



Newsletter

Week V - VI: 29th January – 9th February 2024

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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, to the extent 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 politisia“ 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

All times are 9:30 unless otherwise stated.

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

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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.

Tuesday 30th January

Judgment in Case C-255/21 Reti Televisive Italiane

(Freedom to provide services, Freedom of Establishment)

Reti Televisive Italiane SpA (“RTI”) is an Italian audiovisual media services company, owner of the TV channels Canale 5, Italia 1 e Rete 4.

In 2017, the *Autorità per le Garanzie nelle Comunicazioni* (“AGCOM”) imposed penalties on RTI for violating national legislation on the broadcasting of television advertising, having breached the maximum hourly limit on advertising space.

To calculate the hourly broadcasting time devoted to advertising, AGCOM took into account the promotional messages of radio station R101 broadcast on the television channels owned by RTI.

This radio station, like RTI, is part of the Mediaset group of companies. As a result, RTI argues that Radio R101's promotional messages should be qualified as self-promotional messages (i.e. messages advertising its own programs) and, consequently, excluded from the hourly broadcasting time for television advertising.

The reference for a preliminary ruling of the referring court concerns the interpretation of the Audiovisual Media Services Directive – [Directive 2010/13/EU](#), as amended by [Directive \(EU\) 2018/1808](#).

The Italian Council of State, the referring court, asked by RTI to annul the sanctions, asked the Court whether the notion of self-promotional messages broadcast by television with regard to its own programs also covered promotional messages for a

radio station belonging to the same group of companies.

[Background Documents C-255/21](#)

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, notifying the UK that the control system on the award of EAGF and EAFRD funds to farmers by the UK was contrary to EU law. This prompted 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)

In its judgment of February 2, 2022 ([T-799/17](#)), the General Court dismissed Scania's action for annulment of a European Commission [decision](#). In this decision, the Commission found that Scania AB, Scania CV AB and Scania Deutschland GmbH, three entities of the Scania group active in the production and sale of heavy trucks for long-distance transport, had infringed the rules of Union law prohibiting cartels.

These infringements consisted in their participation, from January 1997 to January 2011, with their competitors, in collusive arrangements aimed at limiting competition on the market for medium and heavy trucks in the European Economic Area (EEA). The Commission imposed a fine of €880,523,000 on Scania.

Scania has appealed against the judgment of the General Court to the Court of Justice.

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

There will be a press release for this case.

Week VI – 5th to 9th February

Wednesday 7th February

[Judgment in Case T-146/22 Ryanair v Commission \(KLM II; COVID-19\)](#)

(State aid)

In 2020, the European Commission approved Dutch state aid to KLM, consisting of a state guarantee for a bank loan and a state loan. The total aid budget was €3.4 billion. The aim of the measure was to provide KLM with temporary liquidity in the context of the COVID 19 pandemic.

However, in 2021, the General Court of the European Union annulled the Commission's decision for lack of reasoning as regards the determination of the beneficiary of the measure in question ([T-643/20](#)). It also decided to suspend the effects of the annulment until the Commission adopted a new decision.

Thus, on July 16, 2021, the Commission adopted a new decision, in which it considered that the State aid was compatible with the internal market and that KLM and its

subsidiaries were the only beneficiaries of the aid, to the exclusion of the other companies in the Air France-KLM group.

Ryanair referred to the General Court to have the matter decided.

[Background Documents T-146/22](#)

There will be a press release for this case.

Thursday 8th February

[Opinion in Case C-633/22 Real Madrid Club de Fútbol](#)

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

On December 7, 2006, the digital edition of the French newspaper *Le Monde* published an article, entitled “Le Real Madrid et le Barça liés au docteur Fuentès” (“Real Madrid and Barça linked to Dr Fuentès”). The following day, the article appeared in the print edition, accompanied by an interview with the doctor in question. An extract from the article appeared on the front page, along with a drawing captioned “Dopage: le football après le cyclisme” (“Doping: first cycling, now football”).

The newspaper claimed that Real Madrid Club de Fútbol had retained the services of Dr. Fuentès, the head of a blood-doping ring previously uncovered in the cycling world.

Many media outlets, Spanish media outlets in particular, shared the article.

The club and a member of its medical team, brought actions before the Spanish courts against the newspaper company Société Éditrice du Monde and the author of the article for damage done to their honour.

By a judgment of February 27, 2009, the Court of First Instance, Madrid, Spain ordered Société Éditrice du Monde and the article author to pay €300,000 to the club and €30,000 to the member of the medical team. The court also ordered that its decision be published on the inside pages of *Le Monde* and on the front page and given the same level of prominence as that used to publish the material at issue – in addition to publication in a Spanish newspaper.

Following different judicial steps in the courts of both Spain and France, by judgments of September 15, 2020, the Court of Appeal, Paris held that the Spanish decisions should not be enforced in France because they were clearly contrary to French international public policy.

The Court of Appeal concluded that the orders to pay an exceptional amount made

against a journalist and a media organisation have a deterrent effect and curtail the media's ability to perform its information and monitoring role, hence interfering with freedom of expression and, therefore, international public policy.

