not mentioned by that court.*

3.2.3. Length of a CJEU's JPOL

In CJEU case law, the minimum length of a JPOL is one paragraph. This is due to two reasons: first, we rely on the idea that the Court uses paragraphs consistently and every paragraph expresses one autonomous passage of the legal reasoning; second, this helps the automatic retrieval of JPOLs. Hence, it is possible that, in one decision, a certain phrase is an autonomous JPOL while, in another decision, the same statement is part of a larger JPOL.



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Where the JPOL of a subsequent paragraph relates to a specific part of a provision (e.g. Art. Y para. 1 lit. A)) while the JPOL of a previous paragraph relates to the entire provision, the two JPOLs are not to be joined.

C-326/15

35 In addition, it must be recalled that the scope of the exemptions referred to in Article 132 of Directive 2006/112 is to be interpreted strictly, since they constitute exceptions to the general principle that VAT is to be levied on all services supplied for consideration by a taxable person (see, to that effect, judgment of 5 October 2016, TMD, C-412/15, EU:C:2016:738, paragraph 34 and the case-law cited).

36 It follows, therefore, that the supply of services which do not contribute directly to the exercise of activities in the public interest referred to in Article 132, but to the exercise of other exempt activities, in particular those referred to in Article 135 of that directive, cannot come under the exemption provided for in Article 132(1)(f) of Directive 2006/112.

A JPOL can be found also in two different paragraphs of the same decision.

C-228/20

29 In that regard, it should be borne in mind that, in proceedings under Article 267 TFEU, the Court is only empowered to rule on the interpretation or validity of EU law in the light of the factual and legal situation as described by the referring court, in order to provide that court with such guidance as will assist it in resolving the dispute before it (judgment of 17 December 2020, Onofrei, C-218/19, EU:C:2020:1034, paragraph 18 and the case-law cited).

30 Thus, it is for the Court to answer the national court's questions as they have been framed and within the limits set by the national court.

The general rule is that when there is an expression in the second paragraph that explicitly specifies the statement in the previous paragraph to explain it the two should be kept together.

This usually happens in presence of textual indicators such as:



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- "such an element"
- "such an acknowledgement"
- "such a condition"

C-228/20

40 *In that regard, the Court has previously held that it is, in principle, for the national law of each Member State to lay down the rules according to which the recognition of an establishment for the purposes of granting the exemption laid down in Article 132(1)(b) of the VAT Directive may be given to establishments which request it. The Member States enjoy a discretion in that regard (see, to that effect, judgment of 10 June 2010, CopyGene, C-262/08, EU:C:2010:328, paragraph 63 and the case-law cited).*

41 *Such recognition does not presuppose a formal recognition procedure and need not necessarily be derived from national tax law provisions (see, to that effect, judgment of 10 June 2010, CopyGene, C-262/08, EU:C:2010:328, paragraph 61).*

When the Court provides a list of conditions needed to produce a certain legal consequence, the JPOL is one.

C-228/20

37 *In accordance with the wording of that provision, two cumulative conditions must be satisfied for hospital and medical care and closely related activities offered by an entity other than a body governed by public law to be eligible for exemption from VAT. The first condition relates to the services supplied and requires that they be undertaken under social conditions comparable with those applicable to bodies governed by public law (see, to that effect, judgment of 5 March 2020, Idealmed III, C-211/18, EU:C:2020:168, paragraphs 20 and 21).*

38 *The second condition relates to the status of the establishment supplying those services and requires the operator to be a hospital, a centre for medical treatment or diagnosis or another duly recognised establishment of a similar nature.*

It is possible to identify also weaker textual indicators to make the system understand when to join two paragraphs, such as:



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- "therefore",
- "hence",
- "in this respect",
- "thus".

The lists are not binding nor exhaustive.

3.2.4. JPOL and citations of precedents

Usually, when the paragraph contains the citation of one or more paragraph(s) of a previous decision in between or at the end, this is a strong indicator that the paragraph is a JPOL.

C-449/17

Article 132 of Directive 2006/112 provides for exemptions which, as indicated by the title of the chapter in which that provision features, are intended to encourage certain activities in the public interest. However, those exemptions do not cover every activity performed in the public interest, but only those listed in that provision and described in great detail (judgment of 4 May 2017, Brockenhurst College, C-699/15, EU:C:2017:344, paragraph 22 and the case-law cited).

However, when the CJEU cites a precedent to say that the case at stake is different from that precedent, this statement is not a JPOL.

C-326/15

38 In that regard, it should be pointed out that, unlike what it is doing in the present case, the Court, in the judgment of 20 November 2003, Taksatorringen (C-8/01, EU:C:2003:621), did not resolve the question whether the exemption provided for in Article 13A(1)(f) of the Sixth Directive (corresponding to Article 132(1)(f) of Directive 2006/112) was limited to the services provided by an IGP whose members carried on activities in the public interest.

