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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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COUNCIL DECISION (EU) 2018/219 of 23 January 2018 on the conclusion of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems
OJ of the EU, L 43/1 of 16 February 2018

Case C-25/17: OPINION OF ADVOCATE GENERAL MENGÓZZI of 1 February 2018 – Tietosuojavaltuutettu v Jehovan todistajat – uskonollinen yhdyskunta - Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) - Reference for a preliminary ruling - Protection of individuals with regard to the processing of personal data — Directive 95/46/EC — Scope — Definition of purely personal or household activity — Data collected and processed by the members of a religious community in the context of their door-to-door proselytising — Freedom of religion - Article 10(1) of the Charter of Fundamental Rights of the European Union - Definition of filing system — Definition of controller of the processing of personal data
CURIA – Opinion of Advocate General in Case C-25/17 of 1 February 2018

Case C-106/17: JUDGMENT OF THE COURT (Eighth Chamber) of 31 January 2018 - Paweł Hofsoe v LVM Landwirtschaftlicher Versicherungsverein Münster AG - REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Okręgowy w Szczecinie (Szczecin Regional Court, Poland) - Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation (EU) No 1215/2012 — Article 11(1)(b) and Article 13(2) — Jurisdiction in insurance matters — Scope ratione personae — Concept of ‘injured party’ — Professional in the insurance sector — Not included
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1. EU-Swiss Relations

International Agreements

COUNCIL DECISION (EU) 2018/219 of 23 January 2018 on the conclusion of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems. OJ of the EU, L 43/1 of 16 February 2018

2. External Relations / Foreign Policy

International Agreements

COUNCIL DECISION (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled. OJ of the EU, L 48/1 of 21 February 2018

MARRAKESH TREATY to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled. OJ of the EU, L 48/3 of 21 February 2018

3. Agriculture and Fisheries / Maritime Affairs

Community Legislation


Case Law


Case C-44/17: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 22 February 2018 - The Scotch Whisky Association, The Registered Office v Michael Klotz - Request for a preliminary ruling from the Landgericht Hamburg (Regional Court, Hamburg, Germany) - Reference for a preliminary ruling — Approximation of laws — Protection of geographical indications of spirit drinks — Regulation (EC) No 110/2008 — Article 16(a), (b) and (c) — Annex III — Registered geographical indication ‘Scotch Whisky’ — Whisky produced in Germany and marketed under the designation ‘Glen Buchenbach’ — Concept of ‘indirect use’ of a registered geographical indication — Concept of ‘evocation’ of a registered geographical indication — Concept of ‘false or misleading indication’ — Requirement for identity with the indication, phonetic and/or visual similarity, or some kind of association of ideas in the mind of the relevant consumer — Taking account of the context in which the designation at issue is embedded. CURIA – Opinion of Advocate General in Case C-44/17 of 22 February 2018
CURIA – Conclusions de l’Avocat Général dans l’affaire C-667/16 du 21 février 2018

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4. Audiovisual and Media and Information Society

Community Legislation

COMMISSION IMPLEMENTING REGULATION (EU) 2018/151 off 30 January 2018 laying down rules for application of Directive (EU) 2016/1148 of the European Parliament and of the Council as regards further specification of the elements to be taken into account by digital service providers for managing the risks posed to the security of network and information systems and of the parameters for determining whether an incident has a substantial impact
OJ of the EU, L 26/48 of 31 January 2018

Case Law

Case C-132/17: JUDGMENT OF THE COURT (Ninth Chamber) of 21 February 2018 - Peugeot Deutschland GmbH v Deutsche Umwelthilfe eV - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — Freedom to provide services — Directive 2010/13/EU — Definitions — Concept of ‘audiovisual media service’ — Scope — Channel available on YouTube for videos promoting new passenger cars
CURIA – Judgment of the Court of Justice in Case C-132/17 of 21 February 2018

Case C-123/16 P: OPINION OF ADVOCATE GENERAL WATHELET of 21 February 2018 - Orange Polska S.A. v European Commission — Appeal — Competition — Abuse of a dominant position — Polish telecommunications market — Legitimate interest in finding that an infringement has been committed in the past when a fine is imposed — Calculation of the fine — Gravity — Taking into account the effects of the infringement — Mitigating circumstances
CURIA – Opinion of Advocate General in Case C-123/16 of 21 February 2018

Case C-304/16: JUDGMENT OF THE COURT (First Chamber) of 7 February 2018 - The Queen, on the application of: American Express Company v The Lords Commissioners of Her Majesty’s Treasury, Diners Club International Limited and MasterCard Europe SA - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Queen’s Bench Division (Administrative Court) (United Kingdom) - Reference for a preliminary ruling — Regulation (EU) 2015/751 — Interchange fees for card-based payment transactions — Article 1(5) — Three party payment card scheme treated as equivalent to a four party payment card scheme — Conditions — Issuance by a three party payment card scheme of card-based payment instruments ‘with a co-branding partner or through an agent’ — Article 2(18) — Concept of ‘three party payment card scheme’ — Validity
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Case C-643/16: JUDGMENT OF THE COURT (First Chamber) of 7 February 2018 - The Queen, on the application of: American Express Company v The Lords Commissioners of Her Majesty’s Treasury, Diners Club International Limited and MasterCard Europe SA - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Queen’s Bench Division (Administrative Court) (United Kingdom) - Reference for a preliminary ruling — Directive (EU) 2015/2366 — Payment services in the internal market — Article 35(1) — Obligation to provide authorised or registered payment service providers with access to payment systems — Point (b) of the first subparagraph of Article 35(2) — Inapplicability of that obligation to payment systems composed exclusively of payment service providers belonging to a group — Applicability of that obligation to three party payment card schemes that have entered into co-branding or agency arrangements — Validity
CURIA – Judgment of the Court of Justice in Case C-643/16 of 7 February 2018