It then lodged a request for preliminary ruling to the Court.

The referring Court wonders whether a financial penalty imposed for harm caused to the reputation of a sports club and of a member of its medical team by the publication of a story in a newspaper can be deemed to be contrary to freedom of expression, and therefore constitute grounds for refusing to recognise and enforce a judgment.

[Background Documents C-633/22](#)

There will be a press release for this case.

Thursday 8th February

[Judgment in Case C-216/22 Bundesrepublik Deutschland \(Admissibility of a subsequent application\)](#)

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

A Syrian who had left Syria in 2012, and claimed that he feared being called up for military service or arrested if he refused to fulfill his military obligations, was granted subsidiary protection in Germany in 2017.

However, he was refused refugee status according to the common standards for qualification laid down in [Directive 2011/95/EU](#).

Following a ruling by the Court of Justice on the situation of Syrian conscientious objectors ([C-238/19](#)), he again applied for asylum (the so-called “subsequent application”). He argued that this ruling constituted a change in the legal situation in his favour. However, the subsequent application was rejected as inadmissible, i.e. without examining whether the conditions required to claim for refugee status had been met.

The applicant challenged this refusal before a German court.

The latter, as referring court, asked the Court in particular whether it is compatible with European Union law to consider that, in principle, only a change in the applicable rules, and not a judicial decision, can constitute a change in the legal situation justifying, where appropriate, a full examination of the subsequent application.

[Background Documents C-216/22](#)

There will be a press release for this case.

Thursday 8th February

[Judgments in Cases C-750/21 P and C-256/22 P Pilatus Bank plc v ECB](#)

(Economic and monetary policy)

Pilatus Bank appealed in Court two decisions of the General Court.

In the Case C-750/21 P, Pilatus Bank appealed against the Order of the General Court in Case [T-139/19](#). In September 2021, the General Court had dismissed Pilatus Banks' action for annulment of a decision of the European Central Bank (ECB) as manifestly lacking any foundation in law. By that decision of December 21, 2018 the ECB had informed Pilatus Bank, by way of e-mail, that it was no longer competent to carry out its direct prudential supervision and to take measures concerning it.

In the Case C-256/22 P, Pilatus Bank was seeking annulment of judgment of the General Court in Case [T-27/19](#). In that judgment, the General Court dismissed the action by Pilatus Bank seeking annulment of the decision of the ECB of November 2, 2018, withdrawing its authorisation for access to the business of credit institution.

The Court has now to decide on the two appeals.

[Background documents C-750/21 P](#)

[Background documents C-256/22 P](#)

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

HEARINGS OF NOTE*

Court of Justice

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

Wednesday 7th February: 09:30 – Case [C-60/23 Digital Charging Solutions](#) (Taxation)

Thursday 8th February: 09:30 – Case [C-446/21 Schrems \(Communicating data to the general public\)](#) (Principles, objectives and tasks of the Treaties)

General Court

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

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

Tuesday 6th February: 09:30 – Case [T-520/22 Karić v Council](#) (Restrictive measures – Belarus)

Tuesday 6th February: 14:30 – Case [T-742/22 Mazepin v Council](#) (Restrictive measures – Ukraine)

Wednesday 7th February: 09:30 – Cases [T-396/22 Landesbank Baden-Württemberg v SRB](#), [C-397/22 Bayerische Landesbank v SRB](#), [T-398/22 Deutsche Bank v SRB](#), [T-399/22 Landesbank Hessen-Thüringen Girozentrale v SRB](#), [T-400/22 Berlin Hyp v SRB](#), [T-401/22 DZ Bank v SRB](#), [T-402/22 DZ Hyp v SRB](#), [T-403/22 DZ Bank v SRB](#), [T-404/22 Deutsche Kreditbank v SRB](#), [T-405/22 UniCredit Bank v SRB](#), [T-407/22 Norddeutsche Landesbank – Girozentrale v SRB](#), [T-430/22 Nordea Bank v SRB](#), [T-431/22 Nordea Kiinnitysluottopankki v SRB](#), [T-432/22 Nordea Rahoitus Suomi v SRB](#) (Economic policy)

Wednesday 7th February: 09:30 – Case [T-738/22 Rotenberg v Council](#) (Restrictive measures – Ukraine)

Thursday 8th February: 09:30 – Cases [T-391/22 Société générale and Others v SRB](#), [T-392/22 Confédération nationale du Crédit mutuel and Others v SRB](#), [T-393/22 BPCE and Others v SRB](#), [T-394/22 Banque postale v SRB](#), [T-395/22 Hypo Vorarlberg Bank v SRB](#), [T-406/22 Volkskreditbank v SRB](#), [T-410/22 Crédit agricole and Others v SRB](#), [T-411/22 Dexia v SRB](#), [T-420/22 BNP Paribas v SRB](#), [T-599/22 Hypo Vorarlberg Bank v SRB](#), [T-641/22 Portigon v SRB](#) (Economic policy)

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