DOI: https://www.doi.org/10.31178/AUBD-FJ.2026.1.13

Forum Juridic nr. 1 / 2026

ANALELE UNIVERSITĂȚII DIN BUCUREȘTI - SERIA DREPT

# The transfer to the General Court of part of the jurisdiction to give preliminary rulings

**Assoc. Prof. Dr. Mirela Stancu**
*Judge at the General Court*

**Abstract:** *The 2024 amendment to the EU's Statute of the Court of Justice transferred the competence to give preliminary rulings in six specified areas — VAT, excise duties, the Customs Code, tariff classification, passenger-rights compensation, and emissions-allowance trading — from the Court of Justice to the General Court as of 1 October 2024. To accommodate this new type of case, the General Court revised its Rules of Procedure, created a dedicated registry, established two specialised chambers for preliminary rulings, and introduced three elected Advocate Generals who assist the chambers while remaining separate from the actual preliminary-ruling proceedings. Under the "one-stop-shop" principle, the Court of Justice first decides whether a request falls within the transferred areas and, if so, transfers it to the General Court. The case is then allocated by rotation to a reporting judge in one of the two specialised chambers, notified to the parties, and opened for written observations. Between November 2024 and April 2026, 123 requests entered the one-stop-shop, 101 of which were transferred; the General Court rendered its first preliminary-ruling judgment on 9 July 2025 and, by April 2026, had delivered 17 judgments, including two Romanian cases.*

**Key words:** *transfer of competence, preliminary rulings, VAT, excise duties, the Customs Code, tariff classification, passenger-rights compensation, emissions allowance trading*.

## Transferul către Tribunal a unei părți din competența în materie de întrebări preliminare

**Rezumat:** *În urma modificării din 2024 a Statutului Curții de Justiție a Uniunii Europene a fost transferată, începând cu 1 octombrie 2024, competența în materie de întrebări preliminare în șase domenii specifice – sistemul comun al taxei pe valoarea adăugată; accizele; Codul vamal; clasificarea tarifară a mărfurilor în Nomenclatura combinată; compensarea și asistența pasagerilor în eventualitatea refuzului la îmbarcare sau a întârzierii ori a anulării serviciilor de transport; schema de comercializare a certificatelor de emisii de gaze cu efect de seră – de la Curtea de Justiție la Tribunal. Pentru a face față acestui nou tip de cauze, Tribunalul și-a revizuit Regulamentul de procedură, a creat un registru dedicat, a înființat două camere specializate și a introdus trei avocați generali aleși care asistă camerele specializate. În conformitate cu principiul „ghișeului unic", Curtea de Justiție decide mai întâi dacă o cerere se încadrează exclusiv în domeniile transferate și, în caz afirmativ, o transferă Tribunalului. Cauza este apoi repartizată prin rotație unui judecător raportor dintr-una dintre cele două camere specializate, părțile sunt notificate, iar procedura este deschisă pentru observații*

*scrise. Între noiembrie 2024 și aprilie 2026, 123 de cereri au fost înregistrate la ghișeul unic, dintre care 101 au fost transferate; Tribunalul a pronunțat prima sa hotărâre în materie de întrebări preliminare la 9 iulie 2025 și, până în aprilie 2026, a pronunțat 17 hotărâri, inclusiv în două în care întrabările au fost adresate de instanțe din România.*

**Cuvinte cheie:** *transfer de competență, întrebări preliminare, TVA, accize, Codul Vamal, clasificare tarifară, compensarea drepturilor pasagerilor, comercializare certificate emisii de gaze cu efect de seră.*

On 1 September 2024, the Regulation (EU, Euratom) 2024/2019 of the European Parliament and of the Council of 11 April 2024 amending Protocol No 3 on the Statute of the Court of Justice of the European Union[1] entered into force.

The most significant amendment provides for a transfer, applicable from 1 October 2024, from the Court of Justice to the General Court of part of the jurisdiction to give preliminary rulings.

According to article 50b of the Statute of the Court of Justice of the European Union, the transfer concerns six specific areas: the common system of VAT; excise duties; the Customs Code; the tariff classification of goods; compensation and assistance to passengers in the event of denied boarding or of delay or cancellation of transport services; and the system for greenhouse gas emission allowance trading.

