

LIST OF PUBLICATIONS

My list of publications contains a total of 63 publications. The publications include 7 peer-reviewed publications, 3 monographs (not peer-reviewed; 1 single author), 13 contributions to books (not peer-reviewed; 10 single author), 10 articles in scientific journals (not peer-reviewed; 6 single author; 1 corresponding author), 5 published legal opinions written for public authorities in Switzerland (1 single author), and 25 translations of Swiss Federal Supreme Court precedents (not peer-reviewed; 23 single author). 4 Swiss Federal Supreme Court precedents and 7 Swiss Federal Administrative Court decisions cite one of my publications.

1. Peer-reviewed publications

Mélanie Levy, *Lex Atlas: Covid-19, Country report for Switzerland*, The Oxford Compendium of National Legal Responses to Covid-19, Oxford University Press, **2022** (accepted in principle).

[Link](#)

Mélanie Levy, *Surrogacy and parenthood: a European saga of genetic essentialism and gender discrimination*, Michigan Journal of Gender & Law, **2022** (accepted in principle).

[Link](#)

Mélanie Levy, *The rise of the Swiss regulatory healthcare state: On preserving the just in the quest for the better (or less expensive?)*, Regulation and Governance, **2020** (published online before inclusion in an issue).

[Link](#)

Mélanie Levy, *In dubio pro CPR? The controversial status of “Do Not Resuscitate” imprints on the human body - a Swiss innovation*, European Journal of Health Law, **2020** 27, p. 125-145.

[Link](#)

Mélanie Levy, *State incentives to promote organ donation: Honoring the principles of reciprocity and solidarity inherent in the gift relationship*, Journal of Law and the Biosciences, **2018** 5(2), p. 398-435.

[Link](#)

Mélanie Levy, *Pre-mortem interventions facilitating organ retrieval: the new Swiss legal framework*, in: Emma Massey/Frederike Ambagtsheer/Willem Weimar (Ed.), *Ethical, Legal and Psychosocial Aspects of Transplantation. Global Challenges*, Pabst Science Publishers, **2017**, p. 37-43.

[Link](#)

Mélanie Mader, *Une position de neutralité qui n'a plus de raison d'être*, Bioethica Forum, **2010**(2), p. 34-36.

[Link](#)

2. Monographs (not peer-reviewed)

Mélanie Mader, *Le don d'organes entre gratuité et modèles de récompense: quels instruments étatiques face à la pénurie d'organes?*, Helbing Lichtenhahn, Basel **2011** (714 pages).

This monograph has won the “Professor Walther Hug” Prize and the “Paul-René Rosset” Prize. It was highlighted in three radio interviews and close to thirty newspaper articles.

Christoph Müller/**Mélanie Mader**, *Kaufvertrags-, Werkvertrags- und Auftragsrecht, Entwicklungen 2007*, njus.ch, Stämpfli Editions, Berne **2008** (139 pages).

I independently wrote the entire chapter on the sales contract and the service contract in Swiss contract law.

Christoph Müller/**Mélanie Mader**, *Kaufvertrags-, Werkvertrags- und Auftragsrecht, Entwicklungen 2006*, njus.ch, Stämpfli Editions, Berne **2007** (98 pages).

I independently wrote the entire chapter on the sales contract and the service contract in Swiss contract law.

3. Contributions to books (not peer-reviewed)

Mélanie Levy, *The enigma of vaccination in Switzerland: between panacea, federalism, and skepticism*, in: Olivier Guillod *et al.* (Ed.), *Le droit de la santé à l'épreuve d'une pandémie*, Editions Weblaw, Berne **2022** (accepted).

Mélanie Levy, *Article 11 (demande d'autorisation de mise sur le marché)*, in: Commentaire romand de la Loi sur les produits thérapeutiques, Helbing Lichtenhahn, Basel **2022** (accepted).

Mélanie Levy, *Constitutional duties*, in: Valérie Défago Gaudin *et al.* (Ed.), *Mélanges en hommage au prof. Pascal Mahon*, Helbing Lichtenhahn, Basel **2022** (accepted).

Mélanie Levy, *Please rate your patient experience! Critical thoughts on the role of emerging online hospital ratings in Swiss healthcare*, in: Evelyne Clerc *et al.* (Ed.), "Alea jacta est: Santé!" *Mélanges en hommage au prof. Olivier Guillod*, Helbing Lichtenhahn, Basel **2021**.

