



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law

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Highlights

Proposal for a **COUNCIL DIRECTIVE** on the **management** of spent **fuel and radioactive waste**
[COM\(2010\) 618 final of 3 November 2010](#)

Case C-247/09: Judgment of the Court (Eighth Chamber) of 18 November 2010 - Alketa Xhymshiti v Bundesagentur für Arbeit – Familienkasse Lörrach - **Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons** – Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 – Social security for migrant workers – Family benefits – National of a non-member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals

[CURIA – Judgment in Case C-247/09 of the Court of Justice of 18 November 2010 - FR](#)

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EU News: Click & Read

November 2010

European Documentation Centre

Editors:

Anne Marit Mann & Josef Skala, Staff Legal Advisers

This monthly 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, the newsletter offers links to documents in both French and English.

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

The Swiss Institute of Comparative Law, in cooperation with the Law Faculty of the University of Fribourg (Switzerland), will organise the “**Journées Turco-Suisse 2011**” on the 6th and 7th of May 2011. The topic will be “**The Impact of EU Law on Turkish and Swiss Law**”. Anyone interested in making a presentation on Swiss Law at this event is kindly asked to contact **Dr Lukas Heckendorn Urscheler**.

1. EU-Swiss Relations

Case Law

Case C-247/09: Judgment of the Court (Eighth Chamber) of 18 November 2010 - Alketa Xhymshiti v Bundesagentur für Arbeit – Familienkasse Lörrach - Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons – Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 – Social security for migrant workers – Family benefits – National of a non-member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals

[CURIA – Judgment in Case C-247/09 of the Court of Justice of 18 November 2010 - FR](#)

3. Agriculture and Fisheries / Maritime Affairs

Case Law

Case C-229/09: Judgment of the Court (Second Chamber) of 11 November 2010 - Hogan Lovells International LLP, formerly Rechtsanwaltssozietät Lovells v Bayer CropScience AG - Patent law – Plant-protection products – Regulation (EC) No 1610/96 – Directive 91/414/EEC – Supplementary protection certificate for plant protection products – Grant of a certificate for a product which had obtained a provisional marketing authorisation

[CURIA – Judgment in Case C-229/09 of the Court of Justice of 11 November 2010 - FR](#)

Case C-152/09: Judgment of the Court (First Chamber) of 11 November 2010 - André Grootes v Amt für Landwirtschaft Parchim - Common agricultural policy – Integrated administration and control system for certain aid schemes – Single payment scheme – Regulation (EC) No 1782/2003 – Calculation of payment entitlements – Article 40(5) – Farmers who were under agri-environmental commitments during the reference period – Article 59(3) – Regional implementation of the single payment scheme – Article 61 – Different per-unit values for hectares under permanent pasture and for any other hectare eligible for aid

[CURIA – Judgment in Case C-152/09 of the Court of Justice of 11 November 2010 - FR](#)

Case C-346/09: Opinion of the Advocate General Villalón of 18 November 2010 - Staat der Nederlanden v Denkavit Nederland BV, Cehave Landbouwbelang Voeders BV, Arie Blok BV and Internationale Handelsmaatschappij „Demeter“ BV - Agriculture – Animal health – Veterinary controls – Directive 90/425/EEC – Protective measures against Bovine Spongiform Encephalopathy – BSE – Decision 94/381/EC – Decision 2000/766/EC – Prohibition of the production and marketing of processed animal protein for feeding to farmed animals - National safety measures – Preliminary implementation of a European Union provision – Expansion of prohibition to products exempt from the European Union law prohibition

[CURIA – Opinion of Advocate General C-346/09 of the Court of Justice of 18 November 2010 \(Only in FR\)](#)

5. Competition

Case Law

Case C-352/09 P: Opinion of the Advocate General Bot of 26 October 2010 - ThyssenKrupp Nirosta GmbH, formerly ThyssenKrupp Nirosta AG, formerly ThyssenKrupp Stainless AG v European Commission - Appeal – Competition – Cartels on the Community Market for flat products made from stainless steel – Annulment of a decision of the Commission – Adoption of a new decision after expiry of the ECSC Treaty – Choice of legal basis – Continuity of the Community legal order and coherency of the treaties – Rules concerning time-bar – Principle of *res judicata* – Res judicata effect of an issue not specifically litigated – Respect of the principle of adversary procedure and the right to a fair trial – Attributability of infringements – Liability, based on the declaration of a company, for the infringement of competition rules by another company – Absence of economic continuity – Principle of personal responsibility and principle of the individual nature of penalties – Statute of Limitations – Object of the suspension – Effects *erga omnes* or *inter partes* – Effects of a decision to annul on the calculation of the period of limitation

