



## Reports of Cases

**Case C-633/16**

**Ernst & Young P/S**  
**v**  
**Konkurrencerådet**

(Request for a preliminary ruling from the Sø- og Handelsretten)

(Reference for a preliminary ruling — Control of concentrations of undertakings — Regulation (EC) No 139/2004 — Article 7(1) — Implementation of a concentration prior to notification to the European Commission and declaration of compatibility with the common market — Prohibition — Scope — Concept of ‘concentration’ — Termination of a cooperation agreement with a third party by one of the merging undertakings)

Summary — Judgment of the Court (Fifth Chamber), 31 May 2018

*Concentrations between undertakings — Examination by the Commission — Obligation to suspend the concentration — Concept of ‘concentration’ — Implementation of a transaction contributing to the change in control of the target undertaking — Termination of a cooperation agreement with a third party by one of the merging undertakings — Precluded — To be determined by the national court*

*(Council Regulation No 139/2004, Art. 7(1))*

Article 7(1) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (‘the EC Merger Regulation’) must be interpreted as meaning that a concentration is implemented only by a transaction which, in whole or in part, in fact or in law, contributes to the change in control of the target undertaking. The termination of a cooperation agreement, in circumstances such as those in the main proceedings, which it is for the referring court to determine, may not be regarded as bringing about the implementation of a concentration, irrespective of whether that termination has produced market effects.

(see para. 62, operative part)