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European Documentation Centre

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

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

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International Agreements


OJ of the EU, L 348/46 of 29 December 2017

Community Legislation

COMMISSION IMPLEMENTING DECISION (EU) 2017/2441 of 21 December 2017 on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU of the European Parliament and of the Council (Text with EEA relevance)

OJ of the EU, L 344/52 of 23 December 2017

COMMISSION IMPLEMENTING DECISION (EU) 2017/2390 of 15 December 2017 on the compliance of the unit rate for the charging zone of Switzerland for 2017 under Article 17 of Implementing Regulation (EU) No 391/2013 (notified under document C(2017) 8498) (Only the German, French and Italian texts are authentic)

OJ of the EU, L 340/51 of 20 December 2017

Case Law

Affaire C-467/16: ARRÊT DE LA COUR (deuxième chambre) du 20 décembre 2017 - rigitte Schlömp contre Landratsamt Schwäbisch Hall - ayant pour objet une demande de décision préjudicielle au titre de l’article 267 TFUE, introduite par l’Amtsgericht Stuttgart (tribunal de district de Stuttgart, Allemagne) - Renvoi préjudiciel – Espace de liberté, de sécurité et de justice – Coopération judiciaire en matière civile – Compétence judiciaire, reconnaissance et exécution des décisions en matière civile et commerciale – Convention de Lugano II – Litispendance – Notion de “juridiction” – Autorité de conciliation de droit suisse, en charge de la procédure de conciliation préalable à toute procédure au fond

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2. External Relations / Foreign Policy

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COUNCIL DECISION (EU) 2018/61 of 21 March 2017 on the signing, on behalf of the European Union, and provisional application of an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety

OJ of the EU, L 11/1 of 16 January 2018

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OJ of the EU, L 11/3 of 16 January 2018


OJ of the EU, L 8/1 of 12 January 2018
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OJ of the EU, L 348/46 of 29 December 2017

Community Legislation

COMMISSION RECOMMENDATION (EU) 2017/2338 of 16 November 2017 establishing a common ‘Return Handbook’ to be used by Member States’ competent authorities when carrying out return-related tasks
OJ of the EU, L 339/83 of 19 December 2017

Case Law

Case C-240/17: JUDGMENT OF THE COURT (Fifth Chamber) of 16 January 2018 - E - REQUEST for a preliminary ruling under Article 267 TFEU from the Korkein hallinto-oikeus (Supreme Administrative Court, Finland) - Reference for a preliminary ruling — Third-country national staying illegally in a Member State — Threat to public order and national security — Directive 2008/115/EC — Article 6(2) — Return decision — Ban on entry to the territory of the Member States — Alert for the purposes of refusing admission to the Schengen Area — Third-country national holding a valid residence permit issued by another Member State — Convention implementing the Schengen Agreement — Article 25(2) — Consultation procedure between the Member State issuing the alert and the Member State which issued the residence permit — Time limit — Failure of the Contracting State consulted to adopt a position — Consequences for the enforcement of return decisions and entry ban
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Case C-266/16: OPINION OF ADVOCATE GENERAL WATHELET of 10 January 2018 - Western Sahara Campaign UK and The Queen v Commissioners for Her Majesty’s Revenue and Customs and Secretary of State for Environment, Food and Rural Affairs - Request for a preliminary ruling from the High Court of Justice (England & Wales), Queen’s Bench Division (Administrative Court), United Kingdom - Reference for a preliminary ruling — Partnership Agreement between the European Community and the Kingdom of Morocco in the fisheries sector — Protocol setting out the fishing opportunities provided for by the agreement — Acts approving the conclusion of the agreement and of the protocol — Regulations allocating among the Member States the fishing opportunities set out by the protocol — Validity in the light of Article 3 TEU and of international law — Application to Western Sahara and the waters adjacent thereto
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3. Agriculture and Fisheries / Maritime Affairs

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4. Audiovisual and Media and Information Society

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5. **Competition**

**Community Legislation**


OJ of the EU, L 338/1 of 19 December 2017
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Case C-179/16: JUDGMENT OF THE COURT (Grand Chamber) of 23 January 2018 - F. Hoffmann-La Roche Ltd, Roche SpA, Novartis AG, and Novartis Farma SpA v Autorità Garante della Concorrenza e del Mercato, Associazione Italiana delle Unità dedicate Autonome Private di Day Surgery e dei Centri di Chirurgia Ambulatoriale (Aiudapds), Società Oftalmologica Italiana (SOI) — Associazione Medici Oculisti Italiani (AMOI), Regione Emilia-Romagna, Altoconsumo, Regione Lombardia, Coordinamento delle associazioni per la tutela dell’ambiente e dei diritti degli utenti e consumatori (Codacons) and Agenzia Italiana del Farmaco (AIFA) - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — Competition — Article 101 TFEU — Agreements, decisions and concerted practices — Medicinal products — Directive 2001/83/EC — Regulation (EC) No 726/2004 — Allegations of risks associated with the use of a medicinal product for a treatment not covered by its marketing authorisation (off-label) — Definition of relevant market — Ancillary restriction — Restriction of competition by object — Exemption

