



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

EU News: Click & Read

108 - November 2016

European Documentation Centre

Editor: **Alfredo Santos** Legal Adviser

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.

Table of contents

| | |
|--|----|
| 1. EU-Swiss Relations | 2 |
| 2. External Relations / Foreign Policy | 2 |
| 3. Agriculture and Fisheries / Maritime Affairs | 2 |
| 4. Audiovisual and Media and Information Society | 2 |
| 5. Competition | 3 |
| 6. Customs | 4 |
| 7. Economic and Monetary Affairs, Taxation, Enterprise | 4 |
| 8. Education, Training, Youth, Culture, Research and Innovation | 6 |
| 9. Employment and Social Affairs | 7 |
| 10. Energy and Environment | 8 |
| 11. Food Safety, Public Health and Consumers | 10 |
| 12. Human Rights | 11 |
| 13. Internal Market and Single Market | 12 |
| 14. Intellectual Property | 13 |
| 15. Justice, Freedom and Security (incl. Judicial Cooperation) | 15 |
| 16. Transport | 16 |
| 17. Community Institutions, Principles and the Communities' own resources | 17 |

Highlights

Case C-301/15: JUDGMENT OF THE COURT (Third Chamber) of 16 November 2016 - Marc Soulier and Sara Doke v Premier ministre, Ministre de la Culture et de la Communication, Société française des intérêts des auteurs de l'écrit (SOFIA), Joëlle Wintrebert and Others - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, France) - Reference for a preliminary ruling — **Intellectual and industrial property rights — Directive 2001/29/EC — **Copyright and related rights** — Articles 2 and 3 — **Rights of reproduction and communication to the public** — **Scope** — **'Out-of-print' books which are not or no longer published** — National legislation giving a collecting society rights to exploit out-of-print books for commercial purposes — **Legal presumption of the authors' consent** — **Lack of a mechanism ensuring authors are actually and individually informed**
[CURIA – Judgment of the Court of Justice in Case C-301/15 of 16 November 2016](#)**

Case C-42/15: JUDGMENT OF THE COURT (Third Chamber) of 9 November 2016 - Home Credit Slovakia, a.s. v Klára Bíróová - REQUEST for a preliminary ruling under Article 267 TFEU from the Okresný súd Dunajská Streda (District Court, Dunajská Streda, Slovakia) - Reference for a preliminary ruling — Directive 2008/48/EC — **Consumer protection — **Consumer credit** — Article 1, Article 3(m), Article 10(1) and (2), Article 22(1) and Article 23 — **Interpretation of the expressions 'on paper' and 'on another durable medium'** — **Contract referring to another document** — Requirement for the agreement to be in 'written form' within the meaning of national law — Indication of information required by reference to objective criteria — **Information to be included in a fixed-term credit agreement** — **Effect of failure to include mandatory information** — Proportionality
[CURIA – Judgment of the Court of Justice in Case C-42/15 of 9 November 2016](#)**

DIRECTIVE (EU) 2016/1919 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2016 on **legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings**
[OJ of the EU, L 297/1 of 4 November 2016](#)

1. EU-Swiss Relations

No legislative or judicial activity was reported in this section for the period under review.

2. External Relations / Foreign Policy

Case Law

Case C-464/14: JUDGMENT OF THE COURT (Fifth Chamber) of 24 November 2016 - SECIL — Companhia Geral de Cal e Cimento SA v Fazenda Pública - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Tributário de Lisboa (Tax Court, Lisbon, Portugal) - Reference for a preliminary ruling — **Free movement of capital** — Articles 63 to 65 TFEU — **EC-Tunisia Association Agreement** — Articles 31, 34 and 89 — **EC-Lebanon Association Agreement** — Articles 31, 33 and 85 — **Corporation tax — Dividends received by a company established in the Member State of the beneficiary company — Dividends received from a company established in a non-member State which is party to the association agreement — Difference of treatment — Restriction — Justification — Efficacy of fiscal supervision** — Possibility of relying on Article 64 TFEU in relation to the EC-Tunisia and EC-Lebanon association agreements

[CURIA – Judgment of the Court of Justice in Case C-464/14 of 24 November 2016](#)

3. Agriculture and Fisheries / Maritime Affairs

Case Law

Joined Cases C-408/15 P and C-409/15 P: JUDGMENT OF THE COURT (Sixth Chamber) of 24 November 2016 - Ackermann Saatucht GmbH & Co. KG, established in Irlbach (Germany) (C-408/15 P) and others - ABZ Aardbeien Uit Zaad Holding BV, established in Hoorn NH (Netherlands) (C-409/15 P) and others v European Parliament and Council of the European Union - TWO APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Action for annulment** — Fourth paragraph of Article 263 TFEU — **Right to bring an action — Locus standi — Act of individual concern to natural or legal persons by reason of ‘certain attributes which are peculiar to them’** — Regulation (EU) No 511/2014 — **Measures concerning compliance by users in the Union with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation** — Regulation (EC) No 2100/94 — **Limitation of the effects of Community plant variety rights — Breeders’ exemption**

[CURIA – Judgment of the Court of Justice in Case C-408/15 of 24 November 2016](#)

4. Audiovisual and Media and Information Society

Community Legislation

COMMISSION REGULATION (EU) 2016/2015 of 17 November 2016 implementing Regulation (EC) No 808/2004 of the European Parliament and of the Council concerning **Community statistics on the information society** (Text with EEA relevance)

[OJ of the EU, L 312/1 of 18 November 2016](#)

Case Law

Case C-449/14 P: JUDGMENT OF THE COURT (First Chamber) of 10 November 2016 - DTS Distribuidora de Televisión Digital SA, established in Tres Cantos (Spain) v European Commission, Telefónica de España SA, established in Madrid (Spain), Telefónica Móviles España SA, established in Madrid (Spain), Kingdom of Spain and Corporación de Radio y Televisión Española SA (RTVE), established in Madrid (Spain) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **State aid — State aid scheme in favour of the national public broadcast organisation — Public service obligations — Set-off — Article 106(2) TFEU — **Decision declaring the aid scheme compatible with the internal market** — Alteration of the method of financing — **Tax measures — Tax imposed on pay-television operators — Decision declaring the amended aid scheme compatible with the internal market** — Taking into account of the method of financing — Existence of hypothecation between the tax and the aid scheme — **Direct impact of the revenue from the tax on the amount of the aid — Coverage of the net costs of fulfilling the public service mandate — Competitive relationship between the person liable to pay the tax and the beneficiary of the aid — Distortion of national law**
[CURIA – Judgment of the Court of Justice in Case C-449/14 of 10 November 2016](#)**

Case C-568/15: OPINION OF ADVOCATE GENERAL SZPUNAR of 10 November 2016 - Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main e.V. v comtech GmbH - Request for a preliminary ruling from the Landgericht Stuttgart (Regional Court, Stuttgart, Germany) - Directive 2011/83/EU — **Consumer protection — Communication by telephone — Operation of a telephone line by a trader to allow consumers to contact him in relation to the contract concluded** — Prohibition on applying a rate higher than the basic rate — **Concept of 'basic rate'**
[CURIA – Opinion of Advocate General in Case C-568/15 of 10 November 2016](#)

Case C-660/15 P: OPINION OF ADVOCATE GENERAL WAHL of 10 November 2016 - Viasat Broadcasting UK Ltd v European Commission - Appeal — **State aid — Aid implemented by the Danish authorities in favour of the Danish public service broadcaster TV2/Danmark — Public funding granted to offset the costs involved in the performance of public service obligations — **Decision declaring the aid compatible with the internal market** — Relationship between Articles 106(2) and 107(1) TFEU
[CURIA – Opinion of Advocate General in Case C-660/15 of 10 November 2016](#)**