Case C-25/17: OPINION OF ADVOCATE GENERAL MENGÖZI of 1 February 2018 – Tietosuojavaltuutettu v Jehovan todistajat — uskonnollinen yhdyskunta - Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) - Reference for a preliminary ruling — Protection of individuals with regard to the processing of personal data — Directive 95/46/EC — Scope — Definition of purely personal or household activity — Data collected and processed by the members of a religious community in the context of their door-to-door proselytising — Freedom of religion — Article 10(1) of the Charter of Fundamental Rights of the European Union — Definition of filing system — Definition of controller of the processing of personal data
CURIA – Opinion of Advocate General in Case C-25/17 of 1 February 2018

Joined Cases C-360/15 and C-31/16: JUDGMENT OF THE COURT (Grand Chamber) of 30 January 2018 - College van Burgemeester en Wethouders van de gemeente Amersfoort v X BV (C-360/15) and Visser Vastgoed Beleggingen BV v Raad van de gemeente Appingedam (C-31/16) - REQUESTS for a preliminary ruling under Article 267 TFEU, made by the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) (C-360/15) and by the Raad van State (Council of State, Netherlands) (C-31/16) - Reference for a preliminary ruling — Services in the internal market — Directive 2006/123/EC — Scope — Article 2(2)(c) — Exclusion of electronic communications services and networks — Article 4(1) — Concept of ‘service’ — Retail trade in goods — Chapter III — Freedom of establishment of service providers — Applicability in purely internal situations — Article 15 — Requirements to be evaluated — Territorial restriction — Zoning plan prohibiting the activity of retail trade in goods other than bulky goods in geographical zones situated outside the city centre — Protection of the urban environment — Authorisation of electronic communications services and networks — Directive 2002/20/EC — Financial payments attached to rights to install facilities for a public electronic communications network
CURIA – Judgment of the Court of Justice in Case C-360/16 of 30 January 2018

5. Competition

Case Law

Case C-123/16 P: OPINION OF ADVOCATE GENERAL WATHELET of 21 February 2018 - Orange Polska S.A. v European Commission - Appeal — competition — Abuse of a dominant position — Polish telecommunications market — Legitimate interest in finding that an infringement has been committed in the past when a fine is imposed — Calculation of the fine — Gravity — Taking into account the effects of the infringement — Mitigating circumstances
CURIA – Opinion of Advocate General in Case C-123/16 of 21 February 2018

Case C-144/17: JUDGMENT OF THE COURT (Sixth Chamber) of 8 February 2018 - Lloyd’s of London v Agenzia Regionale per la Protezione dell’Ambiente della Calabria - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale amministrativo regionale per la Calabria (Regional Administrative Court, Calabria, Italy) - Reference for a preliminary ruling — Public procurement — Articles 49 and 56 TFEU — Directive 2004/18/EC — Reasons for exclusion from a tendering procedure — Insurance services — Participation of several Lloyd’s of London syndicates in the same tendering procedure — Signature of tenders by the Lloyd’s of London General Representative for the country concerned — Principles of transparency, equal treatment and non-discrimination — Proportionality
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Affaire C-261/16 P: ARRÊT DE LA COUR (sixième chambre) du 1er février 2018 - Kühne + Nagel International AG, établie à Feusisberg (Suisse), Kühne + Nagel Management AG, établie à Feusisberg, Kühne + Nagel Ltd, établie à Uxbridge (Royaume-Uni), Kühne + Nagel Ltd, établie à Shanghai (Chine) et Kühne + Nagel Ltd, établie à Hong-Kong (Chine) contre Commission européenne - ayant pour objet un pourvoi au titre de l'article 56 du statut de la Cour de justice de l'Union européenne - Pourvoi – Concurrence – Ententes – Article 101 TFUE – Fixation de prix – Services de transit aérien international – Accord de tarification ayant une incidence sur le prix final des services
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Case C-271/16 P: JUDGMENT OF THE COURT (Sixth Chamber) of 1 February 2018 - Panalpina World Transport (Holding) Ltd, established in Basle (Switzerland), Panalpina Management AG, established in Basle and Panalpina China Ltd, established in Hong Kong (China) v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Competition — Agreements, decisions and concerted practices — Article 101 TFUE — Price fixing — International air freight forwarding services — Tariff agreement affecting the final price of services
CURIA – Judgment of the Court of Justice in Case C-271/16 of 1 February 2018

Case C-264/16 P: JUDGMENT OF THE COURT (Sixth Chamber) of 1 February 2018 - Deutsche Bahn AG, established in Berlin (Germany), Schenker AG, established in Essen (Germany), Schenker China Ltd, established in Shanghai (China) and Schenker International (H.K.) Ltd, established in Hong Kong (China) v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Competition — Agreements, decisions and concerted practices — Article 101 TFUE — Price fixing — International air freight forwarding services — Pricing agreement affecting the final price of the services
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6. Customs

