

# Role of Advocates General at the CJEU

## SUMMARY

The institution of the Advocate General was introduced into the Treaty of Rome under the influence of the French delegation during the preparation of the Treaty. The French were staunchly opposed to allowing individual judges to present dissenting or concurring opinions, and instead proposed this be done by an Advocate General, a figure modelled on the French *commissaire du gouvernement*, who offers legal advice to the *Conseil d'État* on the cases being tried. Initially, there were two Advocates General – one French and one German. Over time, this number increased, and a number of Advocates General posts were permanently assigned to the larger Member States, whilst the remaining ones were 'rotated' among the smaller countries. Today, there are 11 Advocates General, six of these posts are permanently assigned to the larger Member States. Advocates General are Members of the Court of Justice of the EU, and are appointed under the same procedure as judges. They enjoy the same privileges as judges (immunity), and cannot be removed from office before the end of their six-year term of office. They may be re-elected. Unlike judges, however, they only have an advisory role and do not take part in the decision-making on cases.

As a matter of principle, the opinion of an Advocate General is sought in every case tried by the Court of Justice (CJ), unless the latter decides that there is no new point of law. This happens in roughly 30 % of the cases each year. Even though the General Court (GC) has the power to appoint *ad hoc* Advocates General, it does not now apply this in practice. In contrast to CJ judges, whose opinions are written in a formal and terse language that uses standard phrases and wording often borrowed from earlier judgments, the Advocates General can choose their own style. Again, unlike CJ judges, they also consider the interpretive alternatives and various options of deciding on a case, before proposing their own solution. In the absence of dissenting opinions filed by the CJ judges, the opinions of the Advocates General therefore play an important role and are referred to in later cases. The CJ is not bound by these opinions; nonetheless, according to empirical research, in the case of an action for annulment of an EU act, the CJ is 67 % more likely to annul it if doing so was advised by an Advocate General.

*This Briefing is one in a series aimed at explaining the activities of the CJEU.*



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## Abbreviations used in this briefing

**AG** – Advocate General

**CJ** – Court of Justice, one of the two judicial bodies of the CJEU

**CJEU** – Court of Justice of the European Union (an EU institution established by the Treaties, composed of two judicial bodies – the Court of Justice and the General Court (and, until 2016, also the Civil Service Tribunal) (also referred to in the text as the 'Court')

**CJEU Statute** – Statute of the Court of Justice of the European Union

**GC** – General Court, one of the two judicial bodies of the CJEU

**RoP CJ** – Rules of Procedure of the Court of Justice

**RoP GC** – Rules of Procedure of the General Court

**TFEU** – Treaty on the Functioning of the European Union

## Background

The office of Advocate General (AG) – unknown in many legal systems<sup>1</sup> – is modelled on the French legal system, where the government's commissioner (*commissaire du gouvernement*) advises the French *Conseil d'État* (supreme administrative court) before it takes a decision on a pending case.<sup>2</sup> It was introduced during the preparation of the Treaty of Rome, on the explicit initiative of the French delegation, which fiercely opposed the admission of **dissenting opinions** at the Court.<sup>3</sup> As noted by the first Advocate General, Maurice Lagrange, the introduction of this post was a possibility for judges to present their individual views on a case.

Accordingly, Article 252 TFEU states that an Advocate General must 'act with complete impartiality and independence' and 'make, in open court, reasoned opinions' on selected cases. In contrast to judges, Advocates General do not make binding decisions, but are called upon to present their views on the cases, advising the Court of Justice (CJ) on how it should decide on them. The CJ is not bound by the opinions of the Advocates General, although they are commonly regarded as influential.

## Number of Advocates General and their appointment

### Number

Initially, under the Treaty of Rome, there were only two Advocates General – one from France (Maurice Lagrange) and another from Germany (Karl Roemer).<sup>4</sup> As Takis Tridimas points out, Lagrange and Roemer 'served during the most formative years of Community law fulfilling in effect the role of pathfinders. Their influence has been particularly instrumental in establishing the principles of Community administrative law, and in distilling, through a comparative method of interpretation, the elements of national laws most suitable for transposition in the Community legal order. They often composed a synthesis of national laws, performing par excellence a creative exercise, bridging the gap between national and Community law and ensuring conceptual and ideological continuity'.<sup>5</sup>

Following the first enlargement of the European Communities (1972), the number of Advocates General grew to four. However, only the large Member States – France, Germany, the United Kingdom (UK) and Italy – got to have Advocates General.<sup>6</sup> It was only in 1981 – at the time of the second enlargement, when Greece joined – that a fifth Advocate General's post was added, to which

a Dutch national was appointed. This post was to be rotated between the smaller Member States.<sup>7</sup> Following the third enlargement, in 1986, a sixth Advocate General's post was created, for Spain.