## 1. THE STRUCTURES IN PLACE FOR THE TREATMENT OF PRELIMINARY RULINGS

In the context of the transfer of jurisdiction, the General Court had to adapt its structures in order to be ready to receive a new type of cases, namely references for a preliminary ruling. Four important steps have been taken in that regard: the amendment of the rules of procedure, the preparation of the General Court's registry, the instauration of two specialised chambers and the election of Advocate Generals.

All these steps have been taken in order to achieve the main objective for both jurisdictions that was to ensure that there would be as few differences as possible for the interested parties.

### a) Rules of Procedure

As far as the procedural framework is concerned, the General Court's Rules of Procedure[2] were amended with a new chapter on preliminary rulings. This chapter contains all the major provisions from the Court's own rules of procedure establishing the preliminary rulings procedure.

This was a very user-friendly decision which aims to ensure to the greatest extent a harmonized procedure within two formally separate jurisdictions. It also enables the General Court to build on the Court's acquis, that is its procedural case law, and on its practice and

[1] OJ L, 12.8.2024.
[2] OJ L 105, 23.4.2015, p. 1.

experiences. At the same time, the national jurisdictions, lawyers, Member States' authorities and EU institutions alike benefit from the predictability of the General Court's procedural decisions.

**b) Specialized preliminary rulings chambers**

Article 50b of the Statute of the Court of the EU provides that "requests for a preliminary ruling that the General Court hears shall be assigned to chambers designated for that purpose". Therefore, only specialized chambers deal with the preliminary rulings within the General Court.

Within the General Court, 10 chambers of five judges presided each by a President of Chamber are set up. Two of these chambers deal with references for preliminary rulings. However, this is not their sole task. They are also competent for direct actions, but to a more limited extent than the other chambers of the General Court.

**c) Advocate Generals**

In addition to the specialized preliminary rulings chambers, there is another novelty at the General Court: the institution of three elected Advocate Generals. According to article 31a of the General Court's rules of procedure, the Judges of the General Court elect from among their number, the Judges called upon to perform the duties of an Advocate General in dealing with requests for a preliminary ruling and the Judges called upon to replace them if they are prevented from acting. There are two Judges elected to perform the duties of an Advocate General and one to replace them if they are prevented from acting.

Thus, each preliminary rulings chamber has an additional sixth member: respectively one of the two principal Advocate Generals is attached to a chamber, where she or he is acting as a judge.

Indeed, according to article 49 of the Statute of the Court, the Advocate General is attached as a judge to one of the preliminary rulings chambers and will present her or his opinions only in cases assigned to the other specialised chamber. The same article also provides that an advocate general shall not sit as judge in requests for a preliminary ruling. Thus, when acting as a judge within her or his chamber, the advocate general is dealing exclusively with direct actions cases never with preliminary rulings cases.

**2. THE TREATMENT OF A PRELIMINARY RULING CASE BEFORE THE GENERAL COURT**

**a) Case allocation**

According to the one-stop-shop principle laid down in article 93a of the Court's Rules of Procedure, it is for the Court of Justice to determine, in accordance with the detailed rules set out in its Rules of Procedure, whether the request for a preliminary ruling falls exclusively within one or several specific defined areas and, accordingly, whether that request is to be transmitted to the General Court.

Once the Court has adopted the decision that a request for a preliminary ruling falls within one or several specific defined areas, it immediately transfers it to the General Court'

registry, where it is registered with a case-number preceded by a T for Tribunal, the French name of this jurisdiction.

Once registered, the case is assigned to a reporting judge sitting in one of the two specialized chambers.

The cases are allocated by rotation, as long as there is no close connectivity between a new case and one that has already been assigned. There is however an exception in the case of an incompatibility. This hypothesis concerns notably references for a preliminary ruling coming from a jurisdiction of the reporting judge or the Advocate General's member State. In the first case, another judge of the specialised chamber is designated as reporting judge, in the latter, it is for the substitute Advocate General to take over, which happened indeed already once.

After the allocation of a case, a first decision has to be taken immediately, namely the decision to notify the reference for a preliminary ruling to the parties and interested persons and entities mentioned at article 23 of the Statute of the Court. This procedural decision is usually taken more or less automatically by the president of the preliminary rulings chamber, on a proposal of the reporting judge, after having heard the Advocate General. By notifying the reference, the parties and interested persons are given the opportunity to present written observations.