CURIA – Opinion of Advocate General C-352/09 P of the Court of Justice of 26 October 2010 (Only in FR)

Joined Cases C-201/09 P and C-216/09 P: Opinion of the Advocate General Bot of 26 October 2010 - ArcelorMittal Luxembourg SA, formerly Arcelor Luxembourg SA (C-201/09 P) v European Commission and European Commission (C-216/09 P) v ArcelorMittal Luxembourg SA, formerly Arcelor Luxembourg SA, ArcelorMittal Belval & Differdange SA, formerly Arcelor Profil Luxembourg SA, ArcelorMittal International SA, anciennement Arcelor International SA - Appeal – Competition – Cartel on the market of girders – Annulment of a decision of the Commission – Adoption of a new decision after expiry of the ECSC – The Commission’s competence – Choice of legal basis – Application of Article 65 ECSC after the expiry of the ECSC Treaty based on Regulation (EC) No 1/2003 – Continuity of the Community legal order and coherency of the treaties – Rules concerning time-bar – Attributability of infringements – Principle of personal responsibility – Exceptions – Responsibility of a parent company for infringements of competition law committed by its subsidiary – Decisive influence exercised by parent company – Rebuttable presumption in the case of 100 % ownership – Responsibility of the company to which the economic activities on the market concerned by the cartel have been transferred – Criterion of economic continuity – Rules applicable to limitation periods for proceedings – Interruption of the running of the statute of limitations concerning enterprises “having participated in the infringement” – Object of the suspension of the statute of limitations – Effect *inter partes* or *erga omnes* – Violation of the rights of the defendant – Burden of proof

CURIA – Opinion of Advocate General C-201/09 P and C-216/09 P of the Court of Justice of 26 October 2010 (Only in FR)

Case C-437/09 : Opinion of the Advocate General Mengozzi of 11 November 2010 - AG2R Prévoyance v Beaudout Père et Fils SARL - Competition – Art. 10 EC, 81 EC, 82 EC und 86 EC – Supplementary sickness insurance scheme – Compulsory membership of all undertakings of a certain profession in a single designated insurance – Explicit exclusion of any possibility to be exempted from membership – Notion of undertaking in the sense of Art. 81 EC und 82 EC – Abuse of a dominant position – Exclusive right – Service of general economic interest in the sense of Art. 86 (2) EC

CURIA – Opinion of Advocate General C-437/09 of the Court of Justice of 11 November 2010 (Only in FR)

Case C-36/09 P: Judgment of the Court (Seventh Chamber) of 11 November 2010 - European Commission v Transportes Evaristo Molina SA - Appeal – Cartels – Spanish market of service stations – Long-term contracts on the provision of fuel – Decision of the Commission – Right to buyback accorded to certain service stations – Conditions for provision for Repsol – List of concerned service stations – Action for annulment – Time-limit for action – Starting point

CURIA – Judgment in Case C-36/09 P of the Court of Justice of 11 November 2010 (Only in FR)

Case C-159/09: Judgment of the Court (Fourth Chamber) of 18 November 2010 - Lidl SNC v Vierzon Distribution SA - Directives 84/450/EEC and 97/55/EC – Conditions under which a comparative advertising is permitted – Price comparison based on selection of food products marketed by two competing retail store chains – Goods meeting the same needs or intended for the same purpose – Misleading advertising – Comparison based on a verifiable feature

CURIA – Judgment in Case C-159/09 of the Court of Justice of 18 November 2010 - FR

6. Customs

Community Legislation

COMMISSION REGULATION (EU) No 1063/2010 of 18 November 2010 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

