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# EU News: Click & Read

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European Documentation Centre

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This newsletter contains a selection of recent official documents of the European Union. It features information of particular interest to Swiss readers and aims to provide universities, cantonal and federal administrations, lawyers, trading enterprises and financial businesses with information about the latest legal developments in the European Union. Written in English or French, the newsletter offers links to documents in one of those languages.

We hope you will find this issue both useful and a pleasure to read.

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## Highlights

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1212** of 3 September 2018 **laying down minimum requirements** implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council **as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights** (Text with EEA relevance)  
[OJ of the EU, L 223/1 of 4 September 2018](#)

**Case C-404/17: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - A v Migrationsverket** - REQUEST for a preliminary ruling under Article 267 TFEU from the Förvaltningsrätten i Malmö — Migrationsdomstolen (Administrative Court for Immigration Matters, Malmö, Sweden) - Reference for a preliminary ruling — **Asylum policy** — Directive 2013/32/EU — Article 31(8) and Article 32(2) — **Manifestly unfounded application for international protection — Concept of safe country of origin — No national rules concerning that concept** — Applicant's representations considered to be reliable but insufficient having regard to the satisfactory protection offered by the applicant's country of origin  
[CURIA – Judgment of the Court of Justice in Case C-404/17 of 25 July 2018](#)

**Case C-346/17 P: JUDGMENT OF THE COURT (Third Chamber) of 6 September 2018 - Christoph Klein, residing in Großgmain (Austria) v European Commission and Federal Republic of Germany** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Second paragraph of Article 340 TFEU — **Non-contractual liability of the European Union** — Directive 93/42/EEC — **Medical devices** — Article 8(1) and (2) — **Safeguard clause procedure — Notification by a Member State of a decision prohibiting the placing on the market of a medical device — Absence of a decision by the European Commission** — Sufficiently serious breach of a rule of law intended to confer rights on individuals — **Causal link between the conduct of the institution and the damage alleged — Evidence of the existence and extent of the damage**  
[CURIA – Judgment of the Court of Justice in Case C-346/17 of 6 September 2018](#)

**Joined Cases C-325/18 PPU and C-375/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 19 September 2018 - Hampshire County Council v C.E., N.E., Child and Family Agency and Attorney General Hampshire County Council v C.E., N.E., Child and Family Agency and Attorney General** - TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Court of Appeal (Ireland) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure — Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in matters of parental responsibility** — International child abduction — Regulation (EC) No 2201/2003 — Article 11 — **Application for return — Hague Convention of 25 October 1980 — Application for a declaration of enforceability** — Appeal — Charter of Fundamental Rights of the European Union — Article 47 — **Right to an effective remedy — Time limit for bringing the appeal** — Order authorising enforcement — **Enforcement prior to service of the order**  
[CURIA – Judgment of the Court of Justice in Case C-325/18 of 19 September 2018](#)

## 1. EU-Swiss Relations

### International Agreements

**COUNCIL DECISION (EU) 2018/1279** of 18 September 2018 on the **position to be taken on behalf of the European Union** within the Joint Committee established by the **Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems regarding the adoption of its Rules of Procedure**

[OJ of the EU, L 239/8 of 24 September 2018](#)

**Corrigendum to Decision No 2/2016** of the EU-Switzerland Joint Committee of 3 December 2015 **amending** Protocol 3 to the **Agreement between the European Economic Community and the Swiss Confederation** concerning the **definition of the concept of ‘originating products’ and methods of administrative cooperation** [2016/121]

[OJ of the EU, L 232/4 of 17 September 2018](#)

**Information relating to the entry into force of the Agreement between the European Union and the Swiss Confederation on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund** for the period 2014 to 2020

[OJ of the EU, L 189/1 of 26 July 2018](#)

### Community Legislation

#### Case Law

**Joined Cases C-84/17 P, C-85/17 P and C-95/17 P: JUDGMENT OF THE COURT (Third Chamber) of 25 July 2018 - Société des produits Nestlé SA, established in Vevey (Switzerland), European Association of Trade Mark Owners (MARQUES), established in Leicester (United Kingdom) and Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge (United Kingdom) v European Union Intellectual Property Office (EUIPO) (C-84/17 P) - Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge and European Union Intellectual Property Office (EUIPO) v Société des produits Nestlé SA, established in Vevey (C-85/17 P) - European Union Intellectual Property Office (EUIPO) and Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge v Société des produits Nestlé SA, established in Vevey (C-95/17 P) - THREE APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **EU trade mark — Three-dimensional mark representing the shape of a four-fingered chocolate bar — Appeal directed against the grounds — Inadmissibility** — Regulation (EC) No 207/2009 — Article 7(3) — **Evidence of distinctive character acquired through use****

[CURIA – Judgment of the Court of Justice in Case C-84/17 of 25 July 2018](#)

## 2. External Relations / Foreign Policy

### International Agreements

**COUNCIL DECISION (EU) 2018/1279** of 18 September 2018 on the **position to be taken on behalf of the European Union** within the Joint Committee established by the **Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems regarding the adoption of its Rules of Procedure**

[OJ of the EU, L 239/8 of 24 September 2018](#)

**Corrigendum to Decision No 2/2016** of the EU-Switzerland Joint Committee of 3 December 2015 **amending** Protocol 3 to the **Agreement between the European Economic Community and the Swiss Confederation** concerning the **definition of the concept of ‘originating products’ and methods of administrative cooperation** [2016/121]

[OJ of the EU, L 232/4 of 17 September 2018](#)

**COUNCIL DECISION (EU) 2018/1152** of 26 June 2018 on the **signing** on behalf of the Union of the **Agreement** between the **European Union and the Government of the People's Republic of China on certain aspects of air services**

[OJ of the EU, L 210/1 of 21 August 2018](#)

**COUNCIL DECISION (EU) 2018/1153** of 26 June 2018 on the **signing** on behalf of the Union of the **Agreement on civil aviation safety between the European Union and the Government of the People's Republic of China**

[OJ of the EU, L 210/2 of 21 August 2018](#)

**Information relating to the entry into force of the Agreement between the European Union and the Swiss Confederation on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund** for the period 2014 to 2020

[OJ of the EU, L 189/1 of 26 July 2018](#)

## Case Law

**Affaire C-313/17 P: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. PAOLO MENGOZZI du 20 septembre 2018 - George Haswani contre Conseil de l'Union européenne - Pourvoi – Article 86 du règlement de procédure du Tribunal – Recevabilité – Procédure d'adaptation de la requête – Nécessité d'adapter des moyens et arguments – Mesures restrictives prises à l'encontre de la Syrie – Liste des personnes auxquelles s'applique le gel de fonds et de ressources économiques – Inclusion du nom du requérant**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-313/17 du 20 septembre 2018](#)

**Case C-225/17 P: OPINION OF ADVOCATE GENERAL SHARPSTON of 13 September 2018 - Islamic Republic of Iran Shipping Lines, Hafize Darya Shipping Lines (HDSL), Khazar Sea Shipping Lines Co., IRISL Europe GmbH, IRISL Marine Services and Engineering Co., Irano Misr Shipping Co., Safiran Payam Darya Shipping Lines, Shipping Computer Services Co., Soroush Sarzamin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. v Council of the European Union - Appeal – Restrictive measures taken against Iran – Criteria for including in a list of persons and entities subject to asset-freezing – Plea of illegality – Admissibility – The Joint Comprehensive Plan of Action – Effect on interest in bringing appeal proceedings – Legal basis – Legitimate expectations – Legal certainty – Ne bis in idem – Res judicata – Right to effective judicial remedy – Misuse of powers – Rights of the defence – Proportionality – Fundamental rights – Manifest error of assessment**

[CURIA – Opinion of Advocate General in Case C-225/17 of 13 September 2018](#)

**Case C-430/16 P: JUDGMENT OF THE COURT (Second Chamber) of 6 September 2018 - Bank Mellat, established in Tehran (Iran) v Council of the European Union, European Commission and United Kingdom of Great Britain and Northern Ireland - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal – Common Foreign and Security Policy (CFSP) – Combating of nuclear proliferation – Restrictive measures against the Islamic Republic of Iran – Sector-specific measures – Restrictions on transfers of funds involving Iranian financial institutions – Strengthening of restrictions – Regime at issue adopted under the provisions of Decision 2012/635/CFSP and of Regulation (EU) No 1263/2012 – Implementation of the Joint Comprehensive Plan of Action on the Iranian nuclear issue – Lifting of all restrictive measures of the European Union related to this issue – Repeal of regime at issue in the course of proceedings before the General Court of the European Union – Effect on interest in bringing proceedings before the General Court – No continuation of interest in bringing proceedings**

[CURIA – Judgment of the Court of Justice in Case C-430/16 of 6 September 2018](#)

**Case C-244/17: JUDGMENT OF THE COURT (Grand Chamber) of 4 September 2018 - European Commission v Council of the European Union - ACTION for annulment under Article 263 TFEU - Action for annulment — Decision (EU) 2017/477 — **Position to be adopted on behalf of the European Union within the Cooperation Council established under the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, as regards the working arrangements of the Cooperation Council, the Cooperation Committee, specialised subcommittees or any other bodies — Article 218(9) TFEU — Decision establishing the positions to be adopted on behalf of the European Union in a body set up by an international agreement — **Agreement some of whose provisions may be linked with the common foreign and security policy (CFSP) — Voting rule******

[CURIA – Arrêt de la Cour de Justice dans l'affaire C-244/17 du 4 Septembre 2018](#)

**Case C-123/17: JUDGMENT OF THE COURT (First Chamber) of 7 August 2018 - Nefiye Yön v Landeshauptstadt Stuttgart and Vertreter des Bundesinteresses beim Bundesverwaltungsgericht - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Germany) - Reference for a preliminary ruling — **EEC-Turkey Association — Decision No 2/76 — Article 7 — **Standstill clause — Right of residence of family members of a Turkish worker — Visa requirement for admission to the territory of a Member State******

[CURIA – Judgment of the Court of Justice in Case C-123/17 of 7 August 2018](#)

### 3. Agriculture and Fisheries / Maritime Affairs

#### Case Law

**Case C-497/17: OPINION OF ADVOCATE GENERAL WAHL of 20 September 2018 - Œuvre d'assistance aux bêtes d'abattoirs (OABA) v Ministre de l'Agriculture et de l'Alimentation, Bionoor, Ecocert France and Institut national de l'origine et de la qualité (INAO) - Request for a preliminary ruling from the cour administrative d'appel de Versailles (Administrative Court of Appeal, Versailles, France) - Reference for a preliminary ruling — **Protection of animals at the time of killing — Regulation (EC) No 1099/2009 — **Particular methods of slaughter prescribed by religious rites — Slaughter without stunning — Compatibility with organic production of livestock within the meaning of Regulation (EC) No 834/2007******

[CURIA – Opinion of Advocate General in Case C-497/17 of 20 September 2018](#)

**Case C-4/17 P: JUDGMENT OF THE COURT (Third Chamber) of 6 September 2018 - Czech Republic v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **European Agricultural Guarantee Fund (EAGF) — Expenditure eligible for European Union financing — Expenditure by the Czech Republic — Regulation (EC) No 479/2008 — Article 11(3) — **Concept of 'restructuring of vineyards'******

[CURIA – Judgment of the Court of Justice in Case C-4/17 of 6 September 2018](#)

**Case C-59/17: JUDGMENT OF THE COURT (Fourth Chamber) of 7 August 2018 - Château du Grand Bois SCI v Établissement national des produits de l'agriculture et de la mer (FranceAgriMer) - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, France) - Reference for a preliminary ruling — **Agriculture — Market in wine — Regulation (EC) No 555/2008 — **Support for the restructuring and conversion of vineyards — Unannounced on-the-spot checks — Powers of control officials — **Whether officials may enter agricultural land without having obtained the vine grower's permission********

[CURIA – Judgment of the Court of Justice in Case C-59/17 of 7 August 2018](#)

**Case C-120/17: JUDGMENT OF THE COURT (Eighth Chamber) of 7 August 2018 - Administratīvā rajona tiesa v Ministru kabinets - REQUEST for a preliminary ruling under Article 267 TFEU from the Latvijas Republikas Satversmes tiesa (Constitutional Court, Latvia) - Reference for a preliminary ruling — **Agriculture — Support for rural development — Regulation (EC) No 1257/1999 — Articles 10 to 12 — **Early retirement support — National legislation providing for the transfer by inheritance of early retirement support — Legislation approved by the European Commission — Subsequent change of position — **Protection of legitimate expectations********

[CURIA – Judgment of the Court of Justice in Case C-120/17 of 7 August 2018](#)

**Case C-435/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018 - Argo Kalda Mardi talu v Põllumajanduse Registrate ja Informatsiooni Amet (PRIA)** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tartu Halduskohus (Tartu Administrative Court, Estonia) - Reference for a preliminary ruling — **Common agricultural policy — Direct payments** – Regulation (EU) No 1306/2013 — Articles 93 and 94 — Annex II — Cross-compliance — **Agricultural and environmental conditions — Minimum requirements — Implementation by a Member State — Obligation to conserve ‘burial grounds’** — Scope  
[CURIA – Judgment of the Court of Justice in Case C-435/17 of 7 August 2018](#)

**Case C-115/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Administration des douanes et des droits indirects and Établissement national des produits de l’agriculture et de la mer (FranceAgriMer) v Hubert Clergeau, Jean-Luc Labrousse, Jean-Jacques Berthelémy, Alain Bouchet, Jean-Pierre Dubois, Marcel Géry, Jean-Paul Matrat, Jean-Pierre Paziot and Patrice Raillot** - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour de cassation (Court of Cassation, France) - Reference for a preliminary ruling — Regulation (EEC) No 1964/82 — **False declarations or deceitful practices in order to secure special export refunds on certain cuts of boned meat of bovine animals** — Amendment to Regulation No 1964/82 extending the entitlement to special export refunds — **Principle of the retroactive application of the more lenient criminal law — Third sentence of Article 49(1) of the Charter of Fundamental Rights of the European Union**  
[CURIA – Judgment of the Court of Justice in Case C-115/17 of 7 August 2018](#)

**Case C-528/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Confédération paysanne, Réseau Semences Paysannes, Les Amis de la Terre France, Collectif Vigilance OGM et Pesticides 16, Vigilance OG2M, CSFV 49, OGM dangers, Vigilance OGM 33 and Fédération Nature et Progrès v Premier ministre and Ministre de l’Agriculture, de l’Agroalimentaire et de la Forêt** - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — **Deliberate release of genetically modified organisms into the environment — Mutagenesis** — Directive 2001/18/EC — Articles 2 and 3 — Annexes I A and I B — **Concept of ‘genetically modified organism’ — Techniques/methods of genetic modification conventionally used and deemed to be safe** — New techniques/methods of mutagenesis — **Risks for human health and the environment** — Discretion of the Member States when transposing the directive — Directive 2002/53/EC — **Common catalogue of varieties of agricultural plant species — Herbicide-tolerant plant varieties** — Article 4 — **Acceptability of genetically modified varieties obtained by mutagenesis for inclusion in the common catalogue — Human health and environmental protection requirement — Exemption**  
[CURIA – Judgment of the Court of Justice in Case C-528/16 of 25 July 2018](#)

**Case C-239/17: JUDGMENT OF THE COURT (Third Chamber) of 25 July 2018 - Gert Teglgård and Fløjstrupgård I/S v Fødevareministeriets Klagecenter** - REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (Eastern Regional Court, Denmark) - Reference for a preliminary ruling — **Common agricultural policy — Support schemes for farmers** — Regulation (EC) No 1782/2003 — Article 6(1) — Regulation (EC) No 73/2009 — Article 23(1) — Regulation (EC) No 796/2004 — Article 66(1) — Regulation (EC) No 1122/2009 — Article 70(8)(a) — Cross-compliance — **Reduction in direct payments due to non-compliance with the statutory management requirements or good agricultural and environmental conditions** — Determination of the year to be taken into account in order to determine the percentage reduction — Year in which the non-compliance occurred  
[CURIA – Judgment of the Court of Justice in Case C-239/17 of 25 July 2018](#)

**Affaire C-588/17 P: ARRÊT DE LA COUR (huitième chambre) du 25 juillet 2018 - Royaume d’Espagne contre Commission européenne** - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi – FEAGA et Feader – **Dépenses exclues du financement par l’Union européenne** – Dépenses effectuées par le Royaume d’Espagne – **Aide en faveur de zones à handicaps naturels et mesures agroenvironnementales dans le programme de développement rural de la Communauté autonome de Castille-et-León**  
[CURIA – Arrêt de la Cour de Justice dans l’affaire C-588/17 du 25 juillet 2018](#)

**Joined Cases C-293/17 and C-294/17: OPINION OF ADVOCATE GENERAL KOKOTT of 25 July 2018 - Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others** - Requests for a preliminary ruling from the Raad van State (Council of State, Netherlands) - References for a preliminary ruling — **Environment** — Directive 92/43/EEC — **Conservation of natural habitats and of wild fauna and flora** — **Special area of conservation** — Appropriate assessment of the effects of a project on a site — Concepts of project and appropriate assessment of the implications for the site — Programme for assessment of nitrogen deposition — **Agriculture** — **Authorisation for a farm** — **Fertilising** — **Grazing** — **Cumulative effects** — Irrelevance thresholds — **Damage mitigation measures** — Compensatory measures  
[CURIA – Opinion of Advocate General in Case C-293/17 of 25 July 2018](#)

#### 4. Audiovisual and Media and Information Society

##### Case Law

**Affaire C-114/17 P: ARRÊT DE LA COUR (quatrième chambre) du 20 septembre 2018 - Royaume d'Espagne contre Commission européenne** - ayant pour objet un pourvoi au titre de l'article 56 du statut de la Cour de justice de l'Union européenne - Pourvoi — **Aides d'État – Télévision numérique** – Aide au déploiement de la télévision numérique terrestre dans les zones éloignées et moins urbanisées de la Comunidad Autónoma de Castilla-La Mancha (Communauté autonome de Castille-La Manche, Espagne) — **Subvention en faveur des opérateurs de plateformes de télévision numérique terrestre – Décision déclarant partiellement les mesures d'aides incompatibles avec le marché intérieur – Notion d'“aide d'État”** – Avantage – **Service d'intérêt économique général – Définition** – Marge d'appréciation des États membres »  
[CURIA – Arrêt de la Cour de Justice dans l'affaire C-114/17 du 20 septembre 2018](#)

**Case C-555/17: JUDGMENT OF THE COURT (Tenth Chamber) of 20 September 2018 - 2M-Locatel A/S v Skatteministeriet** - REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (High Court of Eastern Denmark, Denmark) - Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — **Customs Union and Common Customs Tariff** — **Tariff classification** — **Combined Nomenclature** — Subheadings 8528 71 13 and 8528 71 90 — **Apparatus capable of receiving, decoding and processing live TV signals transmitted using internet technology**  
[CURIA – Judgment of the Court of Justice in Case C-55/17 of 20 September 2018](#)

**Case C-332/17: JUDGMENT OF THE COURT (Eighth Chamber) of 13 September 2018 - Starman AS v Tarbijakaitseamet** - REQUEST for a preliminary ruling under Article 267 TFEU from the Riigikohus (Supreme Court, Estonia) - Reference for a preliminary ruling — **Consumer protection** — Directive 2011/83/EU — Article 21 — **Consumer contracts** — Telephone communications — **Practice of a telecommunication services provider consisting in offering its customers who have already concluded a contract a speed dial number at a rate higher than the basic rate**  
[CURIA – Judgment of the Court of Justice in Case C-332/17 of 13 September 2018](#)

**Joined Cases C-54/17 and C-55/17: JUDGMENT OF THE COURT (Second Chamber) of 13 September 2018 - Autorità Garante della Concorrenza e del Mercato v Wind Tre SpA, formerly Wind Telecomunicazioni SpA (C-54/17), Vodafone Italia SpA, formerly Vodafone Omnitel NV (C-55/17), Autorità per le Garanzie nelle Comunicazioni (C-54/17), Altroconsumo, Vito Rizzo (C-54/17) and Telecom Italia SpA** - REQUESTS for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - References for a preliminary ruling — **Consumer protection** — Directive 2005/29/EC — **Unfair commercial practices** — Article 3(4) — Scope — Articles 5, 8 and 9 — **Aggressive commercial practices** — Annexe I, point 29 — **Commercial practices which are aggressive in all circumstances** — **Inertia selling** — Directive 2002/21/EC — Directive 2002/22/EC — **Telecommunication services** — **Sale of SIM (Subscriber Identity Module) cards containing certain pre-installed and pre-activated services** — **Failure to give prior information to consumers**  
[CURIA – Judgment of the Court of Justice in Case C-54/17 of 13 September 2018](#)

**Case C-161/17: JUDGMENT OF THE COURT (Second Chamber) of 7 August 2018 - Land Nordrhein-Westfalen v Dirk Renckhoff** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — **Copyright and related rights** — Directive 2001/29/EC — **Information society — Harmonisation of certain aspects of copyright and related rights** — Article 3(1) — **Communication to the public — Concept — Publication online, without the consent of the rightholder, of a photograph previously published on another website without any restrictions and with the consent of the rightholder** — New public

[CURIA – Judgment of the Court of Justice in Case C-161/17 of 7 August 2018](#)

**Case C-310/16: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Spetsializirana prokuratura v Petar Dzivev, Galina Angelova, Georgi Dimov and Milko Velkov** - Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria) - Reference for a preliminary ruling — **Protection of the European Union’s financial interests — Fight against value added tax (VAT) fraud** — Tax offences — **Effective collection of VAT — Scope of Member States’ duties — Limits deriving from fundamental rights, EU or national** — Evidence obtained in breach of national law — **Interceptions of telecommunications — Lack of jurisdiction of the court authorising interceptions**