3.2.5. Reference to the AG Opinion



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When the CJEU quotes the AG Opinion and shares what the AG said, this is a JPOL.

C-449/17

23 In that regard, it must be noted, as the Advocate General observes in point 35 of his Opinion, that, in accordance with that settled case-law, activities which are not purely recreational are likely to be covered by the concept of ‘school or university education’ as long as the tuition is provided in schools or universities.

3.2.6. Factual JPOLs: Precludes/does not preclude

As a consequence of the way the CJEU judgments are structured, there is always a part at the end of each argumentative thread relating to individual preliminary questions in which it is said that the correct interpretation of a certain rule X “precludes/does not preclude a national rule/practice according to which ...”. This is a factual JPOL.

C-228/20

70 Therefore, the answer to the first question is that Article 132(1)(b) of the VAT Directive must be interpreted as precluding national legislation which – by stipulating that the provision of medical care by a private hospital is to be exempt from VAT if that establishment is approved in accordance with the national provisions relating to the general health insurance regime, following its inclusion in a Land-level hospital plan or the conclusion of care supply contracts with statutory health insurance or substitute funds – results in comparable private hospitals which supply similar services under social conditions comparable with those applicable to bodies governed by public law being treated differently as regards the exemption laid down in that provision.

Usually, factual JPOLs are at the end of the argumentative path concerning a specific referred preliminary question. However, sometimes they are in the middle of the legal reasoning.

C-717/19



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42 *The Court held, in paragraph 46 of the judgment of 20 December 2017, Boehringer Ingelheim Pharma (C-462/16, EU:C:2017:1006), that Article 90(1) of the VAT Directive must be interpreted as meaning that the discount granted, under national law, by a pharmaceutical company to a private health insurance company results, for the purposes of that article, in a reduction of the taxable amount in favour of that pharmaceutical company, where it supplies medicinal products via wholesalers to pharmacies which supply persons covered by private health insurance that reimburses the purchase price of the medicinal products to persons it insures.*

3.3. Bulgarian Supreme Administrative Court

3.3.1. Length of a JPOL

In Bulgarian Supreme Administrative Court case law, the minimum length of a JPOL is one statement. Hence, in decisions which are split into paragraphs, it is possible that a JPOL is shorter than a paragraph.

Decision No. 6075 of 19.05.2021 of the Supreme Administrative Court, case No. 178/2021, Judge rapporteur Vesela Pavlova

“With the concluded rental contracts, the lessor - the audited entity, in its capacity as a supplier within the meaning of Art. 11, para. 1 of the VAT Act, temporarily provides for use independent objects in a building to third parties - tenants, who in turn have the status of recipients, in the sense of art. 11, para. 2 of VAT Act. With rental contracts, the supplier performs the delivery of services for which the tenants are obliged and pay, both the rental price for the rented object and the costs associated with its natural use for its intended purpose. Consumable expenses - electricity, water, telephone, household waste fee, etc., are expenses related precisely to this usual use of the rented property, they appear accompanying the rental relations and directly related to them and as such fall under the hypothesis of Art. 26, para. 3, item 3 of VAT Act, i.e. these costs are part of the tax base of the supply, which costs for VAT purposes form the taxable turnover. In this regard, and in dispute in the present proceedings, the amounts for electricity and water payable by the tenants to the landlord, in connection with the leased independent objects in a building, are included in the value that forms the tax base on which value added tax is charged, as the supply of this type of service is taxable within the meaning of



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the law. This conclusion is also supported by the text of Art. 26, para. 2, ex. first of VAT Act, according to which the tax base of the supply is determined on the basis of everything that includes the remuneration received by or payable to the supplier in connection with the supply, by the recipient or by another person, determined in levs and cents, excluding the tax under this law.”

Moreover, it is possible that a JPOL is made up of statements which are in different paragraphs.

Decision No. 6075 of 19.05.2021 of the Supreme Administrative Court, case No. 178/2021, Judge rapporteur Vesela Pavlova

“It follows from the legal framework in force and the legal transactions actually carried out that after the lessor/provider of the relevant rental services has charged each of the tenants, in accordance with the distribution agreed between them, relevant amounts for electricity and water, which amounts are concomitant and costs directly related to the main delivery, then these amounts are reasonably included in the tax base/taxable turnover of the company, in the meaning of Art. 96, para. 2 of the VAT, as they are owed to the lessor by the recipients/tenants of the delivery pursuant to the rental agreement concluded between them. In this regard, there is no dispute between the parties that the contracts for the supply of electricity and water were concluded by the audited person /landlord/ and as a party to these contracts, this person is the recipient of these services. At the same time and despite being the recipient of these services and regardless of the fact that it is not a specialized enterprise, the audited entity supplies the same services to its tenants, by virtue of the concluded lease agreements, with which the rented premises consumes electricity and water or allegations of double VAT charging on the same tax base appear to be unfounded.”