OJ of the EU, L 307/1 of 23 November 2010 - FR

Case Law

Case C-423/09: Judgment of the Court (Fifth Chamber) of 28 October 2010 - Staatssecretaris van Financiën v X BV - Common Customs Tariff – Tariff classification – Combined Nomenclature – Dried vegetables (garlic bulbs) from which not all moisture has been removed

CURIA – Judgment in Case C-423/09 of the Court of Justice of 28 October 2010 - FR

7. Economic and Monetary Affairs, Taxation, Enterprise

Case Law

Case C-97/09: Judgment of the Court (Grand Chamber) of 26 October 2010 - Ingrid Schmelz v Finanzamt Waldviertel - Sixth VAT Directive – Articles 24(3) and 28i – Directive 2006/112/EC – Article 283(1)(c) – Validity – Articles 12 EC, 43 EC and 49 EC – Principle of equal treatment – Special scheme for small undertakings – Exemption from VAT – Benefit of the exemption refused to taxable persons established in other Member States – Definition of ‘annual turnover’

CURIA – Judgment in Case C-97/09 of the Court of Justice of 26 October 2010 - FR

Case C-103/09: Opinion of the Advocate General Mazák of delivered on 26 October 2010 - The Commissioners for Her Majesty’s Revenue & Customs v Weald Leasing Limited - Value added tax (VAT) – Sixth Council Directive 77/388/EEC – Concept of ‘abusive practice’ and ‘normal commercial operations’ – Transaction designed solely to obtain a tax advantage – Leasing and sub-leasing transactions intended to defer the payment of VAT – Redefinition of abusive practice

CURIA – Opinion of Advocate General C-103/09 of the Court of Justice of 26 October 2010 - FR

Case C-72/09: Judgment of the Court (Third Chamber) of 28 October 2010 - Établissements Rimbaud SA v Directeur général des impôts, Directeur des services fiscaux d’Aix-en-Provence - Direct taxation – Free movement of capital – Legal persons established in a non-member State belonging to the European Economic Area – Ownership of immovable property located in a Member State – Tax on the market value of that property – Refusal of exemption – Combating tax evasion – Assessment in the light of the EEA Agreement

CURIA – Judgment in Case C-72/09 of the Court of Justice of 28 October 2010 - FR

Case C-49/09: Judgment of the Court (Third Chamber) of 28 October 2010 - European Commission v Republic of Poland - Failure of a Member State to obligations – Value added tax – Directive 2006/112/EC – Later accession of Member States – Transitional provisions – Temporal application – Application of a reduced rate – Clothing and clothing accessories for babies and children’s footwear

CURIA – Judgment in Case C-49/09 of the Court of Justice of 28 October 2010 - FR

Case C-175/09: Judgment of the Court (Third Chamber) of 28 October 2010 - Commissioners for Her Majesty's Revenue and Customs v AXA UK PLC - Sixth VAT Directive – Exemption – Article 13B(d)(3) – Transactions concerning payments or transfers – Debt collection and factoring – Payment plans for dental care – Service of collecting and processing payments for the account of the service supplier's clients
[CURIA – Judgment in Case C-175/09 of the Court of Justice of 28 October 2010 - FR](#)

Case C-84/09 Judgment of the Court (Second Chamber) of 18 November 2010 - X v Skatteverket - VAT – Directive 2006/112/EC – Article 2, first paragraph of Article 20 and Article 138(1) – Intra-Community acquisition of a new sailing boat – **Immediate use of the goods purchased in the Member State of acquisition or in another Member State before transporting it to its final destination** – Time-limit within which transport of goods to place of destination commences – Maximum duration of transport – Relevant point in time for determining whether a means of transport is new for the purposes of taxation thereof
[CURIA – Judgment in Case C-84/09 of the Court of Justice of 18 November 2010 - FR](#)

Case C-156/09: Judgment of the Court (First Chamber) of 18 November 2010 - Finanzamt Leverkusen v Verigen Transplantation Service International AG - Sixth VAT Directive – Article 13(A)(1)(c) – Exemptions for activities in the public interest – Provision of medical care – Removal and multiplication of cartilage cells for the purpose of reimplantation in the patient
[CURIA – Judgment in Case C-156/09 of the Court of Justice of 18 November 2010 - FR](#)