[CURIA – Opinion of Advocate General in Case C-310/16 of 25 July 2018](#)

## 5. Competition

### Case Law

**Affaire C-510/16: ARRÊT DE LA COUR (quatrième chambre) du 20 septembre 2018 - Carrefour Hypermarchés SAS, Fnac Paris, Fnac Direct, Relais Fnac, Codirep et Fnac Périphérie contre Ministre des Finances et des Comptes publics** - ayant pour objet une demande de décision préjudicielle au titre de l’article 267 TFUE, introduite par le Conseil d’État (France) - Renvoi préjudiciel – **Aides d’État** – Article 108, paragraphe 3, TFUE – Règlement (CE) no 794/2004 – **Régimes d’aides notifiés** – Article 4 – **Modification d’une aide existante – Augmentation importante du produit des taxes affectées au financement de régimes d’aides par rapport aux prévisions notifiées à la Commission européenne** – Seuil de 20 % du budget initial

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-510/16 du 20 septembre 2018](#)

**Affaire C-114/17 P: ARRÊT DE LA COUR (quatrième chambre) du 20 septembre 2018 - Royaume d’Espagne contre Commission européenne** - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi – **Aides d’État – Télévision numérique** – Aide au déploiement de la télévision numérique terrestre dans les zones éloignées et moins urbanisées de la Comunidad Autónoma de Castilla-La Mancha (Communauté autonome de Castille-La Manche, Espagne) – **Subvention en faveur des opérateurs de plateformes de télévision numérique terrestre – Décision déclarant partiellement les mesures d’aides incompatibles avec le marché intérieur – Notion d’“aide d’État”** – Avantage – **Service d’intérêt économique général – Définition** – Marge d’appréciation des États membres

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-114/17 du 20 septembre 2018](#)

**Case C-373/17 P: JUDGMENT OF THE COURT (Ninth Chamber) of 20 September 2018 - Agria Polska sp. z o.o., established in Sosnowiec (Poland), Agria Chemicals Poland sp. z o.o., established in Sosnowiec, Star Agro Analyse und Handels GmbH, established in Allerheiligen bei Wildon (Austria) and Agria Beteiligungsgesellschaft mbH, established in Allerheiligen bei Wildon v European Commission** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Competition — Rejection of a complaint by the European Commission — Lack of Union interest**

[CURIA – Judgment of the Court of Justice in Case C-373/17 of 20 September 2018](#)

**Case C-438/16 P: JUDGMENT OF THE COURT (Fifth Chamber) of 19 September 2018 - European Commission v French Republic and IFP Énergies nouvelles, established in Rueil-Malmaison (France) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — State aid scheme implemented by France — Unlimited State guarantee conferred on the Institut français du pétrole (IFP) by the grant of the status of publicly owned industrial and commercial establishment (EPIC) — Decision declaring that measure as partially not constituting State aid and as partially constituting State aid compatible with the Internal market, subject to certain conditions — Concept of ‘aid scheme’ — Presumption of the existence of an advantage — Burden and standard of proof**

[CURIA – Judgment of the Court of Justice in Case C-438/16 of 19 September 2018](#)

**Affaire C-374/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 19 septembre 2018 - Finanzamt B contre A-Brauerei and Bundesministerium der Finanzen - demande de décision préjudicielle formée par le Bundesfinanzhof (Cour fédérale des finances, Allemagne) - Renvoi préjudiciel – Aides accordées par les États – Sélectivité matérielle – Absence – Critère de disponibilité générale – Mesure générale – Cadre de référence – Comparabilité – Justification tirée de la nature ou de l’économie générale du cadre de référence – Avantage fiscal – Impôt sur les acquisitions immobilières – Exonération en faveur d’opérations de transformation au sein d’un groupe de sociétés – Condition de participation à concurrence d’au moins 95 % dans le capital social des sociétés participantes – Périodes de détention de cinq années avant et après l’opération de transformation**

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-374/17 du 19 septembre 2018](#)

**Affaire C-387/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. NILS WAHL du 13 septembre 2018 - Presidenza del Consiglio dei Ministri contre Fallimento Traghetti del Mediterraneo SpA - demande de décision préjudicielle formée par la Corte suprema di cassazione (Cour de cassation, Italie) - Renvoi préjudiciel – Aides accordées par les États – Aides existantes et aides nouvelles – Qualification – Aides instituées avant la libéralisation d’un marché initialement fermé à la concurrence – Action en réparation d’un concurrent de l’entreprise bénéficiaire des mesures d’aides en l’absence d’une décision de la Commission – Opposabilité des règles en matière de prescription prévues par le règlement (CE) n° 659/1999**

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-387/17 du 13 septembre 2018](#)

**Case C-128/16 P: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - European Commission v Kingdom of Spain, Lico Leasing SA, established in Madrid (Spain), Pequeños y Medianos Astilleros Sociedad de Reversión SA, established in Madrid and others - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — Article 107(1) TFEU — Tax regime applicable to certain finance lease agreements for the purchase of ships (Spanish tax lease system) — Identification of the beneficiaries of the aid — Condition relating to selectivity — Distortion of competition and effect on trade between Member States — Obligation to state reasons**

[CURIA – Judgment of the Court of Justice in Case C-128/16 of 25 July 2018](#)

**Case C-135/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Georgsmarienhütte GmbH, Stahlwerk Bous GmbH, Schmiedag GmbH and Harz Guss Zorge GmbH v Bundesrepublik Deutschland - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgericht Frankfurt am Main (Higher Regional Court, Frankfurt am Main, Germany) - Reference for a preliminary ruling — State aid — Scheme for the support of renewable electricity sources and energy-intensive users — Decision (EU) 2015/1585 — Validity in the light of Article 107 TFEU — Admissibility — Failure by the applicants in the main proceedings to bring an action for annulment**

[CURIA – Judgment of the Court of Justice in Case C-135/16 of 25 July 2018](#)



**Case C-123/16 P: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - Orange Polska SA, established in Warsaw (Poland) v European Commission, Polska Izba Informatyki i Telekomunikacji, established in Warsaw and European Competitive Telecommunications Association AISBL (ECTA), formerly the European Competitive Telecommunications Association, established in Brussels (Belgium) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Competition** — Article 102 TFEU — **Abuse of dominant position** — **Polish wholesale market for fixed broadband internet access** — **Refusal to give access to the network and to supply wholesale products** — Regulation (EC) No 1/2003 — Article 7(1) — Article 23(2)(a) — Legitimate interest in finding an infringement which has come to an end — Calculation of the fine — 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 — Gravity — Mitigating circumstances — Investments made by the infringing undertaking — Review of legality — Review exercising powers of unlimited jurisdiction — Substitution of grounds**  
[CURIA – Judgment of the Court of Justice in Case C-123/16 of 25 July 2018](#)

**Case C-265/17 P: OPINION OF ADVOCATE GENERAL KOKOTT of 25 July 2018 - European Commission v United Parcel Service, Inc. - Appeal — **Competition** — **Merger control** — **Rights of defence** — **Right to be heard** — **Opportunity to submit observations** — **Econometric analysis** — **Price concentration model** — Material changes to the price concentration model during the ongoing administrative procedure — **Market for international express small package delivery services in the EEA** — Article 18 of Regulation (EC) No 139/2004 — Articles 13 and 17 of Regulation (EC) No 802/2004**  
[CURIA – Opinion of Advocate General in Case C-265/17 of 25 July 2018](#)

## 6. Customs

### Community Legislation

**COMMISSION DELEGATED REGULATION (EU) 2018/1063** of 16 May 2018 **amending and correcting** Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed **rules concerning certain provisions of the Union Customs Code**  
[OJ of the EU, L 192/1 of 30 July 2018](#)

### Case Law

**Case C-555/17: JUDGMENT OF THE COURT (Tenth Chamber) of 20 September 2018 - 2M-Locatel A/S v Skatteministeriet** - REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (High Court of Eastern Denmark, Denmark) - Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — **Customs Union and Common Customs Tariff** — **Tariff classification** — **Combined Nomenclature** — Subheadings 8528 71 13 and 8528 71 90 — **Apparatus capable of receiving, decoding and processing live TV signals transmitted using internet technology**  
[CURIA – Judgment of the Court of Justice in Case C-555/17 of 20 September 2018](#)

**Case C-372/17: JUDGMENT OF THE COURT (Ninth Chamber) of 13 September 2018 - Vision Research Europe BV v Inspecteur van de Belastingdienst/Douane kantoor Rotterdam Rijnmond** - REQUEST for a preliminary ruling under Article 267 TFEU from the rechtbank Noord-Holland (District Court, North Holland, Netherlands) - Reference for a preliminary ruling — **Common Customs Tariff** — **Tariff headings** — **Classification of goods** — Volatile-memory camera, meaning that recorded images are deleted when the camera is switched off or when new images are captured — **Combined Nomenclature** — Subheadings 8525 80 19 and 8525 80 30 — **Explanatory Notes** — **Interpretation** — Implementing Regulation (EU) No 113/2014 — Interpretation — Validity  
[CURIA – Judgment of the Court of Justice in Case C-372/17 of 13 September 2018](#)

**Case C-471/17: JUDGMENT OF THE COURT (Tenth Chamber) of 6 September 2018 - Kreyenhop & Kluge GmbH & Co. KG v Hauptzollamt Hannover** - REQUEST for a preliminary ruling under Article 267 TFEU from the Finanzgericht Hamburg (Finance Court, Hamburg, Germany) - Reference for a preliminary ruling — **Customs Union and Common Customs Tariff** — **Tariff and statistical nomenclature** — **Classification of goods** — Fried instant noodles — Tariff subheading 1902 30 10  
[CURIA – Judgment of the Court of Justice in Case C-471/17 of 6 September 2018](#)

**Case C-445/17: JUDGMENT OF THE COURT (Tenth Chamber) of 25 July 2018 - Agenzia delle Dogane e dei Monopoli v Pilato SpA** - REQUEST for a preliminary ruling under Article 267 TFEU from the Commissione tributaria regionale di Roma (Regional Tax Court, Rome, Italy) - Reference for a preliminary ruling — **Common Customs Tariff — Combined Nomenclature — Tariff classification** — Headings 8703, 8704 and 8705 — Hearses [CURIA – Judgment of the Court of Justice in Case C-445/17 of 25 July 2018](#)

**Case C-574/17 P: JUDGMENT OF THE COURT (Third Chamber) of 25 July 2018 - European Commission v Combaro SA, established in Lausanne (Switzerland)** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Customs union** — Regulation (EEC) No 2913/92 — Article 239 — **Remission of import duties** — Import of linen fabrics from Latvia between 1999 and 2002 — **Special situation — Supervision and monitoring obligations — Corruption alleged of the customs authorities — Inauthentic movement certificate** — Mutual trust [CURIA – Judgment of the Court of Justice in Case C-574/17 of 25 July 2018](#)

## 7. Economic and Monetary Affairs, Taxation, Enterprise

### International Agreements

**Information on the entry into force of the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax** [OJ of the EU, L 199/1 of 7 August 2018](#)

**COUNCIL DECISION (EU) 2018/1089** of 22 June 2018 on the **conclusion**, on behalf of the Union, of the **Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax** [OJ of the EU, L 195/1 of 1 August 2018](#)

**AGREEMENT** between the **European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax** [OJ of the EU, L 195/3 of 1 August 2018](#)

### Community Legislation

**COMMISSION DELEGATED REGULATION (EU) 2018/1229** of 25 May 2018 **supplementing** Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to **regulatory technical standards on settlement discipline** (Text with EEA relevance) [OJ of the EU, L 230/1 of 13 September 2018](#)

**COMMISSION DELEGATED REGULATION (EU) 2018/1221** of 1 June 2018 **amending** Delegated Regulation (EU) 2015/35 as regards the **calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings** (Text with EEA relevance) [OJ of the EU, L 227/1 of 10 September 2018](#)

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1212** of 3 September 2018 **laying down minimum requirements** implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council **as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights** (Text with EEA relevance) [OJ of the EU, L 223/1 of 4 September 2018](#)

**GUIDELINE (EU) 2018/1151 OF THE EUROPEAN CENTRAL BANK** of 2 August 2018 **amending** Guideline ECB/2011/23 on the **statistical reporting requirements of the European Central Bank in the field of external statistics** (ECB/2018/19) [OJ of the EU, L 209/2 of 20 August 2018](#)

**COMMISSION DELEGATED REGULATION (EU) 2018/1108** of 7 May 2018 **supplementing** Directive (EU) 2015/849 of the European Parliament and of the Council with **regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers** and with rules on their functions (Text with EEA relevance)

[OJ of the EU, L 203/2 of 10 August 2018](#)

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1105** of 8 August 2018 laying down **implementing technical standards with regard to procedures and forms for the provision of information by competent authorities to ESMA** under Regulation (EU) 2016/1011 of the European Parliament and of the Council (Text with EEA relevance)

[OJ of the EU, L 202/1 of 9 August 2018](#)

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1106** of 8 August 2018 laying down **implementing technical standards with regard to templates for the compliance statement to be published** and maintained by **administrators of significant and non-significant benchmarks** pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council (Text with EEA relevance)

[OJ of the EU, L 202/9 of 9 August 2018](#)

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1078** of 30 July 2018 **laying down technical information for the calculation of technical provisions and basic own funds** for reporting with reference dates from 30 June 2018 until 29 September 2018 in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the **business of Insurance and Reinsurance** (Text with EEA relevance)

[OJ of the EU, L 194/47 of 31 July 2018](#)

## Case Law

**Case C-685/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 September 2018 - EV v Finanzamt Lippstadt** - REQUEST for a preliminary ruling under Article 267 TFEU from the Finanzgericht Münster (Finance Court, Münster, Germany) - Reference for a preliminary ruling — Articles 63 to 65 TFEU — **Free movement of capital — Deduction of taxable profits — Shareholdings of a parent company in a capital company whose management and registered office are located in a non-member State** — Dividends distributed to the parent company — **Tax deductibility subject to stricter conditions than deduction of profits from shareholdings in a non-tax-exempt capital company governed by national law**

[CURIA – Judgment of the Court of Justice in Case C-685/16 of 20 September 2018](#)

**Case C-594/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - Enzo Buccioni v Banca d'Italia and Banca Network Investimenti SpA, in liquidation** - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2013/36/EU — Article 53(1) — **Obligation of professional secrecy on national authorities charged with prudential supervision of credit institutions** — Credit institution which is being compulsorily wound up — **Disclosure of confidential information in civil or commercial proceedings**

[CURIA – Judgment of the Court of Justice in Case C-594/16 of 13 September 2018](#)

**Case C-358/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - UBS Europe SE, formerly UBS (Luxembourg) SA, Mr Alain Hondequin and Others v DV, EU, Commission de surveillance du secteur financier (CSSF) and Ordre des avocats du barreau de Luxembourg** - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour administrative (Higher Administrative Court, Luxembourg) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2004/39/EC — Article 54(1) and (3) — **Scope of the obligation of professional secrecy on national financial supervisory authorities** — **Finding of the absence of good repute** — **Cases covered by criminal law** — **Charter of Fundamental Rights of the European Union** — Articles 47 and 48 — **Rights of the defence** — **Access to the file**

[CURIA – Judgment of the Court of Justice in Case C-358/16 of 13 September 2018](#)

**Affaire C-264/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 13 septembre 2018 - Harry Mensing contre Finanzamt Hamm** - demande de décision préjudicielle formée par le Finanzgericht Münster (tribunal des finances de Münster, Allemagne) - Renvoi préjudiciel – **Fiscalité – Taxe sur la valeur ajoutée** – Directive 2006/112/CE – Articles 314 et 316 – **Régimes particuliers – Assujettis-revendeurs** – Régime de la marge bénéficiaire – **Livraison d'objets d'art par l'auteur ou par ses ayants droit – Opérations intracommunautaires** – Droit à déduction de la taxe acquittée en amont

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-264/17 du 13 septembre 2018](#)

**Case C-69/17: JUDGMENT OF THE COURT (Seventh Chamber) of 12 September 2018 - Siemens Gamesa Renewable Energy România SRL, formerly Gamesa Wind România SRL v Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor and Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili** - REQUEST for a preliminary ruling under Article 267 TFEU from the Curtea de Apel București (Bucharest Court of Appeal, Romania) - Reference for a preliminary ruling — **Taxation — Value added tax (VAT) — Right of deduction** — Acquisitions made by a taxpayer declared 'inactive' by the tax authorities — **Refusal of the right of deduction** — Principles of proportionality and neutrality of VAT

[CURIA – Judgment of the Court of Justice in Case C-69/17 of 12 September 2018](#)

**Affaire C-531/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL MME JULIANE KOKOTT du 6 septembre 2018 - Vetsch Int. Transporte GmbH v Zollamt Feldkirch Wolfurt** - Demande de décision préjudicielle formée par le Verwaltungsgerichtshof [Cour administrative, Autriche] - Demande de décision préjudicielle – **Système commun de taxe sur la valeur ajoutée – Exonération en cas d'importation et de livraison intracommunautaire subséquente – Refus d'exonérer l'importation en raison d'une fraude à la TVA commise ultérieurement par l'acquéreur concernant les biens importés** – Dette fiscale du déclarant de la TVA à l'importation (en tant que représentant de l'importateur) – **“contamination” par l'intention frauduleuse ultérieure**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-531/17 du 6 septembre 2018](#)

**Affaire C-502/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL MME JULIANE KOKOTT du 6 septembre 2018 - C&D Foods Acquisition ApS contre Skatteministeriet** - Demande de décision préjudicielle de la Vestre Landsret [Cour d'appel de la région Ouest, Danemark] - Renvoi préjudiciel – **Système commun de taxe sur la valeur ajoutée – Société holding** – Déduction de la taxe payée en amont – **Dépenses exposées pour des prestations acquises dans le cadre d'une cession envisagée d'actions d'une filiale**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-502/17 du 6 septembre 2018](#)

**Case C-552/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - Alpenchalets Resorts GmbH v Finanzamt München Abteilung Körperschaften** - Request for a preliminary ruling from the Bundesfinanzhof (Federal Finance Court, Germany) - Reference for a preliminary ruling — **Value added tax (VAT) — Special VAT scheme for travel agents — Scope**— Provision of holiday accommodation — Other services provided — **Ancillary and principal services — Reduced rate of tax — Applicability to accommodation supplied by a travel agent**

[CURIA – Opinion of Advocate General in Case C-552/17 of 5 September 2018](#)

**Case C-215/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - Nova Kreditna Banka Maribor d.d. v Republika Slovenija** - Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Supreme Court of the Republic of Slovenia) - Reference for a preliminary ruling — **Reuse of public sector information — Prudential requirements for credit institutions and investment firms — Credit institutions under the dominant influence of the State** — National rules granting unrestricted access to certain information on commercial contracts concluded by such institutions

[CURIA – Opinion of Advocate General in Case C-215/17 of 5 September 2018](#)

**Case C-422/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - Szeif Krajowej Administracji Skarbowej v Skarpa Travel sp. z o.o. w Krakowie** - Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland) - Reference for a preliminary ruling — **Value added tax (VAT) — Payments on account — Chargeable event — Special scheme for travel agents** — Determination of the margin — **Actual cost to the travel agent**

[CURIA – Opinion of Advocate General in Case C-422/17 of 5 September 2018](#)

**Case C-52/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - VTB Bank (Austria) AG v Finanzmarktaufsichtsbehörde** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Austria) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2013/36/EU — Articles 64, 65 and 67 — Regulation (EU) No 575/2013 — Article 395(1) and (5) — **Supervision of credit institutions — Supervisory powers and powers to impose penalties** — Large exposure limits — **Legislation of a Member State under which interest is levied where those limits are exceeded** — Regulation (EU) No 468/2014 — Article 48 — **Attribution of areas of competence between the European Central Bank (ECB) and national authorities — Formally initiated supervisory procedure**  
[CURIA – Judgment of the Court of Justice in Case C-52/17 of 7 August 2018](#)

**Case C-475/17: JUDGMENT OF THE COURT (Seventh Chamber) of 7 August 2018 - Viking Motors and Others, TKM Beauty Eesti OÜ, TKM King AS, Kaubamaja AS and Selver AS v Tallinna linn and Maksu- ja Tolliamet** - REQUEST for a preliminary ruling under Article 267 TFEU from the Riigikohus (Supreme Court, Estonia) - Reference for a preliminary ruling — **Taxation — Common system of value added tax (VAT)** — Directive 2006/112/EC — Article 401 — **Domestic taxes which can be characterised as turnover taxes — Prohibition — Concept of ‘turnover tax’** — Local sales tax — **Essential characteristics of VAT** — None  
[CURIA – Judgment of the Court of Justice in Case C-475/17 of 7 August 2018](#)

**Case C-16/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - TGE Gas Engineering GmbH — Sucursal em Portugal v Autoridade Tributária e Aduaneira** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa) (Tax Arbitration Tribunal (Centre for Administrative Arbitration), Portugal) - Reference for a preliminary ruling — **Value added tax (VAT) — Deduction of input tax — Origin and scope of the right to deduct**  
[CURIA – Judgment of the Court of Justice in Case C-16/17 of 7 August 2018](#)

**Case C-123/17: JUDGMENT OF THE COURT (First Chamber) of 7 August 2018 - Nefiye Yön v Landeshauptstadt Stuttgart and Vertreter des Bundesinteresses beim Bundesverwaltungsgericht** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Germany) - Reference for a preliminary ruling — **EEC-Turkey Association** — Decision No 2/76 — Article 7 — **Standstill clause — Right of residence of family members of a Turkish worker — Visa requirement for admission to the territory of a Member State**  
[CURIA – Judgment of the Court of Justice in Case C-123/17 of 7 August 2018](#)