[...]

“Given the fact that the contracts for the supply of electric energy and water were concluded by the lessor /the audited company/, and the tenants do not have separate contracts for the supply of electric energy and water, i.e. there is no reason for them to pay for electric energy and water to the persons supplying these utilities,



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which is why the lessor, as the recipient of the supplies in question, makes the payments on his own behalf, i.e. the expenses incurred in connection with these supplies are on behalf and at the expense of the lessor, not from the name and at the expense of the tenant.”

3.4. Court of Cassation

3.4.1. Length of a Cassation JPOL

In Italian Court of Cassation case law, the minimum length of a JPOL is one statement. Hence, in decisions split into paragraphs, it is possible that a JPOL is shorter than a paragraph (see the underlined text).

5. In accordance with the case law of the European Union, this Court has held that recognition of the exemption, provided for in Article 10(1)(18) of Presidential Decree No. 633 of 1972, to a chiropractor who renders a personal care service, requires a finding that the service guarantees a sufficient level of quality and that the person rendering it is adequately trained, administered by a qualified person, and that the person rendering the service is not a chiropractor. (18), to a chiropractor who renders a personal care service, requires a finding that the service guarantees a sufficient level of quality and that the person rendering it is provided with adequate training, administered by teaching institutions recognised by the State, even in the absence of the establishment of the register of doctors of chiropractic and the activation of the relevant degree course (Cass. Sec. V, 2 October 2020, no. 21108). In that case, the referring court had been asked to ascertain whether the taxpayer could prove that he had received training administered by teaching institutions recognised by the State and that the activity was qualitatively sufficient to provide personal care.

Moreover, it is possible that a JPOL is made up of statements located in different paragraphs.

Cass. civ., Sec. V, Sent., (date of hearing 15/11/2019) 30/09/2020, no. 20827
The reference made by the Union legislature provides that the exemption must necessarily be applied by the Member States (the use of the indicative 'exempt' leaves no room for doubt as to the existence of a real, directly enforceable obligation



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and not of a mere option on the part of the States themselves) when the benefits in question are provided by public bodies or by bodies 'of the same nature duly recognised'.

The Community legislator thus directly lays down the exemption regime, so that implementing rules in the individual Member States are not indispensable: and not only that, it does so regardless of any subjective considerations, as it then specifies more precisely - for example - with regard to medical treatment and related benefits.

3.4.2. Explicit qualification as JPOL

In most of the judgments, new JPOLs are openly identified as “principi di diritto”. This concept, which exists in the Italian legal system, does not coincide with our definition of JPOL. All “principi di diritto” are JPOL but not viceversa. “Principi di diritto” are mainly to be found at the end of the judgments.

Cass. civ., Sez. V, Sent., (data ud. 13/10/2020) 17/12/2020, n. 28940
The plea should therefore be rejected, and the following principle of law affirmed:
"On the subject of VAT, an exemption must be recognised in respect of services consisting of laboratory tests carried out by a facility accredited with the national health service on behalf of patients of another accredited facility and on the latter's behalf".

3.5. Swedish Supreme Court

3.5.1. Length of a JPOL

In Swedish case law, the minimum length of a JPOL is one statement. JPOLs can be shorter than a paragraph (see the underlined text)

RÅ 2003 ref 102

The taxable amount shall be determined based on the circumstances prevailing at the time the tax liability arises (see the judgment of the European Court of Justice in Case C-281/91, Muys' en de Winter's Bouw- en Aannemingsbedrijf, ECR 1993, p. I-5405, para. 16). According to the main rule in Chapter 1, Section 3, first paragraph of the Swedish VAT Act (ML), the obligation to pay tax arises upon a supply when the goods have been delivered or the service has been rendered. In the present case, the



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tax liability therefore arises when the goods are received by the customer in the store and payment is made.

In case law from the Swedish Supreme Administrative Court, JPOLs can extend over two paragraphs:

HFD 2019 ref. 68:

19. According to the case law of the CJEU, making a horse available to a racing organizer for the purpose of participating in a race does not constitute a supply for remuneration if this does not involve the payment of starting fees for participation or any other direct payment, and only the owners of horses placed in the race receive prize money. This has been justified by the fact that receiving prize money is subject to a certain randomness (Case Baštová, paragraphs 36 and 37).

20. On the other hand, if the race organizer pays starting fees for the horse's participation in the race, regardless of the horse's placement, the horse owner's act of making their horse available could be qualified as a provision of a service for remuneration within the meaning of the directive (Case Baštová, paragraph 39).

More recent cases are often divided into paragraphs, with the difference lying solely in their structure.

Rulings from the Swedish Supreme Administrative Courts are categorized as either references (“ref.”) or notices (“not.”). References are more detailed and carry precedential significance, serving as guidance for courts in subsequent cases. Notices are brief and hold limited legal weight. The designation of a case as a notice or a reference is indicated in the name of the case. Cases named “not.” are notices, whereas those named “ref.” are references. The court itself decides whether a judgement labelled as “ref.” or a “not.”.