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

Preparatory Acts, Reports, Calls, Memos, Common Positions

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A **comprehensive** approach on **personal data protection** in the European Union
[COM\(2010\) 609 final of 4 November 2010 - FR](#)

9. Employment and Social Affairs

Case Law

Case C-463/09: Opinion of the Advocate General Trstenjak of 26 October 2010 - CLECE, SA - Social Policy – Directive 2001/23/EC – Art. 1 para. 1 lit. a and b – Transfer of undertakings – safeguarding of employees' rights – Scope – Notion of “transfer” – Existence of an “economic entity” – Taking over of cleaning services in a public building by a commune in its capacity as a public authority
[CURIA – Opinion of Advocate General C-5463/09 of the Court of Justice of 26 October 2010 \(Only in FR\)](#)

Case C-379/09: Opinion of the Advocate General Kokott of 11 November 2010 - Maurits Casteels v British Airways plc - Articles 45 and 48 TFEU – Freedom of movement for workers – Social security for migrant workers – Supplementary pension entitlements arising from occupational old-age pension schemes – Qualifying periods – Employees employed by the same employer successively at its establishments in various Member States – Loss of supplementary pension entitlements as a result of moving from one establishment to an establishment situated in another Member State
[CURIA – Opinion of Advocate General C-379/09 of the Court of Justice of 11 November 2010 - FR](#)

Case C-232/09: Judgment of the Court (Second Chamber) of 11 November 2010 - Dita Danosa v LKB Līzings SIA - Social policy – Directive 92/85/EEC – Measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding – Articles 2(a) and 10 – Concept of ‘pregnant worker’ – Prohibition on the dismissal of a pregnant worker during the period from the beginning of pregnancy to the end of maternity leave – Directive 76/207/EEC – Equal treatment for men and women – Member of the Board of Directors of a capital company – National legislation permitting the dismissal of a Board Member without any restrictions

CURIA – Judgment in Case C-232/09 of the Court of Justice of 11 November 2010 - FR

Case C-477/09: Opinion of the Advocate General Mengozzi of 17 November 2010 - Charles Defossez v Christian Wiart (Liquidator of Sotimon Sarl), Office national de l’emploi fonds de fermeture d’entreprises and CGEA de Lille - Social Policy – Protection of Employees in the case of insolvency of the employer – Directives 80/987/EE und 2002/74/EC – Determination of the guarantee institution responsible for the payment of the outstanding claims of the employees concerned – Possibility of the employees to invoke the more favorable guarantee of the institution where the employer is insured according to national law and where he pays contributions

CURIA – Opinion of Advocate General C-477/09 of the Court of Justice of 17 November 2010 (Only in FR)

Case C-356/09: Judgment of the Court (Second Chamber) of 18 November 2010 - Pensionsversicherungsanstalt v Christine Kleist - Social policy – Equal treatment of men and women in matters of employment and occupation – Directive 76/207/EEC – Article 3(1)(c) – National rules facilitating the dismissal of workers who have acquired the right to draw their retirement pension – Objective of promoting employment of younger persons – National rules setting the age conferring entitlement to a retirement pension at 60 years for women and 65 years for men

CURIA – Judgment in Case C-356/09 of the Court of Justice of 18 November 2010 - FR

Joined Cases C-250/09 and C-268/09: Judgment of the Court (Second Chamber) of 18 November 2010 - Vasil Ivanov Georgiev v Tehniceski universitet – Sofia, filial Plovdiv - Directive 2000/78/EC – Article 6(1) – Prohibition of discrimination on grounds of age – University lecturers – National provision providing for the conclusion of fixed-term employment contracts beyond the age of 65 – Compulsory retirement at the age of 68 – Justification for differences in treatment on grounds of age

CURIA – Judgment in joined Cases C-250/09 and C-268/09 of the Court of Justice of 18 November 2010 - FR

Case C-247/09: Judgment of the Court (Eighth Chamber) of 18 November 2010 - Alketa Xhymshiti v Bundesagentur für Arbeit – Familienkasse Lörrach - Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons – Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 – Social security for migrant workers – Family benefits – National of a non-member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals

CURIA – Judgment in Case C-247/09 of the Court of Justice of 18 November 2010 - FR

10. Energy and Environment

Community Legislation

COMMISSION REGULATION (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (Text with EEA relevance)