Case Law

CURIA – Judgment of the Court of Justice in Case C-545/16 of 22 February 2018

Case C-185/17: JUDGMENT OF THE COURT (Tenth Chamber) of 22 February 2018 - Mitnitsa Varna v SAKSA OOD and Okrazhna prokuratura — Varna - REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad — Varna (Varna Administrative Court, Bulgaria) - Reference for a preliminary ruling — Common Customs Tariff — Classification of goods — Harmonised European standard EN 590:2013 — Subheading 2710 19 43 of the Combined Nomenclature — Relevant criteria for the classification of goods as gas oil
CURIA – Judgment of the Court of Justice in Case C-185/17 of 22 February 2018
7. Economic and Monetary Affairs, Taxation, Enterprise

Community Legislation

REGULATION (EU) 2018/231 OF THE EUROPEAN CENTRAL BANK of 26 January 2018 on statistical reporting requirements for pension funds (ECB/2018/2)
OJ of the EU, L 45/3 of 17 February 2018

OJ of the EU, L 34/1 of 8 February 2018

Case Law

Case C-396/16: JUDGMENT OF THE COURT (First Chamber) of 22 February 2018 - T-2, družba za ustvarjanje, razvoj in trženje elektronskih komunikacij in opreme, d.o.o., in insolvenca v Republika Slovenija - REQUEST for a preliminary ruling under Article 267 TFEU from the Vrhovno sodišče Republike Slovenije (Supreme Court of the Republic of Slovenia) - Reference for a preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Articles 184 and 185 — Adjustment of the deduction of input tax paid — Change in the factors used to determine the amount to be deducted — Notion of ‘transactions remaining totally or partially unpaid’ — Effect of a decision approving an arrangement with creditors having the force of res judicata
CURIA – Judgment of the Court of Justice in Case C-396/16 of 22 February 2018

Joined Cases C-398/16 and C-399/16: JUDGMENT OF THE COURT (First Chamber) of 22 February 2018 - X BV (C-398/16) and X NV (C-399/16) v Staatssecretaris van Financiën - TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) - Reference for a preliminary ruling — Articles 49 and 54 TFEU — Freedom of establishment — Tax legislation — Corporation tax — Advantages linked to the formation of a single tax entity — Exclusion of cross-border groups
CURIA – Judgment of the Court of Justice in Case C-398/16 of 22 February 2018

Case C-182/17: JUDGMENT OF THE COURT (Seventh Chamber) of 22 February 2018 - Nagyszénás Településszolgáltatási Nonprofit Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága - REQUEST for a preliminary ruling under Article 267 TFEU from the Kúria (Supreme Court, Hungary) - Reference for a preliminary ruling — Value added tax (VAT) — Directive 2006/112/EC — Article 2(1)(c), Article 9 and Article 13(1) — Treatment as a non-taxable person — Definition of ‘body governed by public law’ — Commercial company 100% owned by a municipality and responsible for performing certain public tasks incumbent on that municipality — Those tasks and their remuneration determined in a contract between the company and the municipality
CURIA – Judgment of the Court of Justice in Case C-182/17 of 22 February 2018

Case C-665/16: OPINION OF ADVOCATE GENERAL BOBEK of 22 February 2018 - Minister Finansów v Gmina Wrocław - Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland) - Reference for a preliminary ruling — Common system of value added tax — Directive 2006/112/EC — Taxable transactions — Article 2(1)(a) — Supply of goods for consideration — Article 14(2)(b) — Transfer of the ownership of property for compensation by order of a public authority — Expropriation of municipal immovable property
CURIA – Opinion of Advocate General in Case C-665/16 of 22 February 2018
Case C-31/17: OPINION OF ADVOCATE GENERAL TANCHEV of 22 February 2018 - Cristal Union, the legal successor to Sucrerie de Toury SA v Ministre de l’Économie et des Finances - Request for a preliminary ruling from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — Directive 2003/96/EC — Taxation of energy products and electricity — Article 14(1)(a) — Compulsory exemption from taxation of energy products used to produce electricity — Article 15(1)(c) — Power of Member States to apply total or partial exemptions or reductions in the level of taxation to energy products used for combined heat and power generation — Joint application of Article 14(1)(a) and Article 15(1)(c)
CURIA – Opinion of Advocate General in Case C-31/17 of 22 February 2018

CURIA – Conclusions de l’Avocat Général dans l’affaire C-49/17 du 22 février 2018

Affaire C-28/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MANUEL CAMPOS SÁNCHEZ-BORDONA du 21 février 2018 - NN A/S contre Skatteministeriet - demande de décision préjudicielle formée par l’Østre Landsret (cour d’appel de la région Est, Danemark) - Renvoi préjudiciel – Impôt sur les sociétés – Liberté d’établissement – Réglementation nationale soumettant le droit d’une société appartenant à un groupe fiscal de déduire les pertes subies par un établissement stable appartenant à une société non résidente du même groupe à la condition que la société non résidente ne puisse pas déduire ces pertes de l’assiette de l’impôt sur les sociétés dans son pays de résidence – Prévention de la double déduction
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Case C-628/16: JUDGMENT OF THE COURT (Ninth Chamber) of 21 February 2018 - Kreuzmayr GmbH v Finanzamt Linz - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesfinanzgericht (Federal Finance Court, Austria) - Reference for a preliminary ruling — Taxation — Value added tax (VAT) — Successive supplies relating to the same goods — Place of the second supply — Information provided by the first supplier — VAT identification number — Right to deduct — Legitimate expectation on the part of the taxable person regarding the existence of the conditions giving rise to the right to deduct
CURIA – Judgment of the Court of Justice in Case C-628/16 of 21 February 2018