**Affaire C-575/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 7 août 2018 - Sofina SA, Rebelco SA et Sidro SA contre Ministre de l’Action et des Comptes publics** - demande de décision préjudicielle formée par le Conseil d’État (France) - Renvoi préjudiciel — **Libre circulation des capitaux – Retenue à la source sur le montant brut des dividendes d’origine nationale versés à des sociétés non-résidentes – Imposition différente, fondée sur le résultat net, des dividendes versés à des sociétés résidentes**  
[CURIA – Conclusions de l’Avocat Général dans l’affaire C-575/17 du 7 août 2018](#)

**Case C-128/16 P: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - European Commission v Kingdom of Spain, Lico Leasing SA, established in Madrid (Spain), Pequeños y Medianos Astilleros Sociedad de Reconversión SA, established in Madrid and others** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **State aid** — Article 107(1) TFEU — **Tax regime applicable to certain finance lease agreements for the purchase of ships (Spanish tax lease system) — Identification of the beneficiaries of the aid** — Condition relating to selectivity — **Distortion of competition and effect on trade between Member States — Obligation to state reasons**  
[CURIA – Judgment of the Court of Justice in Case C-128/16 of 25 July 2018](#)

**Case C-553/16: JUDGMENT OF THE COURT (Seventh Chamber) of 25 July 2018 - ‘TTL’ EOOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ — Sofia and Varhovna administrativna prokuratura** - REQUEST for a preliminary ruling under Article 267 TFEU from the Varhoven administrativen sad (Supreme Administrative Court, Bulgaria) - Reference for a preliminary ruling — **Freedom to provide services — Corporate taxation — Payments made by a company resident in a Member State to non-resident companies for the leasing of rail tankers** — Obligation to charge withholding tax on income from a domestic source paid to a non-resident company — Non-compliance — **Double taxation conventions — Charging the resident company default interest for non-payment of the withholding tax** — Interest payable from the expiry of the statutory time limit for payment until the date on which evidence that the double taxation convention is applicable is furnished — Irrecoverable interest

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-553/16 du 25 juillet 2018](#)

**Case C-103/17: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - Messer France SAS, formerly Praxair v Premier ministre, Commission de régulation de l’énergie and Ministre de l’Économie et des Finances** - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — **Harmonisation of fiscal legislation** — Directive 92/12/EEC — Article 3(2) — Directive 2003/96/EC — Articles 3 and 18 — **Taxation of energy products and electricity — Excise duties — Existence of another indirect tax — Conditions** — National legislation providing for a contribution to the public electricity service — **Definition of ‘specific purposes’ — Compliance with a minimum level of taxation**

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-103/17 du 25 juillet 2018](#)

**Case C-5/17: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - Commissioners for Her Majesty’s Revenue and Customs v DPAS Limited** - REQUEST for a preliminary ruling under Article 267 TFEU from the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) - Reference for a preliminary ruling — **Common system of value added tax** — Directive 2006/112/EC — **Exemption** — Article 135(1)(d) — **Transactions concerning payments and transfers — Concept** — Scope — Dental payment plan by direct debit

[CURIA – Judgment of the Court of Justice in Case C-5/17 of 25 July 2018](#)

**Case C-140/17: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - Szeif Krajowej Administracji Skarbowej v Gmina Ryjewo** - REQUEST for a preliminary ruling under Article 267 TFEU from the Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland) - Reference for a preliminary ruling — **Value added tax (VAT)** — Directive 2006/112/EC — Articles 167, 168 and 184 — **Deduction of input tax** — Adjustment — **Immovable property acquired as capital goods** — Initial allocation to an activity which does not confer entitlement to deduct input tax and subsequently also to an activity subject to VAT — Public body — **Taxable-person status at the time of the taxable transaction**

[CURIA – Judgment of the Court of Justice in Case C-140/17 of 25 July 2018](#)

**Affaire C-416/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 25 juillet 2018 - Commission européenne contre République française - Manquement d’État** — Articles 49, 63 et 267, troisième alinéa, TFUE — **Imposition en chaîne – Différence de traitement en fonction de l’État de résidence de la sous-filiale – Exigences relatives aux preuves fondant un droit à restitution du précompte mobilier – Plafonnement du droit à restitution** — Arrêt du 15 septembre 2011, Accor (C-310/09, EU:C:2011:581) — Juridiction nationale statuant en dernier ressort — **Jurisprudence nationale non conforme à l’arrêt de la Cour – Obligation de renvoi préjudiciel**

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-416/17 du 25 juillet 2018](#)

**Affaire C-414/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL MME JULIANE KOKOTT du 25 juillet 2018 - AREX CZ a.s. contre Odvolací finanční ředitelství** - demande de décision préjudicielle formée par le Nejvyšší správní soud [Cour suprême administrative, République tchèque - Procédure préjudicielle — **Système commun de taxe sur la valeur ajoutée – Produits soumis à accise** — Exonération de la livraison de biens qui sont expédiés ou transportés à l’intérieur de l’Union — **Opération en chaîne – Imputation du mouvement de marchandises à une livraison au sein d’une chaîne de livraisons** — Expédition de produits soumis à accise sous le régime de suspension des droits d’accise

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-414/17 du 25 juillet 2018](#)

**Case C-310/16: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Spetsializirana prokuratura v Petar Dzivev, Galina Angelova, Georgi Dimov and Milko Velkov** - Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria) - Reference for a preliminary ruling — **Protection of the European Union’s financial interests — Fight against value added tax (VAT) fraud — Tax offences — Effective collection of VAT — Scope of Member States’ duties — Limits deriving from fundamental rights, EU or national — Evidence obtained in breach of national law — Interceptions of telecommunications — Lack of jurisdiction of the court authorising interceptions**

[CURIA – Opinion of Advocate General in Case C-310/16 of 25 July 2018](#)

## 8. Education, Training, Youth, Culture, Research and Innovation

### Case Law

**Affaire C-173/17 P: ARRÊT DE LA COUR (dixième chambre) du 13 septembre 2018 - ANKO AE Antiprosopeion, Emporiou kai Viomichanias, établie à Athènes (Grèce) contre Commission européenne** - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi — **Clauses compromissaires – Convention Doc@Hand conclue dans le cadre du sixième programme-cadre pour des actions de recherche, de développement technologique et de démonstration (2002-2006)** – Coûts éligibles – Décision de la Commission européenne – **Obligation de remboursement des sommes versées** – Demande reconventionnelle

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-173/17 du 13 septembre 2018](#)

**Affaire C-172/17 P: ARRÊT DE LA COUR (dixième chambre) du 13 septembre 2018 - ANKO AE Antiprosopeion, Emporiou kai Viomichanias, établie à Athènes (Grèce) contre Commission européenne** - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi — **Clauses compromissaires – Convention Pokemon conclue dans le cadre du septième programme-cadre pour des actions de recherche, de développement technologique et de démonstration (2007-2013)** – Coûts éligibles – Décision de la Commission européenne – **Obligation de remboursement des sommes versées** – Demande reconventionnelle

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-172/17 du 13 septembre 2018](#)

**Case C-457/17: OPINION OF ADVOCATE GENERAL SHARPSTON of 11 September 2018 - Heiko Jonny Maniero v Studienstiftung des deutschen Volkes eV** - Request for a preliminary ruling from the Bundesgerichtshof (Federal Court of Justice, Germany) - Directive 2000/43/EC — **Equal treatment of persons irrespective of racial or ethnic origin — Article 3(1)(g) — Education — Scholarships awarded to students having passed the First State Law Examination**

[CURIA – Opinion of Advocate General in Case C-457/17 of 11 September 2018](#)

## 9. Employment and Social Affairs

### Community Legislation

**COUNCIL DECISION (EU) 2018/1215** of 16 July 2018 on **guidelines for the employment policies of the Member States**

[OJ of the EU, L 224/4 of 5 September 2018](#)

## Case Law

**Case C-466/17: JUDGMENT OF THE COURT (Sixth Chamber) of 20 September 2018 - Chiara Motter v Provincia autonoma di Trento** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale di Trento (District Court, Trento, Italy) - Reference for a preliminary ruling — **Social policy** — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — **Public sector — Secondary school teachers — Employment of fixed-term workers as career civil servants through recruitment based on qualification** — Determination of the period of service deemed accrued — **Account taken only in part of periods of service completed under fixed-term contracts**

[CURIA – Judgment of the Court of Justice in Case C-466/17 of 20 September 2018](#)

**Case C-41/17: JUDGMENT OF THE COURT (Fifth Chamber) of 19 September 2018 - Isabel González Castro v Mutua Umivale, ProsegurEspaña SL and Instituto Nacional de la Seguridad Social (INSS)** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Galicia (High Court of Justice of Galicia, Spain) - Reference for a preliminary ruling — Directive 92/85/EEC — Articles 4, 5 and 7 — **Protection of the safety and health of workers — Worker who is breastfeeding — Night work — Shift work performed in part at night — Risk assessment of her work** — Prevention measures — Challenge by the worker concerned — Directive 2006/54/EC — Article 19 — **Equal treatment — Discrimination on grounds of sex — Burden of proof**

[CURIA – Judgment of the Court of Justice in Case C-41/17 of 19 September 2018](#)

**Case C-312/17: JUDGMENT OF THE COURT (Third Chamber) of 19 September 2018 - Surjit Singh Bedi v Bundesrepublik Deutschland and Bundesrepublik Deutschland in Prozesstandschaft für das Vereinigte Königreich von Großbritannien und Nordirland** - REQUEST for a preliminary ruling under Article 267 TFEU from the Landesarbeitsgericht Hamm (Higher Labour Court, Hamm, Germany) - Reference for a preliminary ruling — **Social policy** — Directive 2000/78/EC — **Equal treatment in employment and occupation** — Article 2(2) — **Prohibition of any discrimination on grounds of disability** — Collective agreement on social security — **Bridging assistance paid to former civilian employees of the Allied forces in Germany** — Termination of the payment of that assistance when the recipient becomes entitled to early payment of a retirement pension for disabled persons under the statutory pension scheme

[CURIA – Judgment of the Court of Justice in Case C-312/17 of 19 September 2018](#)

**Case C-618/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - Rafal Prefeta v Secretary of State for Work and Pensions** - REQUEST for a preliminary ruling under Article 267 TFEU from the Upper Tribunal (Administrative Appeals Chamber) (United Kingdom) - Reference for a preliminary ruling — **Freedom of movement for persons** — Article 45 TFEU — **2003 Act of Accession** — Chapter 2 of Annex XII — **Whether a Member State may derogate from Article 7(2) of Regulation (EU) No 492/2011 and Article 7(3) of Directive 2004/38/EC — Polish national who has not completed a period of 12 months' registered work in the host Member State**

[CURIA – Judgment of the Court of Justice in Case C-618/16 of 13 September 2018](#)

**Case C-68/17: JUDGMENT OF THE COURT (Grand Chamber) of 11 September 2018 - IR v JQ** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesarbeitsgericht (Federal Labour Court, Germany) - Reference for a preliminary ruling — **Social policy** — Directive 2000/78/EC — **Equal treatment — Occupational activities within churches and other organisations the ethos of which is based on religion or belief** — Occupational requirements — **Acting in good faith and with loyalty to the ethos of the church or organisation — Definition** — Difference of treatment on the basis of religion or belief — **Dismissal of an employee of the Catholic faith performing managerial duties due to a second, civil marriage entered into after a divorce**

[CURIA – Judgment of the Court of Justice in Case C-68/17 of 11 September 2018](#)

**Case C-378/17: OPINION OF ADVOCATE GENERAL WAHL of 11 September 2018 - The Minister for Justice and Equality and The Commissioner of An Garda Síochána v The Workplace Relations Commission and others** - Request for a preliminary ruling from the Supreme Court (Ireland) - Request for a preliminary ruling — **A rule dividing jurisdiction between two bodies in specific cases on the basis of the nature of the complaint made — Complaints of discrimination in the context of employment — Limited jurisdiction of a statutory body** — No jurisdiction to hear cases requiring the disapplication of national legislation in conflict with EU law — Primacy of EU law — Full effectiveness — **Procedural autonomy of Member States — Equivalence and effectiveness**

[CURIA – Opinion of Advocate General in Case C-378/17 of 11 September 2018](#)



**Case C-17/17: JUDGMENT OF THE COURT (Fourth Chamber) of 6 September 2018 - Grenville Hampshire v The Board of the Pension Protection Fund and Secretary of State for Work and Pensions** - REQUEST for a preliminary ruling under Article 267 TFEU from the Court of Appeal (England & Wales) (Civil Division) - Reference for a preliminary ruling — **Protection of employees in the event of the insolvency of their employer** — Directive 2008/94/EC — Article 8 — **Supplementary pension schemes — Protection of entitlement to old-age benefits — Minimum level of protection guaranteed**

[CURIA – Judgment of the Court of Justice in Case C-17/17 of 6 September 2018](#)

**Case C-527/16: JUDGMENT OF THE COURT (First Chamber) of 6 September 2018 - Salzburger Gebietskrankenkasse and Bundesminister für Arbeit, Soziales und Konsumentenschutz v Alpenrind GmbH, Martin-Meat Szolgáltató és Kereskedelmi Kft, Martimpex-Meat Kft, Pensionsversicherungsanstalt and Allgemeine Unfallversicherungsanstalt** - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Upper Administrative Court, Austria) - Reference for a preliminary ruling — **Social security** — Regulation (EC) No 987/2009 — Articles 5 and 19(2) — **Workers posted in a Member State other than that in which the employer usually carries out its activities — Issue of the A1 attestations by the Member State of origin after recognition by the host Member State that the workers are subject to its social security scheme** — Opinion of the Administrative Board — Incorrect issue of A1 certificates — Finding — **Binding nature and retroactive effect of those certificates** — Regulation (EC) No 883/2004 — Legislation applicable — Article 12(1) — **Concept of a person ‘sent to replace another person’**

[CURIA – Judgment of the Court of Justice in Case C-527/16 of 6 September 2018](#)

**Affaire C-454/17 P: ARRÊT DE LA COUR (huitième chambre) du 6 septembre 2018 - Vincent Piessevaux, demeurant à Bruxelles (Belgique) contre Conseil de l’Union européenne** - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi — **Fonction publique – Statut des fonctionnaires de l’Union européenne** – Article 11, paragraphe 2, de l’annexe VIII – **Droits à pension acquis dans un régime national – Transfert de ces droits vers le régime de pensions de l’Union** – Différence de traitement entre fonctionnaires ayant vu le capital représentant leurs droits à pension transféré au régime de l’Union avant et après l’entrée en vigueur de nouvelles dispositions générales d’exécution

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-454/17 du 6 Septembre 2018](#)

**Case C-385/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - Torsten Hein v Albert Holzkamm GmbH & Co.** - Request for a preliminary ruling from the Arbeitsgericht Verden (Labour Court, Verden, Germany) - Reference for a preliminary ruling — **Social policy — Organisation of working time — Collective agreement in the construction industry — Right to paid annual leave** — Remuneration for annual leave — **Consequences flowing from short-time work periods**

[CURIA – Opinion of Advocate General in Case C-385/17 of 5 September 2018](#)

**Case C-258/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - E.B. v Versicherungsanstalt öffentlich Bediensteter BVA** - Request for a preliminary ruling from the Verwaltungsgerichtshof (Higher Administrative Court, Austria) - Reference for a preliminary ruling — **Social policy — Equal treatment — Prohibition on discrimination on grounds of sexual orientation** — Homosexual relations with minors — **Disciplinary sanctions taken against civil servant employed by the police following criminal conviction — Maintenance of the effects of the disciplinary decision**

[CURIA – Opinion of Advocate General in Case C-258/17 of 5 September 2018](#)

**Case C-472/16: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Jorge Luís Colino Sigüenza v Ayuntamiento de Valladolid, In-pulso Musical SC, Miguel del Real Llorente, Administrador Concursal Músicos y Escuela SL, Músicos y Escuela SL and Fondo de Garantía Salarial (Fogasa)** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Castilla y León (High Court of Justice, Castilla y León, Spain) - Reference for a preliminary ruling — Directive 2001/23/EC — Scope — Article 1(1) — **Transfers of undertakings — Safeguarding of employees’ rights** – Service contract for the management of a municipal Academy of Music — Cessation of the activity of the first contractor before the end of the current school year and designation of a new contractor at the beginning of the following school year — Article 4(1) — **Prohibition of dismissal by reason of transfer — Exception — Dismissal for economic, technical or organisational reasons entailing changes in the workforce — Charter of Fundamental Rights of the European Union** — Article 47

[CURIA – Judgment of the Court of Justice in Case C-472/16 of 7 August 2018](#)

**Joined Cases C-61/17, C-62/17 and C-72/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Miriam Bichat(C-61/17), Daniela Chlubna(C-62/17) and Isabelle Walkner(C-72/17) v Aviation Passage Service Berlin GmbH & Co. KG** - REQUESTS for a preliminary ruling under Article 267 TFEU from the Landesarbeitsgericht Berlin-Brandenburg (Higher Labour Court, Berlin-Brandenburg, Germany) - Reference for a preliminary ruling — **Social policy — Collective redundancies** — Directive 98/59/EC — First subparagraph of Article 2(4) — **Definition of ‘undertaking controlling the employer’** — Procedures for consultation of workers — Burden of proof  
[CURIA – Judgment of the Court of Justice in Case C-61/17 of 7 August 2018](#)

**Case C-96/17: JUDGMENT OF THE COURT (Sixth Chamber) of 25 July 2018 - Gardenia Vernaza Ayovi v Consorci Sanitari de Terrassa** - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Social n.º 2 de Terrassa (Social Court No 2, Terrassa, Spain) - Reference for a preliminary ruling — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — **Consequences of a disciplinary dismissal found to be ‘unfair’ — Definition of ‘working conditions’ — Temporary worker with a contract of indefinite duration** — Difference in treatment between permanent workers and temporary workers with a fixed-term contract or contract of indefinite duration — **Reinstatement of the worker or granting of compensation**  
[CURIA – Judgment of the Court of Justice in Case C-96/17 of 25 July 2018](#)

**Case C-679/16: JUDGMENT OF THE COURT (Fifth Chamber) of 25 July 2018 - A v Espoon kaupungin sosiaali- ja terveystalouden yksilöasioiden jaosto** - REQUEST for a preliminary ruling under Article 267 TFEU from the Korkein hallinto-oikeus (Supreme Administrative Court, Finland) - Reference for a preliminary ruling — **Citizenship of the Union** — Articles 20 and 21 TFEU — **Freedom to move and reside in the Member States** — **Social security** — Regulation (EC) No 883/2004 — **Social assistance — Sickness benefits — Services provided to people with disabilities — Obligation of a municipality in one Member State to provide one of its residents with personal assistance provided for under national legislation while that resident is in higher education in another Member State**  
[CURIA – Judgment of the Court of Justice in Case C-679/16 of 25 July 2018](#)

**Case C-338/17: JUDGMENT OF THE COURT (Seventh Chamber) of 25 July 2018 - Virginie Marie Gabriel Guigo v ‘Garantirani vzemania na rabotnitsite i sluzhitelite’ Fund** - REQUEST for a preliminary ruling under Article 267 TFEU from the Varhoven administrativen sad (Supreme Administrative Court, Bulgaria) - Reference for a preliminary ruling — **Social policy — Protection of employees in the event of employer’s insolvency** — Directive 2008/94/EC — Articles 3 and 4 — **Employees’ claims borne by guarantee institutions — Limitation on the liability of guarantee institutions** — Exclusion of wage claims arising over three months prior to the entry in the commercial register of the judicial decision initiating insolvency proceedings  
[CURIA – Judgment of the Court of Justice in Case C-338/17 of 25 July 2018](#)

**Affaire C-452/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 25 juillet 2018 - Zako SPRL contre Sanidel SA** - demande de décision préjudicielle formée par le tribunal de commerce de Liège (Belgique) - Renvoi préjudiciel – **Libre circulation des personnes – Liberté d’établissement** – Directive 86/653/CEE – Article 1er – **Agents commerciaux indépendants – Notion d’“agent commercial”** – Intermédiaire indépendant ne prospectant pas et ne visitant pas la clientèle ou les fournisseurs en dehors de l’entreprise du commettant et accomplissant d’autres tâches que celles liées à la négociation de la vente ou de l’achat de marchandises pour le commettant  
[CURIA – Conclusions de l’Avocat Général dans l’affaire C-452/17 du 25 juillet 2018](#)

**Affaire C-437/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 25 juillet 2018 - Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH contre EurothermenResort Bad Schallerbach GmbH** - demande de décision préjudicielle formée par l’Oberster Gerichtshof (Cour suprême, Autriche) - Renvoi préjudiciel – Article 45 TFUE – Règlement (UE) n° 492/2011 – **Libre circulation des travailleurs – Interdiction des discriminations sur le fondement de la nationalité** – Droits au congé annuel payé – **Législation nationale prévoyant l’octroi d’une semaine de congé annuel payé supplémentaire aux travailleurs justifiant de 25 années d’ancienneté auprès du même employeur**  
[CURIA – Conclusions de l’Avocat Général dans l’affaire C-437/17 du 25 juillet 2018](#)

**Case C-193/17: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Cresco Investigation GmbH v Markus Achatzi** - Request for a preliminary ruling from the Oberster Gerichtshof (Supreme Court, Austria) - Reference for a preliminary ruling — **Equal treatment in employment and occupation — National regulation conferring certain rights on a limited group of workers** — Comparability — **Direct discrimination on grounds of religion — Justification** — Positive action — **Horizontal application of the Charter of Fundamental Rights of the European Union — Horizontal direct effect of the Charter of Fundamental Rights** — Obligations of employers and of national judges in case of incompatibility of national law with Article 21(1) of the Charter of Fundamental Rights and Article 2(2)(a) of Directive 2000/78/EC)

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-193/17 du 25 juillet 2018](#)