OJ of the EU, L 302/1 of 20 November 2010 - FR

Case Law

Case C-376/09: Opinion of the Advocate General Mazák of 28 October 2010 - European Commission v Republic of Malta - Prohibition on the placing on the market and use of halons – Exceptions – Critical use of halons – Fire protection systems and extinguishers containing halons on board cargo ships

[CURIA – Judgment in Case C-376/09 of the Court of Justice of 28 October 2010 - FR](#)

Case C-164/09: Judgment of the Court (Fourth Chamber) of 11 novembre 2010 - European Commission v Republic of Italy - Failure of Member State to obligations – Conservation of wild birds – Directive 79/409/EEC – Derogation from the protection of wild birds – Hunting

[CURIA – Judgment in Case C-164/09 of the Court of Justice of 11 November 2010 \(Only in FR\)](#)

Case C-275/09: Opinion of the Advocate General Mengozzi of 17 November 2010 - Brussels Hoofdstedelijk Gewest and others v Vlaamse Gewest - Environmental impact assessment – Notion of ‘constriction’ of airports

[CURIA – Opinion of Advocate General C-275/09 of the Court of Justice of 17 November 2010 \(Only in FR\)](#)

Case C-48/10: Judgment of the Court (Sixth Chamber) of 18 November 2010 - European Commission v Kingdom of Spain - Failure of Member State to obligation– Environment – Directive 2008/1/EC – Integrated pollution prevention and control – Conditions for authorisation of existing installations – Obligation to assure the operation of such installations in conformity with the requirements of the directives

[CURIA – Judgment in Case C-48/10 of the Court of Justice of 18 July 2010 \(Only in FR\)](#)

Preparatory Acts, Reports, Calls, Memos, Common Positions

Proposal for a COUNCIL DIRECTIVE on the management of spent fuel and radioactive waste

[COM\(2010\) 618 final of 3 November 2010](#) – (text available only in English)

COMMISSION STAFF WORKING DOCUMENT Accompanying document to the revised proposal for a COUNCIL DIRECTIVE (Euratom) on the Management of Spent Fuel and Radioactive Waste - IMPACT ASSESSMENT

[SEC\(2010\) 1289 final of 3 November 2010](#) – (text available only in English)

11. Food Safety, Public Health and Consumers

Case Law

Case C-350/08: Judgment of the Court (First Chamber) of 28 October 2010 - European Commission v Republic of Lithuania - Failure of a Member State to obligations – 2003 Act of Accession – Obligations of the accession States – *Acquis communautaire* – Directives 2001/83/EC and 2003/63/EC – Regulation (EEC) No 2309/93 and Regulation (EC) No 726/2004 – Medicinal products for human use – Similar biological medicinal products from biotechnical processes – National marketing authorisation granted before accession

[CURIA – Judgment in Case C-350/08 of the Court of Justice of 28 October 2010 - FR](#)

Joined Cases C-92/09 and C-93/09: Judgment of the Court (Grand Chamber) of 9 November 2010 - Volker und Markus Schecke GbR (C-92/09), Hartmut Eifert (C-93/09) v Land Hessen - Protection of natural persons with regard to the processing of personal data – Publication of information on beneficiaries of agricultural aid – Validity of the provisions of European Union law providing for that publication and laying down detailed rules for such publication – Charter of Fundamental Rights of the European Union – Articles 7 and 8 – Directive 95/46/EC – Interpretation of Articles 18 and 20

[CURIA – Judgment in Joined Cases C-92/09 and C-93/09 of the Court of Justice of 9 November 2010 - FR](#)

Case C-540/08: Judgment of the Court (Grand Chamber) of 9 November 2010 - Mediaprint Zeitungs- und Zeitschriftenverlag GmbH & Co. KG v 'Österreich'-Zeitungsverlag GmbH - Directive 2005/29/EC – Unfair commercial practices – National legislation laying down a prohibition in principle on commercial practices making the offer of bonuses to consumers subject to the purchase of goods or services

[CURIA – Judgment in Case C-540/08 of the Court of Justice of 9 November 2010 - FR](#)