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Affaire C-525/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. NILS WAHL du 20 décembre 2017 - MEO – Serviços de Comunicações e Multimédia SA contre Autoridade da Concorrência - demande de décision préjudicielle formée par le Tribunal de la Concorrência, Regulação e Supervisão (tribunal de la concurrence, de la régulation et de la supervision, Portugal) - Renvoi préjudiciel — Position dominante — Concurrency — Abus de position dominante — Article 102, second alinéa, sous c), TFUE — Notion de “désavantage dans la concurrence” — Prix discriminatoires sur le marché en aval — Gestion des droits connexes aux droits d’auteur — Télévision payante

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CURIA – Judgment of the Court of Justice in Case C-276/16 of 20 December 2017

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CURIA – Judgment of the Court of Justice in Case C-529/16 of 20 December 2017

7. Economic and Monetary Affairs, Taxation, Enterprise

International Agreements

COUNCIL DECISION (EU) 2017/2381 of 5 December 2017 on the signing, on behalf of the Union, of the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax.

OJ of the EU, L 340/4 of 20 December 2017

Community Legislation

COMMISSION DELEGATED REGULATION (EU) 2018/72 of 4 October 2017 supplementing Regulation (EU) 2015/751 of the European Parliament and of the Council on interchange fees for card-based payment transactions with regard to regulatory technical standards establishing the requirements to be complied with by payment card schemes and processing entities to ensure the application of independence requirements in terms of accounting, organisation and decision-making process (Text with EEA relevance).

OJ of the EU, L 13/2 of 18 January 2018


OJ of the EU, L 12/2 of 17 January 2018
COMMISSION DELEGATED REGULATION (EU) 2018/64 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to specifying how the criteria of Article 20(1)(c)(iii) are to be applied for assessing whether certain events would result in significant and adverse impacts on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States (Text with EEA relevance)
OJ of the EU, L 12/5 of 17 January 2018

OJ of the EU, L 12/9 of 17 January 2018

COMMISSION DELEGATED REGULATION (EU) 2018/66 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed (Text with EEA relevance)
OJ of the EU, L 12/11 of 17 January 2018

COMMISSION DELEGATED REGULATION (EU) 2018/67 of 3 October 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to the establishment of the conditions to assess the impact resulting from the cessation of or change to existing benchmarks (Text with EEA relevance)
OJ of the EU, L 12/14 of 17 January 2018

OJ of the EU, L 348/32 of 29 December 2017

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COUNCIL REGULATION (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax
OJ of the EU, L 348/1 of 29 December 2017

OJ of the EU, L 347/1 of 28 December 2017

OJ of the EU, L 347/35 of 28 December 2017

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REGULATION (EU) 2017/2395 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2017 amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State (Text with EEA relevance)
OJ of the EU, L 345/27 of 27 December 2017

OJ of the EU, L 343/48 of 22 December 2017

OJ of the EU, L 341/1 of 20 December 2017

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OJ of the EU, L 340/6 of 20 December 2017

Case Law

CURIA – Judgment of the Court of Justice in Case C-433/15 of 24 January 2018

Case C-249/15: JUDGMENT OF THE COURT (Ninth Chamber) of 18 January 2018 - Wind 1014 GmbH and Kurt Daell v Skatteministeriet - REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (Eastern Regional Court of Appeal, Denmark) - References for a preliminary ruling — Article 56 TFEU — Freedom to provide services — Restrictions — Motor vehicle leased by a resident of one Member State from a leasing company established in another Member State — Registration tax calculated proportionately to the duration of use of the vehicle — Requirement of approval from the national tax authorities before use — Justification — Prevention of circumvention of tax rules and fraud or abuse — Safeguarding States’ powers of taxation — Proportionality
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Case C-363/16: JUDGMENT OF THE COURT (First Chamber) of 17 January 2018 - European Commission v Hellenic Republic - ACTION for failure to fulfil obligations under the second subparagraph of Article 108(2) TFEU - Failure of a Member State to fulfil obligations — State aid — Aid declared unlawful and incompatible with the internal market — Obligation to recover — Second subparagraph of Article 108(2) TFEU — Regulation (EC) No 659/1999 — Article 14(3) — Undertaking benefiting from the aid declared insolvent — Insolvency proceedings — Registration of the liabilities in the schedule of liabilities — Cessation of activities — Suspension of insolvency proceedings for the purposes of examining the prospect of relaunching the business — Obligation to provide information — Failure to perform
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Case C-676/16: JUDGMENT OF THE COURT (First Chamber) of 17 January 2018 - CORPORATE COMPANIES s.r.o. v Ministerstvo financi ČR - REQUEST for a preliminary ruling under Article 267 TFEU from the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic) - Reference for a preliminary ruling — Prevention of the use of the financial system for the purpose of money laundering and terrorist financing — Directive 2005/60/EC — Scope — Article 2(1), point 3(c) and Article 3, point 7(a) — Business activity of an undertaking consisting in the sale of companies already entered in the Register of Companies and formed solely for the purposes of sale — Sale by means of the transfer of the undertaking’s holding in the ready-made company
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Case C-650/16: OPINION OF ADVOCATE GENERAL CAMPOS SÁNCHEZ-BORDONA of 17 January 2018 - A/S Bevola and Jens W. Trock ApS v Skatteministeriet - Request for a preliminary ruling from the Østre Landsret (Eastern Regional Court, Denmark) - Preliminary-ruling proceedings — Corporation tax — Freedom of establishment — Consolidated groups — Tax legislation permitting a resident company to deduct the losses of resident permanent establishments from its taxable income but excluding that possibility for non-resident permanent establishments, unless the company has opted into the international joint taxation scheme
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Case C-462/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 December 2017 - Finanzamt Bingen-Alzey v Boehringer Ingelheim Pharma GmbH & Co. KG - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesfinanzhof (Federal Finance Court, Germany) - Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Directive 2006/112/EC — Article 90(1) — Reduction of the price under conditions determined by the Member States — Reduction of the taxable amount — Principles laid down in the judgment of 24 October 1996, Elida Gibbs (C-317/94, EU:C:1996:400) — Discounts granted to private medical insurance funds
CURIA – Judgment of the Court of Justice in Case C-462/16 of 20 December 2017