In 1995, it was decided to permanently increase the number of Advocates General to eight and temporarily (1.1.1995 – 6.10.2000) – to nine.<sup>8</sup> Five larger Member States (Germany, France, Italy, the UK and Spain) would continue to have permanent Advocates General, and the remaining posts would rotate among the other Member States.<sup>9</sup> The rotation between Member States was based on alphabetical order, as laid down in the Joint Declaration on Article 31 of the Decision adjusting the instruments concerning the accession of the new Member States to the European Union (OJ L1, 1.1.1995, p. 221).

According to Article 252(1) TFEU, the minimum number of Advocates General is set at eight. However, upon the request of the CJEU, the Council of the EU, acting unanimously, may increase that number, as was done in 2013. Moreover, for a period of five years in the past, as mentioned above, the number of Advocates General had been set at nine.<sup>10</sup>

At the intergovernmental conference in Lisbon in 2007, the representatives of the Member States decided in principle to raise the number of Advocates General to 11, and to allow six countries to have a permanent Advocate General (adding Poland to the above-mentioned list), although this [decision](#) was formally taken only in 2013, following the Court's request.<sup>11</sup> It remains to be seen how Brexit will affect the number and origin of Advocates General.

## Appointment

The procedure for the appointment of Advocates General is set out in Article 253 TFEU. The rules for judges and Advocates General are the same. Under the first paragraph of the said Article, they are 'chosen from persons whose **independence** is beyond doubt and who possess the qualifications required for appointment to the **highest judicial offices** in their respective countries or who are **jurisconsults** of recognised competence'.

Article 253(1) TFEU stipulates that Advocates General 'shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255 [TFEU]'. The article also provides for a **partial replacement** of judges and Advocates General, in accordance with the conditions laid down in the CJEU Statute. Retiring Advocates General may be reappointed at the end of their term in office.

## Role of the Article 255 Panel

On 1 March 2010, a panel, established as per Article 255 TFEU (the Article 255 Panel), became operational, with its main task consisting of giving opinions on candidates' suitability to perform the duties of judge or Advocate General of the Court of Justice and the General Court, before they are appointed by the Member States' governments. This panel is composed of seven members chosen from among former members of the Court of Justice, the General Court or national supreme courts, and from among lawyers of recognised competence; one of these seven members is proposed by the European Parliament. All members of the panel have a four-year term of office. The Council of the EU adopts a decision establishing the panel's operating rules and a decision appointing its members. The panel acts on the initiative of the president of the Court.

## Most recent appointments

The most recent appointments of Advocates General at the Court of Justice include Giovanni Pitruzzella from Italy and Gerard Hogan from Ireland (both appointed on 8 October 2018), and Priit Pikamäe from Estonia (appointed on 6 February 2019).

## First Advocate General

Each year, the CJ appoints from among the Advocates General one **First Advocate General** for a one-year term (Article 14(1) RoP CJ). The selection is made by the Court after hearing all the Advocates General. The task of the First Advocate General – since 1979 – has been to assign cases to individual Advocates General. Before, this task was fulfilled by the president of the CJ.<sup>12</sup> The First Advocate General also has special powers in the review procedure (see below). The current First Advocate General is Professor Maciej Szpunar, [appointed](#) to this role in October 2018.

## Duties and functions of the Advocate General

### Impartiality and independence

According to the second paragraph of Article 252 TFEU, the duty of an Advocate General involves 'acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his involvement'.