**Case C-621/16 P: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - European Commission v Italian Republic** - Appeal — **Language rules of the EU institutions — Notices of open competition** — Limitation of the second language of competition and of the language of communication between candidates and EPSO to English, French and German — Regulation No 1 — **EU Staff Regulations — Recruitment of officials — Discrimination based on language — Justifications**

[CURIA – Opinion of Advocate General in Case C-621/16 of 25 July 2018](#)

**Case C-377/16: OPINION OF ADVOCATE GENERAL SHARPSTON of 25 July 2018 - Kingdom of Spain v European Parliament** - **Call for expressions of interest — Contract staff — Drivers — Charter of Fundamental Rights of the European Union** — Articles 21 and 22 — Regulation No 1 — Articles 1, 2 and 6 — **Use of languages by the EU institutions** — EU Staff Regulations — Article 1d — **Conditions of Employment of Other Servants** — Article 82 — **Discrimination based on language**

[CURIA – Opinion of Advocate General in Case C-377/16 of 25 July 2018](#)

## 10. Energy and Environment

### Community Legislation

**COMMISSION IMPLEMENTING DECISION (EU) 2018/1147** of 10 August 2018 **establishing best available techniques (BAT) conclusions for waste treatment**, under Directive 2010/75/EU of the European Parliament and of the Council (notified under document C(2018) 5070) (Text with EEA relevance)

[OJ of the EU, L 208/38 of 17 August 2018](#)

**COMMISSION IMPLEMENTING DECISION (EU) 2018/1135** of 10 August 2018 **establishing the type, format and frequency of information** to be made available by the Member States for the purposes of **reporting** on the implementation of Directive 2010/75/EU of the European Parliament and of the Council on **industrial emissions** (notified under document C(2018) 5009) (Text with EEA relevance)

[OJ of the EU, L 205/40 of 14 August 2018](#)

## Case Law

**Joined Cases C-262/17, C-263/17 and C-273/17: OPINION OF ADVOCATE GENERAL TANCHEV of 13 September 2018** - Solvay Chimica Italia SpA, Solvay Specialty Polymers Italy SpA, Solvay Chimica Bussi SpA, Fenice — Qualità per l'ambiente SpA, Ferrari F.lli Lunelli SpA, Erg Power Srl, Erg Power Generation SpA, Eni SpA, Enipower SpA (C-262/17), Whirlpool Europe Srl, Fenice — Qualità Per L'ambiente SpA, FCA Italy SpA, FCA Group Purchasing Srl, FCA Melfi SpA, Barilla G. e R. Fratelli SpA, Versalis SpA (C-263/17) and Sol Gas Primari Srl (C-273/17) v Autorità per l'energia elettrica, il gas e il sistema idrico, Terna SpA, Nuova Solmine SpA, American Husky III, Inovyn Produzione Italia SpA, Sasol, Radici Chimica SpA, La Vecchia Soc. cons. a r.l., Santa Margherita e Kettmeir e Cantine Torresella SpA, Zignago Vetro SpA, Chemisol Italia Srl, Vinavil SpA, Italgen SpA, Arkema Srl, Yara Italia SpA, Ineos Manufacturing Italia SpA, ENEL Distribuzione SpA, CSEA — Cassa per i servizi energetici e ambientali, Ministero dello Sviluppo Economico, Terna SpA, CSEA — Cassa per i servizi energetici e ambientali, Ministero dello Sviluppo Economico, ENEL Distribuzione SpA, Terna SpA and Ministero dello Sviluppo Economico - Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Lombardia (Regional Administrative Court, Lombardy, Italy) - **Internal market in electricity** — Directive 2009/72/EC — **Closed distribution systems — Concept of distribution system — Power conferred on Member States to exempt operators of closed distribution systems from certain requirements** — Third-party access — Dispatching charges

[CURIA – Opinion of Advocate General in Case C-262/17 of 13 September 2018](#)

**Case C-57/16 P: JUDGMENT OF THE COURT (Grand Chamber) of 4 September 2018** - ClientEarth, established in London (United Kingdom) v Republic of Finland, Kingdom of Sweden and European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Access to documents of the EU institutions** — Regulation (EC) No 1049/2001 — Regulation (EC) No 1367/2006 — **Impact assessment report, draft impact assessment report and opinion of the Impact Assessment Board — Legislative initiatives in respect of environmental matters — Refusal to grant access** — Disclosure of the documents requested in the course of the proceedings — Continuing interest in bringing proceedings — **Exception relating to the protection of the ongoing decision-making process of an EU institution — General presumption**

[CURIA – Judgment of the Court of Justice in Case C-57/16 of 4 September 2018](#)

**Case C-561/16: JUDGMENT OF THE COURT (Second Chamber) of 7 August 2018** - Saras Energía SA v Administración del Estado and others - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Supremo (Supreme Court, Spain) - Reference for a preliminary ruling — Directive 2012/27/EU — Article 7(1), (4) and (9) — Article 20(4) and (6) — **Promotion of energy efficiency — Energy efficiency obligation scheme — Other policy measures — Energy Efficiency National Fund** — Establishment of such a fund as the main measure implementing energy efficiency obligations — **Contribution obligation — Designation of the obligated parties — Energy distributors and/or retail energy sales companies**

[CURIA – Judgment of the Court of Justice in Case C-561/16 of 7 August 2018](#)

**Case C-435/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018** - Argo Kalda Mardi talu v Põllumajanduse Registrate ja Informatsiooni Amet (PRIA) - REQUEST for a preliminary ruling under Article 267 TFEU from the Tartu Halduskohus (Tartu Administrative Court, Estonia) - Reference for a preliminary ruling — **Common agricultural policy — Direct payments**— Regulation (EU) No 1306/2013 — Articles 93 and 94 — Annex II — Cross-compliance — **Agricultural and environmental conditions — Minimum requirements — Implementation by a Member State — Obligation to conserve 'burial grounds'** — Scope

[CURIA – Judgment of the Court of Justice in Case C-435/17 of 7 August 2018](#)

**Case C-329/17: JUDGMENT OF THE COURT (Eighth Chamber) of 7 August 2018** - Gerhard Prenninger and others v Oberösterreichische Landesregierung and Netz Oberösterreich GmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) - Reference for a preliminary ruling — **Environment** — Directive 2011/92/EU — **Assessment of the effects of certain projects on the environment** — Annex II — Point 1(d) — **Concept of 'deforestation for the purposes of conversion to another type of land use' — Clearance of a path in a forest in connection with the construction and operation of an overhead electrical power line**

[CURIA – Judgment of the Court of Justice in Case C-329/17 of 7 August 2018](#)

**Case C-461/17: OPINION OF ADVOCATE GENERAL KOKOTT of 7 August 2018 - Brian Holohan and Others v An Bord Pleanála and National Parks and Wildlife Service (NPWS)** - Request for a preliminary ruling from the High Court (Ireland) - Request for a preliminary ruling — **Environment** — Directive 92/43/EEC — **Conservation of natural habitats and of wild fauna and flora** — Directive 2011/92/EU — **Assessment of the effects of certain public and private projects on the environment** — **Special protection area** — Appropriate assessment of the effects of a project on an area — **Road construction project** — **Statement of reasons** — **Alternatives**  
[CURIA – Opinion of Advocate General in Case C-461/17 of 7 August 2018](#)

**Case C-103/17: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - Messer France SAS, formerly Praxair v Premier ministre, Commission de régulation de l'énergie and Ministre de l'Économie et des Finances** - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, France) - Reference for a preliminary ruling — **Harmonisation of fiscal legislation** — Directive 92/12/EEC — Article 3(2) — Directive 2003/96/EC — Articles 3 and 18 — **Taxation of energy products and electricity** — **Excise duties** — **Existence of another indirect tax** — **Conditions** — National legislation providing for a contribution to the public electricity service — **Definition of 'specific purposes'** — **Compliance with a minimum level of taxation**  
[CURIA – Judgment of the Court of Justice in Case C-103/17 of 25 July 2018](#)

**Case C-528/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Confédération paysanne, Réseau Semences Paysannes, Les Amis de la Terre France, Collectif Vigilance OGM et Pesticides 16, Vigilance OG2M, CSFV 49, OGM dangers, Vigilance OGM 33 and Fédération Nature et Progrès v Premier ministre and Ministre de l'Agriculture, de l'Agroalimentaire et de la Forêt** - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, France) - Reference for a preliminary ruling — **Deliberate release of genetically modified organisms into the environment** — **Mutagenesis** — Directive 2001/18/EC — Articles 2 and 3 — Annexes I A and I B — **Concept of 'genetically modified organism'** — **Techniques/methods of genetic modification conventionally used and deemed to be safe** — New techniques/methods of mutagenesis — **Risks for human health and the environment** — Discretion of the Member States when transposing the directive — Directive 2002/53/EC — **Common catalogue of varieties of agricultural plant species** — **Herbicide-tolerant plant varieties** — Article 4 — **Acceptability of genetically modified varieties obtained by mutagenesis for inclusion in the common catalogue** — **Human health and environmental protection requirement** — **Exemption**  
[CURIA – Judgment of the Court of Justice in Case C-528/16 of 25 July 2018](#)

**Case C-135/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Georgsmarienhütte GmbH, Stahlwerk Bous GmbH, Schmiedag GmbH and Harz Guss Zorge GmbH v Bundesrepublik Deutschland** - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgericht Frankfurt am Main (Higher Regional Court, Frankfurt am Main, Germany) - Reference for a preliminary ruling — **State aid** — **Scheme for the support of renewable electricity sources and energy-intensive users** — Decision (EU) 2015/1585 — Validity in the light of Article 107 TFEU — **Admissibility** — Failure by the applicants in the main proceedings to bring an action for annulment  
[CURIA – Judgment of the Court of Justice in Case C-135/16 of 25 July 2018](#)

**Case C-632/16: JUDGMENT OF THE COURT (Fourth Chamber) of 25 July 2018 - Dyson Ltd and Dyson BV v BSH Home Appliances NV** - REQUEST for a preliminary ruling under Article 267 TFEU from the voorzitter van de rechtbank van koophandel te Antwerpen (President of the Commercial Court, Antwerp, Belgium) - Reference for a preliminary ruling — **Retail of vacuum cleaners** — **Energy class label** — Directive 2010/30/EU — Delegated Regulation (EU) No 665/2013 — **Vacuum cleaners** — **Display of other symbols** — **Unfair commercial practices** — **Consumer protection** — Directive 2005/29/EC — Article 7 — Failure to state the conditions under which energy efficiency is measured — **Misleading omission**  
[CURIA – Judgment of the Court of Justice in Case C-632/16 of 25 July 2018](#)

**Case C-164/17: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - Edel Grace and Peter Sweetman v An Bord Pleanála, ESB Wind Developments Ltd, Coillte and The Department of Arts Heritage and the Gaeltacht** - REQUEST for a preliminary ruling under Article 267 TFEU from the Supreme Court (Ireland) - Reference for a preliminary ruling — **Environment** — Directive 92/43/EC — **Conservation of natural habitats and of wild fauna and flora** — Article 6(3) and (4) — Assessment of the implications of a plan or project for a protected site — **Plan or project not directly connected with or necessary to the management of the site** — **Wind farm project** — Directive 2009/147/EC — Conservation of wild birds — Article 4 — Special Protection Area (SPA) — Annex I — Hen harrier (*Circus cyaneus*) — Suitable habitat fluctuating over time — Temporary or

permanent reduction of the amount of appropriate land — **Measures included in the project to ensure that, during the lifetime of the project, the amount of land that is in fact suitable for hosting the natural habitat of the species will not be reduced and indeed may be enhanced**

CURIA – Judgment of the Court of Justice in Case C-164/17 of 25 July 2018

**Affaire C-205/17: ARRÊT DE LA COUR (huitième chambre) du 25 juillet 2018 - Commission européenne contre Royaume d'Espagne** - ayant pour objet un recours en manquement au titre de l'article 260, paragraphe 2, TFUE - **Manquement d'État – Collecte et traitement des eaux urbaines résiduaires** – Directive 91/271/CEE – Articles 3 et 4 – **Arrêt de la Cour constatant un manquement – Inexécution** – Article 260, paragraphe 2, TFUE – **Sanctions pécuniaires – Astreinte et somme forfaitaire**

CURIA – Arrêt de la Cour de Justice dans l'affaire C-205/17 du 25 juillet 2018

**Joined Cases C-293/17 and C-294/17: OPINION OF ADVOCATE GENERAL KOKOTT of 25 July 2018 - Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others** - Requests for a preliminary ruling from the Raad van State (Council of State, Netherlands) - References for a preliminary ruling — **Environment** — Directive 92/43/EEC — **Conservation of natural habitats and of wild fauna and flora — Special area of conservation** — Appropriate assessment of the effects of a project on a site — Concepts of project and appropriate assessment of the implications for the site — Programme for assessment of nitrogen deposition — **Agriculture — Authorisation for a farm — Fertilising — Grazing — Cumulative effects** — Irrelevance thresholds — **Damage mitigation measures** — Compensatory measures

CURIA – Opinion of Advocate General in Case C-293/17 of 25 July 2018

## 11. Food Safety, Public Health and Consumers

### Case Law

**Case C-51/17: JUDGMENT OF THE COURT (Second Chamber) of 20 September 2018 - OTP Bank Nyrt. and OTP Faktoring Követeléskezelő Zrt. v Teréz Ilyés and Emil Kiss** - REQUEST for a preliminary ruling under Article 267 TFEU from the Fővárosi Ítéltábla (Regional Court of Appeal, Budapest, Hungary) - Reference for a preliminary ruling — **Consumer protection — Unfair terms** — Directive 93/13/EEC — Scope — Article 1(2) — **Mandatory statutory or regulatory provisions** — Article 3(1) — **Concept of 'contractual term which has not been individually negotiated'** — **Term incorporated in the contract after its conclusion following the intervention of the national legislature** — Article 4(2) — **Plain and intelligible drafting of a term** — Article 6(1) — Examination by the national court of its own motion as to whether a term is unfair — **Loan contract denominated in a foreign currency concluded between a seller or supplier and a consumer**

CURIA – Judgment of the Court of Justice in Case C-51/17 of 20 September 2018

**Case C-448/17: JUDGMENT OF THE COURT (Eighth Chamber) of 20 September 2018 - EOS KSI Slovensko s. r. o. v Ján Danko, Margita Danková and Združenie na ochranu občana spotrebiteľa HOOS** - REQUEST for a preliminary ruling under Article 267 TFEU from the Krajský súd v Prešove (Regional Court, Prešov, Slovakia) - Reference for a preliminary ruling — **Consumer credit agreement** — Directive 93/13/EEC — **Unfair terms** — Article 4(2) and Article 5 — **Obligation to draft terms in plain intelligible language** — Article 7 — **Actions brought before the courts by persons or organisations having a legitimate interest in protecting consumers against the use of unfair terms** — National law making the possibility for a consumer protection association to intervene in the proceedings subject to the consumer's consent — Consumer credit — Directive 87/102/EEC — Article 4(2) — **Obligation to indicate the annual percentage rate in the written agreement** — Agreement containing only a mathematical formula for calculating the annual percentage rate without the information necessary to make that calculation

CURIA – Judgment of the Court of Justice in Case C-448/17 of 20 September 2018

**Case C-430/17: OPINION OF ADVOCATE GENERAL TANCHEV of 20 September 2018 - Walbusch Walter Busch GmbH & Co. KG v Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main eV** - Request for a preliminary ruling from the Bundesgerichtshof (Federal Court of Justice, Germany) - **Consumer protection** — Articles 6(1) and 8(4) of Directive 2011/83/EU — **Information requirements for distance and off-premises contracts** — Scope of Article 8(4) of Directive 2011/83 and modification to information obligations for contracts concluded through a means of distance communication which allows limited space or time to display information — **Advertising leaflet referring to a hyperlink for particulars concerning the right of withdrawal** — **Obligation to provide model withdrawal form set out in Article 6(1)(h) and Annex I B of Directive 2011/83** — Article 16 of the Charter and freedom to conduct a business — **Freedom of expression and information in the context of advertising under Article 11 of the Charter**

CURIA – Opinion of Advocate General in Case C-430/17 of 20 September 2018

**Case C-109/17: JUDGMENT OF THE COURT (Fifth Chamber) of 19 September 2018 - Bankia SA v Juan Carlos Marí Merino, Juan Pérez Gavilán and María de la Concepción Marí Merino** - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de Primera Instancia no 5 de Cartagena (Court of First Instance No 5, Cartagena, Spain - Reference for a preliminary ruling — Directive 2005/29/EC — **Unfair business-to-consumer commercial practices** — **Loan agreement secured by a mortgage** — Mortgage enforcement proceedings — Revaluation of immovable property prior to its sale by auction — Validity of the enforceable instrument — Article 11 — **Adequate and effective means to combat unfair commercial practices** — **National court prohibited from assessing the existence of unfair commercial practices** — Impossibility of staying the mortgage enforcement proceedings — Articles 2 and 10 — **Code of good conduct** — **Non-legally binding nature of that code**

CURIA – Judgment of the Court of Justice in Case C-109/17 of 19 September 2018

**Case C-332/17: JUDGMENT OF THE COURT (Eighth Chamber) of 13 September 2018 - Starman AS v Tarbijakaitseamet** - REQUEST for a preliminary ruling under Article 267 TFEU from the Riigikohus (Supreme Court, Estonia) - Reference for a preliminary ruling — **Consumer protection** — Directive 2011/83/EU — Article 21 — **Consumer contracts** — Telephone communications — **Practice of a telecommunication services provider consisting in offering its customers who have already concluded a contract a speed dial number at a rate higher than the basic rate**

CURIA – Judgment of the Court of Justice in Case C-332/17 of 13 September 2018

**Case C-176/17: JUDGMENT OF THE COURT (Second Chamber) of 13 September 2018 - Profi Credit Polska S.A. w Bielsku Białej v Mariusz Wawrzosek** - REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Rejonowy w Siemianowicach Śląskich I Wydział Cywilny (District Court, Siemianowice Śląskie (First Civil Division), Poland) - Reference for a preliminary ruling — **Consumer protection** — Directive 93/13/EEC — **Unfair terms in consumer contracts** — Directive 2008/48/EC — **Order for payment procedure founded on a promissory note that secures the obligations arising from a consumer credit agreement**

CURIA – Judgment of the Court of Justice in Case C-176/17 of 13 September 2018

**Joined Cases C-54/17 and C-55/17: JUDGMENT OF THE COURT (Second Chamber) of 13 September 2018 - Autorità Garante della Concorrenza e del Mercato v Wind Tre SpA, formerly Wind Telecomunicazioni SpA (C-54/17), Vodafone Italia SpA, formerly Vodafone Omnitel NV (C-55/17), Autorità per le Garanzie nelle Comunicazioni (C-54/17), Altroconsumo, Vito Rizzo (C-54/17) and Telecom Italia SpA** - REQUESTS for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - References for a preliminary ruling — **Consumer protection** — Directive 2005/29/EC — **Unfair commercial practices** — Article 3(4) — Scope — Articles 5, 8 and 9 — **Aggressive commercial practices** — Annexe I, point 29 — **Commercial practices which are aggressive in all circumstances** — **Inertia selling** — Directive 2002/21/EC — Directive 2002/22/EC — **Telecommunication services** — **Sale of SIM (Subscriber Identity Module) cards containing certain pre-installed and pre-activated services** — **Failure to give prior information to consumers**

CURIA – Judgment of the Court of Justice in Case C-54/17 of 13 September 2018

**Affaire C-70/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 13 septembre 2018 - Abanca Corporación Bancaria SA contre Alberto García Salamanca Santos** - demande de décision préjudicielle formée par le Tribunal Supremo (Cour suprême, Espagne) - Renvoi préjudiciel – Directive 93/13/CEE – **Protection des consommateurs – Clauses abusives dans les contrats conclus avec les consommateurs – Clause d'échéance anticipée d'un contrat de prêt hypothécaire** – Article 6, paragraphe 1 – Article 7, paragraphe 1 – **Déclaration du caractère partiellement abusif** – Pouvoirs du juge national – **Application d'une disposition de droit national à caractère supplétif** - **Affaire C-179/17 : Bankia SA contre Alfonso Antonio Lau Mendoza et Verónica Yuliana Rodriguez Ramirez** - demande de décision préjudicielle formée par le Juzgado de Primera Instancia nº 1 de Barcelona (tribunal de première instance nº 1 de Barcelone, Espagne) - Renvoi préjudiciel – Directive 93/13/CEE – **Protection des consommateurs – Clauses abusives dans les contrats conclus avec les consommateurs – Clause d'échéance anticipée d'un contrat de prêt hypothécaire** – Article 6, paragraphe 1 – Pouvoirs du juge national – **Application d'une disposition de droit national à caractère supplétif**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-70/17 du 13 septembre 2018](#)

**Affaire C-92/16: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 13 septembre 2018 - Bankia SA contre Henry-Rodolfo Rengifo Jiménez et Sheyla-Jeanneth Felix Caiza** - demande de décision préjudicielle formée par le Juzgado de Primera Instancia nº 1 de Fuenlabrada (tribunal de première instance nº 1 de Fuenlabrada, Espagne) - Renvoi préjudiciel – Directive 93/13/CEE – **Protection des consommateurs – Clauses abusives dans les contrats conclus avec les consommateurs – Clause d'échéance anticipée d'un contrat de prêt hypothécaire** – Article 6, paragraphe 1 – Article 7, paragraphe 1 – **Déclaration du caractère partiellement abusif – Pouvoirs du juge national**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-92/16 du 13 septembre 2018](#)