Case C-536/15: OPINION OF ADVOCATE GENERAL BOT of 9 November 2016 - Tele2 (Netherlands) BV, Ziggo BV and Vodafone Libertel BV v Autoriteit Consument en Markt (ACM) - Request for a preliminary ruling by the College van Beroep voor het Bedrijfsleven (Administrative Court of Appeal for Trade and Industry, Netherlands - (Reference for a preliminary ruling — **Electronic communications networks and services** — Directive 2002/22/EC — Article 25(2) — **Telephone directory and telephone directory enquiry services** — Directive 2002/58/EC — Article 12 — **Supply of subscribers' personal data for publication in a telephone directory or for use by a telephone directory enquiry service — Form of and conditions for subscribers' consent** — Distinction on the basis of the Member State in which the telephone directory service and/or telephone directory enquiry service is provided — Principle of non-discrimination)
[CURIA – Opinion of Advocate General in Case C-536/15 of 9 November 2016](#)

5. Competition

Case Law

Case C-469/15 P: OPINION OF ADVOCATE GENERAL KOKOTT of 17 November 2016 - FSL Holdings and Others v European Commission - Appeal — **Competition — Cartels (Article 101 TFEU) — European banana market — Southern European banana cartel (Italy, Greece, Portugal) — Coordination in the fixing of prices and exchange of pricing information** — Admissibility of evidence — **Prohibitions on the use of evidence — Fortuitous discoveries — Cooperation with national authorities** — Transmission of evidence by national authorities which are not themselves competition authorities — **Rights of the defence — Effective judicial protection — Leniency Notice — Concept of the restriction of competition by object**
[CURIA – Opinion of Advocate General in Case C-469/15 of 17 November 2016](#)

Case C-449/14 P: JUDGMENT OF THE COURT (First Chamber) of 10 November 2016 - DTS Distribuidora de Televisión Digital SA, established in Tres Cantos (Spain) v European Commission, Telefónica de España SA, established in Madrid (Spain), Telefónica Móviles España SA, established in Madrid (Spain), Kingdom of Spain and Corporación de Radio y Televisión Española SA (RTVE), established in Madrid (Spain) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **State aid — State aid scheme in favour of the national public broadcast organisation — Public service obligations** — Set-off — Article 106(2) TFEU — **Decision declaring the aid scheme compatible with the internal market** — Alteration of the method of financing — **Tax measures — Tax imposed on pay-television operators — Decision declaring the amended aid scheme compatible with the internal market** — Taking into account of the method of financing — Existence of hypothecation between the tax and the aid scheme — **Direct impact of the revenue from the tax on the amount of the aid — Coverage of the net costs of fulfilling the public service mandate — Competitive relationship between the person liable to pay the tax and the beneficiary of the aid — Distortion of national law**
[CURIA – Judgment of the Court of Justice in Case C-449/14 of 10 November 2016](#)

6. Customs

International Agreements

Amendment to the Customs Convention on the International Transport of Goods Under the Cover of TIR Carnets (TIR Convention, 1975)
[OJ of the EU, L 321/31 of 29 November 2016](#)

7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

COMMISSION REGULATION (EU) 2016/2067 of 22 November 2016 **amending** Regulation (EC) No 1126/2008 adopting **certain international accounting standards** in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council **as regards International Financial Reporting Standard 9** (Text with EEA relevance)
[OJ of the EU, L 323/1 of 29 November 2016](#)

COMMISSION DELEGATED REGULATION (EU) 2016/2020 of 26 May 2016 **supplementing** Regulation (EU) No 600/2014 of the European Parliament and of the Council on **markets in financial instruments** with regard to **regulatory technical standards on criteria** for determining whether **derivatives subject to the clearing obligation** should be subject to the **trading obligation** (Text with EEA relevance)
[OJ of the EU, L 313/2 of 19 November 2016](#)

COMMISSION DELEGATED REGULATION (EU) 2016/2021 of 2 June 2016 **supplementing** Regulation (EU) No 600/2014 of the European Parliament and of the Council on **markets in financial instruments** with regard to **regulatory technical standards on access in respect of benchmarks** (Text with EEA relevance)
[OJ of the EU, L 313/6 of 19 November 2016](#)

COMMISSION DELEGATED REGULATION (EU) 2016/2022 of 14 July 2016 **supplementing** Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to **regulatory technical standards** concerning the **information for registration of third-country firms and the format of information to be provided to the clients** (Text with EEA relevance)
[OJ of the EU, L 313/11 of 19 November 2016](#)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1976 of 10 November 2016 laying down **technical information for the calculation of technical provisions and basic own funds for reporting** with reference dates from 30 September until 30 December 2016 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 309/1 of 16 November 2016](#)

GUIDELINE (EU) 2016/1993 OF THE EUROPEAN CENTRAL BANK of 4 November 2016 laying down the **principles for the coordination of the assessment** pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council and the **monitoring of institutional protection schemes including significant and less significant institutions** (ECB/2016/37)

[OJ of the EU, L 306/32 of 15 November 2016](#)

GUIDELINE (EU) 2016/1994 OF THE EUROPEAN CENTRAL BANK of 4 November 2016 on the **approach for the recognition of institutional protection schemes for prudential purposes by national competent authorities** pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council (ECB/2016/38)

[OJ of the EU, L 306/37 of 15 November 2016](#)

Case Law

Case C-464/14: JUDGMENT OF THE COURT (Fifth Chamber) of 24 November 2016 - SECIL — Companhia Geral de Cal e Cimento SA v Fazenda Pública - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Tributário de Lisboa (Tax Court, Lisbon, Portugal) - Reference for a preliminary ruling — **Free movement of capital** — Articles 63 to 65 TFEU — **EC-Tunisia Association Agreement** — Articles 31, 34 and 89 — **EC-Lebanon Association Agreement** — Articles 31, 33 and 85 — **Corporation tax — Dividends received by a company established in the Member State of the beneficiary company — Dividends received from a company established in a non-member State which is party to the association agreement — Difference of treatment — Restriction — Justification — Efficacy of fiscal supervision** — Possibility of relying on Article 64 TFEU in relation to the EC-Tunisia and EC-Lebanon association agreements

[CURIA – Judgment of the Court of Justice in Case C-464/14 of 24 November 2016](#)

Case C-68/15: OPINION OF ADVOCATE GENERAL KOKOTT of 17 November 2016 – X - Reference for a preliminary ruling from the Grondwettelijk Hof [Constitutional Court, Belgium] - **Tax legislation or fiscal legislation — Freedom of establishment** — Article 4(3) and Article 5 of Directive 2011/96/EU — **Parent-Subsidiary Directive — Taxation of companies when profits are distributed — Concept of withholding tax — ‘Fairness tax’**

[CURIA – Opinion of Advocate General in Case C-68/15 of 17 November 2016](#)

Case C-432/15: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - Odvolací finanční ředitelství v Pavlína Bašťová - REQUEST for a preliminary ruling under Article 267 TFEU from the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic) - Reference for a preliminary ruling — **Taxation — Value added tax** — Directive 2006/112/EC — Article 2(1)(c) — **Concept of ‘supply of services for consideration’** — Supply of a horse by a taxable person to the organiser of horse races — **Assessment of the consideration** — Right to deduct expenses linked to the preparation of the taxable person’s horses for the races — **General costs linked to the overall economic activity — Annex III, point 14** — Reduced rate of VAT applicable to the use of sporting facilities — Applicability to the operation of racing stables — **Transaction consisting of a single supply or several independent supplies**

[CURIA – Judgment of the Court of Justice in Case C-432/15 of 10 November 2016](#)

Case C-449/14 P: JUDGMENT OF THE COURT (First Chamber) of 10 November 2016 - DTS Distribuidora de Televisión Digital SA, established in Tres Cantos (Spain) v European Commission, Telefónica de España SA, established in Madrid (Spain), Telefónica Móviles España SA, established in Madrid (Spain), Kingdom of Spain and Corporación de Radio y Televisión Española SA (RTVE), established in Madrid (Spain) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **State aid — State aid scheme in favour of the national public broadcast organisation — Public service obligations — Set-off — Article 106(2) TFEU — Decision declaring the aid scheme compatible with the internal market — Alteration of the method of financing — Tax measures — Tax imposed on pay-television operators — Decision declaring the amended aid scheme compatible with the internal market — Taking into account of the method of financing — Existence of hypothecation between the tax and the aid scheme — Direct impact of the revenue from the tax on the amount of the aid — Coverage of the net costs of fulfilling the public service mandate — Competitive relationship between the person liable to pay the tax and the beneficiary of the aid — Distortion of national law**