Case C-137/08: Judgment of the Court (Grand Chamber) of 9 November 2010 - VB Pénzügyi Lízing Zrt. v Ferenc Schneider - Directive 93/13/EEC – Unfair terms in consumer contracts – Criteria for assessment – Examination by the national court of its own motion of the unfairness of a term conferring jurisdiction – Article 23 of the Statute of the Court of Justice

[CURIA – Judgment in Case C-137/08 of the Court of Justice of 9 November 2010 - FR](#)

Case C-159/09: Judgment of the Court (Fourth Chamber) of 18 November 2010 - Lidl SNC v Vierzon Distribution SA - Directives 84/450/EEC and 97/55/EC – Conditions under which a comparative advertising is permitted – Price comparison based on selection of food products marketed by two competing retail store chains – Goods meeting the same needs or intended for the same purpose – Misleading advertising – Comparison based on a verifiable feature

[CURIA – Judgment in Case C-159/09 of the Court of Justice of 18 November 2010 - FR](#)

12. Human Rights

Case Law

Joined Cases C-92/09 and C-93/09: Judgment of the Court (Grand Chamber) of 9 November 2010 - Volker und Markus Schecke GbR (C-92/09), Hartmut Eifert (C-93/09) v Land Hessen - Protection of natural persons with regard to the processing of personal data – Publication of information on beneficiaries of agricultural aid – Validity of the provisions of European Union law providing for that publication and laying down detailed rules for such publication – Charter of Fundamental Rights of the European Union – Articles 7 and 8 – Directive 95/46/EC – Interpretation of Articles 18 and 20

[CURIA – Judgment in Joined Cases C-92/09 and C-93/09 of the Court of Justice of 9 November 2010 - FR](#)

Preparatory Acts, Reports, Calls, Memos, Common Positions

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe

[COM\(2010\) 636 final of 15 November 2010 - FR](#)

13. Internal Market and Single Market

Case Law

Case C-72/09: Judgment of the Court (Third Chamber) of 28 October 2010 - Établissements Rimbaud SA v Directeur général des impôts, Directeur des services fiscaux d'Aix-en-Provence - Direct taxation – Free movement of capital – Legal persons established in a non-member State belonging to the European Economic Area – Ownership of immovable property located in a Member State – Tax on the market value of that property – Refusal of exemption – Combating tax evasion – Assessment in the light of the EEA Agreement

[CURIA – Judgment in Case C-72/09 of the Court of Justice of 28 October 2010 - FR](#)

Case C-508/08: Judgment of the Court (Second Chamber) of 28 October 2010 - European Commission v Republic of Malta - Failure of a Member State to obligations – **Freedom to provide maritime transport services – Regulation (EEC) No 3577/92 – Articles 1 and 4 – Cabotage services within a Member State** – Obligation to conclude public service contracts on a non-discriminatory basis – Conclusion of an exclusive contract, without a prior call for tenders, before the date of accession of a Member State to the European Union

[CURIA – Judgment in Case C-508/08 of the Court of Justice of 28 October 2010 - FR](#)

Case C-500/09: Judgment of the Court (Eighth Chamber) of 28 October 2010 - European Commission v Hellenic Republic - **Failure of Member State to obligations – Postal services – Directive 97/67/EC – National restrictions** – Express service – System of national licences

[CURIA – Judgment in Case C-500/09 of the Court of Justice of 28 October 2010 \(Only in FR\)](#)

Case C- 41/10: Judgment of the Court (Eighth Chamber) of 28 October 2010 - European Commission v Kingdom of Belgium - Failure of Member State to obligations – **Direct insurance other than life insurance – Directives 73/239/EEC and 92/49/EEC** – Mutual companies active on the market for supplementary health insurances – Incorrect or incomplete transposition

[CURIA – Judgment in Case C-41/10 of the Court of Justice of 28 October 2010 \(Only in FR\)](#)

Case C-203/09: Judgment of the Court (First Chamber) of 28 October 2010 - Volvo Car Germany GmbH v Autohof Weidensdorf GmbH - **Directive 86/653/EEC – Self-employed commercial agents** – Termination of the agency contract by the principal – Agent's entitlement to an indemnity

[CURIA – Judgment in Case C-203/09 of the Court of Justice of 28 October 2010 - FR](#)