[Link](#)

Mélanie Levy, *Beyond bionormativity - revision of article 119 of the Swiss Constitution*, in: Sophie Weerts *et al.* (Ed.), *Révision imaginaire de la Constitution fédérale: mélanges en hommage au prof. Luzius Mader*, Helbing Lichtenhahn, Basel **2018**, p. 193-199.

[Link](#)

Mélanie Levy, *Family pluralism and the right to have a family - revision of article 14 of the Swiss Constitution*, in: Sophie Weerts *et al.* (Ed.), *Révision imaginaire de la Constitution fédérale: mélanges en hommage au prof. Luzius Mader*, Helbing Lichtenhahn, Basel **2018**, p. 81-82.

[Link](#)

Mélanie Levy, *Biographie et bibliographie de Luzius Mader*, in: Sophie Weerts *et al.* (Ed.), *Révision imaginaire de la Constitution fédérale: mélanges en hommage au prof. Luzius Mader*, Helbing Lichtenhahn, Basel **2018**, p. 385-398.

Mélanie Levy, *Le respect des principaux droits des patients*, in: Cédric Baume *et al.* (Ed.), *Les nouveaux modèles de fourniture des soins*, Editions Weblaw, Berne **2017**, p. 195-272.

[Link](#)

Christoph Müller/**Mélanie Mader**, *Le contrat de vente*, in: Christoph Müller (Ed.), *Contrats de droit suisse, Précis de droit Stämpfli*, Berne **2012**, p. 29-121.

I independently wrote the entire chapter on the sales contract in Swiss and European contract law.

Christoph Müller/**Mélanie Mader**, *Le contrat de leasing*, in: Christoph Müller (Ed.), *Contrats de droit suisse, Précis de droit Stämpfli*, Berne **2012**, p. 649-660.

I independently wrote the entire chapter on the leasing contract in Swiss contract law.

Mélanie Mader, *La promotion du don d'organes au-delà de l'information: les modèles pécuniaires et non pécuniaires entre éthique et droit*, in: Alexandre Flückiger (Ed.), *Emouvoir et persuader pour promouvoir le don d'organes? L'efficacité entre éthique et droit*, Schulthess, Geneva **2010**, p. 151-205.

[Link](#)

Mélanie Mader, *Le principe de la gratuité du don en matière de transplantation d'organes d'origine humaine: un concept indéterminé?*, in: Eleanor Cashin Ritaine/Elodie Maître Arnaud (Ed.), *Notions-cadre, concepts indéterminés et standards juridiques en droits interne, international et comparé*, Schulthess, Geneva - Zurich - Basel **2008**, p. 579-607.

[Link](#)

Christoph Müller/**Mélanie Mader**, *Développements récents de la jurisprudence en matière de contrats spéciaux*, in: *Actualités du droit des contrats - Le contrat à la croisée des chemins*, CEDIDAC, Lausanne **2008**, p. 157-196.

I independently wrote a first draft of the entire book chapter.

The Swiss Federal Supreme Court cites this chapter in one precedent ruling (137 III 393).

4. Publications in scientific journals (not peer-reviewed)

Aude Guillot/**Mélanie Levy**, *“Healthy urban planning”: Utiliser les données de la géomédecine et les outils de l’aménagement du territoire pour concevoir un urbanisme favorable à la santé*, Schweizerische Zeitschrift für Gesundheitsrecht, **2022** (accepted).

I am the corresponding author on this paper.

Mélanie Levy/Fanny Matthey, *Dans quelle mesure les médias font-ils office de pont entre les autorités judiciaires et le grand public?* Commentary of Swiss Federal Supreme Court precedent 141 I 211-220, in: Pierre Moor *et al.*, *La jurisprudence du Tribunal fédéral en matière de droit public en 2015*, Revue de droit administratif et de droit fiscal, **2016**, p. 278-281.

Both authors contributed equally to this publication.

Mélanie Levy/Vardit Ravitsky, *Baby steps forward, baby steps back: towards a more liberal Swiss regulation of reproduction*, BioNews 818, September 7, **2015** (online publication).

[Link](#)

I independently wrote this article.

Mélanie Mader, *Organspende zwischen Unentgeltlichkeit und Belohnungsmodellen - Welche staatlichen Fördermittel im Kampf gegen den Organmangel?*, Schweizerische Zeitschrift für Gesundheitsrecht, **2011**, p. 125-146.

[Link](#)

Mélanie Mader, *Financement des hôpitaux et des soins: éléments importants des révisions LAMal, marge de manœuvre des cantons et rôle de la liberté économique*, Schweizerische Zeitschrift für Gesundheitsrecht, **2011**, p. 87-124.