[CURIA – Judgment of the Court of Justice in Case C-449/14 of 10 November 2016](#)

Case C-156/15: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - ‘Private Equity Insurance Group’ SIA v ‘Swedbank’ AS - REQUEST for a preliminary ruling under Article 267 TFEU from the Augstākā tiesas Civillietu departaments (Supreme Court, Civil Division, Latvia) - Reference for a preliminary ruling — Directive 2002/47/EC — Scope — **Definition of ‘financial collateral’, ‘relevant financial obligations’ and ‘provision’ of financial collateral — Whether it is possible to enforce financial collateral notwithstanding the commencement of insolvency proceeding — Current account agreement including a financial collateral clause**

[CURIA – Judgment of the Court of Justice in Case C-156/15 of 10 November 2016](#)

Case C-564/15: OPINION OF ADVOCATE GENERAL BOBEK of 10 November 2016 - Tibor Farkas v Nemzeti Adó-és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága - Request for a preliminary ruling from the Kecskeméti Közigazgatási és Munkaügyi Bíróság (Kecskemét Administrative and Labour Court, Hungary) - **Common system of value added tax — Directive 2006/112/EC — Reverse charge mechanism — Article 199(1)(g) — Decision of tax authorities establishing a ‘tax difference’ owed by the receiver of goods — Impossibility to deduct the input VAT — Imposition of a fine — Proportionality of the fine**

[CURIA – Opinion of Advocate General in Case C-564/15 of 10 November 2016](#)

Case C-559/15: OPINION OF ADVOCATE GENERAL BOT of 9 November 2016 - Onix Asigurări SA v Istituto per la Vigilanza Sulle Assicurazioni (IVASS) - Request for a preliminary ruling from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — Approximation of laws — **Direct insurance other than life assurance — Directive 92/49/EEC — Article 40(6) — Scope of the powers of the host Member State — Measure prohibiting the conclusion of new contracts in its territory which is imposed on an authorised insurance undertaking the director and reference shareholder of which has a criminal record**

[CURIA – Opinion of Advocate General in Case C-559/15 of 9 November 2016](#)

Case C-41/15: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - Gerard Dowling, Pádraig McManus, Piotr Skoczylas and Scotchstone Capital Fund Limited v Minister for Finance, Permanent TSB Group Holdings plc, formerly Irish Life and Permanent Group Holdings plc and Permanent TSB plc, formerly Irish Life and Permanent plc - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland) - Regulation (EU) No 407/2010 — **European Financial Stabilisation Mechanism — Implementing Decision 2011/77/EU — European Union financial assistance to Ireland — Recapitalisation of national banks — Company law — Second Directive 77/91/EEC — Articles 8, 25 and 29 — Recapitalisation of a bank by means of judicial direction order — Increase in share capital without general meeting decision and without the shares issued being offered on a pre-emptive basis to existing shareholders — Issue of new shares at a price lower than their nominal value**

[CURIA – Judgment of the Court of Justice in Case C-41/15 of 8 November 2016](#)

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

No legislative or judicial activity was reported in this section for the period under review.

9. Employment and Social Affairs

Case Law

Case C-443/15: JUDGMENT OF THE COURT (First Chamber) of 24 November 2016 - David L. Parris v Trinity College Dublin, Higher Education Authority, Department of Public Expenditure and Reform and Department of Education and Skills - REQUEST for a preliminary ruling under Article 267 TFEU from the Labour Court (Ireland) - Reference for a preliminary ruling — **Equal treatment in employment and occupation** — Directive 2000/78/EC — Article 2 — **Prohibition of discrimination on grounds of sexual orientation and age** — **National pension scheme** — **Payment of a survivor's benefit to the civil partner** — **Condition** — **Partnership contracted before the 60th birthday of the member of the scheme** — Civil partnership — **Not possible in the Member State concerned before 2010** — **Existing stable relationship** — Article 6(2) — **Justification of differences of treatment on grounds of age**

[CURIA – Judgment of the Court of Justice in Case C-443/15 of 24 November 2016](#)

Case C-454/15: JUDGMENT OF THE COURT (Second Chamber) of 24 November 2016 - Jürgen Webb-Sämann v Christopher Seagon, acting as liquidator in the insolvency of Baumarkt Praktiker DIY GmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Hessisches Landesarbeitsgericht (Higher Labour Court, Hessen, Germany) - Reference for a preliminary ruling — **Social policy** — Directive 2008/94/EC — Article 8 — **Protection of employees in the event of the insolvency of their employer** — **Provisions related to social security** — **Scope** — Measures necessary to protect immediate or prospective entitlements of employees under supplementary pension schemes — **Obligation to provide for a right to have outstanding pension contributions excluded from the scope of insolvency proceedings** — **Absence**

[CURIA – Judgment of the Court of Justice in Case C-454/15 of 24 November 2016](#)

Case C-216/15: JUDGMENT OF THE COURT (Fifth Chamber) of 17 November 2016 - Betriebsrat der Ruhrländklinik gGmbH v Ruhrländklinik gGmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesarbeitsgericht (Federal Labour Court, Germany) - Reference for a preliminary ruling — Directive 2008/104/EC — **Temporary agency work** — **Scope** — **Concept of 'worker'** — **Concept of 'economic activities'** — Nursing staff who do not have a contract of employment assigned to a health care institution by a not-for-profit association

[CURIA – Judgment of the Court of Justice in Case C-216/15 of 17 November 2016](#)

Case C-258/15: JUDGMENT OF THE COURT (Grand Chamber) of 15 November 2016 - Gorka Salaberria Sorondo v Academia Vasca de Policía y Emergencias - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco (High Court of Justice of the Autonomous Community of the Basque Country, Spain) - Reference for a preliminary ruling — **Equal treatment in employment and occupation** — Directive 2000/78/EC — Article 2(2) and Article 4(1) — **Discrimination on grounds of age** — Recruitment of police officers of the Autonomous Community of the Basque Country restricted to candidates under 35 years of age — **Concept of 'genuine and determining occupational requirement'** — **Objective pursued** — **Proportionality**

[CURIA – Judgment of the Court of Justice in Case C-258/15 of 15 November 2016](#)

Case C-548/15: JUDGMENT OF THE COURT (Sixth Chamber) of 10 November 2016 - J.J. de Lange v Staatssecretaris van Financiën - REQUEST for a preliminary ruling under Article 267 TFEU from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) - Reference for a preliminary ruling — **Social policy** — **Principles of equal treatment and of non-discrimination on grounds of age** — Directive 2000/78/EC — **Equal treatment in employment and occupation** — Articles 2, 3 and 6 — **Scope** — **Difference in treatment on grounds of age** — **National legislation capping deductions of training costs incurred after a certain age** — **Access to vocational training**

[CURIA – Judgment of the Court of Justice in Case C-548/15 of 10 November 2016](#)

10. Energy and Environment

Community Legislation

REGULATION (EU) 2016/1952 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2016 on European **statistics on natural gas and electricity prices** and repealing Directive 2008/92/EC (Text with EEA relevance)

[OJ of the EU, L 311/1 of 17 November 2016](#)

Case Law

Case C-461/14: JUDGMENT OF THE COURT (Fifth Chamber) of 24 November 2016 - European Commission v Kingdom of Spain - ACTION under Article 258 TFEU for failure to fulfil obligations - Failure of a Member State to fulfil obligations — Directive 2009/147/EC — **Conservation of wild birds — Special protection areas** — Directive 85/337/EEC — **Assessment of the effects of certain public and private projects on the environment** — Directive 92/43/EEC — **Conservation of natural habitats**

[CURIA – Judgment of the Court of Justice in Case C-461/14 of 24 November 2016](#)