The CJ and the GC, in contrast to national courts, always pronounce a single *per curiam* opinion on every case. This means that there are no dissenting or concurring opinions in which individual judges could express their view on how the case should have been decided.<sup>13</sup> As a matter of fact, they are even not allowed to express their disagreement with the final outcome, and every decision is signed by all judges, all debates remaining confined to the chambers and subject to judicial secrecy. As Julia Laffranque points out:

'Although this arrangement, starkly different to standards known in national, international and even other supranational courts (as the ECHR), has been heavily criticised, nothing indicates that it will change in the near future. In this context, opinions of the AG remain the only channel through which the public can learn about the controversies concerning the legal and factual issues of the case at hand. In contrast to the CJ and GC, which generally do not present the possible alternative solutions, but limit themselves to justifying the decision they have reached, the Advocates-General are more outspoken and often offer a more nuanced view of the controversies at hand, and their reasoning – even if not followed by the CJ – could come in handy later on.'<sup>14</sup>

An important factor is that Advocates General are not limited by the CJ/GC's terse, formal style, which – as AG Sharpston once commented – makes the judge writing the opinion use ready-made building blocks from earlier judgments.

Takis Tridimas has identified<sup>15</sup> four roles of the Advocate General:

- to assist the CJ in the preparation of the case;
- to propose a solution to the case before the Court;
- to provide legal grounds to justify that solution;
- to express an opinion on various points of law, especially with regard to a critical assessment of the existing case law on the topic.

### Delivery of opinions

Advocates General are not obliged to deliver an opinion. Article 20(5) of the CJEU Statute provides that 'When it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate General, that the case shall be determined without a submission from the Advocate General'. As Wägenbaur points out, 'this is normally the case if the issue has already been addressed in one or several judgments, which after half a century of cases is inevitable in a number of cases'.<sup>16</sup> It has been estimated that an Advocate General's opinion does not get requested in about 30 % of cases,<sup>17</sup> which means that in 70 % of cases an opinion does get delivered. According to the [CJEU Annual Report for 2018](#), the following numbers of opinions were delivered between 2015 and 2018: 239 (2015), 319 (2016), 301 (2017) and 305 (2018).

As mentioned above, the task of assigning cases to individual Advocates General lies with the First Advocate General (Article 16 RoP CJ). It is worth noting that the AG may be appointed even if there is not yet a judge rapporteur for a given case.<sup>18</sup>

The details concerning the delivery of the opinions of the Advocates General are laid down in Article 82 RoP CJ. Paragraph 1 of this article states that the Advocate General's opinion should be delivered after the close of the hearing, upon which the president declares 'the oral part of the procedure closed'. As Wägenbaur points out, the AG usually presents his or her opinion 3-4 months after the oral hearing, 'but in complex cases this may take much longer'.<sup>19</sup> In practice, the Advocate General only reads out the operative part of the opinion, i.e. its conclusions.<sup>20</sup> This is because the text of the opinion will, at this stage, already be known to the judges and parties, since it is transmitted to the registrar of the CJ and published on the CJEU website.<sup>21</sup> Nonetheless, the translation into all official languages may take some more time.<sup>22</sup> Parties may not comment on the opinion but may, in exceptional circumstances, make a request for reopening the oral proceedings (Article 83 RoP CJ) in light of the content of the opinion.<sup>23</sup> This happened, for instance, in [Case C-331/05 P \*Internationaler Hilfsfonds\*](#) (see paragraphs 16-18). However, in practice requests for reopening oral proceedings are 'rarely successful'.<sup>24</sup>

The language of the opinion is chosen freely by the Advocate General from among the official EU languages (Article 38 RoP CJ).<sup>25</sup> This means that the opinion of the Advocate General is usually either in their native language, or in a language they know well (e.g. AG Trstenjak, despite being Slovenian, delivered her opinions in German), and it is often not the language of the case. Furthermore, Article 39 RoP CJ provides that any Advocate General may request a translation into a language of their choice of 'anything said or written in the course of the proceedings'.

## Authority of opinions

As Lenaerts, Maselis and Gutman point out, 'The Advocate-General's Opinion is not binding on the Court of Justice. It is merely advisory, and in essence constitutes how the Advocate-General submits that the Court of Justice should decide the particular case before it'.<sup>26</sup> Furthermore, Takis Tridimas remarks, 'The traditional practice of the Court ... was not to refer in the judgment to the views of the advocate general. In recent years the opposite practice has prevailed and judgments refer expressly to the opinion. References are made only in relation to issues where the Court follows the opinion, and usually indicate full endorsement of the advocate general's specific argument'.<sup>27</sup>

Nonetheless, the CJ usually refers to the opinion (even if it disagrees with it), and it is published – before the judgment – in the official *European Court Reports* journal. One of the most well-known cases of disagreement between the Advocate General and the Court was Case C-50/00 *UPA v Council*, which concerned the interpretation of the rules on the standing of individuals before the Court to challenge EU acts not addressed to them. Advocate General, Francis Jacobs, advocated that the CJ depart from its case law and allow for broad access of companies to the Court, but the Court decided to uphold its earlier case-law on the matter.