3.6 Dataset

The annotated corpus is available at the following link:

https://www.dropbox.com/scl/fo/62ekgw78v0605axzq33vd/AKbqns6yjVe0-6vl4s6fd_Q?rlkey=bjg0vri9e9f7f6poww621owca&st=a4m4xpak&dl=0

What we called dataset is made of 4 sub-datasets:

1. Preliminary rulings from the CJEU;



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2. Judgement from the Bulgarian Supreme Administrative Court;
3. Sentenze and Ordinanze (two different kinds of judgement) from the Italian Supreme Court of Cassation
4. References and Notices from Swedish Högsta förvaltningsdomstolen and Regeringsrätten

The following table shows the total number of annotated decisions for each national sub-dataset, how many of which were double/single-tagged, and their partition into validation and test set.

Language	Total	Validation set	Test set	Double-tagged	Single-tagged
English	22	12	10	14	8
Bulgarian	40	20	20	25	15
Italian	38	19	19	16	22
Swedish	18	11	7	18	0

The complete dataset, including also the non-manually annotated judgement, is made as follow:

- CJEU, 101 judgements;
- Bulgarian Supreme Administrative Court, 120 judgements;
- Italian Court of Cassation, 222 judgements (maybe to be reduced due to some inconsistencies)
- Swedish Supreme Courts (RÅ and HFD), 100 judgements (to be refined)



4. Difficulties and ambiguities in JPOL extraction through LLM

This section outlines the primary shortcomings observed during the extraction of JPOLs using LLMs. These are tricky points that cannot be solved by a literal analysis of the content of paragraphs of the decisions but need a contextual interpretation which is harder for LLMs. Nonetheless, they do not create huge problems for our purposes of creating the final database of JPOLs. The problems are not many, the errors usually entail an over valuation of JPOLs (more JPOLs are extracted), and we believe that with the refinement of the prompt and the extraction many of these problems can be overcome.

4.1. CJEU

4.1.1. Non-deontic JPOLs concerning context of interpretation

LLMs frequently extract statements from the CJEU dealing with interpretative approaches and methods that should generally apply in the interpretation of EU law.

The CJEU frequently clarifies the context which justifies a certain contextual interpretation of a rule, or a portion of a rule. These statements cannot be classified as “interpretation” because they are prodromic to the output of contextual interpretation, which is provided afterwards in the decision. However, LLMs usually classify such statements as JPOL.

C-605/15

26 That interpretation is also confirmed by the structure of Title IX of that directive relating to ‘Exemptions’. Within Directive 2006/112, Article 132(1)(f) is included, not in Chapter 1, entitled ‘General Provisions’, of that title, but in Chapter 2. Moreover, in that title, a distinction is made between Chapter 2, entitled ‘Exemptions for certain activities in the public interest’, and Chapter 3, entitled ‘Exemptions for other activities’, a distinction which indicates that the rules laid down in Chapter 2 for certain activities in the public interest do not apply to the other activities referred to in Chapter 3.



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4.1.2. Non-deontic JPOL: “Do/does not preclude”

Frequently, after explaining the reasons for a certain interpretation of a rule, the CJEU adds that this interpretation is not precluded by another rule principle or previous decision, or that the interpretation does not preclude another interpretation of a rule. This is not deontic; hence it is not a JPOL.

C-605/15

23 In that regard, it should be pointed out that the terms of that provision, which refer to an exempt activity of the members of an IGP, do not preclude the possibility of that exemption being applied to the services of an IGP whose members carry on an economic activity in the area of insurance, inasmuch as Article 135(1)(a) of that directive exempts insurance transactions.

4.1.3 List of ultra-specific criteria that should be present to apply an EU provision

Sometimes, the CJEU provides a list of super specific criteria that must exist to make a rule or a concept of a rule applicable. These are presented as the description of the constitutive elements of a concept, and they are written in abstract terms. Nonetheless, they usually describe and depend on the facts of the case at stake. Hence, they can hardly be applied to other cases, which is one of the features of JPOLs.

C-513/20

37 Where that activity consists in compiling an individual file, including the user's clinical history, setting out data relating to the user's state of health and to prescribed care, which may therefore be regarded as planned, as well as the manner in which that care is administered, data which must be consulted for the provision of care and to achieve the therapeutic objectives pursued, such a transaction may be regarded as ‘closely related’ to such medical care within the meaning of Article 132(1)(b) of the VAT Directive.

4.1.4. Reformulation of a previous paragraph

See [para. 3.1.2. “what a JPOL is not”](#).