Case C-645/15: JUDGMENT OF THE COURT (Sixth Chamber) of 24 November 2016 - Bund Naturschutz in Bayern eV and Harald Wilde v Freistaat Bayern and Stadt Nürnberg - REQUEST for a preliminary ruling under Article 267 TFEU from the Bayerischer Verwaltungsgerichtshof (Bavarian Higher Administrative Court, Germany) - Reference for a preliminary ruling — **Environment — Assessment of the effects of certain public and private projects on the environment** — Directive 2011/92/EU — **Project subject to assessment** — Annex I, point 7 — **European Agreement on Main International Traffic Arteries (AGR) — Widening of a road with four lanes over a length of less than 10 km**

[CURIA – Judgment of the Court of Justice in Case C-645/15 of 24 November 2016](#)

Joined Cases C-408/15 P and C-409/15 P: JUDGMENT OF THE COURT (Sixth Chamber) of 24 November 2016 - Ackermann Saatucht GmbH & Co. KG, established in Irlbach (Germany) (C-408/15 P) and others - ABZ Aardbeien Uit Zaad Holding BV, established in Hoorn NH (Netherlands) (C-409/15 P) and others v European Parliament and Council of the European Union - TWO APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **Action for annulment** — Fourth paragraph of Article 263 TFEU — **Right to bring an action — Locus standi — Act of individual concern to natural or legal persons by reason of ‘certain attributes which are peculiar to them’** — Regulation (EU) No 511/2014 — **Measures concerning compliance by users in the Union with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation** — Regulation (EC) No 2100/94 — **Limitation of the effects of Community plant variety rights — Breeders’ exemption**

[CURIA – Judgment of the Court of Justice in Case C-408/15 of 24 November 2016](#)

Affaire C-314/15: ARRÊT DE LA COUR (sixième chambre) du 23 novembre 2016 - Commission européenne contre République française - ayant pour objet un recours en manquement au titre de l’article 258 TFUE - **Manquement d’État** – Directive 91/271/CEE – **Traitement des eaux urbaines résiduaires** – Article 4, paragraphes 1 et 3 – **Traitement secondaire ou traitement équivalent**

[CURIA – Arrêt de la Cour de Justice dans l’affaire C-314/15 du 23 novembre 2016 \(FR seulement\)](#)

Case C-442/14: JUDGMENT OF THE COURT (Fifth Chamber) of 23 November 2016 - Bayer CropScience SA-NV and Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden and Makhtesim-Agan Holland BV - REQUEST for a preliminary ruling under Article 267 TFEU from the College van Beroep voor het bedrijfsleven (Administrative Court of Appeal for Trade and Industry, Netherlands) - Reference for a preliminary ruling — **Environment — Aarhus Convention** — Directive 2003/4/CE — Article 4(2) — **Public access to information — Concept of ‘information relating to emissions into the environment’** — Directive 91/414/EEC — Directive 98/8/EC — Regulation (EC) No 1107/2009 — **Placing of plant protection products and biocides on the market — Confidentiality — Protection of industrial and commercial interests**

[CURIA – Judgment of the Court of Justice in Case C-442/14 of 23 November 2016](#)

Case C-673/13 P: JUDGMENT OF THE COURT (Fifth Chamber) of 23 November 2016 - European Commission, American Chemistry Council Inc. (ACC), CropLife America Inc., National Association of Manufacturers of the United States of America (NAM), established in Washington (United States), CropLife International AISBL (CLI), established in Brussels, European Chemical Industry Council (Cefic), European Crop Protection Association (ECPA), established in Brussels, European Crop Care Association (ECCA), established in Brussels, Federal Republic of Germany v Stichting Greenpeace Nederland, established in Amsterdam (Netherlands), Pesticide Action Network Europe (PAN Europe), established in Brussels and Kingdom of Sweden - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Access to documents of the institutions — Regulation (EC) No 1049/2001 — **Environment — Aarhus Convention — Regulation (EC) No 1367/2006 — Article 6(1) — **Risk of an adverse effect on the commercial interests of a natural or legal person — Concept of ‘information relating to emissions into the environment’ — Documents relating to the authorisation procedure for an active substance contained in plant protection products** — Active substance glyphosate
[CURIA – Judgment of the Court of Justice in Case C-673/13 of 23 November 2016](#)**

Case C-348/15: JUDGMENT OF THE COURT (First Chamber) of 17 November 2016 - Stadt Wiener Neustadt v Niederösterreichische Landesregierung and .A.S.A. Abfall Service AG - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Administrative Court, Austria) - Reference for a preliminary ruling — **Assessment of the effects of certain public and private projects on the environment — Directive 85/337/EEC — Directive 2011/92/EU — **Scope — Concept of ‘specific act of national legislation’ — No environmental impact assessment** — Definitive authorisation — **Legislative regularisation a posteriori of the lack of environmental impact assessment — Principle of cooperation** — Article 4 TEU
[CURIA – Judgment of the Court of Justice in Case C-348/15 of 17 November 2016](#)**

Case C-4/16: OPINION OF ADVOCATE GENERAL CAMPOS SÁNCHEZ-BORDONA of 15 November 2016 - J.D. v Prezes Urzędu Regulacji Energetyki - Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland) - **Environment — Directive 2009/28/EC — **Renewable energy sources — Hydropower — Concept — Energy produced by a hydroelectric power station located at the point of discharge of waste water from another plant**
[CURIA – Opinion of Advocate General in Case C-4/16 of 15 November 2016](#)**

Case C-488/15: OPINION OF ADVOCATE GENERAL KOKOTT of 10 November 2016 - European Commission v Republic of Bulgaria - Failure of a Member State to fulfil obligations — Directive 2008/50/EC — **Ambient air quality — Concentration of particulate matter (PM10) in ambient air — Exceedance of limit values — General and persistent failure to fulfil obligations — **Air quality plans**
[CURIA – Opinion of Advocate General in Case C-488/15 of 15 November 2016](#)**

Case C-460/15: OPINION OF ADVOCATE GENERAL Sharpston of 10 November 2016 - Schaefer Kalk GmbH & Co. KG v Bundesrepublik Deutschland - Request for a preliminary ruling from the Verwaltungsgericht (Administrative Court, Berlin, Germany) - **Environmental policy — Directive 2003/87/EC — **Greenhouse gas emission allowance trading within the European Union** — Article 3(b) — **Definition of ‘emission’** — Regulation (EU) No 601/2012 — **Monitoring and reporting** — Carbon dioxide transferred from an installation to another installation producing precipitated calcium carbonate and chemically bound to that product
[CURIA – Opinion of Advocate General in Case C-460/15 of 10 November 2016](#)**

Case C-504/14: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - European Commission v Hellenic Republic - ACTION under Article 258 TFEU for failure to fulfil obligations - Failure of a Member State to fulfil obligations — **Environment — Nature conservation — Directive 92/43/EEC — Article 6(2) and (3) and Article 12(1)(b) and (d) — **Wild fauna and flora — Conservation of natural habitats** — Sea turtle Caretta caretta — Protection of sea turtles in the Gulf of Kyparissia — ‘Dunes of Kyparissia’ Site of Community importance — **Protection of species**
[CURIA – Judgment of the Court of Justice in Case C-504/14 of 10 November 2016](#)**

Joined Cases C-313/15 and C-530/15: JUDGMENT OF THE COURT (Third Chamber) of 10 November 2016 - Eco-Emballages SA v Sphère France SAS and others (C-313/15) - Melitta France SAS and others v Ministre de l'Écologie, du Développement durable et de l'Énergie and Industrie Cartarie Tronchetti France SAS (C-530/15) - REQUESTS for a preliminary ruling under Article 267 TFEU from the Tribunal de commerce de Paris (France) and the Conseil d'État (France) - Reference for a preliminary ruling - **Environment** - Directive 94/62/EC — Article 3 — **Packaging and packaging waste — Definition** — Rolls, tubes and cylinders around which flexible material is wound ('Roll cores') — Directive 2013/2/EU — Validity — Amendment by the European Commission of the list of examples of packaging set out in Annex I to Directive 94/62/EC — **Misinterpretation of the term 'packaging' — Misuse of implementing powers**