Case C-500/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Caterpillar Financial Services sp. z o.o. and Dyrektor Izby Skarbowej w Warszawie - REQUEST for a preliminary ruling under Article 267 TFEU from the Naczelný Sąd Administracyjny (Supreme Administrative Court, Poland) - Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 135(1)(a) — Exemptions — Taxes levied in breach of EU law — Obstacles to the refund of an overpayment of VAT — Article 4(3) TUE — Principles of equivalence, effectiveness and sincere cooperation — Rights conferred on individuals — Expiry of the limitation period for the tax liability — Effects of a judgment of the Court — Principle of legal certainty
CURIA – Judgment of the Court of Justice in Case C-500/16 of 20 December 2017
Joined Cases C-504/16 and C-613/16: JUDGMENT OF THE COURT (Sixth Chamber) of 20 December 2017 - Deister Holding AG, formerly Traxx Investments NV (C-504/16) and Juhler Holding A/S (C-613/16) v Bundeszentralamt für Steuern - REQUESTS for a preliminary ruling under Article 267 TFEU from the Finanzgericht Köln (Finance Court, Cologne, Germany) - References for a preliminary ruling — Direct taxation — Freedom of establishment — Directive 90/435/EEC — Article 1(2) — Article 5 – Parent company — Holding company — Withholding tax on profits distributed to a non-resident parent holding company — Exemption — Fraud, tax evasion and abuse — Presumption
CURIA – Judgment of the Court of Justice in Case C-504/16 of 20 December 2017

Case C-532/16: OPINION OF ADVOCATE GENERAL BOBEK of 20 December 2017 - Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos and Akcinė bendrovė SEB bankas - Request for a preliminary ruling from the Supreme Administrative Court, Lithuania - Reference for a preliminary ruling — Value added tax (VAT) — Adjustment of deductions — Applicability — Supply incorrectly subjected to VAT — Modification of the invoice by the supplier
CURIA – Opinion of Advocate General in Case C-532/16 of 20 December 2017

Case C-480/16: OPINION OF ADVOCATE GENERAL MENGZOZZI of 20 December 2017 - Fidelity Funds v Skatteministeriet and NN (L) SICAV - Request for a preliminary ruling from the Østre Landsret (Eastern Regional Court, Denmark) - Reference for a preliminary ruling — Freedom to provide services — Free movement of capital — Restrictions — Taxation of dividends paid to undertakings for collective investment in transferable securities (UCITS) — Dividends paid by companies resident in one Member State to undertakings resident in another Member State — Comparability of situations — Safeguarding the coherence of the tax system
CURIA – Opinion of Advocate General in Case C-480/16 of 20 December 2017

Preparatory Acts, Reports, Calls, Memos, Common Positions

COUNCIL CONCLUSIONS on the EU list of non-cooperative jurisdictions for tax purposes (2017/C 438/04)
OJ of the EU, C 438/5 of 19 December 2017

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

Case Law

Joined Cases C-616/16 and C-617/16: JUDGMENT OF THE COURT (Eighth Chamber) of 24 January 2018 - Presidenza del Consiglio dei Ministri and others v Gianni Pantuso and others (C-616/16) - Giovanna Castellano and others (C-617/16) - REQUESTS for a preliminary ruling under Article 267 TFEU from the Corte suprema di cassazione (Supreme Court of Cassation, Italy) - Reference for a preliminary ruling — Coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors — Directives 75/363/EEC and 82/76/EEC — Specialist medical training — Appropriate remuneration — Application of Directive 82/76/EEC to training begun before the prescribed deadline for the Member States to transpose it and completed after that date
CURIA – Judgment of the Court of Justice in Case C-616/16 of 24 January 2018
9. Employment and Social Affairs

Community Legislation

OJ of the EU, L 345/87 of 27 December 2017

Case Law

Case C-270/16: JUDGMENT OF THE COURT (Third Chamber) of 18 January 2018 - Carlos Enrique Ruiz Conejero v Ferroser Servicios Auxiliares SA and Ministerio Fiscal - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Social No 1 de Cuenca (Social Court No 1, Cuenca, Spain) - Reference for a preliminary ruling — Social policy — Directive 2000/78/EC — Equal treatment in employment and occupation — Article 2(2)(b)(i) — Prohibition of discrimination based on disability — National legislation permitting, subject to certain conditions, the dismissal of an employee by reason of intermittent absences, even where justified — Worker’s absences resulting from illnesses linked to his disability — Difference in treatment based on disability — Indirect discrimination — Whether justified — Combating absenteeism in the workplace — Whether appropriate — Whether proportionate
CURIA – Judgment of the Court of Justice in Case C-270/16 of 18 January 2018