**Affaire C-167/16: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du le 13 septembre 2018 - Banco Bilbao Vizcaya Argentaria SA contre Fernando Quintano Ujeta et María Isabel Sánchez García** - demande de décision préjudicielle formée par le Juzgado de Primera Instancia nº 2 de Santander (tribunal de première instance nº 2 de Santander, Espagne) - Renvoi préjudiciel – Directive 93/13/CEE – **Protection des consommateurs – Clauses abusives dans les contrats conclus avec les consommateurs – Clause d'échéance anticipée d'un contrat de prêt hypothécaire** – Article 6, paragraphe 1 – Article 7, paragraphe 1 – **Déclaration du caractère partiellement abusif – Pouvoirs du juge national**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-167/16 du 13 septembre 2018](#)

**Affaire C-486/16: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 13 septembre 2018 - Bankia SA contre Alfredo Sánchez Martínez et Sandra Sánchez Triviño** - demande de décision préjudicielle formée par le Juzgado de Primera Instancia nº 6 de Alicante (tribunal de première instance nº 6 d'Alicante, Espagne) - Renvoi préjudiciel – Directive 93/13/CEE – **Protection des consommateurs – Clauses abusives dans les contrats conclus avec les consommateurs – Clause d'échéance anticipée d'un contrat de prêt hypothécaire** – Article 6, paragraphe 1 – Article 7, paragraphe 1 – **Critères d'appréciation du caractère abusif – Principe d'effectivité**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-486/16 du 13 septembre 2018](#)

**Case C-346/17 P: JUDGMENT OF THE COURT (Third Chamber) of 6 September 2018 - Christoph Klein, residing in Großgmain (Austria) v European Commission and Federal Republic of Germany** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Second paragraph of Article 340 TFEU — **Non-contractual liability of the European Union** — Directive 93/42/EEC — **Medical devices** — Article 8(1) and (2) — **Safeguard clause procedure — Notification by a Member State of a decision prohibiting the placing on the market of a medical device — Absence of a decision by the European Commission** — Sufficiently serious breach of a rule of law intended to confer rights on individuals — **Causal link between the conduct of the institution and the damage alleged — Evidence of the existence and extent of the damage**  
[CURIA – Judgment of the Court of Justice in Case C-346/17 of 6 September 2018](#)

**Case C-485/17: JUDGMENT OF THE COURT (Eighth Chamber) of 7 August 2018 - Verbraucherzentrale Berlin eV v Unimatic Vertriebs GmbH** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — **Consumer protection** — Directive 2011/83/EU — Article 2(9) — **Concept of 'business premises' — Criteria — Sales contract concluded on a stand run by a trader at a trade fair**  
[CURIA – Judgment of the Court of Justice in Case C-485/17 of 7 August 2018](#)



**Joined Cases C-96/16 and C-94/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Banco Santander SA v Mahamadou Demba and Mercedes Godoy Bonet (C-96/16) - Rafael Ramón Escobedo Cortés v Banco de Sabadell SA (C-94/17)** - REQUESTS for a preliminary ruling under Article 267 TFEU, from (i) the Juzgado de Primera Instancia No 38 de Barcelona (Court of First Instance No 38, Barcelona, Spain), and (ii) the Tribunal Supremo (Supreme Court, Spain) - Reference for a preliminary ruling — Directive 93/13/EEC — **Unfair terms — Scope — Assignment of debts — Loan agreement concluded with a consumer** — Criteria for assessing the unfairness of a contractual term setting the default interest rate — **Consequences of that unfairness**  
[CURIA – Judgment of the Court of Justice in Case C-96/16 of 7 August 2018](#)

**Case C-632/16: JUDGMENT OF THE COURT (Fourth Chamber) of 25 July 2018 - Dyson Ltd and Dyson BV v BSH Home Appliances NV** - REQUEST for a preliminary ruling under Article 267 TFEU from the voorzitter van de rechtbank van koophandel te Antwerpen (President of the Commercial Court, Antwerp, Belgium) - Reference for a preliminary ruling — **Retail of vacuum cleaners — Energy class label** — Directive 2010/30/EU — Delegated Regulation (EU) No 665/2013 — **Vacuum cleaners — Display of other symbols — Unfair commercial practices — Consumer protection** — Directive 2005/29/EC — Article 7 — Failure to state the conditions under which energy efficiency is measured — **Misleading omission**  
[CURIA – Judgment of the Court of Justice in Case C-632/16 of 25 July 2018](#)

**Case C-528/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Confédération paysanne, Réseau Semences Paysannes, Les Amis de la Terre France, Collectif Vigilance OGM et Pesticides 16, Vigilance OG2M, CSFV 49, OGM dangers, Vigilance OGM 33 and Fédération Nature et Progrès v Premier ministre and Ministre de l’Agriculture, de l’Agroalimentaire et de la Forêt** - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — **Deliberate release of genetically modified organisms into the environment — Mutagenesis** — Directive 2001/18/EC — Articles 2 and 3 — Annexes I A and I B — **Concept of ‘genetically modified organism’ — Techniques/methods of genetic modification conventionally used and deemed to be safe** — New techniques/methods of mutagenesis — **Risks for human health and the environment** — Discretion of the Member States when transposing the directive — Directive 2002/53/EC — **Common catalogue of varieties of agricultural plant species — Herbicide-tolerant plant varieties** — Article 4 — **Acceptability of genetically modified varieties obtained by mutagenesis for inclusion in the common catalogue — Human health and environmental protection requirement — Exemption**  
[CURIA – Judgment of the Court of Justice in Case C-528/16 of 25 July 2018](#)

**Case C-121/17: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Teva UK Ltd, Accord Healthcare Ltd, Lupin Ltd, Lupin (Europe) Ltd and Generics (UK) Ltd, trading as ‘Mylan’ v Gilead Sciences Inc.** - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Chancery Division (Patents Court) - Reference for a preliminary ruling — **Medicinal products for human use — Treatment of human immunodeficiency virus (HIV) — Originator medicines and generic medicines — Supplementary protection certificate** — Regulation (EC) No 469/2009 — Article 3(a) — **Conditions for obtaining — Concept of a ‘product protected by a basic patent in force’ — Criteria for assessment**  
[CURIA – Judgment of the Court of Justice in Case C-121/17 of 25 July 2018](#)

**Affaire C-29/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 25 juillet 2018 - Novartis Farma SpA contre Agenzia Italiana del Farmaco (AIFA), Roche Italia SpA, Consiglio Superiore di Sanità, Ministero della Salute, Regione Veneto, Società Oftalmologica Italiana (SOI), Associazione Medici Oculisti Italiani (AMOI), Regione Emilia-Romagna** - demande de décision préjudicielle formée par le Consiglio di Stato (Conseil d’État, Italie) - Renvoi préjudiciel — **Médicaments** — Directive 2001/83/CE — Champ d’application — Exclusion — Article 3, point 1 — Faculté de dérogation — Article 5, paragraphe 1 — **Autorisation de mise sur le marché** — Article 6, paragraphe 1 — **Autorisation de fabrication** — Article 40, paragraphes 1 et 2 — Règlement (CE) n° 726/2004 — **Autorisation de mise sur le marché délivrée à l’issue de la procédure centralisée** — Article 3, paragraphe 1 — **Prise en charge par le régime national d’assurance des soins de santé d’un médicament utilisé pour un traitement non couvert par son autorisation de mise sur le marché (hors AMM)**  
[CURIA – Conclusions de l’Avocat Général dans l’affaire C-29/17 du 25 juillet 2018](#)

## 12. Human Rights

### Case Law

**Case C-343/17: JUDGMENT OF THE COURT (Fourth Chamber) of 20 September 2018 - Fremoluc NV v Agentschap voor Grond- en Woonbeleid voor Vlaams-Brabant (Vlaamse Maatschappij voor Sociaal Wonen NV (VMSW)), Christof De Knop and Others** - REQUEST for a preliminary ruling under Article 267 TFEU from the Nederlandstalige rechtbank van eerste aanleg Brussel (Dutch-language Court of First Instance, Brussels, Belgium) - Reference for a preliminary ruling — **Fundamental freedoms** — Articles 21, 45, 49 and 63 TFEU — Directive 2004/38/EC — Articles 22 and 24 — **Right of pre-emption of a government body on land located in its operating area with a view to developing social housing** — Housing allocated on a priority basis to private individuals who ‘have strong social, economic or socio-cultural ties’ with the area in which that body operates — **Situation which is confined in all respects within a single Member State** — **Inadmissibility of the request for a preliminary ruling**

[CURIA – Judgment of the Court of Justice in Case C-343/17 of 20 September 2018](#)

**Case C-430/17: OPINION OF ADVOCATE GENERAL TANCHEV of 20 September 2018 - Walbusch Walter Busch GmbH & Co. KG v Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main eV** - Request for a preliminary ruling from the Bundesgerichtshof (Federal Court of Justice, Germany) - **Consumer protection** — Articles 6(1) and 8(4) of Directive 2011/83/EU — **Information requirements for distance and off-premises contracts** — Scope of Article 8(4) of Directive 2011/83 and modification to information obligations for contracts concluded through a means of distance communication which allows limited space or time to display information — **Advertising leaflet referring to a hyperlink for particulars concerning the right of withdrawal** — **Obligation to provide model withdrawal form set out in Article 6(1)(h) and Annex I B of Directive 2011/83** — Article 16 of the Charter and freedom to conduct a business — **Freedom of expression and information in the context of advertising under Article 11 of the Charter**

[CURIA – Opinion of Advocate General in Case C-430/17 of 20 September 2018](#)

**Case C-369/17: JUDGMENT OF THE COURT (Second Chamber) of 13 September 2018 - Shajin Ahmed v Bevándorlási és Menekültügyi Hivatal** - REQUEST for a preliminary ruling under Article 267 TFEU from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Administrative and Labour Court, Hungary) - Reference for a preliminary ruling — **Area of freedom, security and justice** — **Borders, asylum and immigration** — **Refugee status or subsidiary protection status** — Directive 2011/95/EU — Article 17 — **Exclusion from subsidiary protection status** — **Grounds** — **Conviction for a serious crime** — **Determination of seriousness on the basis of the penalty provided for under national law** — Whether permissible — Need for an individual assessment

[CURIA – Judgment of the Court of Justice in Case C-369/17 of 13 September 2018](#)

**Case C-358/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - UBS Europe SE, formerly UBS (Luxembourg) SA, Mr Alain Hondequin and Others v DV, EU, Commission de surveillance du secteur financier (CSSF) and Ordre des avocats du barreau de Luxembourg** - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour administrative (Higher Administrative Court, Luxembourg) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2004/39/EC — Article 54(1) and (3) — **Scope of the obligation of professional secrecy on national financial supervisory authorities** — **Finding of the absence of good repute** — **Cases covered by criminal law** — **Charter of Fundamental Rights of the European Union** — Articles 47 and 48 — **Rights of the defence** — **Access to the file**

[CURIA – Judgment of the Court of Justice in Case C-358/16 of 13 September 2018](#)

**Case C-225/17 P: OPINION OF ADVOCATE GENERAL SHARPSTON of 13 September 2018 - Islamic Republic of Iran Shipping Lines, Hafize Darya Shipping Lines (HDSL), Khazar Sea Shipping Lines Co., IRISL Europe GmbH, IRISL Marine Services and Engineering Co., Irano Misr Shipping Co., Safiran Payam Darya Shipping Lines, Shipping Computer Services Co., Soroush Sarzamin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. v Council of the European Union - Appeal — **Restrictive measures taken against Iran — Criteria for including in a list of persons and entities subject to asset-freezing — Plea of illegality — Admissibility — The Joint Comprehensive Plan of Action — Effect on interest in bringing appeal proceedings — Legal basis — Legitimate expectations — Legal certainty — Ne bis in idem — Res judicata — Right to effective judicial remedy — Misuse of powers — Rights of the defence — Proportionality — Fundamental rights — Manifest error of assessment****

CURIA – Opinion of Advocate General in Case C-225/17 of 13 September 2018

**Case C-457/17: OPINION OF ADVOCATE GENERAL SHARPSTON of 11 September 2018 - Heiko Jonny Maniero v Studienstiftung des deutschen Volkes eV - Request for a preliminary ruling from the Bundesgerichtshof (Federal Court of Justice, Germany) - Directive 2000/43/EC — **Equal treatment of persons irrespective of racial or ethnic origin — Article 3(1)(g) — Education — Scholarships awarded to students having passed the First State Law Examination****

CURIA – Opinion of Advocate General in Case C-457/17 of 11 September 2018

**Case C-258/17: OPINION OF ADVOCATE GENERAL BOBEK of 5 September 2018 - E.B. v Versicherungsanstalt öffentlich Bediensteter BVA - Request for a preliminary ruling from the Verwaltungsgerichtshof (Higher Administrative Court, Austria) - Reference for a preliminary ruling — **Social policy — Equal treatment — Prohibition on discrimination on grounds of sexual orientation — Homosexual relations with minors — Disciplinary sanctions taken against civil servant employed by the police following criminal conviction — Maintenance of the effects of the disciplinary decision****

CURIA – Opinion of Advocate General in Case C-258/17 of 5 September 2018

**Case C-472/16: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Jorge Luís Colino Sigüenza v Ayuntamiento de Valladolid, In-pulso Musical SC, Miguel del Real Llorente, Administrador Concursal Músicos y Escuela SL, Músicos y Escuela SL and Fondo de Garantía Salarial (Fogasa) - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Castilla y León (High Court of Justice, Castilla y León, Spain) - Reference for a preliminary ruling — Directive 2001/23/EC — Scope — Article 1(1) — **Transfers of undertakings — Safeguarding of employees' rights — Service contract for the management of a municipal Academy of Music — Cessation of the activity of the first contractor before the end of the current school year and designation of a new contractor at the beginning of the following school year — Article 4(1) — Prohibition of dismissal by reason of transfer — Exception — Dismissal for economic, technical or organisational reasons entailing changes in the workforce — Charter of Fundamental Rights of the European Union — Article 47****

CURIA – Judgment of the Court of Justice in Case C-472/16 of 7 August 2018

**Case C-300/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018 - Hochtief AG v Budapest Főváros Önkormányzata - REQUEST for a preliminary ruling under Article 267 TFEU from the Kúria (Supreme Court, Hungary) - Reference for a preliminary ruling — **Public procurement — Review procedures — Directive 89/665/EC — Action for damages — Article 2(6) — National rules making the admissibility of any action for damages subject to a prior and definitive determination of the illegality of the decision of the contracting authority giving rise to the damage alleged — Actions for annulment — Prior action before an arbitration committee — Judicial review of arbitral decisions — National rules excluding pleas not raised before the arbitration committee — Charter of Fundamental Rights of the European Union — Article 47 — Right to effective judicial protection — Principles of effectiveness and equivalence****

CURIA – Judgment of the Court of Justice in Case C-300/17 of 7 August 2018

**Case C-115/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - Administration des douanes et des droits indirects and Établissement national des produits de l'agriculture et de la mer (FranceAgriMer) v Hubert Clergeau, Jean-Luc Labrousse, Jean-Jacques Berthelley, Alain Bouchet, Jean-Pierre Dubois, Marcel Géry, Jean-Paul Matrat, Jean-Pierre Paziot and Patrice Raillot** - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour de cassation (Court of Cassation, France) - Reference for a preliminary ruling — Regulation (EEC) No 1964/82 — **False declarations or deceitful practices in order to secure special export refunds on certain cuts of boned meat of bovine animals** — Amendment to Regulation No 1964/82 extending the entitlement to special export refunds — **Principle of the retroactive application of the more lenient criminal law — Third sentence of Article 49(1) of the Charter of Fundamental Rights of the European Union**  
[CURIA – Judgment of the Court of Justice in Case C-115/17 of 7 August 2018](#)

**Case C-404/17: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - A v Migrationsverket** - REQUEST for a preliminary ruling under Article 267 TFEU from the Förvaltningsrätten i Malmö — Migrationsdomstolen (Administrative Court for Immigration Matters, Malmö, Sweden) - Reference for a preliminary ruling — **Asylum policy** — Directive 2013/32/EU — Article 31(8) and Article 32(2) — **Manifestly unfounded application for international protection — Concept of safe country of origin — No national rules concerning that concept** — Applicant's representations considered to be reliable but insufficient having regard to the satisfactory protection offered by the applicant's country of origin  
[CURIA – Judgment of the Court of Justice in Case C-404/17 of 25 July 2018](#)

**Case C-585/16: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Serin Alheto v Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite** - REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Sofia Administrative Court, Bulgaria) - Reference for a preliminary ruling — **Common policy on asylum and subsidiary protection — Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection** — Directive 2011/95/EU — Article 12 — **Exclusion from refugee status** — Persons registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) — **Existence of a 'first country of asylum', for a refugee from Palestine, in the UNRWA area of operations** — Common procedures for granting international protection — Directive 2013/32/EU — Article 46 — **Right to an effective remedy — Full and ex nunc examination** — Scope of the powers of the court of first instance — **Examination by the courts of international protection needs — Examination of grounds of inadmissibility**  
[CURIA – Judgment of the Court of Justice in Case C-585/16 of 25 July 2018](#)

**Case C-216/18 PPU: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - LM** - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — European arrest warrant** — Framework Decision 2002/584/JHA — Article 1(3) — **Surrender procedures between Member States — Conditions for execution — Charter of Fundamental Rights of the European Union** — Article 47 — **Right of access to an independent and impartial tribunal**  
[CURIA – Judgment of the Court of Justice in Case C-216/18 of 25 July 2018](#)

**Case C-220/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - ML v Generalstaatsanwaltschaft Bremen** - REQUEST for a preliminary ruling under Article 267 TFEU from the Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court, Bremen, Germany) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure — Police and judicial cooperation in criminal matters — European arrest warrant** — Framework Decision 2002/584/JHA — Article 1(3) — **Surrender procedures between Member States — Conditions for execution — Grounds for non-execution — Charter of Fundamental Rights of the European Union** — Article 4 — **Prohibition of inhuman or degrading treatment — Detention conditions in the issuing Member State** — Scope of the assessment undertaken by the executing judicial authorities — Existence of a legal remedy in the issuing Member State — **Assurance given by the authorities of that Member State**  
[CURIA – Judgment of the Court of Justice in Case C-220/18 of 25 July 2018](#)

**Joined Cases C-297/17 and C-318/17, C-319/17 and C-438/17: OPINION OF ADVOCATE GENERAL WATHELET du 25 July 2018 - Bashar Ibrahim (C-297/17), Mahmud Ibrahim (C-318/17), Fadwa Ibrahim (C-318/17), Bushra Ibrahim (C-318/17), Mohammad Ibrahim, legally represented by Fadwa and Mahmud Ibrahim (C-318/17), Ahmad Ibrahim, legally represented by Fadwa and Mahmud Ibrahim (C-318/17), Nisreen Sharqawi (C-319/17), Yazan Fattayrji, legally represented by Nisreen Sharqawi (C-319/17) and Hosam Fattayrji, legally represented by Nisreen Sharqawi (C-319/17) v Bundesrepublik Deutschland - Bundesrepublik Deutschland v Taus Magamadov (C-438/17) - Request for a preliminary ruling from the Bundesverwaltungsgericht (Federal Administrative Court, Germany) - Reference for a preliminary ruling — Directive 2013/32/EU — **Area of freedom, security and justice — Common procedures for granting and withdrawing international protection — Article 52 — Scope ratione temporis of that directive — Article 33(2)(a) — Rejection of an application for asylum as inadmissible on the ground that subsidiary protection has already been granted in another Member State — Articles 4 and 18 of the Charter of Fundamental Rights of the European Union — Systemic flaws in the asylum procedure in that other Member State — Directive 2011/95/EU — Article 20 et seq. — Living conditions of beneficiaries of subsidiary protection in the latter State — Real and proven risk of inhuman or degrading treatment****

CURIA – Opinion of Advocate General in Case C-297/17 of 25 July 2018

**Case C-247/17: OPINION OF ADVOCATE GENERAL BOT of 25 July 2018 - Denis Raugevicius - Request for a preliminary ruling from the Korkein oikeus (Supreme Court, Finland) - Reference for a preliminary ruling — Citizenship of the Union — Articles 18 and 21 TFEU — **Request to a Member State by a third State seeking extradition of a Union citizen who is a national of another Member State and who has exercised his right to move freely in the first Member State — Extradition request for the purpose of enforcing a custodial sentence, not for the purpose of prosecution — Protection of nationals against extradition — Restriction on freedom of movement — Objective of preventing the risk that persons who have committed an offence go unpunished — Objective of increasing a sentenced person's chances of social rehabilitation****

CURIA – Opinion of Advocate General in Case C-247/17 of 25 July 2018

**Case C-193/17: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Cresco Investigation GmbH v Markus Achatzi - Request for a preliminary ruling from the Oberster Gerichtshof (Supreme Court, Austria) - Reference for a preliminary ruling — **Equal treatment in employment and occupation — National regulation conferring certain rights on a limited group of workers — Comparability — Direct discrimination on grounds of religion — Justification — Positive action — Horizontal application of the Charter of Fundamental Rights of the European Union — Horizontal direct effect of the Charter of Fundamental Rights — Obligations of employers and of national judges in case of incompatibility of national law with Article 21(1) of the Charter of Fundamental Rights and Article 2(2)(a) of Directive 2000/78/EC****

CURIA – Conclusions de l'Avocat Général dans l'affaire C-193/17 du 25 juillet 2018

**Affaire C-163/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 25 juillet 2018 - Abubacarr Jawo contre Bundesrepublik Deutschland - demande de décision préjudicielle formée par le Verwaltungsgerichtshof Baden-Württemberg (tribunal administratif supérieur de Bade-Wurtemberg, Allemagne) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice – Frontières, asile et immigration – Système de Dublin – Règlement (UE) n° 604/2013 – Transfert du demandeur d'asile vers l'État membre responsable – Article 29, paragraphe 1 – Modalités de prolongation du délai – Article 29, paragraphe 2 – Notion de fuite – Admissibilité de refus du transfert de l'intéressé du fait d'un risque réel et avéré d'un traitement inhumain ou dégradant à l'issue de la procédure d'asile – Article 3, paragraphe 2 – Conditions de vie des bénéficiaires d'une protection internationale dans l'État membre responsable – Article 4 de la charte des droits fondamentaux de l'Union européenne****

