



## Newsletter

Week III - IV 2024: 15<sup>th</sup> – 26<sup>th</sup> January 2024

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**Sorchadh  
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## Week III 2024 – 15<sup>th</sup> to 19<sup>th</sup> January

### Tuesday 16<sup>th</sup> January

#### [Judgment in Case C-621/21 Intervyuirasht organ na DAB pri MS \(Women who are victims of domestic violence\)](#)

*(Area of Freedom, Security and Justice – asylum policy)*

A divorced Turkish national of Kurdish origin and Muslim faith applied for international protection in Bulgaria. Forced into marriage, beaten by her husband and threatened by both her husband and her family, she feared for her life if she had to return to Turkey.

The Bulgarian judge hearing the case decided to put questions to the Court of Justice.

The EU [Directive on international protection](#) lays down the conditions for granting refugee status and subsidiary protection to non-EU nationals. The grounds for granting refugee status include persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group. Subsidiary protection is granted to non-EU nationals who do not qualify for refugee status, but for whom there are substantial grounds for believing that, if returned to their country of origin, they would seriously risk suffering real harm.

#### [Background Documents C-621/21](#)

**There will be a press release for this case.**

### Tuesday 16<sup>th</sup> January

#### [Judgment in Case C-33/22 Österreichische Datenschutzbehörde \(Austrian Data Protection Authority\)](#)

*(Principles, objectives and tasks of the Treaties)*

The *Nationalrat*, the Austrian parliament's chamber of deputies, has set up a commission of inquiry to investigate the existence of any political influence on the Austrian Federal Office for the Protection of the Constitution and the Fight against Terrorism.

This commission of inquiry heard a witness at a hearing that was broadcast by the media. The minutes of this hearing were published on the website of the Austrian Parliament. Despite a request for anonymity, it contained the witness's full name.

All times are 9:30 unless otherwise stated.

Don't forget to check the diary on our website for details of other cases.



Believing that the mention of his name was a breach of the [General Data Protection Regulation](#) (GDPR), the witness lodged a complaint with the Austrian Data Protection Authority.

He explained that he worked as an undercover agent in the police task force responsible for combating street crime. The Data Protection Authority rejected the complaint. The separation of powers would prevent the Data Protection Authority, as a branch of the executive, from monitoring the compliance with the GDPR by the commission of inquiry, instead falling under the legislative authority. The witness then turned to the Austrian courts.

The Austrian Administrative Court asked the Court of Justice whether the commission of inquiry, conducting an investigation into national security activities, is subject to the GDPR and the control of the Data Protection Authority.

### [Background Documents C-33/22](#)

**There will be a press release for this case.**

## Thursday 18<sup>th</sup> January

### [Judgment in Case C-218/22 Comune di Copertino](#)

*(Social policy)*

From February 1992 to October 2016, a public servant worked as a training executive for the municipality of Copertino (Italy). He resigned to take early retirement, claiming financial compensation for the 79 days of paid annual leave not taken during his employment. The *Comune di Copertino* contested this claim, invoking the Italian legislation rule, according to which public servants are under no circumstances entitled to financial compensation.

The Italian court hearing the dispute between the public servant and the municipality of Copertino had doubts as to the compatibility of this rule with European Union law.

According to the [Working Time Directive](#), a worker, who has not been able to take all his paid annual leave entitlements before the end of his employment, is entitled to some financial compensation for the unused annual leave.

### [Background Documents C-218/22](#)

**There will be a press release for this case.**

## Thursday 18<sup>th</sup> January

### [Judgment in Case C-451/22 RTL Nederland et RTL Nieuws](#)

*(Fundamental rights)*

On 17 July 2014, 298 people lost their lives when Malaysia Airlines flight MH17, a scheduled passenger flight from Amsterdam (Netherlands) to Kuala Lumpur (Malaysia) crashed near Hrabove, a village in eastern Ukraine.