Case C-45/17: JUDGMENT OF THE COURT (Tenth Chamber) of 18 January 2018 - Frédéric Jahin v Ministre de l’Économie et des Finances and Ministre des Affaires sociales et de la Santé - REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d’État (France) - Reference for a preliminary ruling — Free movement of capital — Articles 63 TFEU and 65 TFEU — Regulation (EC) No 883/2004 — Article 11 — Levies on income from assets contributing to the financing of the social security scheme of a Member State — Exemption for nationals of the European Union affiliated to a social security scheme of another Member State — Natural persons affiliated to a social security scheme of a third country — Difference of treatment — Restriction — Justification
CURIA – Judgment of the Court of Justice in Case C-45/17 of 18 January 2018

Case C-158/16: JUDGMENT OF THE COURT (Tenth Chamber) of 20 December 2017 - Margarita Isabel Vega González v Consejería de Hacienda y Sector Público del Gobierno del Principado de Asturias - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Contencioso-Administrativo n. 1 de Oviedo (Administrative Court No 1, Oviedo, Spain) - Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Principle of non-discrimination — Concept of ‘employment conditions’ — Placement on the administrative status for special service leave — National legislation providing for special leave to be granted, in case of election to public office, only to established civil servants, to the exclusion of non-established civil servants
CURIA – Judgment of the Court of Justice in Case C-158/16 of 20 December 2017
10. Energy and Environment

Community Legislation


OJ of the EU, L 349/1 of 29 December 2017
Case Law

CURIA – Opinion of Advocate General in Case C-528/16 of 18 January 2018

CURIA – Judgment of the Court of Justice in Case C-58/17 of 18 January 2018

Case C-626/16: OPINION OF ADVOCATE GENERAL KOKOTT of 11 January 2018 - European Commission v Slovak Republic - Failure to fulfil obligations — Article 260 TFEU — Failure to comply with the judgment of 25 April 2013, Commission v Slovakia (C-331/11, EU:C:2013:271) — Subject matter of the dispute — Pre-litigation procedure — Request for observations — Directive 99/31/EC — Landfill of waste — Žilina-Považský Chlmec waste site
CURIA – Opinion of Advocate General in Case C-626/16 of 11 January 2018

Case C-226/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 December 2017 - Eni SpA, Eni Gas & Power France SA and Union professionelle des industries privées du gaz (Uprigaz) v Premier ministre, Ministre de l’environnement, de l’énergie et de la mer, Storergy and Total Infrastructures Gaz France (TIGF) - Request for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — Energy — Gas industry — Security of gas supply — Regulation (EU) No 994/2010 — Obligation of natural gas undertakings to take measures to safeguard the supply of gas to protected customers — Point 1 of the second paragraph of Article 2 — Definition of ‘protected customers’ — Article 8(2) — Additional obligation — Article 8(5) — Possibility for natural gas undertakings of fulfilling their obligation at regional level or at Union level — National legislation imposing on gas suppliers an additional gas storage obligation, the scope of which includes customers who are not protected customers within the meaning of Regulation No 994/2010 — Obligation to be fulfilled, as regards 80% of the gas stored, on the territory of the Member State concerned
CURIA – Judgment of the Court of Justice in Case C-226/16 of 20 December 2017

11. Food Safety, Public Health and Consumers

Community Legislation

COMMISSION REGULATION (EU) 2018/79 of 18 January 2018 amending Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (Text with EEA relevance)
OJ of the EU, L 14/31 of 19 January 2018

OJ of the EU, L 14/6 of 19 January 2018
OJ of the EU, L 13/8 of 18 January 2018

OJ of the EU, L 345/87 of 27 December 2017

OJ of the EU, L 345/1 of 27 December 2017

Case Law

Affaire C-498/16: ARRÊT DE LA COUR (troisième chambre) du 25 janvier 2018 - Maximilian Schrems contre Facebook Ireland Limited - ayant pour objet une demande de décision préjudicielle au titre de l’article 267 TFUE, introduite par l’Oberster Gerichtshof (Cour suprême, Autriche) - Renvoi préjudiciel – Espace de liberté, de sécurité et de justice – Règlement (CE) no 44/2001 – Articles 15 et 16 – Compétence judiciaire en matière de contrats conclus par les consommateurs – Notion de “consommateur” – Cession entre consommateurs de droits à faire valoir à l’encontre d’un même professionnel
CURIA – Arrêt de la Cour de Justice dans l’affaire C-498/16 du 25 janvier 2018

Case C-483/16: OPINION OF ADVOCATE GENERAL WAHL of 16 January 2018 - Zsolt Sziber v ERSTE Bank Hungary Zrt - Request for a preliminary ruling from the Fővárosi Törvényszék (Budapest High Court, Hungary) - Consumer protection — Unfair terms in consumer contracts — Credit agreements denominated in a foreign currency — National legislation adding procedural requirements when the fairness of terms in consumer contracts is challenged
CURIA – Opinion of Advocate General in Case C-483/16 of 16 January 2018