CURIA – Conclusions de l'Avocat Général dans l'affaire C-163/17 du 25 juillet 2018

**Case C-621/16 P: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - European Commission v Italian Republic - Appeal — **Language rules of the EU institutions — Notices of open competition — Limitation of the second language of competition and of the language of communication between candidates and EPSO to English, French and German — Regulation No 1 — EU Staff Regulations — Recruitment of officials — Discrimination based on language — Justifications****

CURIA – Opinion of Advocate General in Case C-621/16 of 25 July 2018

**Case C-377/16: OPINION OF ADVOCATE GENERAL SHARPSTON of 25 July 2018 - Kingdom of Spain v European Parliament - Call for expressions of interest — Contract staff — Drivers — Charter of Fundamental Rights of the European Union — Articles 21 and 22 — Regulation No 1 — Articles 1, 2 and 6 — Use of languages by the EU institutions — EU Staff Regulations — Article 1d — Conditions of Employment of Other Servants — Article 82 — Discrimination based on language**

CURIA – Opinion of Advocate General in Case C-377/16 of 25 July 2018

**Case C-310/16: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Spetsializirana prokuratura v Petar Dzivev, Galina Angelova, Georgi Dimov and Milko Velkov - Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria) - Reference for a preliminary ruling — Protection of the European Union’s financial interests — Fight against value added tax (VAT) fraud — Tax offences — Effective collection of VAT — Scope of Member States’ duties — Limits deriving from fundamental rights, EU or national — Evidence obtained in breach of national law — Interceptions of telecommunications — Lack of jurisdiction of the court authorising interceptions**

CURIA – Opinion of Advocate General in Case C-310/16 of 25 July 2018

## 13. Internal Market and Single Market

### Case Law

**Case C-546/16: JUDGMENT OF THE COURT (Fourth Chamber) of 20 September 2018 - Montte SL v Musikene - REQUEST for a preliminary ruling under Article 267 TFEU from the Órgano Administrativo de Recursos Contractuales de la Comunidad Autónoma de Euskadi (Administrative Board of Contract Appeals of the Autonomous Community of the Basque Country, Spain) - Reference for a preliminary ruling — Article 267 TFEU — Jurisdiction of the Court — Whether the referring body qualifies as a court or tribunal — Directive 2014/24/EU — Public procurement procedures — Open procedure — Award criteria — Technical evaluation — Minimum score threshold — Price-based evaluation**

CURIA – Judgment of the Court of Justice in Case C-546/16 of 20 September 2018

**Affaire C-114/17 P: ARRÊT DE LA COUR (quatrième chambre) du 20 septembre 2018 - Royaume d’Espagne contre Commission européenne - ayant pour objet un pourvoi au titre de l’article 56 du statut de la Cour de justice de l’Union européenne - Pourvoi — Aides d’État – Télévision numérique – Aide au déploiement de la télévision numérique terrestre dans les zones éloignées et moins urbanisées de la Comunidad Autónoma de Castilla-La Mancha (Communauté autonome de Castille-La Manche, Espagne) — Subvention en faveur des opérateurs de plateformes de télévision numérique terrestre – Décision déclarant partiellement les mesures d’aides incompatibles avec le marché intérieur – Notion d’“aide d’État” – Avantage – Service d’intérêt économique général – Définition – Marge d’appréciation des États membres »**

CURIA – Arrêt de la Cour de Justice dans l’affaire C-114/17 du 20 septembre 2018

**Case C-518/17: JUDGMENT OF THE COURT (Ninth Chamber) of 20 September 2018 - Stefan Rudigier v Salzburger Verkehrsverbund GmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) - Reference for a preliminary ruling — Public procurement — Public passenger transport services by rail and by road — Regulation (EC) No 1370/2007 — Article 5(1) — Award of public service contracts — Article 7(2) — Obligation to publish certain information in the Official Journal of the European Union at least one year before the launch of the procedure — Consequences of non-publication — Annulment of the call for tenders — Directive 2014/24/EU — Article 27(1) — Article 47(1) — Directive 2014/25/EU — Article 45(1) — Article 66(1) — Contract notice**

CURIA – Judgment of the Court of Justice in Case C-518/17 of 20 September 2018

**Case C-685/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 September 2018 - EV v Finanzamt Lippstadt - REQUEST for a preliminary ruling under Article 267 TFEU from the Finanzgericht Münster (Finance Court, Münster, Germany) - Reference for a preliminary ruling — Articles 63 to 65 TFEU — **Free movement of capital — Deduction of taxable profits — Shareholdings of a parent company in a capital company whose management and registered office are located in a non-member State** — Dividends distributed to the parent company — **Tax deductibility subject to stricter conditions than deduction of profits from shareholdings in a non-tax-exempt capital company governed by national law****

[CURIA – Judgment of the Court of Justice in Case C-685/16 of 20 September 2018](#)

**Affaire C-388/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. CAMPOS SÁNCHEZ-BORDONA du 19 septembre 2018 – Konkursverket contre SJ AB - Demande de décision préjudicielle formée par l'Högsta förvaltningsdomstolen (Cour suprême administrative, Suède) - Demande de décision préjudicielle – **Marchés publics dans le secteur du transport ferroviaire — Activités de mise à disposition ou d'exploitation de réseaux — Notion de réseau — Attribution d'un marché de nettoyage des trains par une entreprise ferroviaire entièrement détenue par l'État** — Absence de mise en concurrence préalable**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-388/17 du 19 septembre 2018](#)

**Joined Cases C-262/17, C-263/17 and C-273/17: OPINION OF ADVOCATE GENERAL TANCHEV of 13 September 2018 - Solvay Chimica Italia SpA, Solvay Specialty Polymers Italy SpA, Solvay Chimica Bussi SpA, Fenice — Qualità per l'ambiente SpA, Ferrari F.lli Lunelli SpA, Erg Power Srl, Erg Power Generation SpA, Eni SpA, Enipower SpA (C-262/17), Whirlpool Europe Srl, Fenice — Qualità Per L'ambiente SpA, FCA Italy SpA, FCA Group Purchasing Srl, FCA Melfi SpA, Barilla G. e R. Fratelli SpA, Versalis SpA (C-263/17) and Sol Gas Primari Srl (C-273/17) v Autorità per l'energia elettrica, il gas e il sistema idrico, Terna SpA, Nuova Solmine SpA, American Husky III, Inovyn Produzione Italia SpA, Sasol, Radici Chimica SpA, La Vecchia Soc. cons. a r.l., Santa Margherita e Kettmeir e Cantine Torresella SpA, Zignago Vetro SpA, Chemisol Italia Srl, Vinavil SpA, Italgas SpA, Arkema Srl, Yara Italia SpA, Ineos Manufacturing Italia SpA, ENEL Distribuzione SpA, CSEA — Cassa per i servizi energetici e ambientali, Ministero dello Sviluppo Economico, Terna SpA, CSEA — Cassa per i servizi energetici e ambientali, Ministero dello Sviluppo Economico, ENEL Distribuzione SpA, Terna SpA and Ministero dello Sviluppo Economico - Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Lombardia (Regional Administrative Court, Lombardy, Italy) - **Internal market in electricity** — Directive 2009/72/EC — **Closed distribution systems — Concept of distribution system — Power conferred on Member States to exempt operators of closed distribution systems from certain requirements** — Third-party access — Dispatching charges**

[CURIA – Opinion of Advocate General in Case C-262/17 of 13 September 2018](#)

**Case C-300/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018 - Hochtief AG v Budapest Főváros Önkormányzata - REQUEST for a preliminary ruling under Article 267 TFEU from the Kúria (Supreme Court, Hungary) - Reference for a preliminary ruling — **Public procurement — Review procedures** — Directive 89/665/EC — **Action for damages** — Article 2(6) — **National rules making the admissibility of any action for damages subject to a prior and definitive determination of the illegality of the decision of the contracting authority giving rise to the damage alleged** — Actions for annulment — Prior action before an arbitration committee — **Judicial review of arbitral decisions — National rules excluding pleas not raised before the arbitration committee** — Charter of Fundamental Rights of the European Union — Article 47 — **Right to effective judicial protection — Principles of effectiveness and equivalence****

[CURIA – Judgment of the Court of Justice in Case C-300/17 of 7 August 2018](#)

**Affaire C-575/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 7 août 2018 - Sofina SA, Rebelco SA et Sidro SA contre Ministre de l'Action et des Comptes publics - demande de décision préjudicielle formée par le Conseil d'État (France) - Renvoi préjudiciel – **Libre circulation des capitaux – Retenue à la source sur le montant brut des dividendes d'origine nationale versés à des sociétés non-résidentes – Imposition différente, fondée sur le résultat net, des dividendes versés à des sociétés résidentes****

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-575/17 du 7 août 2018](#)

**Affaire C-452/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 25 juillet 2018 - Zako SPRL contre Sanidel SA** - demande de décision préjudicielle formée par le tribunal de commerce de Liège (Belgique) - Renvoi préjudiciel – **Libre circulation des personnes – Liberté d'établissement** – Directive 86/653/CEE – Article 1er – **Agents commerciaux indépendants – Notion d'“agent commercial”** – Intermédiaire indépendant ne prospectant pas et ne visitant pas la clientèle ou les fournisseurs en dehors de l'entreprise du commettant et accomplissant d'autres tâches que celles liées à la négociation de la vente ou de l'achat de marchandises pour le commettant

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-452/17 du 25 juillet 2018](#)

**Affaire C-437/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 25 juillet 2018 - Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH contre EurothermenResort Bad Schallerbach GmbH** - demande de décision préjudicielle formée par l'Oberster Gerichtshof (Cour suprême, Autriche) - Renvoi préjudiciel – Article 45 TFUE – Règlement (UE) n° 492/2011 – **Libre circulation des travailleurs – Interdiction des discriminations sur le fondement de la nationalité** – Droits au congé annuel payé – **Législation nationale prévoyant l'octroi d'une semaine de congé annuel payé supplémentaire aux travailleurs justifiant de 25 années d'ancienneté auprès du même employeur**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-437/17 du 25 juillet 2018](#)

## 14. Intellectual Property

### Case Law

**Case C-26/17 P: JUDGMENT OF THE COURT (Tenth Chamber) of 13 September 2018 - Birkenstock Sales GmbH, established in Vettelschoß (Germany) v European Union Intellectual Property Office (EUIPO)** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal – **EU trade mark – International registration designating the European Union – Figurative mark representing a pattern of wavy, crisscrossing lines** – Regulation (EC) No 207/2009 – Article 7(1)(b) – **Absolute ground for refusal – Distinctive character** – Surface pattern

[CURIA – Judgment of the Court of Justice in Case C-26/17 of 13 September 2018](#)

**Affaire C-194/17 P: CONCLUSIONS DE L'AVOCAT GÉNÉRAL Mme JULIANE KOKOTT du 3 septembre 2018 - Georgios Pandalis contre Europäisches Amt für geistiges Eigentum (EUIPO)** - Pourvoi – **Marque de l'Union européenne** – Règlement no 207/2009 – **Procédure de déchéance – Marque de l'Union CYSTUS – Usage sérieux – Caractère descriptif de la marque** – Suppléments d'aliments non à usage médical – Directive 2002/46/CE

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-194/17 du 3 septembre 2018](#)

**Affaire C-547/17 P: ARRÊT DE LA COUR (huitième chambre) du 6 septembre 2018 - Basic Net SpA, établie à Turin (Italie) contre Office de l'Union européenne pour la propriété intellectuelle (EUIPO)** - ayant pour objet un pourvoi au titre de l'article 56 du statut de la Cour de justice de l'Union européenne - Pourvoi – **Marque de l'Union européenne** - Marque figurative représentant trois bandes verticales – **Preuve d'un caractère distinctif acquis par l'usage**

[CURIA – Arrêt de la Cour de Justice dans l'affaire C-547/17 du 6 Septembre 2018](#)

**Case C-488/16 P: JUDGMENT OF THE COURT (Fifth Chamber) of 6 September 2018 - Bundesverband Souvenir – Geschenke – Ehrenpreise eV, established in Veitsbronn (Germany) v European Union Intellectual Property Office (EUIPO) and Freistaat Bayern** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal – **EU trade mark – Invalidity proceedings – Word mark NEUSCHWANSTEIN** – Regulation (EC) No 207/2009 – Article 7(1)(b) and (c) – **Absolute grounds for refusal – Descriptive character – Indication of geographical origin – Distinctive character** – Article 52(1)(b) – Bad faith

[CURIA – Judgment of the Court of Justice in Case C-488/16 of 6 September 2018](#)



**Case C-521/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018 - Coöperatieve Vereniging SNB-REACT U.A. v Deepak Mehta** - REQUEST for a preliminary ruling under Article 267 TFEU from the Tallinna Ringkonnakohus (Court of Appeal, Tallinn, Estonia) - Reference for a preliminary ruling — **Intellectual and industrial property** — Directive 2004/48/EC — Article 4 — **Legal standing of a body for the collective representation of trade mark proprietors** — Directive 2000/31/EC — Articles 12 to 14 — **Liability of a provider of IP address rental and registration services allowing the anonymous use of domain names and websites**  
[CURIA – Judgment of the Court of Justice in Case C-521/17 of 7 August 2018](#)

**Case C-161/17: JUDGMENT OF THE COURT (Second Chamber) of 7 August 2018 - Land Nordrhein-Westfalen v Dirk Renckhoff** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — **Copyright and related rights** — Directive 2001/29/EC — **Information society — Harmonisation of certain aspects of copyright and related rights** — Article 3(1) — **Communication to the public — Concept — Publication online, without the consent of the rightholder, of a photograph previously published on another website without any restrictions and with the consent of the rightholder** — New public  
[CURIA – Judgment of the Court of Justice in Case C-161/17 of 7 August 2018](#)

**Case C-129/17: JUDGMENT OF THE COURT (Second Chamber) of 25 July 2018 - Mitsubishi Shoji Kaisha Ltd and Mitsubishi Caterpillar Forklift Europe BV v Duma Forklifts NV and G.S. International BVBA** - REQUEST for a preliminary ruling under Article 267 TFEU from the Hof van beroep te Brussel (Brussels Court of Appeal, Belgium) - Reference for a preliminary ruling — **EU trade mark** — Directive 2008/95/EC — Article 5 — Regulation (EC) No 207/2009 — Article 9 — **Trade mark proprietor entitled to oppose removal by a third party of all the signs identical to that trade mark and the affixing of new signs on goods identical to those for which the trade mark has been registered with a view to importing or placing them on the market in the European Economic Area (EEA)**  
[CURIA – Judgment of the Court of Justice in Case C-129/17 of 25 July 2018](#)

**Joined Cases C-84/17 P, C-85/17 P and C-95/17 P: JUDGMENT OF THE COURT (Third Chamber) of 25 July 2018 - Société des produits Nestlé SA, established in Vevey (Switzerland), European Association of Trade Mark Owners (MARQUES), established in Leicester (United Kingdom) and Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge (United Kingdom) v European Union Intellectual Property Office (EUIPO) (C-84/17 P) - Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge and European Union Intellectual Property Office (EUIPO) v Société des produits Nestlé SA, established in Vevey (C-85/17 P) - European Union Intellectual Property Office (EUIPO) and Mondelez UK Holdings & Services Ltd, formerly Cadbury Holdings Ltd, established in Uxbridge v Société des produits Nestlé SA, established in Vevey (C-95/17 P) - THREE APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **EU trade mark — Three-dimensional mark representing the shape of a four-fingered chocolate bar — Appeal directed against the grounds — Inadmissibility** — Regulation (EC) No 207/2009 — Article 7(3) — **Evidence of distinctive character acquired through use**  
[CURIA – Judgment of the Court of Justice in Case C-84/17 of 25 July 2018](#)**

**Case C-121/17: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - Teva UK Ltd, Accord Healthcare Ltd, Lupin Ltd, Lupin (Europe) Ltd and Generics (UK) Ltd, trading as 'Mylan' v Gilead Sciences Inc.** - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Chancery Division (Patents Court) - Reference for a preliminary ruling — **Medicinal products for human use — Treatment of human immunodeficiency virus (HIV) — Originator medicines and generic medicines — Supplementary protection certificate** — Regulation (EC) No 469/2009 — Article 3(a) — **Conditions for obtaining — Concept of a 'product protected by a basic patent in force' — Criteria for assessment**  
[CURIA – Judgment of the Court of Justice in Case C-121/17 of 25 July 2018](#)

**Affaire C-139/17 P: ARRÊT DE LA COUR (dixième chambre) du 25 juillet 2018 - QuaMa Quality Management GmbH, établie à Glashütten (Allemagne) contre Office de l'Union européenne pour la propriété intellectuelle (EUIPO) et Microchip Technology Inc., établie à Chandler (États-Unis) - ayant pour objet un pourvoi au titre de l'article 56 du statut de la Cour de justice de l'Union européenne - Pourvoi – **Marque de l'Union européenne** – Règlement (CE) no 207/2009 – Règlement (CE) no 2868/95 – **Procédure d'opposition** – **Demande d'enregistrement de la marque verbale medialbo** – **Marque antérieure MediaLB** – **Motif relatif de refus** – **Risque de confusion** – Opposition introduite par une personne n'ayant pas la qualité de titulaire de la marque antérieure – Absence de demande formelle d'enregistrement du transfert de la marque antérieure avant l'expiration du délai d'opposition – Irrecevabilité**

[CURIA – Arrêt de la Cour de Justice dans l'affaire C-139/17 du 25 juillet 2018](#)

**Affaire C-310/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 25 juillet 2018 - Levola Hengelo BV contre Smilde Foods BV - demande de décision préjudicielle formée par la Gerechtshof Arnhem-Leeuwarden (cour d'appel d'Arnhem-Leeuwarden, Pays-Bas) - Renvoi préjudiciel – Directive 2001/29/CE – **Droit d'auteur et droits voisins** – **Notion d'“œuvre”** – **Saveur d'un produit alimentaire****

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-310/17 du 25 juillet 2018](#)

## 15. Justice, Freedom and Security (incl. Judicial Cooperation)

### Community Legislation

**COMMISSION DECISION (EU) 2018/1103** of 7 August 2018 **confirming the participation of Malta in the enhanced cooperation on the establishment of the European Public Prosecutor's Office**

[OJ of the EU, L 201/2 of 8 August 2018](#)

**COMMISSION DECISION (EU) 2018/1094** of 1 August 2018 **confirming the participation of the Netherlands in the enhanced cooperation on the establishment of the European Public Prosecutor's Office**

[OJ of the EU, L 196/1 of 2 August 2018](#)

**COUNCIL DECISION (CFSP) 2018/1084** of 30 July 2018 **updating the list of persons, groups and entities** subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of **specific measures to combat terrorism**, and repealing Decision (CFSP) 2018/475

[OJ of the EU, L 194/144 of 31 July 2018](#)

**COUNCIL IMPLEMENTING REGULATION (EU) 2018/1071** of 30 July 2018 **implementing** Article 2(3) of Regulation (EC) No 2580/2001 on **specific restrictive measures directed against certain persons and entities with a view to combating terrorism** and repealing Implementing Regulation (EU) 2018/468

[OJ of the EU, L 194/23 of 31 July 2018](#)

### Case Law

**Case C-214/17: JUDGMENT OF THE COURT (Sixth Chamber) of 20 September 2018 - Alexander Mölk v Valentina Mölk** - REQUEST for a preliminary ruling under Article 267 TFEU from the Oberster Gerichtshof (Supreme Court, Austria) - Reference for a preliminary ruling — **Judicial cooperation in civil matters** — **Hague Protocol on the law applicable to maintenance obligations** — Article 4(3) — **Application for maintenance lodged by the maintenance creditor with the competent authority of the State where the debtor has his habitual residence** — **Decision which has acquired the force of res judicata** — Subsequent application, lodged with the same authority by the debtor, seeking a reduction in the amount of maintenance awarded — **Appearance entered by the creditor** — **Determination of the applicable law**

[CURIA – Judgment of the Court of Justice in Case C-214/17 of 20 September 2018](#)

**Case C-546/16: JUDGMENT OF THE COURT (Fourth Chamber) of 20 September 2018 - Montte SL v Musikene** - REQUEST for a preliminary ruling under Article 267 TFEU from the Órgano Administrativo de Recursos Contractuales de la Comunidad Autónoma de Euskadi (Administrative Board of Contract Appeals of the Autonomous Community of the Basque Country, Spain) - Reference for a preliminary ruling — **Article 267 TFEU — Jurisdiction of the Court — Whether the referring body qualifies as a court or tribunal** — Directive 2014/24/EU — **Public procurement procedures — Open procedure — Award criteria** — Technical evaluation — **Minimum score threshold — Price-based evaluation**

[CURIA – Judgment of the Court of Justice in Case C-546/16 of 20 September 2018](#)

**Case C-393/18 PPU: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 20 September 2018 – UD v XB** - Request for a preliminary ruling from High Court of Justice (England and Wales), Family Division (United Kingdom) - Reference for a preliminary ruling — **Judicial cooperation in civil matters — Jurisdiction in matters of parental responsibility** — Regulation (EC) No 2201/2003 — Article 8(1) — **Notion of ‘habitual residence of the child’ — Birth and continued stay of an infant in a third State against the mother’s will — Infant never physically present in a Member State** — Situation resulting from the coercion exercised by the father and a potential infringement of the fundamental rights of the mother and the infant — **No rule under which a child cannot have its habitual residence in a Member State in which that child has never been physically present**

[CURIA – Opinion of Advocate General in Case C-393/18 of 20 September 2018](#)