RTL Nederland BV and RTL Nieuws BV ('RTL'), two Dutch media outlets, requested information from the Dutch Government to find out what it knew about the safety of Ukrainian airspace prior to the disaster, including all reports by the 'European Coordination Centre for Accident and Incident Reporting Systems' ('Eccairs') relating to Ukraine for 2014.

The *minister van Infrastructuur en Waterstaat* (Minister for Infrastructure and Water Management, 'the Minister') decided that national law and [Regulation \(EU\) No 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation](#) prohibited disclosure of that information.

In its request for a preliminary ruling, the Dutch referring court, *Raad van State* (Netherlands), asked the Court of Justice about the extent to which a news organisation can receive information from a database covered by Regulation No 376/2014 and, if so, in what form.

The referring court doubts whether the absolute prohibition on the disclosure of such information laid down in national law is compatible with Article 15 of the aforementioned Regulation and with the right to freedom of expression and information enshrined in [Article 11](#) of the **Charter of Fundamental Rights of the European Union** and in **Article 10** of the [European Convention on Human Rights](#) (ECHR).

In his opinion delivered on 15 June 2023, Advocate General Collins proposed to the Court to reply stating that all information received pursuant to Regulation No 376/2014 is confidential insofar as none of it may be disclosed, upon request, to a member of the public or a media undertaking. Additionally, Regulation No 376/2014 does not preclude national legislation to that effect.

The Court will now decide.

### [Background Documents C-451/22](#)

**There will be a press release for this case.**

## Thursday 18<sup>th</sup> January

### [Opinion in Case C-240/22 P Commission v Intel Corporation](#)

(*Competition*)

The applicant, Intel Corporation, is a United States-based company that designs, develops, manufactures, and markets central processing units ('CPUs'), 'chipsets', and other semiconductor components, as well as platform solutions for data processing and communications devices.

Following the Commission's investigations pursuant to [Council Regulation \(EC\) No 1/2003](#)

against Intel, on 26 July 2007, the Commission communicated its statement of objections to Intel concerning its conduct vis-à-vis some major Original Equipment Manufacturers (OEMs).

On 13 May 2009, the Commission adopted a Decision (Case COMP/C-3/37.990 — Intel – the contested decision) – see summary in the *Official Journal of the European Union* ([OJ 2009 C 227, p. 13](#)).

According to the contested decision, Intel committed a single and continuous infringement of [Article 102 TFEU](#) and of Article 54 of the [Agreement on the European Economic Area \(EEA\)](#), from October 2002 until December 2007, by implementing a strategy aimed at foreclosing a competitor, AMD, Intel's only significant competitor, from the market for x86 CPU microprocessors ('x86 CPUs'). CPUs are key components of any computer, often referred to as a computer's 'brain'.

In the contested period, Intel held a dominant position in that market. Intel's anti-competitive conduct thereby resulted in a reduction of consumer choice and in lower incentives to innovate as well as directly harming competition.

On 22 July 2009, the applicant brought an action for annulment of the contested decision. By the initial judgment, delivered on 12 June 2014, the General Court dismissed the action in its entirety ([T-286/09](#) - Intel v Commission).

On 26 August 2014, the applicant appealed against the initial judgment. By its judgment on the first appeal, delivered on 6 September 2017, the Court of Justice set aside the initial judgment and referred the case back to the General Court.

By the judgment under appeal, delivered on 26 January 2022, the General Court held that the contested decision had to be annulled in part (T-286/09 RENV - Intel Corporation v Commission).

The Commission appealed that judgment on 5 April 2022.

### [Background Documents C-240/22 P](#)

**There will be a press release for this case.**

## Thursday 18<sup>th</sup> January

### [Opinion in Case C-450/22 Caixabank and Others](#)

*(Consumer protection)*

The *Asociación de Usuarios de Bancos, Cajas de Ahorros y Seguros de España* (Spanish Association of Users of Banks, Savings Banks and Insurance, 'ADICAE') brought a collective action for an injunction against 44 financial institutions operating in Spain. ADICAE sought an order to stop those institutions from using the general contractual condition in their variable mortgage loan agreements. This condition consists of limiting variable interest rates from falling below a certain threshold (the 'floor clause').