[Link](#)

The Swiss Federal Supreme Court cites this paper in three precedent rulings (140 I 218; 138 II 398; 138 II 191) and the Swiss Federal Administrative Court in one precedent ruling (C-7017/2015 of September 17, 2021).

Francesca Bosisio/**Mélanie Mader**/Lazare Benaroyo, *Le don d’organes au carrefour des logiques de don, de marché et de l’Etat solidaire: un compte rendu*, Swisstransplant News, **2011**(13), p. 10-13.

[Link](#)

This article is the result of my collaboration with Professeur Lazare Benaroyo and the Interdisciplinary Ethics Platform ETHOS at the University of Lausanne. Both first and second authors contributed equally to this article.

Mélanie Mader, *Les établissements médico-sociaux peuvent invoquer la liberté économique pour contester les conditions à l’octroi de subventions cantonales*, Commentaire de jurisprudence numérique, August 20, **2010**.

[Link](#)

Mélanie Mader, *Une lettre de Montréal*, Plaidoyer, **2010**(6), p. 13.

[Link](#)

Mélanie Mader, *Récompenser un acte généreux et solidaire ou la responsabilité de l’Etat pour assurer la disponibilité des organes*, Swisstransplant News, **2010**(9), p. 6-7.

[Link](#)

Mélanie Mader, *Confirmation de la jurisprudence en matière de responsabilité médicale*, Schweizerische Zeitschrift für Gesundheitsrecht, **2008**, p. 47-49.

[Link](#)

5. Published legal opinions written for public authorities

Jean-Philippe Dunand/Pascal Mahon/Catherine Bouverat/Nicolas Brügger/Inès Hassissene/**Mélanie Mader**, *Etude sur la protection accordée aux représentants des travailleurs - Etude établie à la demande et sur mandat du Secrétariat d'Etat à l'économie (SECO) et de l'Office fédéral de la justice (OFJ)*, August **2015** (198 pages).

[Link](#)

I conducted all the preliminary research and independently wrote the legal opinion's section on the protection of trade unions and their representatives in international and Swiss constitutional law.

Pascal Mahon/**Mélanie Mader**, *Autonomie administrative du pouvoir judiciaire neuchâtelois - Avis de droit établi à la demande de la Commission administrative des autorités judiciaires de la République et Canton de Neuchâtel*, May **2013** (93 pages).

[Link](#)

I conducted all the preliminary research and independently wrote a first draft of the entire legal opinion. This legal opinion analyzes the concept of judicial autonomy in Swiss federal and cantonal law.

Mélanie Mader, *Avis de droit sur l'allocation d'organes à des personnes non domiciliées en Suisse au regard de l'Accord sur la libre circulation des personnes - Questions supplémentaires*, Swiss Federal Office of Public Health, November **2011** (26 pages).

[Link](#)

This legal opinion deals with the status of cross-border workers with regard to organ allocation (relationship between the Swiss Transplantation Act and EU legislation on social security coordination). It had a significant impact on law reform in Switzerland. The Swiss Parliament and the Swiss Government modified the Transplantation Act and its by-law in accordance with the legal opinion's conclusions (see RO 2017 5629; RO 2016 1163; FF 2013 2057; bag.admin.ch/bag/de/home/aktuell/medienmitteilungen.msg-id-61062.html).

Mélanie Mader/Béatrice Despland/Olivier Guillod, *Avis de droit sur l'allocation d'organes à des personnes non domiciliées en Suisse au regard de l'Accord sur la libre circulation des personnes*, Swiss Federal Office of Public Health, February **2011** (80 pages).

[Link](#)

I conducted all the preliminary research and independently wrote a first draft of the entire legal opinion. This legal opinion deals with the status of cross-border workers with regard to organ allocation (relationship between the Swiss Transplantation Act and EU legislation on social security coordination). It had a significant impact on law reform in Switzerland. The Swiss Parliament and the Swiss Government modified the Transplantation Act and its by-law in accordance with the legal opinion's conclusions (see RO 2017 5629; RO 2016 1163; FF 2013 2057; bag.admin.ch/bag/de/home/aktuell/medienmitteilungen.msg-id-61062.html). In addition, the Swiss Federal Administrative Court cites the legal opinion in several of its decisions (C-5241/2013 of July 28, 2016; C-6212/2013 of June 13, 2016; C-1277/2014 of April 29, 2016; C-3391/2013 of April 14, 2016; C-7123/2013 of April 6, 2016; C-6261/2013 of March 22, 2016).

Olivier Guillod/**Mélanie Mader**, *Mesures médicales préliminaires en vue d'un prélèvement d'organes - Avis de droit sur des questions en rapport avec la loi fédérale sur la transplantation*, Swiss Federal Office of Public Health, March **2010** (87 pages).