**Affaire C-313/17 P: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. PAOLO MENGOZZI du 20 septembre 2018 - George Haswani contre Conseil de l’Union européenne** - Pourvoi – Article 86 du règlement de procédure du Tribunal – Recevabilité – **Procédure d’adaptation de la requête** – Nécessité d’adapter des moyens et arguments – **Mesures restrictives prises à l’encontre de la Syrie – Liste des personnes auxquelles s’applique le gel de fonds et de ressources économiques – Inclusion du nom du requérant**

[CURIA – Conclusions de l’Avocat Général dans l’affaire C-313/17 du 20 septembre 2018](#)

**Case C-327/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 19 September 2018 - RO** - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland) - Reference for a preliminary ruling — Urgent preliminary ruling procedure — **Police and judicial cooperation in criminal matters — European arrest warrant** — Framework Decision 2002/584/JHA — **Grounds for non-execution** — Article 50 TEU — **Warrant issued by the judicial authorities of a Member State that has initiated the procedure for withdrawal from the European Union** — Uncertainty as to the law applicable to the relationship between that State and the Union following withdrawal

[CURIA – Judgment of the Court of Justice in Case C-327/18 of 19 September 2018](#)

**Joined Cases C-325/18 PPU and C-375/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 19 September 2018 - Hampshire County Council v C.E., N.E., Child and Family Agency and Attorney General Hampshire County Council v C.E., N.E., Child and Family Agency and Attorney General** - TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Court of Appeal (Ireland) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure — Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in matters of parental responsibility** — International child abduction — Regulation (EC) No 2201/2003 — Article 11 — **Application for return — Hague Convention of 25 October 1980 — Application for a declaration of enforceability** — Appeal — Charter of Fundamental Rights of the European Union — Article 47 — **Right to an effective remedy — Time limit for bringing the appeal** — Order authorising enforcement — **Enforcement prior to service of the order**

[CURIA – Judgment of the Court of Justice in Case C-325/18 of 19 September 2018](#)

**Case C-310/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 19 September 2018 - Emil Milev** - REQUEST for a preliminary ruling under Article 267 TFEU from the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure — Judicial cooperation in criminal matters** — Directive (EU) 2016/343 — **Presumption of innocence — Public references to guilt — Remedies — Procedure for reviewing the lawfulness of pre-trial detention**

[CURIA – Judgment of the Court of Justice in Case C-310/18 of 19 September 2018](#)

**Case C-287/17: JUDGMENT OF THE COURT (Ninth Chamber) of 13 September 2018 - Česká pojišťovna a.s. v WCZ, spol. s r.o.** - REQUEST for a preliminary ruling under Article 267 TFEU from the Okresní soud v Českých Budějovicích (České Budějovice District Court, Czech Republic) - Reference for a preliminary ruling — **Company law — Combating late payments in commercial transactions** — Directive 2011/7/EU — Article 6(1) and (3) — Reimbursement of debt recovery costs — **Costs resulting from reminders sent on account of late payment by a debtor**

[CURIA – Judgment of the Court of Justice in Case C-287/17 of 13 September 2018](#)

**Case C-594/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - Enzo Buccioni v Banca d'Italia and Banca Network Investimenti SpA, in liquidation** - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2013/36/EU — Article 53(1) — **Obligation of professional secrecy on national authorities charged with prudential supervision of credit institutions** — Credit institution which is being compulsorily wound up — **Disclosure of confidential information in civil or commercial proceedings**

[CURIA – Judgment of the Court of Justice in Case C-594/16 of 13 September 2018](#)

**Case C-369/17: JUDGMENT OF THE COURT (Second Chamber) of 13 September 2018 - Shajin Ahmed v Bevándorlási és Menekültügyi Hivatal** - REQUEST for a preliminary ruling under Article 267 TFEU from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Administrative and Labour Court, Hungary) - Reference for a preliminary ruling — **Area of freedom, security and justice — Borders, asylum and immigration — Refugee status or subsidiary protection status** — Directive 2011/95/EU — Article 17 — **Exclusion from subsidiary protection status — Grounds — Conviction for a serious crime — Determination of seriousness on the basis of the penalty provided for under national law** — Whether permissible — Need for an individual assessment

[CURIA – Judgment of the Court of Justice in Case C-369/17 of 13 September 2018](#)

**Case C-358/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - UBS Europe SE, formerly UBS (Luxembourg) SA, Mr Alain Hondequin and Others v DV, EU, Commission de surveillance du secteur financier (CSSF) and Ordre des avocats du barreau de Luxembourg** - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour administrative (Higher Administrative Court, Luxembourg) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2004/39/EC — Article 54(1) and (3) — **Scope of the obligation of professional secrecy on national financial supervisory authorities — Finding of the absence of good repute — Cases covered by criminal law — Charter of Fundamental Rights of the European Union** — Articles 47 and 48 — **Rights of the defence — Access to the file**

[CURIA – Judgment of the Court of Justice in Case C-358/16 of 13 September 2018](#)

**Case C-225/17 P: OPINION OF ADVOCATE GENERAL SHARPSTON of 13 September 2018 - Islamic Republic of Iran Shipping Lines, Hafize Darya Shipping Lines (HDSL), Khazar Sea Shipping Lines Co., IRISL Europe GmbH, IRISL Marine Services and Engineering Co., Irano Misr Shipping Co., Safiran Payam Darya Shipping Lines, Shipping Computer Services Co., Soroush Sarzamin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. v Council of the European Union** - Appeal — **Restrictive measures taken against Iran — Criteria for including in a list of persons and entities subject to asset-freezing — Plea of illegality** — Admissibility — The Joint Comprehensive Plan of Action — **Effect on interest in bringing appeal proceedings — Legal basis — Legitimate expectations — Legal certainty — Ne bis in idem — Res judicata — Right to effective judicial remedy** — Misuse of powers — **Rights of the defence** — Proportionality — **Fundamental rights** — Manifest error of assessment

[CURIA – Opinion of Advocate General in Case C-225/17 of 13 September 2018](#)

**Case C-304/17: JUDGMENT OF THE COURT (First Chamber) of 12 September 2018 - Helga Löber v Barclays Bank plc** - REQUEST for a preliminary ruling under Article 267 TFEU from the Oberster Gerichtshof (Supreme Court, Austria) - Reference for a preliminary ruling — Regulation (EC) No 44/2001 — **Jurisdiction in civil and commercial matters — Special jurisdiction** — Article 5(3) — Jurisdiction in tort, delict or quasi-delict — Place where the harmful event occurred or may occur — **Consumer, domiciled in a Member State, who bought, through a bank established in that Member State, securities issued by a bank established in another Member State — Jurisdiction to hear and determine the tort action brought by that consumer against the bank concerned**

[CURIA – Judgment of the Court of Justice in Case C-304/17 of 12 September 2018](#)

**Case C-21/17: JUDGMENT OF THE COURT (Fifth Chamber) of 6 September 2018 - Catlin Europe SE v O.K. Trans Praha spol. s r.o.** - REQUEST for a preliminary ruling under Article 267 TFEU from the Nejvyšší soud (Supreme Court, Czech Republic) - Reference for a preliminary ruling — **Judicial cooperation in civil and commercial matters — European order for payment procedure** — Regulation (EC) No 1896/2006 — **Issue of an order for payment together with the application for the order — No translation of the application for the order** — European order for payment declared enforceable — Application for review after expiry of the period for opposition — **Service of judicial and extrajudicial documents** — Regulation (EC) No 1393/2007 — Applicability — Article 8 and Annex II — **Informing the addressee of the right to refuse to accept a document instituting proceedings that has not been translated** — Lack of the standard form — Consequences  
[CURIA – Judgment of the Court of Justice in Case C-21/17 of 6 September 2018](#)

**Case C-430/16 P: JUDGMENT OF THE COURT (Second Chamber) of 6 September 2018 - Bank Mellat, established in Tehran (Iran) v Council of the European Union, European Commission and United Kingdom of Great Britain and Northern Ireland** - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Common Foreign and Security Policy (CFSP) — Combating of nuclear proliferation — Restrictive measures against the Islamic Republic of Iran — Sector-specific measures — Restrictions on transfers of funds involving Iranian financial institutions** — Strengthening of restrictions — Regime at issue adopted under the provisions of Decision 2012/635/CFSP and of Regulation (EU) No 1263/2012 — **Implementation of the Joint Comprehensive Plan of Action on the Iranian nuclear issue — Lifting of all restrictive measures of the European Union related to this issue** — Repeal of regime at issue in the course of proceedings before the General Court of the European Union — **Effect on interest in bringing proceedings before the General Court — No continuation of interest in bringing proceedings**  
[CURIA – Judgment of the Court of Justice in Case C-430/16 of 6 September 2018](#)

**Affaire C-514/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 6 septembre 2018 - Ministère public contre Marin-Simion Sut** - demande de décision préjudicielle formée par la cour d'appel de Liège (Belgique) - Renvoi préjudiciel – **Coopération judiciaire en matière pénale – Principe de reconnaissance mutuelle** – Décision-cadre 2002/584/JAI – **Mandat d'arrêt européen et procédures de remise entre États membres** – Article 4, point 6 – **Motif de non-exécution facultative du mandat d'arrêt européen – Mise en œuvre** – Infraction à l'origine de la condamnation à une peine privative de liberté dans l'État membre d'émission n'étant punie que d'une peine d'amende dans l'État membre d'exécution – Article 2, paragraphe 4 – **Portée de la condition de la double incrimination** – Décision-cadre 2008/909/JAI – Article 8, paragraphe 3 – **Adaptation de la condamnation**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-514/17 du 6 septembre 2018](#)

**Affaires jointes C-412/17 et C-474/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 6 septembre 2018 - Bundesrepublik Deutschland contre Touring Tours und Travel GmbH (C-412/17) and Sociedad de Transportes SA (C-474/17)** - demandes de décision préjudicielle formées par le Bundesverwaltungsgericht (Cour administrative fédérale, Allemagne) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice** – Règlement (CE) n° 562/2006 – **Code communautaire relatif au régime de franchissement des frontières par les personnes (code frontières Schengen)** – Articles 20 et 21 – **Suppression du contrôle aux frontières intérieures de l'espace Schengen – Réglementation d'un État membre imposant à un opérateur de voyages en autocar franchissant des frontières intérieures de l'espace Schengen de contrôler les passeports et les titres de séjour des passagers** – Directive 2002/90/CE – Décision-cadre 2002/946/JAI – Aide à l'entrée irrégulière  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-412/17 du 6 septembre 2018](#)

**Affaire C-386/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 6 septembre 2018 - Stefano Liberato contre Luminita Luisa Grigorescu** - demande de décision préjudicielle formée par la Corte suprema di cassazione (Cour de cassation, Italie) - Renvoi préjudiciel – **Coopération judiciaire en matière civile** – Règlement (CE) n° 44/2001 – Article 5, point 2 – Article 27 – Article 35, paragraphe 3 – **Compétence, reconnaissance et exécution des décisions en matière d'obligation alimentaire** – Règlement (CE) n° 2201/2003 – Articles 19 et 24 – Compétence, reconnaissance et exécution des décisions en matière matrimoniale et en matière de responsabilité parentale – **Litispendance – Violation des règles sur la litispendance – Conséquences – Interdiction du contrôle de la compétence de la juridiction d'origine**  
[CURIA – Conclusions de l'Avocat Général dans l'affaire C-386/17 du 6 septembre 2018](#)

**Case C-57/16 P: JUDGMENT OF THE COURT (Grand Chamber) of 4 September 2018 - ClientEarth, established in London (United Kingdom) v Republic of Finland, Kingdom of Sweden and European Commission - APPEAL** under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Access to documents of the EU institutions** — Regulation (EC) No 1049/2001 — Regulation (EC) No 1367/2006 — **Impact assessment report, draft impact assessment report and opinion of the Impact Assessment Board** — **Legislative initiatives in respect of environmental matters** — **Refusal to grant access** — Disclosure of the documents requested in the course of the proceedings — Continuing interest in bringing proceedings — **Exception relating to the protection of the ongoing decision-making process of an EU institution** — **General presumption**  
[CURIA – Judgment of the Court of Justice in Case C-57/16 of 4 September 2018](#)

**Case C-300/17: JUDGMENT OF THE COURT (Third Chamber) of 7 August 2018 - Hochtief AG v Budapest Főváros Önkormányzata** - REQUEST for a preliminary ruling under Article 267 TFEU from the Kúria (Supreme Court, Hungary) - Reference for a preliminary ruling — **Public procurement** — **Review procedures** — Directive 89/665/EC — **Action for damages** — Article 2(6) — **National rules making the admissibility of any action for damages subject to a prior and definitive determination of the illegality of the decision of the contracting authority giving rise to the damage alleged** — Actions for annulment — Prior action before an arbitration committee — **Judicial review of arbitral decisions** — **National rules excluding pleas not raised before the arbitration committee** — Charter of Fundamental Rights of the European Union — Article 47 — **Right to effective judicial protection** — **Principles of effectiveness and equivalence**  
[CURIA – Judgment of the Court of Justice in Case C-300/17 of 7 August 2018](#)

**Case C-107/17: JUDGMENT OF THE COURT (Fourth Chamber) of 25 July 2018 - ‘Aviabaltika’ UAB v ‘Ūkio bankas’ AB, in liquidation** - REQUEST for a preliminary ruling under Article 267 TFEU from the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania) - Reference for a preliminary ruling — Directive 2002/47/EC — **Enforcement of financial collateral arrangements** — **Commencement of insolvency proceedings against the collateral taker** — Occurrence of the enforcement event — **Inclusion of the financial collateral in the assets remaining after the insolvency** — Obligation to satisfy the claims primarily from the financial collateral  
[CURIA – Judgment of the Court of Justice in Case C-107/17 of 25 July 2018](#)

**Case C-268/17: JUDGMENT OF THE COURT (Fifth Chamber) of 25 July 2018 - AY** - REQUEST for a preliminary ruling under Article 267 TFEU from the Županijski Sud u Zagrebu (County Court, Zagreb, Croatia) - Reference for a preliminary ruling — **Judicial cooperation in criminal matters** — **European arrest warrant** — Framework Decision 2002/584/JHA — Article 1(2), Article 3(2) and Article 4(3) — **Grounds for the refusal to execute** — **Closure of a criminal investigation** — **Principle ne bis in idem** — Requested person who had the status of a witness in previous proceedings concerning the same acts — **Issue of several European arrest warrants against the same person**  
[CURIA – Judgment of the Court of Justice in Case C-268/17 of 25 July 2018](#)

**Case C-216/18 PPU: JUDGMENT OF THE COURT (Grand Chamber) of 25 July 2018 - LM** - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure** — **Police and judicial cooperation in criminal matters** — **European arrest warrant** — Framework Decision 2002/584/JHA — Article 1(3) — **Surrender procedures between Member States** — **Conditions for execution** — **Charter of Fundamental Rights of the European Union** — Article 47 — **Right of access to an independent and impartial tribunal**  
[CURIA – Judgment of the Court of Justice in Case C-216/18 of 25 July 2018](#)

**Case C-220/18 PPU: JUDGMENT OF THE COURT (First Chamber) of 25 July 2018 - ML v Generalstaatsanwaltschaft Bremen** - REQUEST for a preliminary ruling under Article 267 TFEU from the Hanseatisches Oberlandesgericht in Bremen (Higher Regional Court, Bremen, Germany) - Reference for a preliminary ruling — **Urgent preliminary ruling procedure** — **Police and judicial cooperation in criminal matters** — **European arrest warrant** — Framework Decision 2002/584/JHA — Article 1(3) — **Surrender procedures between Member States** — **Conditions for execution** — **Grounds for non-execution** — **Charter of Fundamental Rights of the European Union** — Article 4 — **Prohibition of inhuman or degrading treatment** — **Detention conditions in the issuing Member State** — Scope of the assessment undertaken by the executing judicial authorities — Existence of a legal remedy in the issuing Member State — **Assurance given by the authorities of that Member State**  
[CURIA – Judgment of the Court of Justice in Case C-220/18 of 25 July 2018](#)

**Affaire C-416/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 25 juillet 2018 - Commission européenne contre République française - **Manquement d'État** – Articles 49, 63 et 267, troisième alinéa, TFUE – **Imposition en chaîne** – **Différence de traitement en fonction de l'État de résidence de la sous-filiale** – **Exigences relatives aux preuves fondant un droit à restitution du précompte mobilier** – **Plafonnement du droit à restitution** – Arrêt du 15 septembre 2011, Accor (C-310/09, EU:C:2011:581) – Juridiction nationale statuant en dernier ressort – **Jurisprudence nationale non conforme à l'arrêt de la Cour** – **Obligation de renvoi préjudiciel****

CURIA – Conclusions de l'Avocat Général dans l'affaire C-416/17 du 25 juillet 2018

**Joined Cases C-297/17 and C-318/17, C-319/17 and C-438/17: OPINION OF ADVOCATE GENERAL WATHELET du 25 July 2018 - Bashar Ibrahim (C-297/17), Mahmud Ibrahim (C-318/17), Fadwa Ibrahim (C-318/17), Bushra Ibrahim (C-318/17), Mohammad Ibrahim, legally represented by Fadwa and Mahmud Ibrahim (C-318/17), Ahmad Ibrahim, legally represented by Fadwa and Mahmud Ibrahim (C-318/17), Nisreen Sharqawi (C-319/17), Yazan Fattayrji, legally represented by Nisreen Sharqawi (C-319/17) and Hosam Fattayrji, legally represented by Nisreen Sharqawi (C-319/17) v Bundesrepublik Deutschland - Bundesrepublik Deutschland v Taus Magamadov (C-438/17) - Request for a preliminary ruling from the Bundesverwaltungsgericht (Federal Administrative Court, Germany) - Reference for a preliminary ruling — Directive 2013/32/EU — **Area of freedom, security and justice** — **Common procedures for granting and withdrawing international protection** — Article 52 — **Scope ratione temporis of that directive** — Article 33(2)(a) — **Rejection of an application for asylum as inadmissible on the ground that subsidiary protection has already been granted in another Member State** — Articles 4 and 18 of the Charter of Fundamental Rights of the European Union — **Systemic flaws in the asylum procedure in that other Member State** — Directive 2011/95/EU — Article 20 et seq. — **Living conditions of beneficiaries of subsidiary protection in the latter State** — **Real and proven risk of inhuman or degrading treatment****

CURIA – Opinion of Advocate General in Case C-297/17 of 25 July 2018

**Joined Cases C-174/17 P and C-222/17 P: OPINION OF ADVOCATE GENERAL WAHL of 25 July 2018 - European Union, represented by the Court of Justice of the European Union v Plásticos Españoles, SA (ASPLA) and Armando Álvarez, SA (C-174/17 P) - Plásticos Españoles, SA (ASPLA) and Armando Álvarez, SA v European Union, represented by the Court of Justice of the European Union (C-222/17 P) - Appeal — Admissibility — **Non-contractual liability** — **Reasonable duration of the proceedings** — Court of Justice of the European Union — **Obligation to adjudicate within a reasonable time** — **Material damage** — **Bank guarantee charges** — **Interest** — **Causal link****

CURIA – Opinion of Advocate General in Case C-174/17 of 25 July 2018

**Case C-150/17 P: OPINION OF ADVOCATE GENERAL WAHL of 25 July 2018 - European Union, represented by the Court of Justice of the European Union v Kendrion NV - Appeal — Admissibility — **Non-contractual liability** — **Reasonable duration of the proceedings** — Court of Justice of the European Union — **Obligation to adjudicate within a reasonable time** — **Material damage** — **Bank guarantee charges** — **Interest** — **Causal link** — **Non-material damage** — **Legal entities****

CURIA – Opinion of Advocate General in Case C-150/17 of 25 July 2018

**Joined Cases C-138/17 P and C-146/17 P: OPINION OF ADVOCATE GENERAL WAHL of 25 July 2018 - European Union, represented by the Court of Justice of the European Union v Gascogne Sack Deutschland GmbH and Gascogne (C-138/17 P) - Gascogne Sack Deutschland GmbH and Gascogne v European Union, represented by the Court of Justice of the European Union (C-146/17 P) - Appeal — **Non-contractual liability** — **Reasonable duration of the proceedings** — **Obligation to adjudicate within a reasonable time** — **Material damage** — **Bank guarantee charges** — **Causal link** — **Non-material damage****

CURIA – Opinion of Advocate General in Case C-138/17 of 25 July 2018

**Affaire C-163/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 25 juillet 2018 - Abubacarr Jawo contre Bundesrepublik Deutschland** - demande de décision préjudicielle formée par le Verwaltungsgerichtshof Baden-Württemberg (tribunal administratif supérieur de Bade-Wurtemberg, Allemagne) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice – Frontières, asile et immigration – Système de Dublin** – Règlement (UE) n° 604/2013 – **Transfert du demandeur d'asile vers l'État membre responsable** – Article 29, paragraphe 1 – Modalités de prolongation du délai – Article 29, paragraphe 2 – **Notion de fuite – Admissibilité de refus du transfert de l'intéressé du fait d'un risque réel et avéré d'un traitement inhumain ou dégradant à l'issue de la procédure d'asile** – Article 3, paragraphe 2 – **Conditions de vie des bénéficiaires d'une protection internationale dans l'État membre responsable** – Article 4 de la charte des droits fondamentaux de l'Union européenne

CURIA – Conclusions de l'Avocat Général dans l'affaire C-163/17 du 25 juillet 2018