Case C-226/16: JUDGMENT OF THE COURT (Fifth Chamber) of 20 December 2017 - Eni SpA, Eni Gas & Power France SA and Union professionnelle des industries privées du gaz (Uprigaz) v Premier ministre, Ministre de l’environnement, de l’énergie et de la mer, Storengy and Total Infrastructures Gaz France (TIGF) - Request for a preliminary ruling under Article 267 TFEU from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — Energy — Gas industry — Security of gas supply — Regulation (EU) No 994/2010 — Obligation of natural gas undertakings to take measures to safeguard the supply of gas to protected customers — Point 1 of the second paragraph of Article 2 — Definition of ‘protected customers’ — Article 8(2) — Additional obligation — Article 8(5) — Possibility for natural gas undertakings of fulfilling their obligation at regional level or at Union level — National legislation imposing on gas suppliers an additional gas storage obligation, the scope of which includes customers who are not protected customers within the meaning of Regulation No 994/2010 — Obligation to be fulfilled, as regards 80% of the gas stored, on the territory of the Member State concerned
CURIA – Judgment of the Court of Justice in Case C-226/16 of 20 December 2017
12. Human Rights

Case Law


Case C-673/16: OPINION OF ADVOCATE GENERAL WATHELET of 11 January 2018 - Relu Adrian Coman, Robert Clabourn Hamilton and Asociaţia Accept v Inspectoratul General pentru Imigrări, Ministerul Afacerilor Interne and Consiliul Național pentru Combatarea Discriminării - Request for a preliminary ruling from the Curtea Constituțională a României (Constitutional Court, Romania) - Reference for a preliminary ruling – Citizenship of the Union — Directive 2004/38/EC — Article 2(2)(a) — Concept of ‘spouse’ — Right of citizens of the Union to move and reside within the territory of the Union — Marriage between persons of the same sex — Marriage not recognised by the host State — Article 3 — Concept of ‘[other] family members’ — Article 7 — Right of residence for more than three months — Articles 7 and 21 of the Charter of Fundamental Rights of the European Union CURIA – Opinion of Advocate General in Case C-673/16 of 11 January 2018

Case C-521/15: JUDGMENT OF THE COURT (Grand Chamber) of 20 December 2017 - Kingdom of Spain v Council of the European Union and European Commission - ACTION for annulment under Article 263 TFEU - Action for annulment — Implementing Decision (EU) 2015/1289 — Imposition of a fine on a Member State in the context of economic and budgetary surveillance of the euro area — Manipulation of statistical data relating to the deficit of the Member State concerned — Jurisdiction — Regulation (EU) No 1173/2011 — Article 8(1) and (3) — Delegated Decision 2012/678/EU — Articles 2(1) and (3) and 14(2) — Regulation (EC) No 479/2009 — Articles 3(1), 8(1), 11 and 11a — Rights of defence — Charter of Fundamental Rights of the European Union — Article 41(1) — Right to good administration — Articles 121, 126 and 136 TFEU — Protocol No 12 on the excessive deficit procedure — Existence of an infringement — Misrepresentations — Determination of the fine — Principle that penal provisions may not have retroactive effect CURIA – Judgment of the Court of Justice in Case C-521/15 of 20 December 2017
Case C-277/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej and Krajowa Izba Gospodarcza Elektroniki i Telekomunikacji - REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Najwyższy (Supreme Court, Poland) - Reference for a preliminary ruling — Common regulatory framework for electronic communications networks and services — Directive 2002/21/EC — Articles 8 and 16 — Directive 2002/19/EC — Articles 8 and 13 — Operator designated as having significant market power — Price control — Obligations imposed by national regulatory authorities — Obligation to ensure cost orientation of prices — Prices set below the costs incurred by the operator concerned for the provision of voice call termination services on mobile networks — Charter of Fundamental Rights of the European Union — Article 16 — Freedom to conduct a business — Proportionality

CURIA – Judgment of the Court of Justice in Case C-277/16 of 20 December 2017

Case C-434/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Peter Nowak v Data Protection Commissioner - REQUEST for a preliminary ruling under Article 267 TFEU from the Supreme Court (Ireland) - Reference for a preliminary ruling — Protection of individuals with regard to the processing of personal data — Directive 95/46/EC — Article 2(a) — Concept of ‘personal data’ — Written answers submitted by a candidate in a professional examination — Examiner’s comments with respect to those answers — Article 12(a) and (b) — Extent of the data subject’s rights to access and rectification

CURIA – Judgment of the Court of Justice in Case C-434/16 of 20 December 2017

Affaire C-647/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. PAOLO MENGozzi du 20 décembre 2017 - Adil Hassan contre Préfet du Pas-de-Calais - demande de décision préjudicielle formée par le tribunal administratif de Lille (France) - Renvoi préjudicier — Espace de liberté, de sécurité et de justice — Frontières, asile et immigration — Demande de protection internationale — Interprétation de l’article 26 du règlement (UE) n° 604/2013 — Obligation, pour les autorités nationales ayant formulé une demande de prise en charge, de ne pas adopter de décision de transfert en l’attente de l’acceptation de la prise en charge par l’État requis

CURIA – Conclusions de l’Avocat Général dans l’affaire C-677/16 du 20 décembre 2017