## Actual impact upon the CJ

The actual impact of the opinion of the Advocates General on the CJ's judgment can be measured using mathematical models. For instance, according to a 2016 study it was found – only with regard to actions for annulment – that 'when the Advocate General proposes the annulment of an act in its opinion, the Court of Justice is around 67 per cent more likely to decide to annul the act or part of it'<sup>28</sup> than if the AG proposed to keep it in force. However, the authors of the study admit that their calculation 'is not a perfect representation of causality, because many elements may be missing from the quantitative analysis that was carried out on the relationship between the Advocate General and the Court'.<sup>29</sup> As Takis Tridimas points out:

'Measuring success [of the Advocates General] by the number of cases where the opinion has been followed is liable to convey a fallacious understanding of the task which the advocate general is

designed to perform. It has been noted that it is not his function to anticipate the judgment but rather to assist the Court by submitting a coherently argued opinion and, if necessary, criticize the case law. Also, it may not always be easy to ascertain whether the opinion has been followed. The opinion may have been followed to a greater or lesser extent. The Court may reach the same result but on the basis of different reasoning and, in some cases, it may not be obvious which parts of the advocate general's reasoning the Court has endorsed.<sup>30</sup>

## Review procedure

Article 62 of the CJEU Statute provides for a special review procedure that may be triggered by the First Advocate General. This procedure applies to judgments of the GC that may be reviewed by the CJ if the First Advocate General considers that 'there is a serious risk of the unity of consistency of Union law being affected'. The First Advocate General's proposal must be made within one month of the delivery of the GC's decision. If the First Advocate General proposes that the review procedure be triggered, the CJ has one month to decide whether to do so. As of September 2019, the review procedure had been triggered in a total of 16 cases. Review was granted in 8 of them, and refused in the other 8.<sup>31</sup>

## Legal status of the Advocate General

The legal status of Advocates General 'is, in many respects, identical' to the status of judges, despite their different functions.<sup>32</sup> Specifically, Article 8 of the CJEU Statute stipulates that the provisions concerning the status of judges under Articles 2-7 of the said Statute apply also to Advocates General. This includes provisions on the oath (Article 2), immunity (Article 3), *incompatibilitas*, i.e. the prohibition to hold any other office unless the Council allows so (Article 4), unremovability from office until end of term (Article 5), disciplinary removal from office (Article 6), and continuation of predecessors' term in office (Article 7). Furthermore, under Article 14 of the CJEU Statute, the judges, the Advocates General and the registrar are required to reside at the place where the Court of Justice has its seat, i.e. in Luxembourg.

## *Ad hoc* Advocate General at the General Court

In contrast to the Court of Justice, the General Court does not have permanent Advocates General and it cannot 'borrow' them' from the CJ.<sup>33</sup> However, Article 49 of the CJEU Statute allows for *ad hoc* Advocates General to be appointed for specific cases from among the General Court judges. A judge acting as an *ad hoc* Advocate General may not subsequently take part in the judgment of the case. Furthermore, Article 2(2) RoP GC provides that the president of the GC may not serve as an *ad hoc* AG. In practice, the possibility of appointing *ad hoc* Advocates General was used in the early 1990s, for instance in Case T-1/89 *Rhone-Poulenc v Commission*. Nonetheless, as Wägenbaur points out, it is an 'obsolete provision' now, and the GC 'has not used it since. This is unlikely to change in the future, given the often factual nature of proceedings at the GC as well as its high burden of work'.<sup>34</sup>

## Current Advocates General at the Court of Justice

### Regional and gender balance

There are currently **10 Advocates General** at the CJEU, following the death of AG Bot, from France, in June 2019. They come from 10 different Member States, including the western European founding members of the Communities (AG Kokott, from Germany, and AG Pitruzzella from Italy), the northern and southern European Member States that joined subsequently (AG Sharpston from the UK, AG Saugmandsgaard Øe from Denmark, AG Hogan from Ireland, as well as AG Sanchez Bordona from Spain), and the central and eastern European Member States (First AG Szpunar from Poland, AG Bobek from the Czech Republic, AG Tanchev from Bulgaria and AG Pikamäe from Estonia). This geographical distribution allows for the representation of all legal families and traditions in the European Union,<sup>35</sup> including the Romance legal family (AG Pitruzzella), the