Case C-543/08: Judgment of the Court (First Chamber) of 11 November 2010 - European Commission v Portuguese Republic - Failure of a Member State to obligations – **Articles 56 EC and 43 EC – Free movement of capital – Golden shares in EDP** - Energias de Portugal held by the Portuguese State – Restrictions on the acquisition of holdings and participation in the management of a privatised company

[CURIA – Judgment in Case C-543/08 of the Court of Justice of 11 November 2010 - FR](#)

Joined Cases C-436/08 and C-437/08: Opinion of the Advocate General Kokott of 11 November 2010 - Haribo Lakritzen Hans Riegel Betriebs GmbH (C-436/08) and Österreichische Salinen AG (C-437/08) v Finanzamt Linz - **Free movement of capital – Portfolio of participations – Corporation tax – Avoidance of double economic taxation of dividends** – Tax exemption method for domestic dividends – Conditional exemption, which may revert to tax credit method, for dividends originating in other EU or EEA States – Difficulties concerning proof of foreign upstream taxes previously paid – Neither exemption nor credit method for dividends from third countries – Justification – Proportionality – Coherent and systematic pursuit of the goals invoked

[CURIA – Opinion of Advocate General C-436/08 and C-437/08 of the Court of Justice of 11 November 2010 \(Only in FR\)](#)

Case C-379/09: Opinion of the Advocate General Kokott of 11 November 2010 - Maurits Casteels v British Airways plc - **Articles 45 and 48 TFEU – Freedom of movement for workers – Social security for migrant workers – Supplementary pension entitlements arising from occupational old-age pension schemes** – Qualifying periods – Employees employed by the same employer successively at its establishments in various Member States – Loss of supplementary pension entitlements as a result of moving from one establishment to an establishment situated in another Member State

[CURIA – Opinion of Advocate General C-379/09 of the Court of Justice of 11 November 2010 - FR](#)

Case C-247/09: Judgment of the Court (Eighth Chamber) of 18 November 2010 - Alketa Xhymshiti v Bundesagentur für Arbeit – Familienkasse Lörrach - **Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons** – Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 – Social security for migrant workers – Family benefits – National of a non-member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals

[CURIA – Judgment in Case C-247/09 of the Court of Justice of 18 November 2010 - FR](#)

Case C-458/08: Judgment of the Court (First Chamber) of 18 November 2010 - European Commission v Portuguese Republic - Failure of a Member State to obligations – **Infringement of Article 49 EC – Construction sector** – Authorization required in order to carry on activity in that sector – Justification

[CURIA – Judgment in Case C-458/08 of the Court of Justice of 18 November 2010 - FR](#)

Case C-226/09: Judgment of the Court (Fourth Chamber) - 18 November 2010 - European Commission v Ireland - Failure of a Member State to obligations – **Directive 2004/18/EC – Public procurement procedures – Award of a contract for interpretation and translation services – Services falling within the ambit of Annex II B of the Directive** – Services not subject to all the requirements of the Directive – Weighting of the award criteria determined after tenders have been submitted – Weighting altered following an initial review of the tenders submitted – Compliance with the principle of equal treatment and the obligation of transparency

[CURIA – Judgment in Case C-226/09 of the Court of Justice of 18 November 2010 - FR](#)

Case C-145/09: Judgment of the Court (Grand Chamber) of 23 November 2010 - Land Baden-Württemberg v Panagiotis Tsakouridis - **Freedom of movement for persons – Directive 2004/38/EC – Articles 16(4) and 28(3)(a) – Union citizen born and having resided for over 30 years in the host Member State** – Absences from the host Member State – Criminal convictions – Expulsion decision – Imperative grounds of public security

[CURIA – Judgment in Case C-145/09 of the Court of Justice of 23 November 2010 - FR](#)

Preparatory Acts, Reports, Calls, Memos, Common Positions

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL
Enlargement Strategy and Main Challenges 2010-2011

[COM\(2010\) 660 of 9 November 2010 - FR](#)

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

Community Legislation

DIRECTIVE 2010/64/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 on the **right to interpretation and translation in criminal proceedings**

[OJ of the EU, L 280/1 of 26 October 2010 - FR](#)