CURIA – Judgment of the Court of Justice in Case C-313/15 of 10 November 2016

Case C-243/15: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - Lesoochránárske zoskupenie VLK v Obvodný úrad Trenčín and Biely potok a.s. - REQUEST for a preliminary ruling under Article 267 TFEU from the Najvyšší súd Slovenskej republiky (Supreme Court of the Slovak Republic, Slovakia) - Reference for a preliminary ruling — **Environment** — Directive 92/43/EEC - **Conservation of natural habitats** — Article 6(3) — **Aarhus Convention** — **Public participation in decision-making and access to justice in environmental matters** — Articles 6 and 9 — **Charter of Fundamental Rights of the European Union** — Article 47 — **Right to effective judicial protection** — Project to construct an enclosure — Protected site 'Strážovské vrchy' — Administrative authorisation procedure — Environmental organisation — **Request for the status of party to the procedure — Rejection — Legal action**

CURIA – Judgment of the Court of Justice in Case C-243/15 of 8 November 2016

11. Food Safety, Public Health and Consumers

Community Legislation

COMMISSION DIRECTIVE (EU) 2016/2037 of 21 November 2016 **amending** Council Directive 75/324/EEC as regards the **maximum allowable pressure of aerosol dispensers** and to **adapt its labelling provisions** to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on **classification, labelling and packaging of substances and mixtures** (Text with EEA relevance)

OJ of the EU, L 314/11 of 22 November 2016

Case Law

Case C-662/15: JUDGMENT OF THE COURT (Sixth Chamber) of 24 November 2016 - Lohmann & Rauscher International GmbH & Co. KG v BIOS Medical Services GmbH, formerly BIOS Naturprodukte GmbH - REQUEST for a preliminary ruling under Article 267 TFEU from the Oberlandesgericht Düsseldorf (Higher Regional Court, Düsseldorf, Germany) - Reference for a preliminary ruling — Approximation of laws — Directive 93/42/EEC — **Medical devices — Class I device (sterile wound dressings) which has been the subject of a conformity assessment procedure by the manufacturer — Parallel imports — Addition to the labelling of information relating to the importer** — Supplementary conformity assessment procedure

CURIA – Judgment of the Court of Justice in Case C-662/15 of 24 November 2016

Case C-177/15: JUDGMENT OF THE COURT (Third Chamber) of 23 November 2016 - Nelsons GmbH v Ayonnax Nutripharm GmbH and Bachblütentreff Ltd - REQUEST for a preliminary ruling under Article 267 TFEU, from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — **Consumer information and protection** — Regulation (EC) No 1924/2006 — **Nutrition and health claims made on foods** — Transitional measures — Article 28(2) — **Products bearing trade marks or brand names existing before 1 January 2005** — 'Bach flower' remedies — **European Union mark RESCUE — Products marketed as medicinal products before January 2005 and as foodstuffs after that date**

CURIA – Judgment of the Court of Justice in Case C-177/15 of 23 November 2016

Case C-568/15: OPINION OF ADVOCATE GENERAL SZPUNAR of 10 November 2016 - Zentrale zur Bekämpfung unlauteren Wettbewerbs Frankfurt am Main e.V. v comtech GmbH - Request for a preliminary ruling from the Landgericht Stuttgart (Regional Court, Stuttgart, Germany) - Directive 2011/83/EU — **Consumer protection — Communication by telephone — Operation of a telephone line by a trader to allow consumers to contact him in relation to the contract concluded** — Prohibition on applying a rate higher than the basic rate — **Concept of ‘basic rate’**

[CURIA – Opinion of Advocate General in Case C-568/15 of 10 November 2016](#)

Case C-536/15: OPINION OF ADVOCATE GENERAL BOT of 9 November 2016 - Tele2 (Netherlands) BV, Ziggo BV and Vodafone Libertel BV v Autoriteit Consument en Markt (ACM) - Request for a preliminary ruling by the College van Beroep voor het Bedrijfsleven (Administrative Court of Appeal for Trade and Industry, Netherlands - (Reference for a preliminary ruling — **Electronic communications networks and services** — Directive 2002/22/EC — Article 25(2) — **Telephone directory and telephone directory enquiry services** — Directive 2002/58/EC — Article 12 — **Supply of subscribers’ personal data for publication in a telephone directory or for use by a telephone directory enquiry service — Form of and conditions for subscribers’ consent** — Distinction on the basis of the Member State in which the telephone directory service and/or telephone directory enquiry service is provided — Principle of non-discrimination)

[CURIA – Opinion of Advocate General in Case C-536/15 of 9 November 2016](#)

Case C-448/14: JUDGMENT OF THE COURT (Fifth Chamber) of 9 November 2016 - Davitas GmbH v Stadt Aschaffenburg and Landesrechtsanwaltschaft Bayern - REQUEST for a preliminary ruling under Article 267 TFEU from the Bayerischer Verwaltungsgerichtshof (Higher Administrative Court of Bavaria, Germany) - Reference for a preliminary ruling — **Novel foods and novel food ingredients** — Regulation (EC) No 258/97 — Article 1(2)(c) — **Concept of foods and food ingredients with a new primary molecular structure**

[CURIA – Judgment of the Court of Justice in Case C-448/14 of 9 November 2016](#)

Case C-42/15: JUDGMENT OF THE COURT (Third Chamber) of 9 November 2016 - Home Credit Slovakia, a.s. v Klára Bíróová - REQUEST for a preliminary ruling under Article 267 TFEU from the Okresný súd Dunajská Streda (District Court, Dunajská Streda, Slovakia) - Reference for a preliminary ruling — Directive 2008/48/EC — **Consumer protection — Consumer credit** — Article 1, Article 3(m), Article 10(1) and (2), Article 22(1) and Article 23 — **Interpretation of the expressions ‘on paper’ and ‘on another durable medium’ — Contract referring to another document** — Requirement for the agreement to be in ‘written form’ within the meaning of national law — Indication of information required by reference to objective criteria — **Information to be included in a fixed-term credit agreement — Effect of failure to include mandatory information** — Proportionality

[CURIA – Judgment of the Court of Justice in Case C-42/15 of 9 November 2016](#)

Case C-149/15: JUDGMENT OF THE COURT (Fifth Chamber) of 9 November 2016 - Sabrina Wathélet v Garage Bietheres & Fils SPRL - REQUEST for a preliminary ruling under Article 267 TFEU from the cour d’appel de Liège (Belgium) - Reference for a preliminary ruling — Directive 1999/44/EC — **Sale of consumer goods and associated guarantees** — Scope — **Concept of ‘seller’ — Intermediary — Exceptional circumstances**

[CURIA – Judgment of the Court of Justice in Case C-149/15 of 9 November 2016](#)

12. Human Rights

Case Law

Case C-469/15 P: OPINION OF ADVOCATE GENERAL KOKOTT of 17 November 2016 - FSL Holdings and Others v European Commission - Appeal — **Competition — Cartels (Article 101 TFEU) — European banana market — Southern European banana cartel (Italy, Greece, Portugal) — Coordination in the fixing of prices and exchange of pricing information** — Admissibility of evidence — **Prohibitions on the use of evidence — Fortuitous discoveries — Cooperation with national authorities** — Transmission of evidence by national authorities which are not themselves competition authorities — **Rights of the defence — Effective judicial protection — Leniency Notice — Concept of the restriction of competition by object**

[CURIA – Opinion of Advocate General in Case C-469/15 of 17 November 2016](#)

Affaire C-528/15: CONCLUSIONS DE L'AVOCAT GÉNÉRAL M. HENRIK SAUGMANDSGAARD ØE du 10 novembre 2016 - Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie contre Salah Al Chodor, Ajlin Al Chodor and Ajvar Al Chodor - demande de décision préjudicielle formée par le Nejvyšší správní soud (Cour administrative suprême, République tchèque) - Renvoi préjudiciel – **Critères et mécanismes de détermination de l'État membre responsable de l'examen d'une demande de protection internationale** – Règlement (UE) n° 604/2013 (Dublin III) – Article 28, paragraphe 2 – **Rétention aux fins de transfert** – Article 2, sous n) – **Risque non négligeable de fuite** – **Critères objectifs définis par la loi** – **Absence de législation nationale définissant de tels critères**