**b) Statistics November 2024 – April 2026**

Between November 2024 and April 2026, out of 123 cases registered to the one-stop-shop (Guichet unique) 101 cases have been transferred to the General Court. 5 of these cases came from Romanian jurisdictions: T-634/24, Credidam (VAT); T-691/24, Heineken România (tariff classification); T-233/25, Mokoryte (VAT); T-670/25, Elvada (Customs Code) and T-680/25, Mercedes Benz (VAT).

The first judgement in preliminary ruling case was delivered by the General Court on 9 July 2025 in the case, T-657/25, Gotek[3]. Until April 2026, a total of 17 judgements including in two Romanian cases: T-643/24, Credidam (judgement, 11 February 2026) and T-691/24, Heineken Romania (judgement, 4 March 2026) were delivered. In 5 of these cases, the General Court delivered a judgment following an Advocate General's opinion.

**c) Case T-643/24, Credidam (Judgement, 11 February 2026)[4]**

In the case T-643/24, Credidam, the dispute in the main proceedings was between Centrul Român pentru Administrarea Drepturilor Artiștilor Interpreți (Romanian Centre for the Administration of Performing Artists' Rights; 'CREDIDAM'), which is a collective management organisation for copyright, and Cristian General Serv SRL, a company established in Romania, concerning the fee payable by the latter for the broadcasting of protected musical works.

That company broadcast such works in an accommodation unit without CREDIDAM having previously granted it the requisite licence. Under Romanian legislation, in that case, the fee should be tripled.

[3] Judgement, 9 July 2025, *Gotek*, T-534/24, EU:T:2025:682.
[4] Judgement, 11 February 2026, *Credidam*, T-643/24, EU:T:2026:112.

The referring court (Curtea de apel Bucuresti), hearing the case on appeal, stated that CREDIDAM requested that VAT be included in the sums claimed, whereas, according to the defendant in the main proceedings, that tax was not payable.

Two questions were raised by the referring court, namely whether, first, the holders of copyright carry out a 'supply of services for consideration' within the meaning of Article 2(1)(c) of the VAT Directive[5], subject to VAT where a person carries out a communication to the public of protected works without having acquired the necessary licence from a collective management organisation for copyright. Second, if so, in order to calculate the VAT due, it will be necessary to determine whether the consideration for that supply comprises only the basic amount of the fee or whether the VAT must be calculated on the basis of the tripled amount that would be due in the absence of a licence.

The General Court adopted the approach and solution proposed by the Advocate General.

Regarding the first question, the judgement refers to the Advocate General's opinion on the first question on two occasions. First, according to settled case law of the Court of Justice, a supply of services is carried out for consideration, within the meaning of Article 2(1)(c) of the VAT Directive, only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is a reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration for an identifiable service supplied to the recipient. That is the case if there is a direct link between the service supplied and the consideration received (paragraph 32). In that regard, the judgment accepted the Advocate General's argument that the concept of 'legal relationship … pursuant to which there is a reciprocal performance' must be given a broad interpretation (paragraph 33). Second, the judgment also took up the Advocate General's remark that the fact that the communication of protected works took place without collective management organisation for copyright having first granted a licence for such communication led the referring court to question whether the case-law resulting from the judgment of 21 January 2021, UCMR – ADA (C-501/19, EU:C:2021:50), could be applied to the facts in the main proceedings (paragraph 36).

Taking into account that the principle of fiscal neutrality precludes a generalised distinction between lawful and unlawful transactions in relation to the collection of VAT (point 37), and that communicating the protected works in question gives rise to a single, equitable remuneration for performers and producers of phonograms for the direct or indirect use of the latter, who cannot oppose such use (paragraph 39), the General Court ruled that a supply of services was carried out for consideration in this case.

Regarding the second question, the General Court stated that the price to be taken into consideration and subject to VAT is the price determined by law in the case of unlicensed communication of works such as the protected works in question, that is to say, three times the price that the user would have been required to pay in the case of licensed communication to the public (paragraph 49).

### d) Case T-691/24, Heineken Romania (Judgement, 4 March 2026)[6]

[5] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

[6] Judgement, 4 March 2026, *Heineken România*, T-691/24, EU:T:2026:166.