13. Internal Market and Single Market

Community Legislation


OJ of the EU, L 337/17 of 19 December 2017

COMMISSION DELEGATED REGULATION (EU) 2017/2365 of 18 December 2017 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the application thresholds for the procedures for the award of contracts (Text with EEA relevance)

OJ of the EU, L 337/19 of 19 December 2017


OJ of the EU, L 337/21 of 19 December 2017


OJ of the EU, L 337/22 of 19 December 2017
Case Law

Case C-633/16: OPINION OF ADVOCATE GENERAL WAHL of 18 January 2018 - Ernst & Young P/S v Konkurrencerådet - Request for a preliminary ruling from the Sø- og Handelsretten (Maritime and Commercial Court, Denmark) - Competition — Control of concentrations between undertakings — Article 7(1) of Regulation (EC) No 139/2004 — Duty to suspend the implementation of a concentration until it has been declared compatible with the common market — Termination of a cooperation agreement by one of the merging undertakings
CURIA — Judgment of the Court of Justice in Case C-633/16 of 18 January 2018

Case C-249/15: JUDGMENT OF THE COURT (Ninth Chamber) of 18 January 2018 - Wind 1014 GmbH and Kurt Daell v Skatteministeriet - REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (Eastern Regional Court of Appeal, Denmark) - References for a preliminary ruling — Article 56 TFEU — Freedom to provide services — Restrictions — Motor vehicle leased by a resident of one Member State from a leasing company established in another Member State — Registration tax calculated proportionately to the duration of use of the vehicle — Requirement of approval from the national tax authorities before use — Justification — Prevention of circumvention of tax rules and fraud or abuse — Safeguarding States’ powers of taxation — Proportionality
CURIA — Judgment of the Court of Justice in Case C-249/15 of 18 January 2018

Case C-363/16: JUDGMENT OF THE COURT (First Chamber) of 17 January 2018 - European Commission v Hellenic Republic - ACTION for failure to fulfil obligations under the second subparagraph of Article 108(2) TFEU — Failure of a Member State to fulfil obligations — State aid — Aid declared unlawful and incompatible with the internal market — Obligation to recover — Second subparagraph of Article 108(2) TFEU — Regulation (EC) No 659/1999 — Article 14(3) — Undertaking benefiting from the aid declared insolvent — Insolvency proceedings — Registration of the liabilities in the schedule of liabilities — Cessation of activities — Suspension of insolvency proceedings for the purposes of examining the prospect of relaunching the business — Obligation to provide information — Failure to perform
CURIA — Judgment of the Court of Justice in Case C-363/16 of 17 January 2018

Case C-434/15: JUDGMENT OF THE COURT (Grand Chamber) of 20 December 2017 - Asociación Profesional Élite Taxi v Uber Systems Spain SL - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Mercantil No 3 de Barcelona (Commercial Court No 3, Barcelona, Spain) — Reference for a preliminary ruling — Article 56 TFEU — Article 58(1) TFEU — Services in the field of transport — Directive 2006/123/EC — Services in the internal market — Directive 2000/31/EC — Directive 98/34/EC — Information society services — Intermediation service to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys — Requirement for authorisation
CURIA — Judgment of the Court of Justice in Case C-434/15 of 20 December 2017

Case C-677/15 P: JUDGMENT OF THE COURT (Fourth Chamber) of 20 December 2017 - European Union Intellectual Property Office (EUIPO) v European Dynamics Luxembourg SA, established in Luxembourg (Luxembourg), Evropàïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE, established in Athens (Greece) and European Dynamics Belgium SA, established in Brussels (Belgium) — APPEAL under Article 56 of the Statute of the Court of Justice of the European Union — Appeal — Public services contracts — Provision of external services for programme and project management and technical consultancy in the field of information technologies — Cascade procedure — Weighting of sub-criteria within the award criteria — Principles of equal opportunity and transparency — Manifest errors of assessment — Failure to state reasons — Loss of opportunity — Non-contractual liability of the European Union — Claim for damages
CURIA — Judgment of the Court of Justice in Case C-677/15 of 20 December 2017
Case C-81/16 P: JUDGMENT OF THE COURT (Fourth Chamber) of 20 December 2017 - Kingdom of Spain v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — Digital television — Aid for the deployment of digital terrestrial television in remote and less urbanised areas — Subsidies granted to operators of digital terrestrial television platforms — Decision declaring the aid incompatible in part with the internal market — Concept of ‘State aid’ — Advantage — Service of general economic interest — Definition — Discretion of the Member States

CURIA – Judgment of the Court of Justice in Case C-81/16 of 20 December 2017

Case C-70/16 P: JUDGMENT OF THE COURT (Fourth Chamber) of 20 December 2017 - Comunidad Autónoma de Galicia and Redes de Telecomunicación Galegas Retelegal SA (Retelegal), established in Santiago de Compostela (Spain) v European Commission and SES Astra SA — APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — Digital television — Aid for the deployment of digital terrestrial television in remote and less urbanised areas — Subsidies granted to operators of digital terrestrial television platforms — Decision declaring the aid incompatible in part with the internal market — Concept of ‘State aid’ — Advantage — Service of general economic interest — Definition — Discretion of the Member States