Common Law family (AG Sharpston), the Nordic legal family (AG Saugmandsgaard Øe), the Germanic legal family (AG Kokott) and the post-socialist central and eastern European legal family<sup>36</sup> (Advocates General Szpunar, Bobek, Tanchev and Pikamäe). Notably, there is currently no Advocate General from the Benelux countries, Greece or Portugal.

It is worth highlighting that the ratio of Advocates General from the 'old' (pre-2004) and 'new' (post-2004) Member States is seven (including France) to four, which corresponds roughly to both the number and population of the countries concerned. On the other hand, there is a clear gender imbalance, with only two female Advocates General (Sharpston and Kokott). Various professional backgrounds.

While the Advocates General have a variety of professional backgrounds, almost all of them (9 out of 10) have worked in **academia** and the **judiciary**. Only one has not worked as an academic in the field of law (AG Sanchez-Bordona), and two have not had any previous experience as a judge (First AG Szpunar, who has, however, worked as a practising lawyer, and AG Pitruzzella). Three current Advocates General have worked with the EU judiciary, as legal secretaries (Advocates General Sharpston, Sanchez-Bordona and Saugmandsgaard Øe). Likewise, six have worked in the national judiciary, most notably AG Tanchev was president of the Bulgarian Constitutional Court, and the recently appointed AG Pikamäe was president of the Estonian Supreme Court. Three Advocates General (Kokott, Bobek, Pikamäe) have worked in the international judiciary.

Less frequently, Advocates General have held **political positions**, such as government minister or vice-minister (First AG Szpunar, and Paolo Mengozzi, an Advocate General from 2006 to 2018). Melchior Wathelet, an Advocate General from 2012 until 2018 (and previously a judge on the Court), was a full-fledged politician, having served as a member of the Belgian Parliament for 22 years and as deputy prime minister for seven years. Two AGs have worked as public prosecutors (Sanchez-Bordona and Saugmandsgaard Øe). Some AGs have also worked in the national **public administration**. For instance, AG Pitruzzella, appointed in 2018, fulfilled numerous functions in the Italian public administration). Likewise, AG Pikamäe, appointed in 2019, held managerial posts in the Estonian Ministry of Foreign Affairs and later in the Ministry of Justice, before becoming a judge.

Only one Advocate General has worked for an **international organisation** (other than the EU) – AG Tanchev was member and vice-president of the Council of Europe's [Venice Commission](#). Notably, none of the current Advocates General has worked in an EU institution.

Table 1 – Professional backgrounds of the Advocates General at the CJEU (as of Sep. 2019)

Area of previous experience	Advocates General concerned	Number	%
Academia	Kokott, Sharpston, Szpunar, Saugmandsgaard Øe, Bobek, Tanchev, Hogan, Pitruzzella, Pikamäe	9	90 %
National judiciary	Sanchez-Bordona, Saugmandsgaard Øe, Bobek, Tanchev, Hogan, Pikamäe	6	60 %
National administration (including advisory positions)	Kokott, Szpunar, Sanchez-Bordona, Saugmandsgaard Øe, Pitruzzella, Pikamäe	6	60 %
EU judiciary	Sharpston, Sanchez-Bordona, Saugmandsgaard Øe	3	30 %
Legal practice (lawyer)	Sharpston, Szpunar, Saugmandsgaard Øe	3	30 %
National politics (elective office or governmental position, including vice-minister)	Szpunar	1	10 %

National prosecution service	Sanchez-Bordona, Saugmandsgaard Øe	2	20 %
International judiciary	Kokott, Bobek, Pikamäe	3	30 %
International organisation	Tanchev	1	10 %