CURIA – Arrêt de la Cour de Justice dans l’affaire C-380/16 du 8 février 2018

Case C-590/16: JUDGMENT OF THE COURT (Sixth Chamber) of 8 February 2018 - European Commission v Hellenic Republic - ACTION for failure to fulfil obligations under Article 258 TFEU - Failure of a Member State to fulfil obligations — Directive 2008/118/EC — Article 7 — General arrangements for excise duty — Supply of petroleum products, without charging excise duty — Filling stations at the border of the Hellenic Republic with third countries — Chargeability of excise duty — Concept of ‘release for consumption’ of excise goods — Concept of ‘departure from a duty suspension arrangement’
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Case C-304/16: JUDGMENT OF THE COURT (First Chamber) of 7 February 2018 - The Queen, on the application of: American Express Company v The Lords Commissioners of Her Majesty’s Treasury, Diners Club International Limited and MasterCard Europe SA - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Queen’s Bench Division (Administrative Court) (United Kingdom) - Reference for a preliminary ruling — Regulation (EU) 2015/751 — Interchange fees for card-based payment transactions — Article 1(5) — Three party payment card scheme treated as equivalent to a four party payment card scheme — Conditions — Issuance by a three party payment card scheme of card-based payment instruments ‘with a co-branding partner or through an agent’ — Article 2(18) — Concept of ‘three party payment card scheme’ — Validity
CURIA – Judgment of the Court of Justice in Case C-304/16 of 7 February 2018

Case C-643/16: JUDGMENT OF THE COURT (First Chamber) of 7 February 2018 - The Queen, on the application of: American Express Company v The Lords Commissioners of Her Majesty’s Treasury, Diners Club International Limited and MasterCard Europe SA - REQUEST for a preliminary ruling under Article 267 TFEU from the High Court of Justice (England & Wales), Queen’s Bench Division (Administrative Court) (United Kingdom) - Reference for a preliminary ruling — Directive (EU) 2015/2366 — Payment services in the internal market — Article 35(1) — Obligation to provide authorised or registered payment service providers with access to payment systems — Point (b) of the first subparagraph of Article 35(2) — Inapplicability of that obligation to payment systems composed exclusively of payment service providers belonging to a group — Applicability of that obligation to three party payment card schemes that have entered into co-branding or agency arrangements — Validity
CURIA – Judgment of the Court of Justice in Case C-643/16 of 7 February 2018

Affaire C-685/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 7 février 2018 – EV contre Finanzamt Lippstadt - demande de décision préjudicielle formée par le Finanzgericht Münster (tribunal des finances de Münster, Allemagne) - Renvoi préjudiciel — Libre circulation des capitaux — Déduction de bénéfices imposables — Traitement différencié de dividendes provenant de filiales avec direction et siège dans un pays tiers
CURIA – Conclusions de l’Avocat Général dans l’affaire C-685/16 du 7 février 2018

CURIA – Conclusions de l’Avocat Général dans l’affaire C-30/17 du 1er février 2018

Affaire C-39/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. PAOLO MENGOZZI du 31 janvier 2018 - Lubrizol France SAS contre Caisse nationale du Régime social des indépendants (RSI) participations extérieures - demande de décision préjudicielle formée par la Cour de cassation (France) - Renvoi préjudiciel — Libre circulation des marchandises — Articles 28 et 30 TFUE – Taxe d’effet équivalent – Article 110 TFUE — Imposition intérieure — Contribution sociale de solidarité et contribution additionnelle — Taxe ayant pour assiette le chiffre d’affaires annuel global des sociétés — Inclusion dans le chiffre d’affaires de la valeur des biens transférés à destination d’un autre État membre
CURIA – Conclusions de l’Avocat Général dans l’affaire C-39/17 du 31 janvier 2018

Joined Cases C-660/16 and C-661/16: OPINION OF ADVOCATE GENERAL WAHL of 30 January 2018 - Finanzamt Dachau v Achim Kollroß (C-660/16) and Finanzamt Göppingen v Erich Wirtl (C-661/16) - Requests for a preliminary ruling from the Bundesfinanzhof (Federal Finance Court, Germany) - Taxation — Common system of value added tax — Directive 2006/112/EC — Article 65 — Payment made on account — Deduction — Uncertainty regarding the chargeable event — Articles 184 to 186 — Adjustment of deductions — Reimbursement of the VAT unduly paid — National procedures
CURIA – Opinion of Advocate General in Case C-660/16 of 30 January 2018

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**

**International Agreements**

COUNCIL DIRECTIVE (EU) 2018/131 of 23 January 2018 implementing the Agreement concluded by the European Community Shipowners’ Associations (ECSA) and the European Transport Workers’ Federation (ETF) to amend Directive 2009/13/EC in accordance with the amendments of 2014 to the Maritime Labour Convention, 2006, as approved by the International Labour Conference on 11 June 2014 (Text with EEA relevance)

OJ of the EU, L 22/28 of 26 January 2018

**Case Law**

Case C-103/16: JUDGMENT OF THE COURT (Third Chamber) of 22 February 2018 - Jessica Porras Guisado v Bankia SA, Sección Sindical de Bankia de CCOO, Sección Sindical de Bankia de UGT, Sección Sindical de Bankia de ACCAM, Sección Sindical de Bankia de SATE, Sección Sindical de Bankia de CSICA, Fondo de Garantía Salarial (Fogasa) and Ministerio Fiscal - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Cataluña (High Court of Justice of Catalonia, Spain) - Reference for a preliminary ruling — Social policy — Directive 92/85/EEC — Measures to encourage improvements in the safety and health of pregnant workers and workers who have recently given birth or are breastfeeding — Article 2(a) — Article 10(1) to (3) — Prohibition of dismissal of a worker during the period from the beginning of her pregnancy to the end of her maternity leave — Scope — Exceptional cases not connected with the pregnant worker’s condition — Directive 98/59/EC — Collective redundancies — Article 1(1)(a) — Reasons not related to the individual workers concerned — Pregnant worker dismissed in the context of a collective redundancy procedure — Reasons for the dismissal — Priority for retention of the post of the pregnant worker — Priority for redeployment