CURIA – Judgment of the Court of Justice in Case C-70/16 of 20 December 2017

Joined Cases C-66/16 P to C-69/16 P: JUDGMENT OF THE COURT (Fourth Chamber) of 20 December 2017 - Comunidad Autónoma del País Vasco, Itelazpi SA, established in Zamudio (Spain) (C-66/16 P), Comunidad Autónoma de Cataluña, Centre de Telecomunicacions i Tecnologies de la Informació de la Generalitat de Catalunya (CTTI), established in Hospitalet de Llobregat (Spain) (C-67/16 P), Navarra de Servicios y Tecnologías SA, established in Pamplona (Spain) (C-68/16 P), Cellnex Telecom SA, formerly Abertis Telecom SA, established in Barcelona (Spain) and Retevisión I SA, established in Barcelona (Spain) (C-69/16 P) v European Commission and SES Astra SA — FOUR APPEALS under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — State aid — Digital television — Aid for the deployment of digital terrestrial television in remote and less urbanised areas — Subsidies granted to operators of digital terrestrial television platforms — Decision declaring the aid incompatible in part with the internal market — Concept of ‘State aid’ — Advantage — Service of general economic interest — Definition — Discretion of the Member States

CURIA – Judgment of the Court of Justice in Case C-66/16 of 20 December 2017

Case C-178/16: JUDGMENT OF THE COURT (Fourth Chamber) of 20 December 2017 - Impresa di Costruzioni Ing. E. Mantovani SpA and Guerrato SpA v Provincia autonoma di Bolzano, Agenzia per i procedimenti e la vigilanza in materia di contratti pubblici di lavori servizi e forniture (ACP), Autorità nazionale anticorruzione (ANAC), Società Italiana per Condotte d’Acqua SpA and Inso Sistemi per le Infrastrutture Sociali SpA - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — Public works contracts — Directive 2004/18/EC — Article 45(2) and (3) — Conditions for exclusion from participation in public procurement — Declaration regarding the absence of convictions of former directors of the tendering company — Criminal conduct of a former director — Criminal conviction — Actual and complete dissociation between the tendering company and that director — Evidence — Assessment by the contracting entity of the requirements relating to that obligation

CURIA – Judgment of the Court of Justice in Case C-178/16 of 20 December 2017

Case C-255/16: JUDGMENT OF THE COURT (First Chamber) of 20 December 2017 - Bent Falbert, Poul Madsen and JP/Politikens Hus A/S - REQUEST for a preliminary ruling under Article 267 TFEU from the Københavns byret (Copenhagen District Court, Denmark) - References for a preliminary ruling – Information procedure in the field of technical rules and regulations — National legislation clarifying or introducing a prohibition on unauthorised offering of gaming, lotteries and betting and introducing a prohibition on unauthorised offering of advertising for gaming, lotteries and betting

CURIA – Judgment of the Court of Justice in Case C-255/16 of 20 December 2017
Case C-322/16: JUDGMENT OF THE COURT (First Chamber) of 20 December 2017 - Global Starnet Ltd v Ministero dell’Economia e delle Finanze and Amministrazione Autonoma Monopoli di Stato - REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy) - Reference for a preliminary ruling — Freedom to provide services, freedom of establishment, free movement of capital and freedom to conduct a business — Restrictions — Award of new licences for the online operation of gaming — Principles of legal certainty and protection of legitimate expectations — Judgment of the Constitutional Court — Whether or not the national court is obliged to refer a question to the Court of Justice for a preliminary ruling
CURIA – Judgment of the Court of Justice in Case C-322/16 of 20 December 2017

Case C-203/16 P: OPINION OF ADVOCATE GENERAL WAHL of 20 December 2017 - Dirk Andres (administrator of Heitkamp BauHolding GmbH), previously Heitkamp BauHolding GmbH v European Commission - Appeal — State aid — German tax legislation concerning the possibility of carrying losses forward to future tax years — Decision declaring aid incompatible with the internal market — Action for annulment — Admissibility — Article 263, fourth paragraph, TFEU — Individual concern — Concept of State aid — Selectivity — Reference system — Comparison — Justification
CURIA – Opinion of Advocate General in Case C-203/16 of 20 December 2017


Case Law

Case C-634/16 P JUDGMENT OF THE COURT (First Chamber) of 24 January 2018 - European Union Intellectual Property Office (EUIPO) v European Food SA, established in Drăgănești (Romania) and Société des produits Nestlé SA, established in Vevey (Switzerland) - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — EU trade mark — Invalidity proceedings — Word mark FITNESS — Dismissal of the application for a declaration of invalidity
CURIA – Judgment of the Court of Justice in Case C-634/16 of 24 January 2018