[CURIA – Conclusions de l'Avocat Général dans l'affaire C-528/15 du 10 novembre 2016 \(FR seulement\)](#)

Case C-243/15: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - Lesoochránárske zoskupenie VLK v Obvodný úrad Trenčín and Biely potok a.s. - REQUEST for a preliminary ruling under Article 267 TFEU from the Najvyšší súd Slovenskej republiky (Supreme Court of the Slovak Republic, Slovakia) - Reference for a preliminary ruling – **Environment** – Directive 92/43/EEC – **Conservation of natural habitats** – Article 6(3) – **Aarhus Convention** – **Public participation in decision-making and access to justice in environmental matters** – Articles 6 and 9 – **Charter of Fundamental Rights of the European Union** – Article 47 – **Right to effective judicial protection** – Project to construct an enclosure – Protected site 'Strážovské vrchy' – Administrative authorisation procedure – Environmental organisation – **Request for the status of party to the procedure** – **Rejection** – **Legal action**

[CURIA – Judgment of the Court of Justice in Case C-243/15 of 8 November 2016](#)

13. Internal Market and Single Market

Case Law

Case C-387/14: OPINION OF ADVOCATE GENERAL BOBEK of 24 November 2016 - Esaprojekt Sp. z o.o. v Województwo łódzkie - Request for a preliminary ruling from the Krajowa Izba Odwoławcza (National Appeals Chamber, Poland) - Directive 2004/18/EC – **Principles of non-discrimination and transparency** – **Submission by the tenderer of additional information concerning supplies not referred to in the initial offer** – **Possibility of combining the experience of two entities** – Possibility to rely on experience obtained as member of a group of undertakings – **Possibility to combine experience from multiple contracts** – **Serious misrepresentation**

[CURIA – Opinion of Advocate General in Case C-387/14 of 24 November 2016](#)

Case C-316/15: JUDGMENT OF THE COURT (Third Chamber) of 16 November 2016 - The Queen, on the application of Timothy Martin Hemming, trading as 'Simply Pleasure Ltd' and others v Westminster City Council and others - REQUEST for a preliminary ruling under Article 267 TFEU from the Supreme Court of the United Kingdom - Reference for a preliminary ruling – **Freedom to provide services** – Directive 2006/123/EC – Article 13(2) – **Authorisation procedures** – **Concept of charges which may be incurred**

[CURIA – Judgment of the Court of Justice in Case C-316/15 of 16 November 2016](#)

Case C-2/15: JUDGMENT OF THE COURT (Fifth Chamber) of 16 November 2016 - DHL Express (Austria) GmbH v Post-Control-Kommission and Bundesminister für Verkehr, Innovation und Technologie - REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Administrative Court, Austria) - Reference for a preliminary ruling – Directive 97/67/EC – Article 9 – **Postal services in the European Union** – **Obligation to make a financial contribution to the operational costs of the postal sector's regulatory authority** – Scope

[CURIA – Judgment of the Court of Justice in Case C-2/15 of 16 November 2016](#)

Case C-268/15: JUDGMENT OF THE COURT (Grand Chamber) of 15 November 2016 - Fernand Ullens de Schooten v État belge - REQUEST for a preliminary ruling under Article 267 TFEU from the Cour d'appel de Bruxelles (Court of Appeal, Brussels, Belgium) - Reference for a preliminary ruling – **Fundamental freedoms** – Articles 49, 56 and 63 TFEU – **Situation confined in all respects within a single Member State** – **Non-contractual liability of a Member State for damage caused to individuals by breaches of EU law for which the national legislature and courts are to be held responsible**

[CURIA – Judgment of the Court of Justice in Case C-268/15 of 15 November 2016](#)

Case C-660/15 P: OPINION OF ADVOCATE GENERAL WAHL of 10 November 2016 - Viasat Broadcasting UK Ltd v European Commission - Appeal — State aid — Aid implemented by the Danish authorities in favour of the Danish public service broadcaster TV2/Danmark — Public funding granted to offset the costs involved in the performance of public service obligations — Decision declaring the aid compatible with the internal market — Relationship between Articles 106(2) and 107(1) TFEU

[CURIA – Opinion of Advocate General in Case C-660/15 of 10 November 2016](#)

Case C-449/14 P: JUDGMENT OF THE COURT (First Chamber) of 10 November 2016 - DTS Distribuidora de Televisión Digital SA, established in Tres Cantos (Spain) v European Commission, Telefónica de España SA, established in Madrid (Spain), Telefónica Móviles España SA, established in Madrid (Spain), Kingdom of Spain and Corporación de Radio y Televisión Española SA (RTVE), established in Madrid (Spain) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — State aid scheme in favour of the national public broadcast organisation — Public service obligations — Set-off — Article 106(2) TFEU — Decision declaring the aid scheme compatible with the internal market — Alteration of the method of financing — Tax measures — Tax imposed on pay-television operators — Decision declaring the amended aid scheme compatible with the internal market — Taking into account of the method of financing — Existence of hypothecation between the tax and the aid scheme — Direct impact of the revenue from the tax on the amount of the aid — Coverage of the net costs of fulfilling the public service mandate — Competitive relationship between the person liable to pay the tax and the beneficiary of the aid — Distortion of national law

[CURIA – Judgment of the Court of Justice in Case C-449/14 of 10 November 2016](#)

Case C-199/15: JUDGMENT OF THE COURT (Ninth Chamber) of 10 November 2016 - Ciclat Soc. coop. V Consip SpA, Autorità per la Vigilanza sui Contratti Pubblici di lavori, servizi e forniture, Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL), Team Service SCARL, as the representative of ATI-Snam Lazio Sud Srl and Ati-Linda Srl and Consorzio Servizi Integrati - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (State Council, Italy) - Reference for a preliminary ruling — Directive 2004/18/EC — Article 45 — Articles 49 and 56 TFEU — Public procurement — Conditions for exclusion from a procedure for the award of public works contracts, public supply contracts and public service contracts — Obligations relating to the payment of social security contributions — Social security contributions payment certificate — Correction of irregularities

[CURIA – Judgment of the Court of Justice in Case C-199/15 of 10 November 2016](#)

14. Intellectual Property

Case Law

Joined Cases C-408/15 P and C-409/15 P: JUDGMENT OF THE COURT (Sixth Chamber) of 24 November 2016 - Ackermann Saatzzucht GmbH & Co. KG, established in Irlbach (Germany) (C-408/15 P) and others - ABZ Aardbeien Uit Zaad Holding BV, established in Hoorn NH (Netherlands) (C-409/15 P) and others v European Parliament and Council of the European Union - TWO APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Action for annulment — Fourth paragraph of Article 263 TFEU — Right to bring an action — Locus standi — Act of individual concern to natural or legal persons by reason of 'certain attributes which are peculiar to them' — Regulation (EU) No 511/2014 — Measures concerning compliance by users in the Union with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation — Regulation (EC) No 2100/94 — Limitation of the effects of Community plant variety rights — Breeders' exemption

[CURIA – Judgment of the Court of Justice in Case C-408/15 of 24 November 2016](#)

Case C-367/15: OPINION OF ADVOCATE GENERAL SHARPSTON of 24 November 2016 - Stowarzyszenie 'Oławska Telewizja Kablowa' w Oławie v Stowarzyszenie Filmowców Polskich w Warszawie - Request for a preliminary ruling from the Sąd Najwyższy (Supreme Court, Poland) - Intellectual and industrial property rights — Infringement — Calculation of damages — Directive 2004/48/EC — Legislation of a Member State providing for damages equivalent to two or three times the amount of the royalties which would have been due had there been an authorisation to use the intellectual property right in question

[CURIA – Opinion of Advocate General in Case C-367/15 of 24 November 2016](#)