Moreover, ADICAE joined to the action to obtain an order for reimbursement of the payments

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made under that condition. ADICAE applied to add further defendants to its action on two occasions, raising the total number of defendants to 101.

The banks appealed to the *Tribunal Supremo* (Supreme Court) against the judgment of the *Provincial Court de Madrid* (Provincial Court, Madrid).

In its request for a preliminary ruling, the Supreme Court, as the referring court, raises two main issues. The first one relates to whether a collective action for an injunction is an appropriate procedural mechanism to carry out a review of the transparency of contractual clauses. Moreover, it has doubts as to whether such a collective action for the review of transparency may be brought against all the financial establishments that make up the banking system of an entire country (over a hundred) where the sole common denominator among those institutions is the use of a similar clause in their mortgage contracts.

The second issue raised relates to the definition of the average consumer in circumstances in which there are differences among the numerous financial institutions involved in the litigation, the contractual models that have been used, the customers concerned and in which the terms concerned have been used over a long period of time.

#### [Background Documents C-450/22](#)

**There will be a press release for this case.**

## Week IV 2024 – 22<sup>nd</sup> to 26<sup>th</sup> January

### Wednesday 24<sup>th</sup> January

#### [Judgment in Case T-562/22 Noah Clothing / EUIPO - Noah \(NOAH\)](#)

*(Intellectual, Industrial and Commercial Property – Trade marks)*

In 2008, Mr. Yannick Noah, a former French tennis player, registered the following figurative sign with the European Union Intellectual Property Office (EUIPO) as a European Union trademark:



This registration concerned, in particular, leather and imitation leather goods, clothing, including polo shirts and sweaters, as well as games and toys.

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In 2019, Noah Clothing LLC, a New York-based company that markets clothing, filed an application for revocation of this trademark with the EUIPO, on the grounds that it had not been put to genuine use in the European Union for an uninterrupted period of five years for all the goods concerned.

In July 2022, the EUIPO declared the revocation of the contested trademark for all the goods concerned, with the exception of "polo shirts" and "sweaters".

Noah Clothing LLC asks the Court of the European Union to annul the EUIPO's decision insofar as it did not also declare the revocation of the contested mark for "polo shirts" and "sweaters".

### [Background Documents T-462/22](#)

**There will be a press release for this case.**

## Wednesday 24<sup>th</sup> January

### [Judgment in Case T-537/22 Delta-Sport Handelskontor / EUIPO – Lego \(Building block for a construction toy box\)](#)

*(Intellectual, Industrial and Commercial Property – Designs)*

Lego is the owner of the following EU design, registered on February 2, 2010, for "construction elements of a construction toy box":



In the context of an application for a declaration of invalidity filed by Delta Sport Handelskontor, the Board of Appeal of the European Union Intellectual Property Office (EUIPO) ruled on May 30, 2022 that the contested Lego toy brick design could not be declared invalid, as it benefited from the exception protecting modular systems.

Delta Sport Handelskontor is asking the General Court to annul the EUIPO's decision insofar as it wrongly concluded that the design benefited from an exception under EU law protecting modular systems.

### [Background Documents T-537/22](#)

**There will be a press release for this case.**

#### [Judgment in Cases C-474/22 Laudamotion \(Renouncing a late flight\) and C-54/23 Laudamotion et Ryanair](#)

*(Transport)*

The two requests for a preliminary ruling by the Bundesgerichtshof (Federal Court of Justice, Germany), both focus on the interpretation of [Regulation \(EC\) No. 261/2004](#), establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

The case C-54/23 Laudamotion and Ryanair relates to a dispute between WY, an air passenger, and Laudamotion GmbH and Ryanair DAC concerning the refusal of these two air carriers to compensate the passenger for a delay in the arrival of a flight for which he had a confirmed reservation.

WY booked a return flight with Ryanair from Düsseldorf (Germany) to Palma de Mallorca (Spain), scheduled for October 31, 2019. Having been informed by Laudamotion, which was the operating air carrier, that the departure of the outbound flight (hereinafter the "original flight") would be delayed by six hours, this passenger booked himself a replacement flight to honour a business appointment to be held in Palma de Majorca.