When the CJEU refers to what it has already stated in a previous paragraph and possibly rephrases that paragraph, this is not a JPOL as the previous paragraph has already been



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extracted and, hence, extracting also the second JPOL would amount to a repetition of the same content coming from the same decision. Sometimes repetitions are also due to the fact that we extract JPOLs from previous case law (cited JPOLs) but in that case the extraction is useful to show the evolution and consistency of the CJEU over time. On the contrary, the repetition of the same content within the same decision would not be useful for the user.

C-717/19

57 As stated in paragraph 52 above, where the price is reduced after the supply has taken place, Article 90(1) of the VAT Directive provides that the taxable amount is to be reduced accordingly under conditions to be determined by the Member States.

4.1.5. Misleading formulation of the text

Sometimes the CJEU uses expressions such as “this should/must interpreted as...” in cases where it is not actually interpreting. LLMs extract these as JPOLs. Frequently, these statements are also ultra-specific and non-deontic.

C-228/20

43 It is in the light of those principles that it is necessary to determine the limits of the discretion conferred on a Member State by the VAT Directive and to examine whether Article 132(1)(b) of that directive must be interpreted as meaning that making a private hospital subject to the condition that it be approved under national provisions relating to the general health insurance regime, which means that that hospital must be included in the local hospital plan or have concluded care supply contracts with the statutory health insurance or substitute funds, falls within such limits.

4.1.6. Different language versions

It is frequent that the CJEU recalls the different language versions of a rule or a concept of the Directive. If the CJEU does not add any consideration and sticks to the formulation in those language versions, this is not interpretation and hence not a JPOL.

C-228/20



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45 In that regard, it should be noted at the outset that, in the Spanish, French, Italian, Portuguese and Romanian versions of Article 132(1)(b) of the VAT Directive, the expression ‘duly recognised’ is placed after the reference to ‘other establishments of a similar nature’, whereas in other language versions, inter alia German, English and Latvian, the expression ‘duly recognised’ is placed between the terms ‘other’ and ‘establishments of a similar nature’. Accordingly, some language versions of Article 132(1)(b) of the VAT Directive suggest that only ‘other establishments of a similar nature’ are subject to the requirement that they be ‘duly recognised’, while other versions accept that that requirement applies to all categories of private establishment covered by that provision.

4.1.7. Citation of the text of a legislative rule

See the [para. 3.1.2. – “what a JPOL is not”](#).

4.1.8. Reconstruction of the fact

The CJEU refers to the facts of the case at stake which do not have any relevance for the interpretation of EU law.

C-4/18 e C-5/18

54 Therefore, without it being necessary to examine whether services such as those which were provided by DIREKTexpress Holding and JUREX fall within one of the specific categories of postal services referred to in Article 3(4) of Directive 97/67, it should be noted that, in the present case, because of their specific characteristics and the context in which they are provided, those services can in any event be considered as forming part of the universal service, as defined in that article.

4.1.9. Ratio of the rule

When the CJEU refers to the rationale of a rule, it does not introduce any kind of deontic content for the interpretation. Hence, it is not a JPOL.

C-228/20



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77 In the second place, as the Advocate General observed in point 86 of his Opinion, the condition relating to ‘comparable social conditions’ is intended to prevent the services offered by private establishments from being exempt where those establishments are not subject to the same social obligations as establishments governed by public law.

78 In the third place, as pointed out in paragraph 57 above, Article 132(1)(b) of the VAT Directive is intended, inter alia, to reduce the cost of medical care and to make that care more accessible to individuals, which also entails the accessibility of high-quality care.

4.2. Bulgarian case law

4.2.1. Missing context

In Bulgarian decisions, paragraphs almost never start with a number. Therefore, it is harder to determine the target length of the JPOLs in judgments of the Bulgarian Supreme Administrative Court. The general rule that applies is at least one full sentence as the minimum length of a JPOL. However, very often a JPOL consists of more than one sentence, but the GPT seldom extracts two or more consecutive sentences as a single JPOL. This can create issues in terms of missing content and thus reducing of the possibility to distinguish the main legal interpretations of the court.

4.2.2. Recognition of cited JPOLs

The extraction of JPOLs that cite CJEU case law is made difficult by the fact that when referring to CJEU judgments, Bulgarian judges use different formats of citation for the title of the judgment. Sometimes only the case number is cited, e.g. "Judgment of the Court in Case C-86/09". In other cases, only the date of the judgment or only the names of the parties are cited. A full citation of the title of the CJEU judgment with all identifying attributes is also encountered.

The lack of a unified format for citing CJEU judgments makes it difficult to recognize them as such by the LLM. Even if an example of the title of a CJEU judgment is provided in the prompt, this does not guarantee that JPOLs citing EU case law will be correctly extracted, since there are too many variants of citing these acts in Bulgarian judgments.



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4.3. Italian case law

The Italian case law lacks a clear structure, making it significantly more challenging to define the context of each JPOL. This absence of organisation complicates the identification of JPOLS, as there is no standardised framework to rely on.