Case C-177/15: JUDGMENT OF THE COURT (Third Chamber) of 23 November 2016 - Nelsons GmbH v Ayonnax Nutripharm GmbH and Bachblütentreff Ltd - REQUEST for a preliminary ruling under Article 267 TFEU, from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — **Consumer information and protection** — Regulation (EC) No 1924/2006 — **Nutrition and health claims made on foods** — Transitional measures — Article 28(2) — **Products bearing trade marks or brand names existing before 1 January 2005** — ‘Bach flower’ remedies — **European Union mark RESCUE** — **Products marketed as medicinal products before January 2005 and as foodstuffs after that date**

[CURIA – Judgment of the Court of Justice in Case C-177/15 of 23 November 2016](#)

Case C-301/15: JUDGMENT OF THE COURT (Third Chamber) of 16 November 2016 - Marc Soulier and Sara Doke v Premier ministre, Ministre de la Culture et de la Communication, Société française des intérêts des auteurs de l’écrit (SOFIA), Joëlle Wintrebert and Others - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — **Intellectual and industrial property rights** — Directive 2001/29/EC — **Copyright and related rights** — Articles 2 and 3 — **Rights of reproduction and communication to the public** — **Scope** — ‘**Out-of-print**’ books which are not or no longer published — National legislation giving a collecting society rights to exploit out-of-print books for commercial purposes — **Legal presumption of the authors’ consent** — **Lack of a mechanism ensuring authors are actually and individually informed**

[CURIA – Judgment of the Court of Justice in Case C-301/15 of 16 November 2016](#)

Case C-174/15: JUDGMENT OF THE COURT (Third Chamber) of 10 November 2016 - Vereniging Openbare Bibliotheken v Stichting Leenrecht, Vereniging Nederlands Uitgeversverbond, Stichting LIRA and Stichting Pictoright - REQUEST for a preliminary ruling under Article 267 TFEU from the Rechtbank Den Haag (District Court, The Hague, Netherlands) - Reference for a preliminary ruling — **Copyright and related rights** — **Rental right and lending right in respect of copyright works** — Directive 2006/115/EC — Article 1(1) — **Lending of copies of works** — Article 2(1) — **Lending of objects** — **Lending of a digital copy of a book** — **Public libraries**

[CURIA – Judgment of the Court of Justice in Case C-174/15 of 10 November 2016](#)

Case C-297/15: JUDGMENT OF THE COURT (Fifth Chamber) of 10 November 2016 - Ferring Lægemedler A/S, acting on behalf of Ferring BV v Orifarm A/S - REQUEST for a preliminary ruling under Article 267 TFEU from the Sø- og Handelsretten (Maritime and Commercial Court, Denmark) - Reference for a preliminary ruling — **Trade marks** — Directive 2008/95/EC — Article 7(2) — Medicinal products — **Parallel import** — **Partitioning of the markets** — **Need for the repackaging of the product bearing the mark** — **Medicinal product placed on the exporting market and importing market by the trade mark proprietor with the same kind of packaging**

[CURIA – Judgment of the Court of Justice in Case C-297/15 of 10 November 2016](#)

Case C-30/15 P: JUDGMENT OF THE COURT (First Chamber) of 10 November 2016 - Simba Toys GmbH & Co. KG, established in Fürth (Germany) v European Union Intellectual Property Office (EUIPO) and Seven Towns Ltd, established in London (United Kingdom) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **European Union trade mark** — **Three-dimensional mark in the shape of a cube with surfaces having a grid structure** — Application for a declaration of invalidity — Rejection of the application for a declaration of invalidity

[CURIA – Judgment of the Court of Justice in Case C-30/15 of 10 November 2016](#)

Case C-43/15 P: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - BSH Bosch und Siemens Hausgeräte GmbH, established in Munich (Germany) v European Union Intellectual Property Office (EUIPO), LG Electronics Inc., established in Seoul (South Korea) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — **EU trade mark** — **Application for registration of a figurative mark including the word elements ‘compressor technology’** — **Opposition of the proprietor of the word marks KOMPRESSOR PLUS and KOMPRESSOR** — **Partial refusal of registration** — Regulation (EC) No 207/2009 — Article 60 — Regulation (EC) No 216/96 — Article 8(3) — ‘Ancillary’ appeal — Regulation (EC) No 40/94 — Article 8(1)(b) — **Weak distinctive character of the earlier national marks** — **Likelihood of confusion**

[CURIA – Judgment of the Court of Justice in Case C-43/15 of 8 November 2016](#)

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

Community Legislation

DIRECTIVE (EU) 2016/1919 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2016 on **legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings**

[OJ of the EU, L 297/1 of 4 November 2016](#)

Case Law

Case C-469/15 P: OPINION OF ADVOCATE GENERAL KOKOTT of 17 November 2016 - FSL Holdings and Others v European Commission - Appeal — **Competition — Cartels (Article 101 TFEU) — European banana market — Southern European banana cartel (Italy, Greece, Portugal) — Coordination in the fixing of prices and exchange of pricing information** — Admissibility of evidence — **Prohibitions on the use of evidence — Fortuitous discoveries — Cooperation with national authorities** — Transmission of evidence by national authorities which are not themselves competition authorities — **Rights of the defence — Effective judicial protection — Leniency Notice — Concept of the restriction of competition by object**

[CURIA – Opinion of Advocate General in Case C-469/15 of 17 November 2016](#)

Case C-417/15: JUDGMENT OF THE COURT (Second Chamber) of 16 November 2016 - Wolfgang Schmidt v Christiane Schmidt - REQUEST for a preliminary ruling under Article 267 TFEU from the Landesgericht für Zivilrechtssachen Wien (Regional Civil Court, Vienna, Austria) - Reference for a preliminary ruling — Area of freedom, security and justice — Regulation (EU) No 1215/2012 — **Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters — Scope** — First subparagraph of Article 24(1) — **Exclusive jurisdiction in matters relating to rights in rem in immovable property** — Article 7(1)(a) — **Special jurisdiction in matters relating to a contract — Action seeking the avoidance of a contract of gift of immovable property and the removal of an entry in the land register evidencing a right of ownership**

[CURIA – Judgment of the Court of Justice in Case C-417/15 of 16 November 2016](#)

Case C-477/16 PPU: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - Ruslanas Kovalkovas - REQUEST for a preliminary ruling under Article 267 TFEU from the Rechtbank Amsterdam (District Court, Amsterdam, Netherlands) - 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(1) — **Concept of ‘judicial decision’** — Article 6(1) — **Concept of ‘issuing judicial authority’ — European arrest warrant issued by the Ministry of Justice of the Republic of Lithuania with a view to executing a custodial sentence**

[CURIA – Judgment of the Court of Justice in Case C-477/16 of 10 November 2016](#)

Case C-453/16 PPU: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - Halil Ibrahim Özçelik - REQUEST for a preliminary ruling under Article 267 TFEU from the rechtbank Amsterdam (District Court, Amsterdam, Netherlands) - 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 8(1)(c) — **Concept of ‘arrest warrant’ — Autonomous concept of EU law — National arrest warrant issued by a police service and confirmed by a public prosecutor for the purpose of criminal proceedings**

[CURIA – Judgment of the Court of Justice in Case C-453/16 of 10 November 2016](#)

Case C-452/16 PPU: JUDGMENT OF THE COURT (Fourth Chamber) of 10 November 2016 - Krzysztof Marek Poltorak - REQUEST for a preliminary ruling under Article 267 TFEU from the rechtbank Amsterdam (District Court, Amsterdam, Netherlands) - 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(1) — **Concept of ‘judicial decision’** — Article 6(1) — **Concept of ‘issuing judicial authority’ — European arrest warrant issued by the Rikspolisstyrelsen (National Police Board, Sweden) with a view to executing a custodial sentence**

[CURIA – Judgment of the Court of Justice in Case C-452/16 of 10 November 2016](#)

