



Newsletter

Week IV - V: 22nd January – 2nd February 2024

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Info Update: Streaming on CVRIA website

Reminder: Streaming of Grand Chamber Hearings

Hearings in Grand Chamber Cases will generally be delay-streamed on [the CVRIA website](#). These hearings generally take place on Tuesdays.

- Hearings that last one morning are streamed in the afternoon of the same day and the stream will remain available until midnight of the same day.
- Hearings that last the full day will be streamed on the next day and will remain available until midnight.

New: Streaming of Judgments and Opinions delivered on Thursdays

We are pleased to announce that, as of this week, **all** Thursday morning readings of judgments and opinions will be broadcast **live** on the [CVRIA website](#). This concerns all judgments and opinions of the Court (all chambers) scheduled for delivery on Thursday morning.

Link: CVRIA website

All streaming, whether delayed or live, is accessible [here](#).

Week IV – 22nd to 26th January

Wednesday 24th 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 –

All times are 9:30 unless otherwise stated.

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

including polo shirts and sweaters – as well as games and toys.

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-562/22](#)

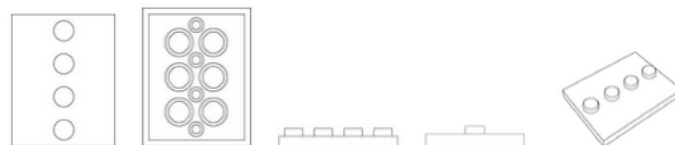
There will be a press release for this case.

Wednesday 24th 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 a ruling on May 30, 2022, the Board of Appeal of the European Union Intellectual Property Office (EUIPO) rejected an application for a declaration of invalidity filed by Delta Sport Handelskontor. It held that the contested Lego toy brick design could not be declared invalid, as it benefited from an 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.

Thursday 25th January

[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 booked.

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, 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 alternative flight, he finally arrived at his destination less than three hours later than the scheduled arrival time of the initial flight, three 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 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 flight, which arrived at its destination 3 hours and 32 minutes late.

Flightright, to which the 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 25th 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](#) 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](#)

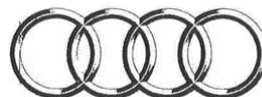
There will be a press release for this case.

Thursday 25th January

[Judgment in Case C-334/22 Audi \(Emblem support on a front grille\)](#)

(Intellectual, industrial and commercial property – Trade marks)

The automobile manufacturer Audi is the owner of the following European Union figurative trademark :



This is registered, *inter alia*, for vehicles, spare parts and automotive accessories. This mark is reproduced and used as the Audi emblem. A Polish retailer offers for sale, by advertising on its website, non-original grilles adapted for older Audi models. These radiator grilles include a component similar or identical in shape to this trademark, designed to hold the Audi emblem.

Audi took legal action against the dealer. It wants to prohibit non-original grilles bearing a sign identical or similar to the Audi trademark from marketing. The company asked the Court of Justice to determine whether the marketing of car parts, such as the grilles in question, constitutes "use of a sign in the course of trade" liable to impair the functions of the Audi trademark under EU law. It also questioned whether the owner of that trademark can prohibit a third party from such use.

[Background Documents C-334/22](#)

There will be a press release for this case.

Thursday 25th 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 January 1, 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 May 11, 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 July 20, 2018. On October 19, 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 May 15, 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 September 15, 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).

Week V – 29th January to 2nd February

Tuesday 30th January

[Judgment in Case C-560/20 Landeshauptmann von Wien \(Family reunification with a refugee minor\)](#)

(Area of Freedom, Security and Justice – Asylum policy)

After an unaccompanied Syrian minor was granted refugee status in Austria, his parents and his adult sister applied for residence permits so that they could join him.

The Austrian authorities rejected these applications on the grounds that, in the interim, the young Syrian had become an adult. Their subsequent applications for family reunification were rejected on the grounds that they had not been submitted within three months of the young Syrian's refugee status being recognised.

The parents and sister challenged this latest refusal before the Vienna Administrative Court.

The Austrian referring court asked the Court of Justice to interpret the [directive on the right to family reunification](#). It stated, among other things, that due to a serious illness, the sister was totally and permanently dependent on the assistance of her parents, so that they could not leave her alone in Syria.

[Background Documents C-560/20](#)

There will be a press release for this case.

Tuesday 30th January

[Judgment in Case C-118/22 Direktor na Glavna direksia „Natsionalna politsia“ pri MVR – Sofia](#)

(Area of Freedom, Security and Justice – Judicial cooperation in civil matters)

Varhoven administrativen sad (Supreme Administrative Court, Bulgaria) referred questions concerning the interpretation of [Directive \(EU\) 2016/680](#), the data protection law enforcement directive (the ‘LED Directive’). The directive ensures the protection of personal data of individuals involved in criminal proceedings, be it as witnesses, victims or suspects.

The request was made in the context of a dispute between NG and the Director of the General Directorate "National Police" at the Ministry of the Interior, Bulgaria (“the DGPN”). The DGPN had rejected NG's request to be removed from the police national register, in which the Bulgarian police authorities enter persons prosecuted for an intentional criminal offence subject to public prosecution.

The request was based on NG's rehabilitation/pardon granted on March 14, 2020, following his final criminal conviction for perjury on December 2, 2016, for which NG had been sentenced to a one-year probationary term. The DGPN rejected the request, considering that a final criminal conviction, even in the event of a pardon, is not one of the grounds for removal from the police register.