Moreover, if in the European case law, there are many JPOLs in each judgment, this is not the case in the Italian case law. Normally, we can find two to three JPOLs in each judgement, which makes the training procedure more difficult and requires more judgement in input to work on.

On the other hand, the Italian case law often contains an explicit JPOL (see [para. 3.4.2.](#)), which helps LLM in finding a standard formula for JPOLS.

5. Specific formal rules for the annotation of JPOL

5.1. CJEU

When annotators annotate JPOLS of the CJEU, they have to follow some formal rules to identify the correct portion of the text.

- In CJEU decisions paragraphs start with a paragraph number. The paragraph number has to be included in the annotation.
- When the CJEU quotes a JPOL contained in a previous decision, the tag closes after the quotation of the previous case.

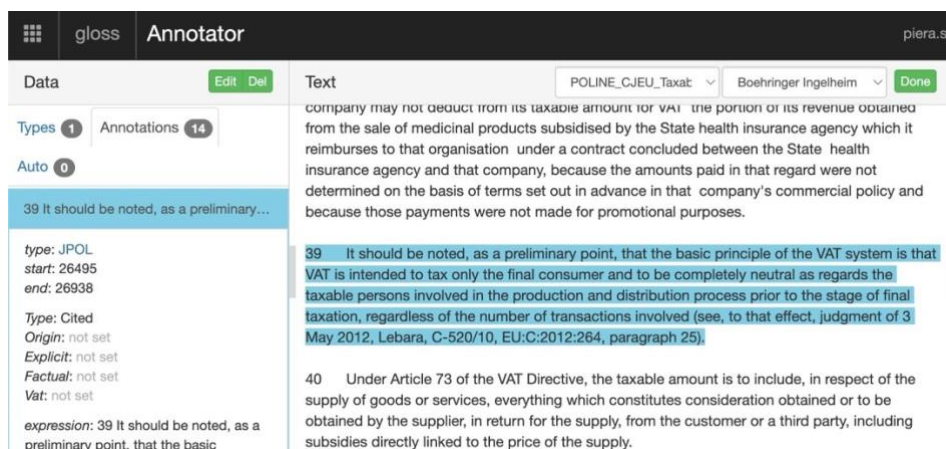


Figure 12 – Annotation of a CJEU JPOL on GLOSS

5.2. Bulgarian Supreme Administrative Court

When annotators annotate JPOLs of the Bulgarian Supreme Administrative Court, they must follow some formal rules to identify the correct portion of the text.

- In Bulgarian decisions paragraphs almost never start with a paragraph number. If the paragraph starts with a number, and the JPOL starts at the beginning of the paragraph, the paragraph number must be included in the annotation. If the JPOL does not start at the beginning of the paragraph ignore the paragraph number.
- When the Bulgarian Supreme Administrative Court quotes a JPOL contained in a previous decision (either EU or national), the tag closes after the quotation of the previous case.
- It is important to assess the extent to which the JPOL is formulated clearly enough to be presented as an independent legal conclusion (sometimes detached from the context). As a rule, the more concisely worded JPOL is preferable, but when determining the textual scope, it should be taken into account whether the conclusion is in relation to a cited specific legal norm or court decision in a preceding sentence/paragraph.

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gloss

Annotator

Data

Types

Annotations

Auto

Според постоянната практика на Съда на ЕС по чл. 13 от Шеста директива фор...

Според практиката на СЕС, освобождаването по буква б) на чл. 13 А, § 1 от Шес...

В понятието "медицинска помощ" по смисъла на чл. 132, § 1, 5, 6) от Директива...

type: JPOL

start: 14813

end: 15428

Type: Cited

Origin: EU

Explicit: not set

Factual: not set

Vat: not set

expression: В понятието "медицинска помощ" по смисъла на чл. 132, § 1, 5, 6) от Директива 2006/112/ЕО и в понятието "предоставяне на медицинска помощ" по смисъла на буква в) на същия параграф, се включват "услуги с цел диагностициране, терапия и доколкото е възможно, успешно лечение на заболявания или разстройства на здравето" г. 25 от Решение на СЕС от 21 март 2013 г. по дело C-91/12 и т. 36 и т. 37 от Решение по дело C-86/09. Съответно медицинските услуги следва да са включени и да са доставени от лица, които притежават необходимите професионални квалификации при упражняване на медицински и парамедицински професии.

No using annotations

Text

POLINE APIS SET A

501044_CORT141

Not Done

услуги.

В процесния случай не е спорно обстоятелството, че РП е диагностично-консултативен център, което е лечебно заведение за извънболнична помощ съгласно чл. 8, ал. 1, т. 2, 5, "г" от ЗПЗ, като е спазено изискването за задължително регистриране в РЗИ. Според чл. 17, ал. 1 от ЗПЗ ДКЦ е лечебно заведение, в което се осъществява извънболнична помощ не по-малко от 10 лекари с различни признати специалности и центърът трябва да бъде съоръжен с необходимата медицинска апаратура, да разполага поне с една медико-диагностична лаборатория и уредба за образна диагностика.