Case C-212/15: JUDGMENT OF THE COURT (Fifth Chamber) of 9 November 2016 - ENEFI Energiahatékonysági Nyrt v Direcția Generală Regională a Finanțelor Publice Brașov (DGRFP) - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunalul Mureș (Regional Court, Mureș, Romania) - Reference for a preliminary ruling — **Judicial cooperation in civil matters — Insolvency proceedings** — Regulation (EC) No 1346/2000 — Article 4 — **Effects provided for by legislation of a Member State on claims which were not pursued by means of insolvency proceedings — Forfeiture — Fiscal nature of the claim — No effect** — Article 15 — **Concept of ‘lawsuits pending’ — Enforcement proceedings** — Excluded

[CURIA – Judgment of the Court of Justice in Case C-212/15 of 9 November 2016](#)

Case C-618/15: OPINION OF ADVOCATE GENERAL WATHELET of 9 November 2016 - Concurrence SARL v Samsung Electronics France SAS and Amazon Services Europe Sàrl - Request for a preliminary ruling from the Cour de cassation (France) - Request for a preliminary ruling — **Judicial cooperation in civil matters** — Regulation (EC) No 44/2001 — Article 5(3) — **Jurisdiction — Matters relating to tort, delict or quasi-delict** — Selective distribution network — Prohibition on online resale outside a network — **Action for an injunction prohibiting unlawful interference — Connecting factor**

[CURIA – Opinion of Advocate General in Case C-618/15 of 9 November 2016](#)

Case C-554/14: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - Atanas Ognyanov v Sofiyska gradska prokuratura - REQUEST for a preliminary ruling under Article 267 TFEU from the Sofiyski gradski sad (Sofia City Court, Bulgaria) - Reference for a preliminary ruling — **Judicial cooperation in criminal matters** — Framework Decision 2008/909/JHA — Article 17 — **Law governing the enforcement of a sentence — Interpretation of a national rule of the executing State providing for reduction of a custodial sentence on account of work carried out by the sentenced person while detained in the issuing State** — Legal effects of framework decisions — **Obligation to interpret national law in conformity with EU law**

[CURIA – Judgment of the Court of Justice in Case C-554/14 of 8 November 2016](#)

Preparatory Acts, Reports, Calls, Memos, Common Positions

Council Resolution concerning an **updated handbook** with **recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches** with an **international dimension**, in which **at least one Member State is involved** ('EU Football Handbook') (2016/C 444/01)

[OJ of the EU, C 444/1 of 29 November 2016](#)

RECOMMENDATIONS to national courts and tribunals, in relation to the initiation of preliminary ruling proceedings (2016/C 439/01)

[OJ of the EU, C 439/1 of 25 November 2016](#)

16. Transport

Community Legislation

REGULATION (EU) 2016/2032 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2016 **amending** Regulation (EC) No 91/2003 on **rail transport statistics**, as regards the **collection of data on goods, passengers and accidents**

[OJ of the EU, L 317/105 of 23 November 2016](#)

COMMISSION DECISION (EU) 2016/1945 of 14 October 2016 on **equivalences between categories of driving licences** (notified under document C(2016) 6517) (Text with EEA relevance)

[OJ of the EU, L 302/62 of 9 November 2016](#)

Case Law

Case C-632/15: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 24 November 2016 - Costin Popescu v Guvernul României, Ministerul Afacerilor Interne, Direcția Regim Permise de Conducere și Înmatriculare a Vehiculelor, Direcția Rutieră and Serviciul Public Comunitar Regim Permise de Conducere și Înmatriculare a Vehiculelor - Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) - Reference for a preliminary ruling — **Transport — Road transport — Driving licences** — Directive 2006/126/EC — Article 13(2) — **Concept of ‘entitlement to drive granted before 19 January 2013’ — National legislation transposing that directive — Obligation to obtain a driving licence imposed on persons who had been authorised to ride mopeds without a licence before the entry into force of that legislation — Whether permitted**

[CURIA – Opinion of Advocate General in Case C-632/15 of 24 November 2016](#)

Case C-489/15: OPINION OF ADVOCATE GENERAL MENGOZZI of 24 November 2016 - CTL Logistics GmbH v DB Netz AG - Request for a preliminary ruling from the Landgericht Berlin (Germany) - **Transport — Railway infrastructure usage charges — Review as to the fairness of charges set unilaterally by an infrastructure manager in an agreement with a rail transport undertaking** — Directive 2001/14/EC — **Uniform application of the law regulating the railway sector — Principle of non-discrimination between railway undertakings**

[CURIA – Opinion of Advocate General in Case C-489/15 of 24 November 2016](#)

17. Community Institutions, Principles and the Communities’ own resources

Community Legislation

GUIDELINE (EU) 2016/1993 OF THE EUROPEAN CENTRAL BANK of 4 November 2016 laying down the **principles for the coordination of the assessment** pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council and the **monitoring of institutional protection schemes including significant and less significant institutions** (ECB/2016/37)

[OJ of the EU, L 306/32 of 15 November 2016](#)

GUIDELINE (EU) 2016/1994 OF THE EUROPEAN CENTRAL BANK of 4 November 2016 on the **approach for the recognition of institutional protection schemes for prudential purposes by national competent authorities** pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council (ECB/2016/38)

[OJ of the EU, L 306/37 of 15 November 2016](#)

COUNCIL IMPLEMENTING DECISION (EU) 2016/1989 of 11 November 2016 setting out a **recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk**

[OJ of the EU, L 306/13 of 15 November 2016](#)

Case Law

Case C-541/15: OPINION OF ADVOCATE GENERAL SZPUNAR of 24 November 2016 - Mircea Florian Freitag - Request for a preliminary ruling from the Amtsgericht Wuppertal (Local Court, Wuppertal, Germany) - Reference for a preliminary ruling — **Citizenship of the European Union — Rights to move and reside freely in the territory of the Member States** — Articles 18 and 21 TFEU — **Person holding the nationality of two Member States (Romania and the Federal Republic of Germany) who is habitually resident in Germany — Change of name acquired in Romania, at the request of the person concerned and in the absence of a change in family-law status — Refusal to recognise the change of name by the German register office** — Conformity with EU law

[CURIA – Opinion of Advocate General in Case C-541/15 of 24 November 2016](#)

Case C-68/15: OPINION OF ADVOCATE GENERAL KOKOTT of 17 November 2016 – X - Reference for a preliminary ruling from the Grondwettelijk Hof [Constitutional Court, Belgium] - **Tax legislation or fiscal legislation — Freedom of establishment** — Article 4(3) and Article 5 of Directive 2011/96/EU — **Parent-Subsidiary Directive — Taxation of companies when profits are distributed — Concept of withholding tax — ‘Fairness tax’**

[CURIA – Opinion of Advocate General in Case C-68/15 of 17 November 2016](#)

Case C-562/14 P: OPINION OF ADVOCATE GENERAL SHARPSTON of 17 November 2016 - Kingdom of Sweden v European Commission - Appeal – **Access to documents of the institutions of the European Union** – Regulation (EC) No 1049/2001 – **Exception to the right of access** – Article 4(2), third indent – **Protection of the purpose of investigations** – Documents in a file in an EU Pilot procedure – **Refusal of access – Obligation of the institution concerned to examine individually the documents referred to in the request for access**

[CURIA – Opinion of Advocate General in Case C-562/14 of 17 November 2016](#)

Case C-41/15: JUDGMENT OF THE COURT (Grand Chamber) of 8 November 2016 - Gerard Dowling, Pdraig McManus, Piotr Skoczylas and Scotchstone Capital Fund Limited v Minister for Finance, Permanent TSB Group Holdings plc, formerly Irish Life and Permanent Group Holdings plc and Permanent TSB plc, formerly Irish Life and Permanent plc - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland) - Regulation (EU) No 407/2010 — **European Financial Stabilisation Mechanism** — Implementing Decision 2011/77/EU — **European Union financial assistance to Ireland — Recapitalisation of national banks — Company law** — Second Directive 77/91/EEC — Articles 8, 25 and 29 — **Recapitalisation of a bank by means of judicial direction order — Increase in share capital without general meeting decision and without the shares issued being offered on a pre-emptive basis to existing shareholders — Issue of new shares at a price lower than their nominal value**

[CURIA – Judgment of the Court of Justice in Case C-41/15 of 8 November 2016](#)