 Table 2 – Current Advocates General at the Court<sup>37</sup>

Picture	Name	AG since	Professional background
	First Advocate General <b>Prof. Maciej Szpunar</b> (Poland)	23/10/2013	<p><b>Academia.</b> Assistant professor, associate professor and full professor of Private International Law, University of Silesia (since 2000); visiting scholar at the Universities of Cambridge (1998), Liège (1999) and EUI (2003); member of the Board of Trustees of the Academy of European Law, Trier (since 2008); member of the Research Group on Existing EC Private Law ('Acquis Group') (since 2006)</p> <p><b>Legal practice.</b> Legal counsellor (2001-2008); agent of the Polish Government in a large number of cases before the European Union judiciary</p> <p><b>National politics.</b> Undersecretary of State in the Office of the Committee for European Integration (2008-2009), then in the Ministry of Foreign Affairs (2010-2013).</p>
	<b>Prof. Juliane Kokott</b> (Germany)	7/10/2003	<p><b>Academia.</b> Visiting professor and professor at the Universities of: California Berkeley (1991), Augsburg (1992), Heidelberg (1993), Düsseldorf (1994) and Sankt Gallen (2000); Deputy Director of the Master of Business Law programme at the University of Sankt Gallen (2001)</p> <p><b>International judiciary.</b> Deputy judge for the federal government at the Court of Conciliation and Arbitration of the Organisation for Security and Cooperation in Europe (OSCE)</p> <p><b>National administration.</b> Deputy chair of the federal government's Advisory Council on Global Change (WBGU, 1996)</p>
	<b>Eleanor Sharpston QC</b> (UK)	11/01/2006	<p><b>Academia.</b> Lecturer in law at the University College London (1990-1992) and the University of Cambridge; fellow of King's College, Cambridge (1992-2010); senior research fellow at the Centre for European Legal Studies of the University of Cambridge (1998-2005)</p> <p><b>Legal practice.</b> Barrister (1980-1987 and 1990-2005); Queen's counsel (1999)</p> <p><b>EU Judiciary.</b> Legal secretary to AG and later ECJ judge Gordon Slynn (1987-1990)</p>
	<b>Manuel Campos Sánchez-Bordona</b> (Spain)	7/10/2015	<p><b>National prosecution and judiciary.</b> Public prosecutor in Spain (1977-1982); judge in regional courts (1982-1994); judge, Supreme Court of Spain (1999-2015)</p> <p><b>EU judiciary.</b> Legal secretary at the ECJ (1995-1999)</p> <p><b>National administration.</b> Member of the Central Electoral Board (2012-2015)</p>

			<p><b>International organisations.</b> Member of the Board of the Association of Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe) (2006-2014)</p>
	<p><b>Henrik Saugmandsgaard Øe</b> (Denmark)</p>	<p>7/10/2015</p>	<p><b>Academia.</b> Lecturer at the Universities of Aarhus (1991-1993) and Copenhagen (1999-2001); visiting professor at the Universities of Copenhagen and Aalborg (since 2008)</p> <p><b>Legal practice.</b> Lawyer at the Danish Bar (1995)</p> <p><b>EU judiciary.</b> Legal secretary at the Court of First Instance of the European Communities (1994-1999)</p> <p><b>National judiciary and prosecution.</b> Public prosecutor in Denmark (1999-2000); judge at the Østre Landsret, Copenhagen (2015)</p> <p><b>National administration.</b> Inspector in police districts (2004-2006); legal adviser to the representative of the Danish prime minister (1999-2000); head of section in the Office for EU Law (1999-2000); head of department in the Office for EU Law and Human Rights (2000-2001); and head of department in the Office for Property and Obligations Law (2001-2006) at the Ministry of Justice; consumer ombudsman appointed by the Danish Government (2006-2014)</p>
	<p><b>Prof. Michal Bobek</b> (Czech Republic)</p>	<p>7/10/2015</p>	<p><b>Academia.</b> Fellow (2011-2012) and research fellow (2013-2016) at the Institute of European and Comparative Law of the University of Oxford; professor at the College of Europe in Bruges (2013-2015).</p> <p><b>National judiciary.</b> Legal secretary to the president of the Supreme Administrative Court of the Czech Republic (2005-2009) and head of the Research and Documentation Department of that court (2008-2009); qualified to perform the duties of a judge in the Czech Republic (2009); member of the Board of Appeals of the Czech National Bank (2013-2015)</p> <p><b>International judiciary.</b> Ad hoc judge at the European Court of Human Rights (2013-2015)</p>
	<p><b>Prof. Evgeni Tanchev</b> (Bulgaria)</p>	<p>19/9/2016</p>	<p><b>Academia.</b> Lecturer (1977-1984), senior lecturer (1984-1990) and then professor at St Kliment Ohridski University, Sofia (1990-2013); dean of the Faculty of Law of St Kliment Ohridski University, Sofia (1988-1991); Jean Monnet professor at the New Bulgarian University (2002-2005); head of the Constitutional Law Department at St Kliment Ohridski University (2013-2016)</p> <p><b>National politics.</b> Member of the Council on Legislation at the Bulgarian National Assembly (1995-1997); chairman of the Council of Legal Advisers to the president of Bulgaria (2002-2003)</p> <p><b>National judiciary.</b> Judge (2003-2009), then president (2009-2012), of the Bulgarian Constitutional Court</p> <p><b>International organisations.</b> Member (2006-2016) and vice-president of the Venice Commission of the Council of Europe (2013-2015)</p>