The referring court asked the Court whether the interpretation of the LED Directive precludes national legislative measures that would lead to a virtually unlimited right to the processing of personal data by the competent authorities for the purposes of the prevention and detection of criminal offences, investigation and prosecution of criminal offences, or the execution of criminal penalties.

[Background Documents C-118/22](#)

There will be a press release for this case.

Tuesday 30th January

[Judgment in Case C-442/22 Dyrektor Izby Administracji Skarbowej w Lublinie \(Employee fraud\)](#)

(Taxation)

The Polish Supreme Administrative Court submitted a reference for a preliminary ruling concerning the interpretation of the VAT Directive ([Council Directive 2006/112/EC](#)).

Between January 2010 and April 2014, an employee of the company based in Poland issued 1,679 invoices that did not reflect actual sales of goods, for a total value equivalent to around €320,000. The company was named as the issuer of these fraudulent invoices, even though they were issued without the consent or knowledge of its management; nor were they accounted for in the company's tax returns. The invoices were used to obtain undue VAT refunds from their recipients, without the corresponding tax having been paid into the State budget.

Following an audit, the Polish tax authorities issued a ruling determining the amount of VAT owed by the company. According to the tax authorities, the fraudulent actions of the employee in question were possible due to the lack of supervision and proper organisation within the company.

The company contested this decision before the national court, which in turn referred the matter to the Court of Justice. The referring court wishes the Court of Justice to clarify who, in the present circumstances, is the person who mentions the VAT on the invoice, within the meaning of the VAT Directive and is therefore liable for VAT: the company whose data was used illegally on the invoice, or the employee who used this data to issue false invoices.

[Background Documents C-442/22](#)

There will be a press release for this case.

Wednesday 31th January

[Judgment in Case T-56/22 United Kingdom v Commission](#)

(Agriculture and fisheries – European Agricultural Guidance and Guarantee Fund (EAGGF))

The United Kingdom (UK) seeks the annulment of [Commission Implementing Decision](#)

[\(EU\) 2021/2020](#), on the exclusion from EU financing of some expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) at the General Court. The decision was adopted on November 17, 2021, and the annulment sought concerns the expenditure allegedly incurred by the UK in 2017 amounting to €2,686,358.72.

In March 2018, the Commission had opened an inquiry into the UK's handling of EAGF and EAFRD funds to UK farmers to verify the conformity of UK's control of those grant funds with the EU legislation in the years 2015-2019, according to rules laid down in the EU's common agricultural policy (CAP), [Regulation \(EU\) No 1306/2013](#).

On December 22, 2020, before the date of the end of Brexit transition period, the Commission sent their final conclusions to the UK, the Commission notified the UK that the control system on the award of EAGF and EAFRD funds to farmers by the UK was contrary to EU law, prompting the UK to provide a detailed description of the corrective measures implemented.

After concluding the investigation, the Commission sent the UK a summary report on May 18, 2021, claiming, among other things, that the UK failed to take into account related companies in 2017 when checking the "status of active farmers" of the applicants for aid under the EAGF and EAFRD – thus breaching [Regulation \(EU\) 1307/2013](#).

As a result, it proposed to apply a financial correction amounting to €2,686,358.72.

[Background Documents T-56/22](#)

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

Thursday 1st February

[Judgment in Case C-251/22 P Scania and Others v Commission](#)

(Competition)

By their appeal, Scania AB, Scania CV AB and Scania Deutschland GmbH ('Scania DE'), three legal entities of the undertaking Scania (together 'Scania'), seek the annulment of the judgment of the General Court of the European Union of February 2, 2022, *Scania and Others v Commission* ([T-799/17](#))

The contested judgment dismissed Scania's action, which was mainly seeking annulment of the contested [decision](#) and, in the alternative, to reduce the amount of the fines imposed on them in that decision.

The Commission decision had considered that the agreements and/or concerted practices between Scania and the settling parties constituted a single and continuous infringement of [Article 101 TFEU](#) and Article 53 of the [Agreement on the European Economic Area](#) (EEA Agreement) (Case AT.39824 - Trucks) from January 17, 1997 until January 18, 2011. The infringement consisted of collusion with respect to pricing and gross price increases in the EEA for medium and heavy trucks – hence restricting competition on the market for those trucks – and the timing and passing on of costs for the introduction of trucks complying with environmental standards (emission technologies Euro 3 to 6 standards).

The Commission had then imposed a joint fine of €880,523,000 euros on Scania AB and Scania CV AB, with Scania DE held jointly and severally liable for payment of €440,003,282.

The Court will now decide on this appeal.

[Background Documents C-251/22 P](#)

There will be a press release for this case.

HEARINGS OF NOTE*

Court of Justice

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

Wednesday 24th 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 25th January: **09:00** – Case [C-159/23 Sony Computer Entertainment Europe](#) (Intellectual, industrial and commercial property)

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

Wednesday 31st January: 09:30 – Case [C-447/22 P Slovenia v Flašker and Commission](#) (State aid)

General Court

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

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

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

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

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

Tuesday 30th January: 09:30 – Case [T-362/22 Bazhaev v Council](#) (Restrictive measures – Ukraine)

Friday 02nd February: 09:30 – Case [T-453/22 BASF and Others v Commission](#)

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