Thanks to this replacement flight, he finally arrived at his destination less than three hours later than the scheduled arrival time of the initial flight, 3 hours or more after the scheduled arrival time being the minimum to seek flat-rate compensation from the airline (Joined cases [C-402/07 and C-432/07](#)). The said passenger, who stated that he had checked in on time for the initial flight, claimed compensation of €250 from Laudamotion under Regulation 261/2004. The passenger also asked Ryanair for information on the amount of unabsorbed taxes and their payment.

The case C-474/22 Laudamotion v flightright deals with a preliminary ruling in a dispute between Laudamotion GmbH, an air carrier, and flightright GmbH, a legal assistance company to which an air passenger had assigned his rights against Laudamotion, concerning compensation claimed as a result of the long delay of a flight for which the passenger had a confirmed reservation.

The air passenger had a confirmed reservation with Laudamotion for a flight from Düsseldorf (Germany) to Palma de Mallorca (Spain), scheduled for June 26, 2018. Believing that the announced delay of this flight would cause him to miss a business appointment, this passenger decided not to board the said flight, which arrived at its destination 3 hours and 32 minutes late.

Flightright, to which the said passenger had assigned his rights, brought an action for

compensation in the sum of €250, on the basis of Regulation 261/2004.

[Background Documents C-474/22](#)

[Background Documents C-54/23](#)

**There will be one press release for these cases.**

### Thursday 25<sup>th</sup> January

#### [Opinion in Case C-753/22 Bundesrepublik Deutschland \(Effect of refugee status decision\)](#)

*(Area of Freedom, Security and Justice – Border checks)*

The *Bundesverwaltungsgericht* (Federal Administrative Court, Germany) has made a request for a preliminary ruling in proceedings between QY – a Syrian national who was granted refugee status in Greece – and the *Bundesamt für Migration und Flüchtlinge* (Federal Office for Migration and Refugees; ‘the Federal Office’) concerning the latter’s decision to reject QY’s application for recognition of that status.

Germany, as the Member State to which the application for refugee status has been made (‘the second Member State’) cannot return QY to Greece, the Member State that first granted her such status (‘the first Member State’). That would expose her to a serious risk of being subject to inhuman or degrading treatment within the meaning of [Article 4](#) of the Charter of Fundamental Rights of the European Union (‘the Charter’), because of the living conditions for refugees in that Member State.

The referring court asks whether EU primary law ([Article 78 TFEU](#)) and the relevant rules of three acts adopted in the field of EU refugee law: the [Dublin III Regulation](#), the [Procedures Directive](#) and the [Qualification Directive](#), must be interpreted as to bind the second Member State to recognise the refugee status granted by the first Member State, without further examining the material conditions necessary to qualify for refugee status.

The present case raises the question of whether there may be mutual recognition of decisions granting refugee status between the Member States and, if so, whether that recognition continues to exist when mutual trust can no longer be presumed.

Similar questions are currently the subject of three further cases pending before the Court of Justice: El Baheer ([C-288/23](#)), Cassen ([C-551/23](#)), and opinion of Advocate General Richard de la Tour in *Generalstaatsanwaltschaft Hamm* (Request for the extradition of a refugee to Türkiye) ([C-352/22](#)).

[Background Documents C-753/22](#)



**There will be a press release for this case.**

### Thursday 25<sup>th</sup> January

#### [Judgment in Case C-481/22 Commission v Ireland \(Trihalomethanes in drinking water\)](#)

*(Public health)*

Trihalomethanes (known as 'THMs') are chemical compounds often found in drinking water, especially in water treatment systems that use chlorine to remove bacteria and contaminants. They are dangerous to both human health and to the environment.

Since 1 January 2014, Irish Water, which provides public water management services in Ireland, has ensured that the quality of drinking water meets the standards established by [Directive 98/83](#) on the quality of water intended for human consumption, as well as by the national rules transposing the directive into the Irish law.