	<p><b>Dr Gerard Hogan</b> (Ireland)</p>	<p>8/10/2018</p>	<p><b>Legal practice.</b> Barrister-at-law, Honourable Society of King's Inns, Dublin (1984); junior counsel at the Bar of Ireland (1987-1997); senior counsel at the Bar of Ireland (1997-2010)</p> <p><b>Academia.</b> Lecturer in law, Trinity College, Dublin (1982-2007)</p> <p><b>National judiciary.</b> Judge at the High Court of Ireland (2010-2014); judge at the Court of Appeal of Ireland (2014-2018)</p>
	<p><b>Prof. Giovanni Pitruzzella</b> (Italy)</p>	<p>8/10/2018</p>	<p><b>Academia.</b> Professor of Constitutional Law at the University of Palermo; professor of Constitutional and Competition Law at LUISS University, Rome; professor of Public Law at the University of Cagliari (1986-1997)</p> <p><b>National administration.</b> Legal adviser to the Italian Government (1993-1996); president of the Commission for application of the special status of the Region of Sicily (1998-2002); legal adviser to the Italian Ministry of Health (2008-2011); member, then president, of the Commission for proper exercise of the right to strike in essential public services (2006-2011); president of the Italian Competition Authority (2011-2018); appointed by the president of the republic, in April 2018, as one of the 10 members of the Commission for institutional, economic and social reforms and appointed by the prime minister, in June 2018, as a member of the group of experts called upon to propose a project of constitutional reform; author of numerous publications on Public, Constitutional, Administrative and Competition Law</p>
	<p><b>Dr Priit Pikamäe</b> (Estonia)</p>	<p>6/2/2019</p>	<p><b>National administration.</b> Director of the 7th Office of the Consular Department of the Ministry of Foreign Affairs, Estonia (1995-1996); director of the Criminal Law Department at the Estonian Ministry of Justice (1996-2001)</p> <p><b>National judiciary.</b> Judge at the Court of Tallinn (2001-2002); judge at the Court of Appeal of Tallinn (2002-2006); judge at the Supreme Court (2006-2009); president of the Criminal Chamber of the Estonian Supreme Court (2010-2013); president of the Estonian Supreme Court (2013-2019)</p> <p><b>International judiciary.</b> ad hoc judge at the European Court of Human Rights (2010-2016)</p> <p><b>European judicial networks.</b> President of the Network of the Presidents of the Supreme Judicial Courts of the European Union (2017-2019)</p> <p><b>Academia.</b> Visiting professor and member of the Academic Board of the Faculty of Law of the University of Tartu</p>