CURIA – Judgment of the Court of Justice in Case C-103/16 of 22 February 2018


CURIA – Judgment of the Court of Justice in Case C-518/15 of 21 February 2018


CURIA – Judgment of the Court of Justice in Case C-359/16 of 6 February 2018

Affaire C-679/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. PAOLO MENGÖZI du 31 janvier 2018 – A demande de décision préjudicielle formée par le Korkein hallinto-oikeus (Cour administrative suprême, Finlande) - Renvoi préjudiciel — Articles 20 et 21 TFUE – Citoyenneté de l’Union — Libre circulation des personnes — Sécurité sociale — Règlement (CE) n° 883/2004 – Assistance sociale – Prestations de maladie – Services aux personnes handicapées — Obligation ou non d’une commune d’un État membre de fournir à l’un de ses résidents des aides individuelles prévues par la législation nationale pendant les études supérieures que celui-ci effectue dans un autre État membre

CURIA – Conclusions de l’Avocat Général dans l’affaire C-679/16 du 31 Janvier 2018
Case C-527/16: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 31 January 2018 - Salzburger Gebietskrankenkasse, and Bundesminister für Arbeit, Soziales und Konsumentenschutz v Alpenrind GmbH, Martin-Meat Szolgáltató és Kereskedelmi Kft, Martimpex-Meat Kft, Pensionsversicherungsanstalt and Allgemeine Unfallversicherungsanstalt - Request for a preliminary ruling from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) - Reference for a preliminary ruling - Migrant workers - Social security - Workers posted to a Member State other than that of the establishment of their employer - Regulation (EC) No 987/2009 - Article 5(1) and Article 19(2) - Portable document A1 - Binding effect - Decision of the Administrative Commission for the Coordination of Social Security Systems that the portable document A1 should be withdrawn - Retroactive effect of the portable document A1 - Portable document A1 issued after the worker became subject to the social security system of the host Member State - Regulation (EC) No 883/2004 - Article 12(1) - ‘Non-replacement condition’ applicable to the posted persons

CURIA – Opinion of Advocate General in Case C-527/16 of 31 January 2018

10. Energy and Environment

International Agreements

COUNCIL DECISION (EU) 2018/219 of 23 January 2018 on the conclusion of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems
OJ of the EU, L 43/1 of 16 February 2018

Community Legislation

COMMISSION IMPLEMENTING REGULATION (EU) 2018/258 of 21 February 2018 amending Implementing Regulation (EU) No 725/2011 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance)
OJ of the EU, L 49/1 of 22 February 2018

COMMISSION IMPLEMENTING REGULATION (EU) 2018/259 of 21 February 2018 amending Implementing Regulation (EU) No 427/2014 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance)
OJ of the EU, L 49/9 of 22 February 2018

OJ of the EU, L 39/5 of 13 February 2018

COMMISSION REGULATION (EU) 2018/208 of 12 February 2018 amending Regulation (EU) No 389/2013 establishing a Union Registry (Text with EEA relevance)
OJ of the EU, L 39/3 of 13 February 2018

Case Law

Case C-328/16: JUDGMENT OF THE COURT (Third Chamber) of 22 February 2018 - European Commission v Hellenic Republic - ACTION for failure to fulfil obligations under Article 260(2) TFEU - Failure of a Member State to fulfil obligations - Directive 91/271/EEC - Urban waste-water treatment - Judgment of the Court establishing a failure to fulfil obligations - Non-implementation - Article 260(2) TFEU - Pecuniary penalties - Lump sum - Periodic penalty payment

CURIA – Judgment of the Court of Justice in Case C-328/16 of 22 February 2018
Case C-336/16: JUDGMENT OF THE COURT (Third Chamber) of 22 February 2018 - European Commission v Republic of Poland - ACTION for failure to fulfil obligations under Article 258 TFEU - Failure of a Member State to fulfil obligations — Directive 2008/50/EC — Ambient air quality — Article 13(1) — Article 22(3) — Annex XI — Concentration of particulate matter PM10 in ambient air — Exceedance of limit values in certain zones and agglomerations — Article 23(1) — Air quality plans — Exceedance period 'as short as possible' — Absence of appropriate actions in ambient air quality protection programmes — Incorrect transposition

CURIA – Judgment of the Court of Justice in Case C-336/16 of 22 February 2018


CURIA – Judgment of the Court of Justice in Case C-572/16 of 22 February 2018

Case C-185/17: JUDGMENT OF THE COURT (Tenth Chamber) of 22 February 2018 - Mitnitisa Varna v SAKSA OOD and Okrazhna prokuratura — Varna - REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativens sad — Varna (Varna Administrative Court, Bulgaria) - Reference for a preliminary ruling — Common Customs Tariff — Classification of goods — Harmonised European standard EN 590:2013 — Subheading 2710 19 43 of the Combined Nomenclature — Relevant criteria for the classification of goods as gas oil