In the case T-691/24, Heineken Romania, the request for a preliminary ruling concerned the interpretation of tariff subheadings 2206 00 31, 2206 00 51, 2206 00 81, 2206 00 39 and 2206 00 59 of the Combined Nomenclature (CN)[7]. The request has been made in proceedings between, on the one hand, Heineken România S.A. and, on the other, the Agenția Națională de Administrare Fiscală (ANAF) (National Tax Administration Office, Romania) and the Direcția Generală de Administrare a Marilor Contribuabili (Directorate–General for the Administration of Large-scale Taxpayers, Romania) concerning the tariff classification of Strongbow alcoholic beverages imported by Heineken România S.A. into Romania.

The question the referring court (Inalta Curte de Casatie si Justitie) asked was, in essence, whether the CN must be interpreted as meaning that beverages composed of fermented apple juice from concentrate, in an amount of 25%, water, glucose-fructose syrup, malic acid, carbon dioxide, potassium metabisulphite, and various flavourings and in which the proportion of alcohol derived from plants other than apples is between 48% and 53%, but which has the organoleptic characteristics of cider, must be classified (i) under tariff headings 2206 00 31, 2206 00 51, or 2206 00 81 of the NC or (ii) under tariff headings 2206 00 39 or 2206 00 59 thereof.

In this case, having decided, after hearing the Advocate General, to proceed to judgment without an Opinion and following the case-law of the Court, more precisely the judgment of 7 May 2009, *Siebrand*, C-150/08[8], the General Court gave its judgement on March 2026 and ruled that the Combined Nomenclature must be interpreted as meaning that beverages composed of fermented apple juice from concentrate, in an amount of 25%, water, glucose-fructose syrup, malic acid, carbon dioxide, potassium metabisulphite, and various flavourings and in which the proportion of alcohol derived from plants other than apples is between 48% and 53%, but which have the organoleptic characteristics and intended use of cider, must be classified under tariff subheadings 2206 00 31, 2206 00 51, or 2206 00 81 of that nomenclature.

The General Court stated that by application of general rule 2(b) of the CN, products such as those at issue in the main proceedings must be classified following the method provided for in general rule 3 of the CN (paragraph 51).

In that regard, the General Court noted that the first sentence of general rule 3(a) of the CN does not allow products such as those at issue in the main proceedings to be classified. Having regard to their composition, those products include, in part, cider and, in part, alcohol obtained from the fermentation of plants other than apples. Consequently, in the light of the second sentence of that general rule which states that when two or more headings each refer to part only of the materials contained in mixed or composite goods, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods – neither the subheadings concerning cider, nor the subheadings concerning other fermented beverages can be regarded as 'the most specific' within the meaning of that general rule. In those circumstances, general rule 3(b) of the CN should be applied for the purposes of the tariff classification of products such as those

[7] Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), as amended by Commission Implementing Regulation (EU) No 1101/2014 of 16 October 2014 (OJ 2014 L 312, p. 1), and Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015 (OJ 2015 L 285, p. 1).

[8] Judgement, 7 may 2009, *Siebrand*, C-150/08, EU:C:2009:294.

at issue in the main proceedings (paragraph 53). Under that general rule and in order to carry out the tariff classification of goods it is necessary to identify, from among the materials of which they are composed, the one which gives them their essential character (paragraph 54). In this respect, according to paragraphs 35 to 38 of the judgment of 7 May 2009, *Siebrand*, C-150/08, a number of objective characteristics and properties may be taken into account for the purpose of determining the essential character, within the meaning of general rule 3(b) of the CN, of fermented alcohol-based beverages to which other substances have been added. Those objective characteristics and properties include, first, the types of alcohol the products at issue contain and the extent to which each of those types of alcohol contribute to the alcohol volume and alcoholic strength of those products; second, the organoleptic characteristics of those products; and third, the intended use of those products if it is inherent to them, and that inherent character must be capable of being assessed on the basis of the product's objective characteristics and properties. Lastly, it is necessary to carry out a global assessment of those three criteria (paragraph 56).

* *
*

At the end of this presentation, it is important to underline that the judgements of the General Court delivered in preliminary ruling cases can be reviewed by the Court. Indeed, according to article 62 of the Statute of the Court, in these cases, where the First Advocate General considers that there is a serious risk of the unity or consistency of Union law being affected, he may propose that the Court of Justice review the decision of the General Court. The proposal must be made within one month of delivery of the decision by the General Court. Within one month of receiving the proposal made by the First Advocate General, the Court of Justice shall decide whether or not the decision should be reviewed.