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## ENDNOTES

- <sup>1</sup> M. Szwarc-Kuczer, in: A. Wróbel (ed.), *Traktat o funkcjonowaniu Unii Europejskiej*, LEX a Wolters Kluwer Business 2012, p. 218; T. Tridimas, 'The Role of the Advocate General in the Development of Community Law: Some Reflections', *Common Market Law Review* 34: 1349–1387, 1997, p. 1350.
- <sup>2</sup> M. Kotzur, in: R. Geiger at al. (eds), *European Union Treaties*, CH Beck 2015, p. 844.
- <sup>3</sup> J. Laffranque, '[Dissenting Opinion in the European Court of Justice - Estonia's Possible Contribution to the Democratisation of the European Union Judicial System](#)', *Juridica International* 2004, Vol. 9, p. 18.
- <sup>4</sup> Szwarc-Kuczer, op. cit., p. 218-219.
- <sup>5</sup> Tridimas, op. cit., p. 1354.
- <sup>6</sup> Szwarc-Kuczer, op. cit., p. 219.
- <sup>7</sup> Szwarc-Kuczer, op. cit., p. 219.
- <sup>8</sup> Szwarc-Kuczer, op. cit., p. 219.
- <sup>9</sup> T. Tridimas, op. cit., p. 1351; B. Wägenbaur, *Court of Justice of the European Union. Commentary on the Statute and Rules of Procedure*, CH Beck 2013, p. 25, fn. 102.
- <sup>10</sup> Wägenbaur, op. cit., p. 25, fn. 101.
- <sup>11</sup> Cf. J.-C. Piris, *The Lisbon Treaty: A Legal and Political Analysis* (Cambridge University Press 2010), p. 233.
- <sup>12</sup> Wägenbaur, op. cit., p. 217.
- <sup>13</sup> C. Arrebola, A. Mauricio, H. Portilla. '[An Econometric Analysis of the Influence of the Advocate General on the Court of Justice of the European Union](#)', 5 *Cambridge J. Int'l & Comp. L.* 82 (2016), p. 111.
- <sup>14</sup> J. Laffranque, op. cit., p. 18-19.
- <sup>15</sup> Tridimas, op. cit., p. 1358.
- <sup>16</sup> Wägenbaur, op. cit., p. 61.
- <sup>17</sup> Wägenbaur, op. cit., p. 61.
- <sup>18</sup> Wägenbaur, op. cit., p. 218.
- <sup>19</sup> Wägenbaur, op. cit., p. 306.
- <sup>20</sup> Wägenbaur, op. cit., p. 306.
- <sup>21</sup> Wägenbaur, op. cit., p. 306-307.
- <sup>22</sup> Wägenbaur, op. cit., p. 307.
- <sup>23</sup> Wägenbaur, op. cit., p. 307.
- <sup>24</sup> Wägenbaur, op. cit., p. 308.
- <sup>25</sup> Wägenbaur, op. cit., p. 244.
- <sup>26</sup> K. Lenaerts, I. Maselis, K. Gutman, *EU Procedural Law*, Oxford University Press, 2014, p. 23.
- <sup>27</sup> Tridimas, op. cit., p. 1357.
- <sup>28</sup> Arrebola, Mauricio, Portilla, op. cit., p. 106.
- <sup>29</sup> C. Arrebola, A. Mauricio, H. Portilla, op. cit., p. 108.
- <sup>30</sup> Tridimas, op. cit., p. 1363.
- <sup>31</sup> Own calculation on the basis of an analysis of the results obtained in the CURIA database on the basis of a search for the "Review procedure" (27 results in a total of 16 cases).
- <sup>32</sup> Wägenbaur, op. cit., p. 25.
- <sup>33</sup> Wägenbaur, op. cit., p. 510.
- <sup>34</sup> Wägenbaur, op. cit., p. 511.

- <sup>35</sup> For an overview of legal families in Europe, see e.g. E. Özücü, "A General View of 'Legal Families' and of 'Mixing Systems'" in E. Özücü and D. Nelken (eds), *Comparative Law: A Handbook*, Hart 2007; J. Husa, '[The Future of Legal Families](#)', *Oxford Handbooks Online*, 2016.
- <sup>36</sup> Specifically concerning the central and eastern European legal family, see e.g. C. Varga, '[The Changing Judicial Patterns in Central Europe: Pre- and Post-Accession](#)', *Acta Iuridica Hungarica*, 2014, Vol. 55, Issue 2; K. Kelemen, 'I sistemi giuridici dell'Europa orientale' in V. Varano & V. Barsotti (eds); *La tradizione giuridica occidentale. Testo e materiali per un confronto civil law common law*, Torino, Giappichelli, 2014; K. Kelemen, B. Fekete, '[How Should the Legal Systems of Eastern Europe Be Classified Today?](#)' in A. Badó et al. (eds.), *International Conference for the 10th Anniversary of the Institute of Comparative Law*, Universitätsverlag, Potsdam 2014.
- <sup>37</sup> Source of data: CJEU, '[Presentation of the Members](#)' (last accessed: 7 May 2019). The author of this briefing has further elaborated the data and grouped the working experience of each Advocate General according to the categories used in Table 1 hereinabove.

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