Case Law

Case C-482/08: Judgment of the Court (Grand Chamber) of 26 October 2010 - United Kingdom of Great Britain and Northern Ireland v Council of the European Union - Action for annulment – Decision 2008/633/JHA – **Access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by the European Police Office (Europol) for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences** – Development of provisions of the Schengen *acquis* – Exclusion of the United Kingdom from the procedure for adopting the decision – Validity

[CURIA – Judgment in Case C-482/08 of the Court of Justice of 26 October 2010 - FR](#)

Joined Cases C-57/09 and C-101/09: Judgment of the Court (Grand Chamber) of 9 November 2010 - Bundesrepublik Deutschland v B (C-57/09), D (C-101/09) - **Directive 2004/83/EC – Minimum standards for the grant of refugee status or of subsidiary protection – Article 12 – Exclusion from refugee status – Article 12(2)(b) and (c) – Notion of ‘serious non-political crime’ – Notion of ‘acts contrary to the purposes and principles of the United Nations’** – Membership of an organisation involved in terrorist acts – Subsequent inclusion of that organisation on the list of persons, groups and entities which forms the Annex to Common Position 2001/931/CFSP – Individual responsibility for part of the acts committed by that organisation – Conditions – Right of asylum by virtue of national constitutional law – Compatibility with Directive 2004/83/EC

[CURIA – Judgment in Joined Cases C-57/09 and C-101/09 of the Court of Justice of 9 November 2010 - FR](#)

Case C-296/10: Judgment of the Court (Second Chamber) of 9 November 2010 - Bianca Purrucker v Guillermo Vallés Pérez - Judicial Cooperation in civil matters – Competence, recognition and execution of judgments in matrimonial matters and in matters of parental responsibility – Regulation (EC) No 2201/2003 – *Lis pedens* – Proceedings on the merits of a case concerning custody of a child and provisional matters concerning the custody of the same child

[CURIA – Judgment in Case C-296/10 of the Court of Justice of 9 November 2010 \(Only in FR\)](#)

Case C-261/09: Judgment of the Court (Grand Chamber) of 16 November 2010 - Proceedings concerning the execution of a European arrest warrant issued in respect of Gaetano Mantello - Reference for a preliminary ruling – Judicial cooperation in criminal matters – European arrest warrant – Framework Decision 2002/584/JHA – Article 3(2) – *Ne bis in idem* – Concept of the ‘same acts’ – Possibility for the executing judicial authority to refuse to execute a European arrest warrant – Final judgment in the issuing Member State – Possession of narcotic drugs – Trafficking in narcotic drugs – Criminal organisation

[CURIA – Judgment in Case 261/09 of the Court of Justice of 16 November 2010 - FR](#)

Preparatory Acts, Reports, Calls, Memos, Common Positions

Proposal for a **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** on the establishment of an **evaluation mechanism to verify application of the Schengen *acquis***

[COM\(2010\) 624 final of 16 November 2010 - FR](#)

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL The **EU Internal Security Strategy** in Action: Five steps towards a more secure Europe

[COM\(2010\) 673 final of 22 November 2010 - FR](#)

16. Transport

Community Legislation

DIRECTIVE 2010/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 on reporting formalities for **ships arriving in and/or departing from ports of the Member States** and **repealing Directive 2002/6/EC** (Text with EEA relevance)

[OJ of the EU, L 283/1 of 29 October 2010 - FR](#)

COMMISSION REGULATION (EU) No 1071/2010 of 22 November 2010 amending Regulation (EC) No 474/2006 establishing the Community **list of air carriers which are subject to an operating ban within the Community** (Text with EEA relevance)

[OJ of the EU, L 306/44 of 23 November 2010 - FR](#)

Case Law

Case C-508/08: Judgment of the Court (Second Chamber) of 28 October 2010 - European Commission v Republic of Malta - Failure of a Member State to fulfil obligations – **Freedom to provide maritime transport services – Regulation (EEC) No 3577/92 – Articles 1 and 4 – Cabotage services within a Member State – Obligation to conclude public service contracts on a non-discriminatory basis – Conclusion of an exclusive contract, without a prior call for tenders, before the date of accession of a Member State to the European Union**

[CURIA – Judgment in Case C-508/08 of the Court of Justice of 28 October 2010 - FR](#)