CURIA – Opinion of Advocate General in Case C-488/16 of 11 January 2018

Case C-291/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Schweppes SA v Red Paralela SL, Red Paralela BCN SL, formerly Carbòniques Montaner SL, Orangina Schweppes Holding BV, Schweppes International Ltd and Exclusivas Ramirez SL - REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Mercantil nº 8 de Barcelona (Commercial Court No 8, Barcelona, Spain) - Reference for a preliminary ruling — Approximation of laws — Trade marks — Directive 2008/95/EC — Article 7(1) — Exhaustion of the rights conferred by a trade mark — Parallel trade marks — Assignment of trade marks in respect of part of the European Economic Area (EEA) — Commercial strategy deliberately promoting the image of a single global trade mark following that assignment — Independent proprietors nonetheless maintaining close commercial and economic relations
CURIA – Judgment of the Court of Justice in Case C-291/16 of 20 December 2017
Case C-393/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Comité Interprofessionnel du Vin de Champagne v Aldi Süd Dienstleistungs-GmbH & Co. OHG, represented by Aldi Süd Dienstleistungs-GmbH, formerly Aldi Einkauf GmbH & Co. OHG Süd and Galana NV - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — Common organisation of the markets in agricultural products — Protection of protected designations of origin (PDOs) — Regulation (EC) No 1234/2007 — Article 118m(2)(a)(ii), (b) and (c) — Scope — Exploitation of the reputation of a PDO — Misuse, imitation or evocation of a PDO — False or misleading indication — PDO ‘Champagne’ used in the name of a foodstuff — The name ‘Champagner Sorbet’ — Foodstuff containing champagne as an ingredient — Ingredient conferring on the foodstuff an essential characteristic

CURIA – Judgment of the Court of Justice in Case C-393/16 of 20 December 2017

Joined Cases C-397/16 and C-435/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Acacia Srl v Pneusgarda Srl, in insolvency, Audi AG (C-397/16), Acacia Srl and Rolando D’Amato v Dr. Ing. h.c. F. Porsche AG (C-435/16) - REQUESTS for a preliminary ruling under Article 267 TFEU from the Corte d’appello di Milano (Court of Appeal, Milan, Italy) and from the Bundesgerichtshof (Federal Court of Justice, Germany) - References for a preliminary ruling — Regulation (EC) No 6/2002 — Community designs — Article 110(1) — No protection — ‘Repair’ clause — Concept of ‘component part of a complex product’ — Repair of the complex product so as to restore its original appearance — Measures to be adopted by the user for the purposes of relying on the ‘repair’ clause — Replica car wheel rim identical to the original wheel rim design

CURIA – Judgment of the Court of Justice in Case C-397/16 of 20 December 2017

Case C-492/16: JUDGMENT OF THE COURT (Second Chamber) of 20 December 2017 - Incyte Corporation v Szellemi Tulajdon Nemzeti Hivatala - REQUEST for a preliminary ruling under Article 267 TFEU from the Fővárosi Törvényszék (Budapest High Court, Hungary) - Reference for a preliminary ruling — Intellectual and industrial property — Patents — Medicinal products for human use — Regulation (EC) No 469/2009 — Article 18 — Plant-protection products — Regulation (EC) No 1610/96 — Article 17(2) — Supplementary protection certificate — Duration — Fixing the date of expiry — Consequences of a judgment of the Court — Possibility or requirement to rectify the date of expiry

CURIA – Judgment of the Court of Justice in Case C-492/16 of 20 December 2017

Affaire C-525/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. NILS WAHL du 20 décembre 2017 - MEO – Serviços de Comunicações e Multimédia SA contre Autoridade da Concorrência - demande de décision préjudicielle formée par le Tribunal da Concorrência, Regulação e Supervisão (tribunal de la concurrence, de la régulation et de la supervision, Portugal) - Renvoi préjudiciel — Position dominante — Conurrence — Abus de position dominante — Article 102, second alinéa, sous c), TFUE — Notion de “désavantage dans la concurrence” — Prix discriminatoires sur le marché en aval — Gestion des droits connexes aux droits d’auteur — Télévision payante

CURIA – Conclusions de l’Avocat Général dans l’affaire C-525/16 du 20 décembre 2017


Community Legislation

COUNCIL DECISION (CFSP) 2017/2370 of 18 December 2017 in support of The Hague Code of Conduct and ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction

OJ of the EU, L 337/28 of 19 December 2017
CURIA – Arrêt de la Cour de Justice dans l’affaire C-360/16 du 25 janvier 2018

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CURIA – Conclusions de l’Avocat Général dans l’affaire C-647/16 du 20 décembre 2017

16. Transport

International Agreements

COUNCIL DECISION (EU) 2018/61 of 21 March 2017 on the signing, on behalf of the European Union, and provisional application of an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety

OJ of the EU, L 11/1 of 16 January 2018

AMENDMENT 1 to the Agreement on cooperation in the regulation of civil aviation safety between the European Community and the United States of America

OJ of the EU, L 11/3 of 16 January 2018

DECISION No 1/2017 OF THE EU-EFTA JOINT COMMITTEE ON COMMON TRANSIT of 5 December 2017 amending the Convention of 20 May 1987 on a common transit procedure

[2018/29]

OJ of the EU, L 8/1 of 12 January 2018


[2017/2465]

OJ of the EU, L 348/46 of 29 December 2017

Community Legislation


OJ of the EU, L 350/7 of 29 December 2017


OJ of the EU, L 349/1 of 29 December 2017


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Case C-530/16: OPINION OF ADVOCATE GENERAL BOBEK of 23 January 2018 - European Commission v Republic of Poland - Failure to fulfil obligations — Directive 2004/49/EC on safety on the Community’s railway undertakings — Article 21(1) — Independence of the investigating body in its organisation, legal structure and decision-making — Independence from any infrastructure manager, railway undertaking and any party whose interests could conflict with the tasks entrusted to the investigating body — Independence from the Minister responsible for transport CURIA – Opinion of Advocate General in Case C-530/16 of 23 January 2018

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

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