CURIA – Judgment of the Court of Justice in Case C-185/17 of 22 February 2018

Affaire C-49/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MACIEJ SZPUNAR du 22 février 2018 - Koppers Denmark ApS contre Skatteministeriet - demande de décision préjudicielle formée par l’ Østre Landsret (cour d’appel de la région Est, Danemark) - Renvoi préjudiciel — Taxation des produits énergétiques dans l’enceinte d’un établissement fabriquant des produits énergétiques — Produits énergétiques destinés à des usages autres que ceux de carburant ou de combustible — Consommation de solvant comme combustible dans une installation de distillation du goudron

CURIA – Conclusions de l’Avocat Général dans l’affaire C-49/17 du 22 février 2018

Case C-632/16: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 22 February 2018 - Dyson Ltd and Dyson BV v BSH Home Appliances NV - Request for a preliminary ruling from the rechtbank van koophandel te Antwerpen (Commercial Court, Antwerp, Belgium) - Reference for a preliminary ruling — Directive 2010/30/EU — Delegated Regulation (EU) No 665/2013 — Sale of vacuum cleaners — Energy label — Reference to the conditions under which tests resulting in the vacuum cleaner’s energy classification were performed — Prohibition on altering the format or content of the energy label — Prohibition on using supplementary labels which reproduce or clarify the information on the energy label — Directive 2005/29/EC — Unfair commercial practices — Consumer protection — Article 2(d) — Definition of commercial practice — Use of the energy label — Article 3(4) — EU rules governing specific aspects of unfair commercial practices — Definition of conflict — Existence of conflict — Inapplicability of the directive — Article 7 — Misleading omission — Material information — Absence of material information — Information not required to be provided under Regulation No 665/2013

CURIA – Opinion of Advocate General in Case C-632/16 of 22 February 2018

Case C-31/17: OPINION OF ADVOCATE GENERAL TANCHEV of 22 February 2018 - Cristal Union, the legal successor to Sucrerie de Tourny SA v Ministre de l’Économie et des Finances - Request for a preliminary ruling from the Conseil d’État (Council of State, France) - Reference for a preliminary ruling — Directive 2003/96/EC — Taxation of energy products and electricity — Article 14(1)(a) — Compulsory exemption from taxation of energy products used to produce electricity — Article 15(1)(c) — Power of Member States to apply total or partial exemptions or reductions in the level of taxation to energy products used for combined heat and power generation — Joint application of Article 14(1)(a) and Article 15(1)(c)

CURIA – Opinion of Advocate General in Case C-31/17 of 22 February 2018
11. Food Safety, Public Health and Consumers

Community Legislation

OJ of the EU, L 48/12 of 21 February 2018

OJ of the EU, L 48/41 of 21 February 2018

COMMISSION REGULATION (EU) 2018/213 of 12 February 2018 on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials (Text with EEA relevance)
OJ of the EU, L 41/6 of 14 February 2018

Case Law

Case C-632/16: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 22 February 2018 - Dyson Ltd and Dyson BV v BSH Home Appliances NV - Request for a preliminary ruling from the rechtbank van koophandel te Antwerpen (Commercial Court, Antwerp, Belgium) - Reference for a preliminary ruling — Directive 2010/30/EU — Delegated Regulation (EU) No 665/2013 — Sale of vacuum cleaners — Energy label — Reference to the conditions under which tests resulting in the vacuum cleaner’s energy classification were performed — Prohibition on altering the format or content of the energy label — Prohibition on using supplementary labels which reproduce or clarify the information on the energy label — Directive 2005/29/EC — Unfair commercial practices — Consumer protection — Article 2(d) — Definition of commercial practice — Use of the energy label — Article 3(4) — EU rules governing specific aspects of unfair commercial practices — Definition of conflict — Existence of conflict — Inapplicability of the directive — Article 7 — Misleading omission — Material information — Absence of material information — Information not required to be provided under Regulation No 665/2013
CURIA – Opinion of Advocate General in Case C-632/16 of 22 February 2018

Case C-16/16 P: JUDGMENT OF THE COURT (Grand Chamber) of 20 February 2018 - Kingdom of Belgium v European Commission - APPEAL under Article 56 of the Statute of the Court of Justice of the European Union - Appeal — Consumer protection — Online gambling services — Protection of consumers and players and prevention of minors from gambling online — Commission Recommendation 2014/478/EU — EU act which is not legally binding — Article 263 TFEU
CURIA – Judgment of the Court of Justice in Case C-16/16 of 20 February 2018
12. Human Rights

International Agreements

COUNCIL DECISION (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled
OJ of the EU, L 48/1 of 21 February 2018

MARRAKESH TREATY to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled
OJ of the EU, L 48/3 of 21 February 2018

Community Legislation

COMMISSION DELEGATED REGULATION (EU) 2018/181 of 18 October 2017 amending Annex IIIb to Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment
OJ of the EU, L 40/1 of 13 February 2018

Case Law

Case C-59/17: OPINION OF ADVOCATE GENERAL BOBEK of 22 February 2018 - SCI Château du Grand Bois v Établissement national des produits de l'agriculture et de la mer (FranceAgriMer) - Request for a preliminary ruling from the Conseil d'État (Council of State, France) - Reference for a preliminary ruling — Agriculture — Restructuring and conversion of vineyards — Support to vine growers — Grubbing-up premium — Unannounced on-the-spot checks — Requirement of permission to enter land — Enclosed or open land — Inviolability of the home — Right to property
CURIA – Opinion of Advocate General in Case C-59/17 of 22 February 2018

