

# La Ley Unión Europea, Nº 22 (January 2015)

Number 22 of the Spanish periodical La Ley-Unión Europea (January 2015) has just been released. You will find therein:

Under the heading *Doctrina*

An article by Prof. Jiménez Blanco (University of Oviedo), on “social tourism”, entitled “Derecho de residencia en la Unión Europea y turismo social”.

**Abstract:** The judgment of the ECJ of 11 November 2014 (Case C-333/13: Elisabeta Dano, Dano and Jobcentre Florin Leipzig) restates the problem of access to social benefits of the host State by EU citizens. However, the real problem lies in the limited right of residence of European citizens when they are non-active EU citizens and manifestly lack of economic resources. In such cases, European citizenship, stated in the art. 20 TFEU, does not legitimize a residence in the host State based on «social tourism».

A paper by Dr. Muleiro Parada (University of Vigo), entitled “La cooperación reforzada en el impuesto sobre transacciones financieras”.

**Abstract:** Some countries of the European Union are willing to the implementation of a financial transaction tax since 2016. In order to achieve this goal, it's necessary to use the enhanced cooperation mechanism regulated in the EU Treaties. The Commission have been formulated several proposals which will culminate in a final one. It will be expected that the final proposal can be less ambitious. In this paper we analyze these European proposals, the most problematic issues and the future of European regulation, on the basis of recent political agreements.

Under the heading *Tribuna*

A contribution by Dr. Oró Martínez (Max Planck Institute Luxembourg), entitled “Las reclamaciones por daños derivados de una infracción del Derecho de la competencia de la UE: primeras observaciones sobre la Directiva 2014/14/UE”, analyzing Directive 2014/104/EU

**Abstract:** This comment makes some general remarks on the recent Directive 2014/104/EU, on actions for damages arising out of infringements of EU competition law. After presenting its background and the legal context of the Directive, we examine the scope of application of the Directive, the general design of these actions for damages, as well as the relationship between the Directive and the Commission Recommendation on collective redress mechanisms. The different procedural and substantive provisions of the text are examined, together with the rules on coordination with public enforcement and consensual dispute resolution. The comment concludes with some remarks on the scarce impact of cross-border situations in the content of the Directive.

A study on the 2005 Hague Convention by Prof. Arenas García (University Autònoma, Barcelona), under the title “La aprobación por la UE del Convenio de La Haya sobre acuerdos de elección de foro: un cruce de caminos”.

**Abstract:** The acceptance by the EU of the Hague Convention of 2005 on Choice of Court Agreements will allow the entry into force of the Convention since Mexico has already ratified it. In this work we deal with the fundamental issues of the Convention and also with the particularities linked to the participation in the Convention of the EU and its Member States.

Two comments are included under the chapter *Sentencia seleccionada*.

The first one, “Trabajadores extranjeros en situación irregular e instituciones de garantía salarial”, focus on the CJEU ruling on case C-311/13, *O. Tümer*. It’s signed by Prof. Espiniella Menéndez (University of Oviedo).

**Abstract:** The Court of Justice rules that a national legislation as the Dutch legislation, which denies the insolvency benefit in favor of foreign employees in irregular situation, is contrary to the EU Law. The Judgment can be analyzed from the two legal rationales under the issue: the social policy and the immigration policy. This approach permits to conclude that the ruling is right, although some arguments are unconvincing.

The second one, under the headline “Ley aplicable a los contratos internacionales en defecto de elección: la interpretación del artículo 4 del Convenio de Roma y su proyección sobre el Reglamento Roma I” corresponds to the ruling on case C-305/13. The author is Dr. Unai Belintxon Martín (Univesity of the País Vasco).

**Abstract:** The aim of this study is to analyze and evaluate the European Court of Justice Judgement in the Haeger & Schmidt case, on the interpretation of Article 4 of the Rome Convention of 1980 on the Law Applicable to Contractual Obligations. In particular, the research will focus on analyzing the interpretive contribution of the Court in this new decision and its repercussion on articles 4 and 5 of the Rome I Regulation.

The current issue includes a section on case law (*Jurisprudencia*) and another one on updated EU news and events (*Actualidad de la Unión Europea*) as well.