**Affaire C-56/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. PAOLO MENGGOZZI du 25 juillet 2018 - Bahtiyar Fathi contre Predsedatel na Darzhavna agentsia za bezhantsite** - demande de décision préjudicielle formée par l'Administrativen sad Sofia-grad (tribunal administratif de Sofia, Bulgarie) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice – Frontières, asile et immigration – Conditions d'octroi du statut de réfugié** – Critères de détermination de l'État membre responsable de l'examen d'une demande de protection internationale – **Examen d'une demande de protection internationale sans une décision explicite sur la compétence de l'État membre – Notion de "religion" – Évaluation des motifs de persécution fondés sur la religion**

CURIA – Conclusions de l'Avocat Général dans l'affaire C-56/17 du 25 juillet 2018

## 16. Transport

### International Agreements

**COUNCIL DECISION (EU) 2018/1152** of 26 June 2018 on the **signing** on behalf of the Union of the **Agreement** between the **European Union and the Government of the People's Republic of China on certain aspects of air services**

OJ of the EU, L 210/1 of 21 August 2018

**COUNCIL DECISION (EU) 2018/1153** of 26 June 2018 on the **signing** on behalf of the Union of the **Agreement on civil aviation safety between the European Union and the Government of the People's Republic of China**

OJ of the EU, L 210/2 of 21 August 2018

### Community Legislation

**REGULATION (EU) 2018/1240 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** of 12 September 2018 **establishing a European Travel Information and Authorisation System (ETIAS)** and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226

OJ of the EU, L 236/1 of 19 September 2018

**REGULATION (EU) 2018/1241 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** of 12 September 2018 **amending** Regulation (EU) 2016/794 for the purpose of establishing a **European Travel Information and Authorisation System (ETIAS)**

OJ of the EU, L 236/72 of 19 September 2018

**COUNCIL DECISION (EU) 2018/1195** of 16 July 2018 on the **signing**, on behalf of the European Union, of a **Protocol to the Agreement on the international occasional carriage of passengers by coach and bus** (Interbus Agreement) regarding the **international regular and special regular carriage of passengers by coach and bus** (Text with EEA relevance)

OJ of the EU, L 214/3 of 23 August 2018



**REGULATION (EU) 2018/1139 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** of 4 July 2018 on **common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency**, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (Text with EEA relevance)

[OJ of the EU, L 212/1 of 22 August 2018](#)

**COMMISSION REGULATION (EU) 2018/1142** of 14 August 2018 **amending** Regulation (EU) No 1321/2014 as regards the introduction of **certain categories of aircraft maintenance licences, the modification of the acceptance procedure of components from external suppliers and the modification of the maintenance training organisations' privileges** (Text with EEA relevance)

[OJ of the EU, L 207/2 of 16 August 2018](#)

**COMMISSION REGULATION (EU) 2018/1065** of 27 July 2018 **amending** Regulation (EU) No 1178/2011 as regards the **automatic validation of Union flight crew licences and take-off and landing training**

[OJ of the EU, L 192/31 of 30 July 2018](#)

**COMMISSION REGULATION (EU) 2018/1042** of 23 July 2018 **amending** Regulation (EU) No 965/2012, as regards **technical requirements and administrative procedures related to introducing support programmes, psychological assessment of flight crew**, as well as systematic and **random testing of psychoactive substances to ensure medical fitness of flight and cabin crew members**, and as regards equipping newly manufactured turbine-powered aeroplanes with a maximum certified take-off mass of 5 700 kg or less and approved to carry six to nine passengers with a terrain awareness warning system

[OJ of the EU, L 188/3 of 25 July 2018](#)

## Case Law

**Case C-326/17: OPINION OF ADVOCATE GENERAL WAHL of 20 September 2018 - Directie van de Dienst Wegverkeer (RDW) v X, Y and Z** - Request for a preliminary ruling from the Raad van State (Council of State, the Netherlands) - Directive 1999/37/EC — **Registration certificates issued for vehicles first registered before implementation of the directive — Material inaccuracies and omissions in registration certificates — Mutual recognition** — Directive 2007/46/EC — **Approval of technical characteristics of vehicles — Vehicles predating EU harmonisation of technical requirements** — Modifications having an impact on the technical characteristics of the vehicle

[CURIA – Opinion of Advocate General in Case C-326/17 of 20 September 2018](#)

**Affaire C-388/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. CAMPOS SÁNCHEZ-BORDONA du 19 septembre 2018 – Konkurrensverket contre SJ AB** - Demande de décision préjudicielle formée par l'Högsta förvaltningsdomstolen (Cour suprême administrative, Suède) - Demande de décision préjudicielle – **Marchés publics dans le secteur du transport ferroviaire — Activités de mise à disposition ou d'exploitation de réseaux — Notion de réseau — Attribution d'un marché de nettoyage des trains par une entreprise ferroviaire entièrement détenue par l'État** — Absence de mise en concurrence préalable

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-388/17 du 19 septembre 2018](#)

**Affaire C-127/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 19 septembre 2018 - Commission européenne contre République de Pologne - Manquement d'État** – Directive 96/53/CE – Articles 3 et 7 – **Transport – Trafic routier international – Véhicules – Poids maximaux autorisés par essieu – Limitations sur certaines routes ou certains ouvrages d'art – Régime d'autorisation spéciale**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-127/17 du 19 septembre 2018](#)

**Affaires jointes C-266/17 et C-267/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MANUEL CAMPOS SÁNCHEZ-BORDONA du 13 septembre 2018** - Rhein-Sieg-Kreis contre Verkehrsbetrieb Hüttebräucker GmbH, BVR Busverkehr Rheinland GmbH (C-266/17), Regionalverkehr Köln GmbH et Rhenus Veniro GmbH & Co. KG contre Kreis Heinsberg (C-267/17) et WestVerkehr GmbH - demande de décision préjudicielle formée par l'Oberlandesgericht Düsseldorf (tribunal régional supérieur de Düsseldorf, Allemagne) - Recours préjudiciel – **Transports – Services publics de transport de voyageurs par route – Attribution directe de contrats de services publics : opérateur interne** – Conditions d'application du règlement (CE) no 1370/2007 – Contrôle analogue – **Attribution directe subséquente par l'opérateur interne** – Date à laquelle il convient d'apprécier les conditions applicables à l'attribution directe

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-266/17 du 13 septembre 2018](#)

**Case C-601/17: JUDGMENT OF THE COURT (Eighth Chamber) of 12 September 2018** - Dirk Harms, Ann-Kathrin Harms, Nick-Julius Harms, Tom-Lukas Harms, Lilly-Karlotta Harms and Emma-Matilda Harms v Vueling Airlines SA - REQUEST for a preliminary ruling under Article 267 TFEU from the Amtsgericht Hamburg (Local Court, Hamburg, Germany) - Reference for a preliminary ruling — **Air transport** — Regulation (EC) No 261/2004 — Article 8(1) — **Reimbursement of the price of a ticket in the event of cancellation of a flight** — Commission collected by a person acting as an intermediary between the passenger and the air carrier when the ticket was bought — Included

[CURIA – Judgment of the Court of Justice in Case C-601/17 of 12 September 2018](#)

**Affaires jointes C-412/17 et C-474/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 6 septembre 2018** - Bundesrepublik Deutschland contre Touring Tours und Travel GmbH (C-412/17) and Sociedad de Transportes SA (C-474/17) - demandes de décision préjudicielle formées par le Bundesverwaltungsgericht (Cour administrative fédérale, Allemagne) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice** – Règlement (CE) n° 562/2006 – **Code communautaire relatif au régime de franchissement des frontières par les personnes (code frontières Schengen)** – Articles 20 et 21 – **Suppression du contrôle aux frontières intérieures de l'espace Schengen – Réglementation d'un État membre imposant à un opérateur de voyages en autocar franchissant des frontières intérieures de l'espace Schengen de contrôler les passeports et les titres de séjour des passagers** – Directive 2002/90/CE – Décision-cadre 2002/946/JAI – Aide à l'entrée irrégulière

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-412/17 du 6 septembre 2018](#)

**Case C-80/17: JUDGMENT OF THE COURT (Grand Chamber) of 4 September 2018** - Fundo de Garantia Automóvel v Alina Antónia Destapado Pão Mole Juliana and Cristiana Micaela Caetano Juliana - REQUEST for a preliminary ruling under Article 267 TFEU from the Supremo Tribunal de Justiça (Supreme Court, Portugal) - Reference for a preliminary ruling — **Compulsory insurance against civil liability in respect of the use of motor vehicles** — Directive 72/166/EEC — Article 3(1) — Second Directive 84/5/EEC — Article 1(4) — **Obligation to take out a contract of insurance — Vehicle parked on private land — Right of the compensation body to bring an action against the owner of the uninsured vehicle**

[CURIA – Judgment of the Court of Justice in Case C-80/17 of 4 September 2018](#)

**Case C-122/17: JUDGMENT OF THE COURT (Grand Chamber) of 7 August 2018** - David Smith v Patrick Meade, Philip Meade, FBD Insurance plc, Ireland and Attorney General - REQUEST for a preliminary ruling under Article 267 TFEU from the Court of Appeal (Ireland) - Reference for a preliminary ruling — **Approximation of laws — Insurance against civil liability in respect of the use of motor vehicles** — Third Directive 90/232/EEC — Article 1 — **Liability for personal injury caused to all passengers other than the driver — Compulsory insurance — Direct effect of directives** — Obligation to disapply national legislation contrary to a directive — Non-application of a contractual clause contrary to a directive

[CURIA – Judgment of the Court of Justice in Case C-122/17 of 7 August 2018](#)

**Case C-553/16: JUDGMENT OF THE COURT (Seventh Chamber) of 25 July 2018 - ‘TTL’ EOOD v Direktor na Direktsia ‘Obzhalvane i danachno-osiguritelna praktika’ — Sofia and Varhovna administrativna prokuratura - REQUEST for a preliminary ruling under Article 267 TFEU from the Varhoven administrativen sad (Supreme Administrative Court, Bulgaria) - Reference for a preliminary ruling — **Freedom to provide services — Corporate taxation — Payments made by a company resident in a Member State to non-resident companies for the leasing of rail tankers** — Obligation to charge withholding tax on income from a domestic source paid to a non-resident company — Non-compliance — **Double taxation conventions — Charging the resident company default interest for non-payment of the withholding tax** — Interest payable from the expiry of the statutory time limit for payment until the date on which evidence that the double taxation convention is applicable is furnished — Irrecoverable interest**

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-553/16 du 25 juillet 2018](#)

## 17. Community Institutions, Principles and the Communities’ own Resources

### Community Legislation

**COMMISSION DELEGATED REGULATION (EU) 2018/1239** of 9 July 2018 **amending** Annex III to Regulation (EU) No 211/2011 of the European Parliament and of the Council on the **citizens’ initiative**  
[OJ of the EU, L 234/1 of 18 September 2018](#)

**GUIDELINE (EU) 2018/1151 OF THE EUROPEAN CENTRAL BANK** of 2 August 2018 **amending** Guideline ECB/2011/23 on the **statistical reporting requirements of the European Central Bank in the field of external statistics** (ECB/2018/19)  
[OJ of the EU, L 209/2 of 20 August 2018](#)

### Case Law

**Case C-518/17: JUDGMENT OF THE COURT (Ninth Chamber) of 20 September 2018 - Stefan Rudigier v Salzburger Verkehrsverbund GmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) - Reference for a preliminary ruling — **Public procurement — Public passenger transport services by rail and by road** — Regulation (EC) No 1370/2007 — Article 5(1) — **Award of public service contracts** — Article 7(2) — **Obligation to publish certain information in the Official Journal of the European Union at least one year before the launch of the procedure — Consequences of non-publication — Annulment of the call for tenders** — Directive 2014/24/EU — Article 27(1) — Article 47(1) — Directive 2014/25/EU — Article 45(1) — Article 66(1) — **Contract notice****  
[CURIA – Judgment of the Court of Justice in Case C-518/17 of 20 September 2018](#)

**Case C-373/17 P: JUDGMENT OF THE COURT (Ninth Chamber) of 20 September 2018 - Agria Polska sp. z o.o., established in Sosnowiec (Poland), Agria Chemicals Poland sp. z o.o., established in Sosnowiec, Star Agro Analyse und Handels GmbH, established in Allerheiligen bei Wildon (Austria) and Agria Beteiligungsgesellschaft mbH, established in Allerheiligen bei Wildon v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Competition — Rejection of a complaint by the European Commission — Lack of Union interest****  
[CURIA – Judgment of the Court of Justice in Case C-373/17 of 20 September 2018](#)

**Case C-685/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 September 2018 - EV v Finanzamt Lippstadt - REQUEST for a preliminary ruling under Article 267 TFEU from the Finanzgericht Münster (Finance Court, Münster, Germany) - Reference for a preliminary ruling — Articles 63 to 65 TFEU — **Free movement of capital — Deduction of taxable profits — Shareholdings of a parent company in a capital company whose management and registered office are located in a non-member State** — Dividends distributed to the parent company — **Tax deductibility subject to stricter conditions than deduction of profits from shareholdings in a non-tax-exempt capital company governed by national law****  
[CURIA – Judgment of the Court of Justice in Case C-685/16 of 20 September 2018](#)

**Case C-618/16: JUDGMENT OF THE COURT (Fifth Chamber) of 13 September 2018 - Rafal Prefeta v Secretary of State for Work and Pensions** - REQUEST for a preliminary ruling under Article 267 TFEU from the Upper Tribunal (Administrative Appeals Chamber) (United Kingdom) - Reference for a preliminary ruling — **Freedom of movement for persons** — Article 45 TFEU — **2003 Act of Accession** — Chapter 2 of Annex XII — **Whether a Member State may derogate from Article 7(2) of Regulation (EU) No 492/2011 and Article 7(3) of Directive 2004/38/EC — Polish national who has not completed a period of 12 months' registered work in the host Member State**

[CURIA – Judgment of the Court of Justice in Case C-618/16 of 13 September 2018](#)

**Affaire C-454/17 P: ARRÊT DE LA COUR (huitième chambre) du 6 septembre 2018 - Vincent Piessevaux, demeurant à Bruxelles (Belgique) contre Conseil de l'Union européenne** - ayant pour objet un pourvoi au titre de l'article 56 du statut de la Cour de justice de l'Union européenne - Pourvoi — **Fonction publique – Statut des fonctionnaires de l'Union européenne** – Article 11, paragraphe 2, de l'annexe VIII – **Droits à pension acquis dans un régime national – Transfert de ces droits vers le régime de pensions de l'Union** – Différence de traitement entre fonctionnaires ayant vu le capital représentant leurs droits à pension transféré au régime de l'Union avant et après l'entrée en vigueur de nouvelles dispositions générales d'exécution

[CURIA – Arrêt de la Cour de Justice dans l'affaire C-454/17 du 6 Septembre 2018](#)

**Affaires jointes C-412/17 et C-474/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. YVES BOT du 6 septembre 2018 - Bundesrepublik Deutschland contre Touring Tours und Travel GmbH (C-412/17) and Sociedad de Transportes SA (C-474/17)** - demandes de décision préjudicielle formées par le Bundesverwaltungsgericht (Cour administrative fédérale, Allemagne) - Renvoi préjudiciel – **Espace de liberté, de sécurité et de justice** – Règlement (CE) n° 562/2006 – **Code communautaire relatif au régime de franchissement des frontières par les personnes (code frontières Schengen)** – Articles 20 et 21 – **Suppression du contrôle aux frontières intérieures de l'espace Schengen – Réglementation d'un État membre imposant à un opérateur de voyages en autocar franchissant des frontières intérieures de l'espace Schengen de contrôler les passeports et les titres de séjour des passagers** – Directive 2002/90/CE – Décision-cadre 2002/946/JAI – Aide à l'entrée irrégulière

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-412/17 du 6 septembre 2018](#)

**Case C-244/17: JUDGMENT OF THE COURT (Grand Chamber) of 4 September 2018 - European Commission v Council of the European Union** - ACTION for annulment under Article 263 TFEU - Action for annulment — Decision (EU) 2017/477 — **Position to be adopted on behalf of the European Union within the Cooperation Council established under the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, as regards the working arrangements of the Cooperation Council, the Cooperation Committee, specialised subcommittees or any other bodies** — Article 218(9) TFEU — Decision establishing the positions to be adopted on behalf of the European Union in a body set up by an international agreement — **Agreement some of whose provisions may be linked with the common foreign and security policy (CFSP) — Voting rule**

[CURIA – Arrêt de la Cour de Justice dans l'affaire C-244/17 du 4 Septembre 2018](#)

**Case C-52/17: JUDGMENT OF THE COURT (Fifth Chamber) of 7 August 2018 - VTB Bank (Austria) AG v Finanzmarktaufsichtsbehörde** - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Austria) - Reference for a preliminary ruling — **Approximation of laws** — Directive 2013/36/EU — Articles 64, 65 and 67 — Regulation (EU) No 575/2013 — Article 395(1) and (5) — **Supervision of credit institutions — Supervisory powers and powers to impose penalties** — Large exposure limits — **Legislation of a Member State under which interest is levied where those limits are exceeded** — Regulation (EU) No 468/2014 — Article 48 — **Attribution of areas of competence between the European Central Bank (ECB) and national authorities — Formally initiated supervisory procedure**

[CURIA – Judgment of the Court of Justice in Case C-52/17 of 7 August 2018](#)

**Case C-679/16: JUDGMENT OF THE COURT (Fifth Chamber) of 25 July 2018 - A v Espoon kaupungin sosiaali- ja terveystalautakunnan yksilöasioiden jaosto** - REQUEST for a preliminary ruling under Article 267 TFEU from the Korkein hallinto-oikeus (Supreme Administrative Court, Finland) - Reference for a preliminary ruling — **Citizenship of the Union** — Articles 20 and 21 TFEU — **Freedom to move and reside in the Member States** — **Social security** — Regulation (EC) No 883/2004 — **Social assistance** — **Sickness benefits** — **Services provided to people with disabilities** — **Obligation of a municipality in one Member State to provide one of its residents with personal assistance provided for under national legislation while that resident is in higher education in another Member State**

[CURIA – Judgment of the Court of Justice in Case C-679/16 of 25 July 2018](#)

**Affaire C-452/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 25 juillet 2018 - Zako SPRL contre Sanidel SA** - demande de décision préjudicielle formée par le tribunal de commerce de Liège (Belgique) - Renvoi préjudiciel – **Libre circulation des personnes – Liberté d'établissement** – Directive 86/653/CEE – Article 1er – **Agents commerciaux indépendants – Notion d'“agent commercial”** – Intermédiaire indépendant ne prospectant pas et ne visitant pas la clientèle ou les fournisseurs en dehors de l'entreprise du commettant et accomplissant d'autres tâches que celles liées à la négociation de la vente ou de l'achat de marchandises pour le commettant

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-452/17 du 25 juillet 2018](#)

**Affaire C-437/17: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 25 juillet 2018 - Gemeinsamer Betriebsrat EurothermenResort Bad Schallerbach GmbH contre EurothermenResort Bad Schallerbach GmbH** - demande de décision préjudicielle formée par l'Oberster Gerichtshof (Cour suprême, Autriche) - Renvoi préjudiciel – Article 45 TFUE – Règlement (UE) n° 492/2011 – **Libre circulation des travailleurs – Interdiction des discriminations sur le fondement de la nationalité** – Droits au congé annuel payé – **Législation nationale prévoyant l'octroi d'une semaine de congé annuel payé supplémentaire aux travailleurs justifiant de 25 années d'ancienneté auprès du même employeur**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-437/17 du 25 juillet 2018](#)

**Case C-247/17: OPINION OF ADVOCATE GENERAL BOT of 25 July 2018 - Denis Raugevicius** - Request for a preliminary ruling from the Korkein oikeus (Supreme Court, Finland) - Reference for a preliminary ruling — Citizenship of the Union — Articles 18 and 21 TFEU — **Request to a Member State by a third State seeking extradition of a Union citizen who is a national of another Member State and who has exercised his right to move freely in the first Member State** — Extradition request for the purpose of enforcing a custodial sentence, not for the purpose of prosecution — **Protection of nationals against extradition** — **Restriction on freedom of movement** — Objective of preventing the risk that persons who have committed an offence go unpunished — **Objective of increasing a sentenced person's chances of social rehabilitation**

[CURIA – Opinion of Advocate General in Case C-247/17 of 25 July 2018](#)

**Case C-621/16 P: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - European Commission v Italian Republic** - Appeal — **Language rules of the EU institutions – Notices of open competition** — Limitation of the second language of competition and of the language of communication between candidates and EPSO to English, French and German — Regulation No 1 — **EU Staff Regulations – Recruitment of officials – Discrimination based on language – Justifications**

[CURIA – Opinion of Advocate General in Case C-621/16 of 25 July 2018](#)

**Case C-377/16: OPINION OF ADVOCATE GENERAL SHARPSTON of 25 July 2018 - Kingdom of Spain v European Parliament** - **Call for expressions of interest – Contract staff – Drivers – Charter of Fundamental Rights of the European Union** — Articles 21 and 22 — Regulation No 1 — Articles 1, 2 and 6 — **Use of languages by the EU institutions** — EU Staff Regulations — Article 1d — **Conditions of Employment of Other Servants** — Article 82 — **Discrimination based on language**

[CURIA – Opinion of Advocate General in Case C-377/16 of 25 July 2018](#)

**Case C-310/16: OPINION OF ADVOCATE GENERAL BOBEK of 25 July 2018 - Spetsializirana prokuratura v Petar Dzivev, Galina Angelova, Georgi Dimov and Milko Velkov** - Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Specialised Criminal Court, Bulgaria) - Reference for a preliminary ruling — **Protection of the European Union’s financial interests — Fight against value added tax (VAT) fraud — Tax offences — Effective collection of VAT — Scope of Member States’ duties — Limits deriving from fundamental rights, EU or national** — Evidence obtained in breach of national law — **Interceptions of telecommunications — Lack of jurisdiction of the court authorising interceptions**

[CURIA – Opinion of Advocate General in Case C-310/16 of 25 July 2018](#)