[Link](#)

I conducted all the preliminary research and independently wrote a first draft of the entire legal opinion. This legal opinion deals with various questions regarding the Swiss Transplantation Act, in particular the legal status of *pre-mortem* transplantation optimizing interventions and the question of consent. This legal opinion had a significant impact on law reform in Switzerland. The Swiss Parliament and the Swiss Government revised the Transplantation Act and its by-law in accordance with the legal opinion's conclusions (see [RO 2017 5629](#); [RO 2016 1163](#); [FF 2013 2057](#)). The legal opinion also provided the scholarly basis for the revision of the Swiss Academy of Medical Sciences' guidelines on the determination of death in the context of organ transplantation ("[Diagnostic de la mort en vue de la transplantation d'organes et préparation du prélèvement d'organes \(2017\)](#)"; ("[Diagnostic de la mort dans le contexte de la transplantation d'organes \(2011\)](#)"). The revised guidelines explicitly refer to this legal opinion.

6. Translations of Swiss Federal Supreme Court Precedents (not peer-reviewed)

25 translations of Swiss Federal Supreme Court precedents (German-French), published in: *Revue de droit administratif et de droit fiscal*, **2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007**.

7. Other contributions to science and outreach activities

7.1 Workshop papers

Mélanie Levy, *Identity, genetics, and best interests: Defining new family forms through law - Judicial reasoning in an age of ART and medical tourism*, June **2016** (68 pages).

[Link](#)

Mélanie Levy, *“In sickness and in health...”*, but within reasonable limits: tracing the Swiss welfare state’s qualified commitment to healthcare, October **2015** (79 pages).

Mélanie Levy, *Limit-setting decisions about meeting health needs under resource constraints: what’s law got to do with it? Legal norms on access to publicly funded healthcare and their underlying values*, October **2014** (50 pages).

7.2 Unpublished legal opinions for public authorities

Mélanie Mader/Olivier Guillod, *Conditions d’accès à la liste hospitalière cantonale et couverture des besoins en soins hospitaliers, Avis de droit sur le projet de loi Daniel Ziegler 13.103*, Public Health Department of the canton of Neuchâtel, June **2013** (46 pages).

I conducted all the preliminary research and independently wrote a first draft of the entire legal opinion. This legal opinion deals with the acquisition of highly specialized and expensive equipment by public hospitals and the application of the Swiss Health Insurance Act in the canton of Neuchâtel.

Jean-Philippe Dunand/Pascal Mahon/**Mélanie Mader**/Camille Dubois/Eloi Jeannerat/Marie Maillefer, *Questions diverses relatives au statut juridique du personnel de l’aéroport international de Genève - Avis de droit établi à la demande de l’aéroport international de Genève*, September **2011** (74 pages).

I conducted all the preliminary research and independently wrote the legal opinion’s section on health problems in the context of labor law.

Pascal Mahon/Olivier Guillod/**Mélanie Mader**, *Projets de modifications de la loi sur la planification et le financement des établissements sanitaires d’intérêt public (LPFES) et de la loi sur la santé publique (LSP) dans le cadre de la mise en œuvre des révisions LAMal*, Public Health Department of the canton of Vaud, May **2010** (122 pages).

I conducted all the preliminary research and independently wrote a first draft of the entire legal opinion. This legal opinion deals with questions regarding the Swiss Health Insurance Act and its application in the canton of Vaud.

7.3 Translations

Mélanie Mader, Translation from French into German of a legal opinion on questions regarding the Swiss Transplantation Act, *Vorbereitende medizinische Massnahmen im Hinblick auf eine Organentnahme - Rechtsgutachten zu verschiedenen Fragen im Zusammenhang mit dem Transplantationsgesetz*, Mandate given by the Swiss Federal Office of Public Health, June **2010** (95 pages).