Следователно, първото изискване, установено в чл. 39, т. 1 от ЗДДС за извършване на услугите от лечебно заведение, което е регистрирано според условията на ЗПЗ.

Основният спорен въпрос, който е разгледан от АС Пловдив, се отнася до изпълнението на второто кумулативно условие по чл. 39, т. 1 от ЗДДС, а именно дали конкретните услуги по извършване на психологически изследвания по реда на ЗДвП и Наредба № 36/2006 г. са здравни или медицински услуги. Според приходните органи и прието от АС Пловдив, при определяне на доставяне на услуги, които попадат в обхвата на освободителите от облагане по цитираната разпоредба, следва да се съобразява естеството на услугите, т.е. дали това са услуги, свързани с превенцията, диагностицирането и лечението на дадена болест. Водещо значение е естеството на осъществяваните услуги, респ. и от кого се извършват съобразно действащата национална нормативна уредба.

Съгласно чл. 153 б, ал. 1 от ЗДвП психологическите изследвания по чл. 152, ал. 1, т. 2 и ал. 2 от ЗДвП се организират и провеждат от: 1. първото и второто психологическо изследване - от регистрирани при условията и по реда на този закон и притежаващи удостоверение за регистрация: а) болници за активно лечение и от групови практики за медицинска помощ, в които работи поне един психолог; б) медицински центрове и диагностично-консултативни центрове, в които работи поне един психолог; в) центрове за психично здраве, в които работи поне един психолог; 2. третото психологическо изследване - в Изпълнителна агенция "Автомобилна администрация". Психологическото изследване, провеждано по реда на Наредба № 36/2006 г. има за цел да установи психологическата годност на кандидатите за придобиване на правоспособност за управление на МПС и на водачите на МПС, да управляват МПС без опасност от допускане на пътнотранспортни произшествия, а на председателите на изпитни комисии - и да оценяват уменията за безопасно управление на МПС на кандидатите за придобиване на правоспособност. Методическото ръководство за извършване на психологическите изследвания се извършва от Изпълнителна агенция "Автомобилна администрация".

Според приходните органи, при изследването за психологическа годност по реда на Наредба № 36 от 15 май 2006 г., се оценява доколко определени психологически / професионалнозначими качества на изследваните лица, са в съответствие с определени изисквания, като направената проценка има вероятностен характер и е относима към съответната цел, за определен период от време, тези услуги не следва да се определят като здравни /медицински услуги по смисъла на чл. 39, т. 1 от ЗДДС. Така прието в РА, което е възприето от първоинстанционния съд, е правилно.

В понятието "медицинска помощ" по смисъла на чл. 132, § 1, 5, 6) от Директива 2006/112/ЕО и в понятието "предоставяне на медицинска помощ" по смисъла на буква в) на същия параграф, се включват "услуги с цел диагностициране, терапия и доколкото е възможно, успешно лечение на заболявания или разстройства на здравето" г. 25 от Решение на СЕС от 21 март 2013 г. по дело C-91/12 и т. 36 и т. 37 от Решение по дело C-86/09. Съответно медицинските услуги следва да са включени и да са доставени от лица, които притежават необходимите професионални квалификации при упражняване на медицински и парамедицински професии.

Видно от уредбата, съдържаща се в Наредба № 36/2006 г. относно условията, на които трябва да отговарят лицата, желаещи да извършват психологически изследвания първо и второ по чл. 152, ал. 1, т. 1 и т. 2 от ЗДвП, тези услуги се извършват от психолози, които следва да разполагат с диплома за завършено висше образование със специалност "психология", степен "магистър". Това означава, че психологическото изследване не се извършва от лица, упражняващи медицинска професия. Без значение в случая е фактът, че ДКЦ Ритъм 2010 ООД е регистрирано като лечебно заведение с вписан предмет на дейност "физическа психология", доколкото дейностите по психологическите изследвания по реда на

Figure 13 – Annotation of a JPOL from Bulgarian Supreme Administrative Court

5.3. Court of Cassation

When annotators annotate JPOLs of the Italian Court of Cassation, they must follow some formal rules to identify the correct portion of the text.

In Italian decisions, paragraphs do not always start with a number. If the paragraph starts with a number, and the JPOL starts at the beginning of the paragraph, the paragraph number must be included in the annotation. If the JPOL does not start at the beginning of the paragraph (see [para. 3.4.1. "Length of a Cassation JPOL"](#)), the annotators are required to ignore the paragraph number.