In December 2014 and January 2015, the Commission asked the Irish authorities to provide information on the implementation of Directive 98/83 in Ireland. Following an examination of the information provided, the Commission informed the Irish authorities on 11 May 2015 that the situation described did not comply with Directive 98/83.

After investigating three progress reports from Irish authorities, the Commission sent a letter of formal notice to Ireland on 20 July 2018. On 19 October 2018, Ireland responded, detailing the progress already made and indicating its full compliance with the requirements of Directive 98/83 by the end of 2021.

On 15 May 2020, the Commission sent a reasoned opinion, considering that Ireland had failed to fulfil its obligations under Directive 98/83. It had failed to adopt the necessary measures to ensure that water intended for human consumption met the minimum requirement relating to the presence of THMs. It also had not taken into account the extent to which the parametric value of THMs had been exceeded, endangering public health.

The Commission ordered Ireland to comply with its obligations by 15 September 2020. Dissatisfied with the subsequent responses and information provided by Ireland between September 2020 and June 2021, the Commission decided to bring the present action for infringement.

#### [Background Documents C-481/22](#)

**There will be an Info Rapide for the case (available on request).**

## HEARINGS OF NOTE\*

### Court of Justice

Wednesday 17<sup>th</sup> January: 09:30 – Case [C-710/22 P JCDecaux Street Furniture Belgium v Commission](#) (State aid)

Wednesday 17<sup>th</sup> January: 09:30 – Case [C-63/23 Sagrario](#) (Area of freedom, security and justice – asylum policy)

Thursday 18<sup>th</sup> January: 09:30 – Case [C-650/22 FIFA](#) (Freedom of movement for persons)

Tuesday 23<sup>th</sup> January: **09:00** – Case [C-4/23 Mirin](#) (Citizenship of the Union – Right of entry and residence)

Wednesday 24<sup>th</sup> January: 09:30 – Joined Cases [C-647/21](#) and [T-648/21 D. K. \(Dismissal of a judge\) and M.C. and M.F. \(Dismissal of a judge\)](#) (Principles of Community law)

Thursday 25<sup>th</sup> January: **09:00** – Case [C-159/23 Sony Computer Entertainment Europe](#) (Intellectual, industrial and commercial property)

Thursday 25<sup>th</sup> January: 09:30 – Case [C-109/23 Jemerak](#) (Common foreign and security policy – Russia sanctions regulation)

### General Court

Monday 15<sup>th</sup> January: 14:30 – Case [T-79/23 Chiquita Brands v EUIPO - Jara 2000 \(CHIQUITA QUEEN\)](#) (Intellectual, industrial and commercial property – Trade marks)

Tuesday 16<sup>th</sup> January: 09:30 – Joined Cases [T-245/22](#) and [T-246/22](#) PGTEX Morocco v Commission (Commercial policy)

Wednesday 17<sup>th</sup> January: 09:30 – Case [T-288/22 VEB.RF v Council](#) (Restrictive measures – Ukraine)

Thursday 18<sup>th</sup> January: 09:30 – Case [T-78/23 Google v EUIPO - EPay \(GPAY\)](#) (Intellectual, industrial and commercial property – Trade marks)

Monday 22<sup>nd</sup> January: 14:30 – Cases [T-290/22](#) and [T-763/22](#) Kesaev v Council (Restrictive measures – Ukraine)

Tuesday 23<sup>th</sup> January: 09:30 – Case [T-741/22 Ezubov v Council](#) (Restrictive measures – Ukraine)

Tuesday 23<sup>th</sup> January: 09:30 – Case [T-494/22 NSD v Council](#) (Restrictive measures – Ukraine)

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Wednesday 24<sup>th</sup> January: 09:30 – Case [T-651/22 Shamalov v Council](#) (Restrictive measures – Ukraine)

Thursday 25<sup>th</sup> January: 09:30 – Case [T-561/21 HSBC Holdings and Others v Commission](#) (Competition)

\* This is a non-exhaustive list and does not include all the hearings over the next two weeks.