Case C-181/16: ADDITIONAL OPINION OF ADVOCATE GENERAL MENGOZZI of 22 February 2018 - Sadikou Gnandi v État belge - Request for a preliminary ruling from the Conseil d'État (Council of State, Belgium) - Reference for a preliminary ruling — Directive 2008/115/EC — Return of illegally staying third-country nationals — Order for removal from national territory — Order issued after the rejection of the asylum application by the competent administrative authority — Reopening of the oral procedure
CURIA – Opinion of Advocate General in Case C-181/16 of 22 February 2018

Case C-25/17: OPINION OF ADVOCATE GENERAL MENGOZZI of 1 February 2018 – Tietosuojavaltuutettu v Jehovan todistajat — uskonnollinen yhdyskunta - Request for a preliminary ruling from the Korkein hallinto-oikeus (Finland) - Reference for a preliminary ruling — Protection of individuals with regard to the processing of personal data — Directive 95/46/EC — Scope — Definition of purely personal or household activity — Data collected and processed by the members of a religious community in the context of their door-to-door proselytising — Freedom of religion — Article 10(1) of the Charter of Fundamental Rights of the European Union — Definition of filing system — Definition of controller of the processing of personal data
CURIA – Opinion of Advocate General in Case C-25/17 of 1 February 2018
13. Internal Market and Single Market

Case Law

Joined Cases C-398/16 and C-399/16: JUDGMENT OF THE COURT (First Chamber) of 22 February 2018 - X BV (C-398/16) and X NV (C-399/16) v Staatssecretaris van Financiën - TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) - Reference for a preliminary ruling — Articles 49 and 54 TFEU — Freedom of establishment — Tax legislation — Corporation tax — Advantages linked to the formation of a single tax entity— Exclusion of cross-border groups
CURIA – Judgment of the Court of Justice in Case C-398/16 of 22 February 2018

Case C-132/17: JUDGMENT OF THE COURT (Ninth Chamber) of 21 February 2018 - Peugeot Deutschland GmbH v Deutsche Umwelthilfe eV - REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany) - Reference for a preliminary ruling — Freedom to provide services — Directive 2010/13/EU — Definitions — Concept of ‘audiovisual media service’ — Scope — Channel available on YouTube for videos promoting new passenger cars
CURIA – Judgment of the Court of Justice in Case C-132/17 of 21 February 2018

Case C-144/17: JUDGMENT OF THE COURT (Sixth Chamber) of 8 February 2018 - Lloyd’s of London v Agenzia Regionale per la Protezione dell’Ambiente della Calabria - REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale amministrativo regionale per la Calabria (Regional Administrative Court, Calabria, Italy) - Reference for a preliminary ruling — Public procurement — Articles 49 and 56 TFEU — Directive 2004/18/EC — Reasons for exclusion from a tendering procedure — Insurance services — Participation of several Lloyd’s of London syndicates in the same tendering procedure — Signature of tenders by the Lloyd’s of London General Representative for the country concerned — Principles of transparency, equal treatment and non-discrimination — Proportionality
CURIA – Judgment of the Court of Justice in Case C-144/17 of 8 February 2018

Affaire C-685/16: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. MELCHIOR WATHELET du 7 février 2018 – EV contre Finanzamt Lippstadt - demande de décision préjudicielle formée par le Finanzgericht Münster (tribunal des finances de Münster, Allemagne) - Renvoi préjudiciel – Libre circulation des capitaux – Déduction de bénéfices imposables – Traitement différencié de dividendes provenant de filiales avec direction et siège dans un pays tiers
CURIA – Conclusions de l’Avocat Général dans l’affaire C-685/16 du 7’ février 2018

Affaire C-39/17: CONCLUSIONS DE L’AVOCAT GÉNÉRAL M. PAOLO MENGozzi du 31 janvier 2018 - Lubrizol France SAS contre Caisse nationale du Régime social des indépendants (RSI) participations extérieures - demande de décision préjudicielle formée par la Cour de cassation (France) - Renvoi préjudiciel – Libre circulation des marchandises – Articles 28 et 30 TFUE – Taxe d’effet équivalent – Article 110 TFUE – Imposition intérieure – Contribution sociale de solidarité des sociétés et contribution additionnelle – Taxe ayant pour assiette le chiffre d’affaires annuel global des sociétés – Inclusion dans le chiffre d’affaires de la valeur des biens transférés à destination d’un autre État membre
CURIA – Conclusions de l’Avocat Général dans l’affaire C-39/17 du 31 janvier 2018

CURIA – Conclusions de l’Avocat Général dans l’affaire C-679/16 du 31 Janvier 2018
Joined Cases C‑360/15 and C‑31/16: JUDGMENT OF THE COURT (Grand Chamber) of 30 January 2018 - College van Burgemeester en Wethouders van de gemeente Amersfoort v X BV (C‑360/15) and Visser Vastgoed Beleggingen BV v Raad van de gemeente Appingedam (C‑31/16) - REQUESTS for a preliminary ruling under Article 267 TFEU, made by the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) (C‑360/15) and by the Raad van State (Council of State, Netherlands) (C‑31/16) - Reference for a preliminary ruling — Services in the internal market — Directive 2006/123/EC — Scope — Article 2(2)(c) — Exclusion of electronic communications services and networks — Article 4(1) — Concept of ‘service’ — Retail trade in goods — Chapter III — Freedom of establishment of service providers — Applicability in purely internal situations — Article 15 — Requirements to be evaluated — Territorial restriction — Zoning plan prohibiting the activity of retail trade in goods other than bulky goods in geographical zones situated outside the city centre — Protection of the urban environment — Authorisation of electronic communications services and networks — Directive 2002/20/EC — Financial payments attached to rights to install facilities for a public electronic communications network.