[Link](#)

7.4 Research communication in the media (selection)

TV

October 2017 Background contribution to the investigative reporting program *Hamakor* (“the Source”) with journalist Raviv Drucker, comparing the Israeli and Swiss healthcare and social health insurance systems, Israel

08/02/2017 Interview with *Canal Alpha*, TV show *Journal du Mercredi 8 février 2017 - “Quelle médecine, et pour qui?”*, Switzerland

Radio interviews

07/09/2021 Interview with *Radio suisse romande*, radio show “On en parle”, on the topic of the COVID-19 pandemic and vaccination, Switzerland ([recording](#))

01/09/2021 Interview with *Schweizer Radio und Fernsehen*, national radio show “Echo der Zeit”, on the topic of COVID-19 vaccination and discrimination of non-vaccinated individuals, Switzerland ([recording](#))

31/08/2021 Interview with *Radio Télévision Neuchâtel* on the topic of COVID-19 certificates and equal treatment, Switzerland ([recording](#))

06/02/2017 Interview with *Radio Télévision Neuchâtel*, radio show “07H00 - Le Journal”, on the topic of resource allocation in healthcare and the role of the state, Switzerland

13/04/2011 Interview with *Radio suisse romande*, radio show “12h30” (title: “Mélanie Mader et le don d’organes”), Switzerland

15/06/2010 Interview with *Radio suisse romande*, radio show “On en parle”, on the topic of public policy incentives for organ donation, Switzerland

04/06/2010 *Radio suisse romande*, radio show “Le Journal du matin” on the topic of organ donation, Switzerland

Newspaper articles

30/08/2021 “La 4^{ème} vague est là. Faut-il rendre obligatoire la vaccination?”, interview with the newspaper *Watson* ([link](#))

22/08/2021 “Ecole: les mesures mises en place en Valais ne violent pas le secret médical et ne sont pas discriminantes”, interview on the topic of COVID-19 measures in schools with the news outlet *Keystone STA* ([link](#))

03/03/2021 “Passeport pour revivre - Les différences de traitement que permettrait le certificat vaccinal posent des questions éthiques”, newspaper *La Liberté* ([link](#))

My monograph - Mélanie Mader, *Le don d’organes entre gratuité et modèles de récompense: quels instruments étatiques face à la pénurie d’organes?*, Helbing Lichtenhahn, Basel 2011 (714 pages) - was featured in numerous newspaper articles:

“Giving from the heart”, magazine *McGill Reporter* of McGill University (February 17, 2012);

“Entre droit médical et éthique”, review in the magazine *Plaidoyer* (February 2011);

“The Laws of the Heart”, magazine *Focus online* of McGill University (February 2011);

“Il veut favoriser les donneurs”, newspaper *Le Matin* (December 15, 2010);

“La Svizzera fa poco per favorire gli espianti”, newspaper *il caffè* (December 5, 2010);

“Mélanie Mader, docteure en droit, se mobilise pour le don d’organes”, newspaper *Le Matin* (November 22, 2010);

“Organspende - das Warten dauert noch länger”, magazine *Surprise* (September 2010);

“Des idées pour relancer le don d’organes”, newspapers *Le Courrier* and *La Liberté* (August 10, 2010);

- “Study urges new incentives for organ donors”, www.swissinfo.ch (July 27, 2010);
- “Wer Organe spenden würde, sollte auch “belohnt” werden”, newspaper *Sarganserländer* (July 26, 2010);
- “Denkanstoss: Organspender bezahlen weniger Steuern”, newspaper *20 Minuten* (July 22, 2010);
- “Krankenkassenreduktion für Organspender?”, www.swissinfo.ch (July 22, 2010);
- “Moins d’impôts pour plus de dons d’organe”, www.swissinfo.ch (July 21, 2010);
- “Meno tasse per chi dona gli organi”, www.swissinfo.ch (July 21, 2010);
- “Trapianti: sgravi fiscali a donatori?”, www.swissinfo.ch (July 21, 2010);
- “Des réductions d’impôts pour inciter au don d’organes?”, newspapers *Tribune de Genève* and *24 heures* (July 21, 2010);
- “Réduction d’impôts pour les donateurs?”, newspaper *20 minutes* (July 21, 2010);
- “Des réductions d’impôts pour inciter au don d’organes?”, newspaper *Le Matin* (July 21, 2010);
- “Der Organbedarf wird in den nächsten Jahren noch ansteigen”, newspaper *Zürcher Unterländer* (July 21, 2010);
- “Trapianti: sgravi fiscali a donatori?”, www.tio.ch (July 21, 2010);
- “Steuerabzug für Organspenden”, www.tagesschau.sf.tv (Swiss German Television) (July 21, 2010);
- “Staat soll Spender belohnen”, newspaper *Aargauer Zeitung* (July 19, 2010);
- “Baisser les impôts des donateurs?”, newspaper *L’Express* (June 17, 2010);
- “Une chercheuse de l’UniNE revisite le don d’organes”, University of Neuchâtel Newsletter *Trait d’Union*, N° 79 (June - July 2010);
- “Der Staat soll seine Wertschätzung zeigen”, interview with the Swiss research magazine *Horizonte* of the Swiss National Science Foundation (22/85: June 2010).