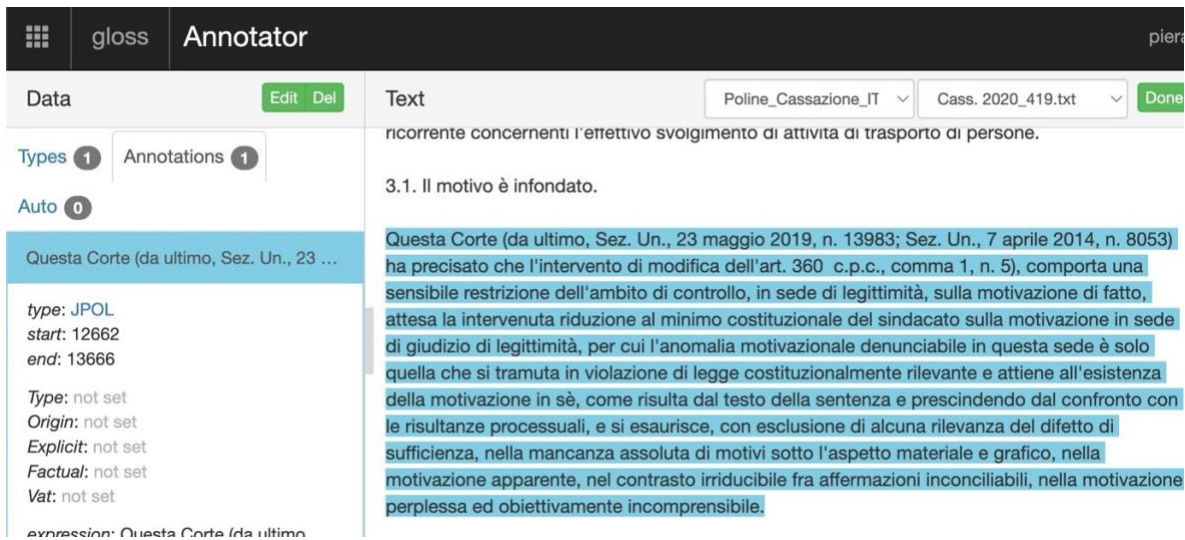
When the Italian Court of Cassation quotes a JPOL contained in a previous decision (either EU or national), the tag closes after the quotation of the previous case.

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The screenshot shows the POLINE Annotator interface. At the top, there's a header with a grid icon, 'gloss', and 'Annotator'. Below this, there's a 'Data' section with 'Types' (1) and 'Annotations' (1) counts, and an 'Auto' button (0). The main text area displays a legal document snippet. A specific sentence is highlighted in blue, and a sidebar on the left shows the annotation details for 'JPOL'.

Data Edit Del **Text** Poline_Cassazione_IT Cass. 2020_419.txt Done

Types 1 **Annotations** 1

Auto 0

Questa Corte (da ultimo, Sez. Un., 23 maggio 2019, n. 13983; Sez. Un., 7 aprile 2014, n. 8053) ha precisato che l'intervento di modifica dell'art. 360 c.p.c., comma 1, n. 5), comporta una sensibile restrizione dell'ambito di controllo, in sede di legittimità, sulla motivazione di fatto, attesa la intervenuta riduzione al minimo costituzionale del sindacato sulla motivazione in sede di giudizio di legittimità, per cui l'anomalia motivazionale denunciabile in questa sede è solo quella che si tramuta in violazione di legge costituzionalmente rilevante e attiene all'esistenza della motivazione in sè, come risulta dal testo della sentenza e prescindendo dal confronto con le risultanze processuali, e si esaurisce, con esclusione di alcuna rilevanza del difetto di sufficienza, nella mancanza assoluta di motivi sotto l'aspetto materiale e grafico, nella motivazione apparente, nel contrasto irriducibile fra affermazioni inconciliabili, nella motivazione perplessa ed obiettivamente incomprensibile.

type: JPOL
start: 12662
end: 13666
Type: not set
Origin: not set
Explicit: not set
Factual: not set
Vat: not set
expression: Questa Corte (da ultimo, Sez. Un., 23 maggio 2019, n. 13983; Sez. Un., 7 aprile 2014, n. 8053)

Figure 14 – Annotation of a JPOL from Italian Court of Cassation

6. References

- [1] Jacop, *Precedents and Case Based reasoning in the European Court of Justice*, Cambridge, 2014, 95 and 101.
- [2] P. Mbongo & A. Vauchez (dir.), *La fabrique du droit européen*, Bruylant, 2009
- [3] Komarek, Reasoning with previous decisions: Beyond the doctrine of precedent, *AJCL* (2013), 149-171.
- [4] Tiersma, The textualisation of precedent, 82, *Notre Dame Law Review* (2007), 1187-1278
- [5] Ashley, Kevin D. "Prospects for legal analytics: some approaches to extracting more meaning from legal texts." *University of Cincinnati Law Review* 90.4 (2022): 5.
- [6] Savelka, Jaromir, and Kevin D. Ashley. "The unreasonable effectiveness of large language models in zero-shot semantic annotation of legal texts." *Frontiers in Artificial Intelligence* 6 (2023): 1279794.