CURIA – Judgment of the Court of Justice in Case C‑360/15 of 30 January 2018


Case Law


CURIA – Opinion of Advocate General in Case C‑217/17 of 22 February 2018

Case C‑44/17: OPINION OF ADVOCATE GENERAL SAUGMANDSGAARD ØE of 22 February 2018 - The Scotch Whisky Association, The Registered Office v Michael Klotz - Request for a preliminary ruling from the Landgericht Hamburg (Regional Court, Hamburg, Germany) - Reference for a preliminary ruling — Approximation of laws — Protection of geographical indications of spirit drinks — Regulation (EC) No 110/2008 — Article 16(a), (b) and (c) — Annex III — Registered geographical indication ‘Scotch Whisky’ — Whisky produced in Germany and marketed under the designation ‘Glen Buchenbach’ — Concept of ‘indirect use’ of a registered geographical indication — Concept of ‘evocation’ of a registered geographical indication — Concept of ‘false or misleading indication’ — Requirement for identity with the indication, phonetic and/or visual similarity, or some kind of association of ideas in the mind of the relevant consumer — Taking account of the context in which the designation at issue is embedded.

CURIA – Opinion of Advocate General in Case C‑44/17 of 22 February 2018


CURIA – Opinion of Advocate General in Case C‑681/16 of 7 February 2018


CURIA – Opinion of Advocate General in Case C‑163/16 of 7 February 2018

Case Law


CURIA – Conclusions de l’Avocat Général dans l’affaire C-20/17 du 22 février 2018

Case C-181/16: ADDITIONAL OPINION OF ADVOCATE GENERAL MENGZOZZI of 22 February 2018 - Sadikou Gnandi v État belge - Request for a preliminary ruling from the Conseil d’État (Council of State, Belgium) - Reference for a preliminary ruling — Directive 2008/115/EC — Return of illegally staying third-country nationals — Order for removal from national territory — Order issued after the rejection of the asylum application by the competent administrative authority — Reopening of the oral procedure

CURIA – Opinion of Advocate General in Case C-181/16 of 22 February 2018

Case C-390/16: OPINION OF ADVOCATE GENERAL BOT of 6 February 2018 - Criminal proceedings against Dániel Bertold Lada - Request for a preliminary ruling from the Szombathelyi Törvényszék (Szombathely Court, Hungary) - Reference for a preliminary ruling — Judicial cooperation in criminal matters — Article 82(1) TFEU — Principle of mutual recognition of judgments and judicial decisions in criminal matters — Framework Decision 2009/315/JHA and Decision 2009/316/JHA — European Criminal Records Information System (ECRIS) — Framework Decision 2008/675/JHA — Taking into account, in the course of new criminal proceedings, of an earlier conviction handed down in another Member State — National procedure for prior recognition of the conviction as a requirement for such taking into account — Obligation of conforming interpretation — Principle of the primacy of EU law — Obligation to refrain from applying national legislation contrary to a framework decision

CURIA – Opinion of Advocate General in Case C-390/16 of 6 February 2018

Case C-106/17: JUDGMENT OF THE COURT (Eighth Chamber) of 31 January 2018 - Paweł Hofsoe v LVM Landwirtschaftlicher Versicherungsverein Münster AG - REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Okręgowy w Szczecinie (Szczecin Regional Court, Poland) - Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation (EU) No 1215/2012 — Article 11(1)(b) and Article 13(2) — Jurisdiction in insurance matters — Scope ratione personae — Concept of ‘injured party’ — Professional in the insurance sector — Not included

CURIA – Judgment of the Court of Justice in Case C-106/17 of 31 January 2018


CURIA – Conclusions de l’Avocat Général dans l’affaire C-83/17 du 30 janvier 2018
16. Transport

International Agreements

COUNCIL DIRECTIVE (EU) 2018/131 of 23 January 2018 implementing the Agreement concluded by the European Community Shipowners’ Associations (ECSA) and the European Transport Workers’ Federation (ETF) to amend Directive 2009/13/EC in accordance with the amendments of 2014 to the Maritime Labour Convention, 2006, as approved by the International Labour Conference on 11 June 2014 (Text with EEA relevance)
OJ of the EU, L 22/28 of 26 January 2018

Community Legislation

COMMISSION IMPLEMENTING REGULATION (EU) 2018/258 of 21 February 2018 amending Implementing Regulation (EU) No 725/2011 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance)
OJ of the EU, L 49/1 of 22 February 2018

COMMISSION IMPLEMENTING REGULATION (EU) 2018/259 of 21 February 2018 amending Implementing Regulation (EU) No 427/2014 for the purpose of adjusting it to the change in the regulatory test procedure and simplifying the administrative procedures for application and certification (Text with EEA relevance)
OJ of the EU, L 49/9 of 22 February 2018

OJ of the EU, L 42/52 of 15 February 2018

Case Law

CURIA — Judgment of the Court of Justice in Case C-545/16 of 22 February 2018

CURIA – Arrêt de la Cour de Justice dans l’affaire C-181/17 du 8 février 2018
17. Community Institutions, Principles and the Communities’ own Resources

Case Law


CURIA — Judgment of the Court of Justice in Case C-326/16 of 21 February 2018


CURIA — Conclusions de l’Avocat Général dans l’affaire C-667/16 du 21 février 2018


CURIA — Opinion of Advocate General in Case C-681/16 of 7 February 2018