



Newsletter

Week VII - IX: 12th February – 1st March 2024

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Week VII – 12th to 16th February

The Court will be in recess from the 12th to the 18th February

Week VIII – 19th to 23rd February

Tuesday 20th February

[Judgments in Case C-715/20 \(Missing grounds for termination\)](#)

(Social policy)

A dispute between a worker, who was employed under a fixed-term contract, and his former employer was brought before a Polish court. In accordance with national legislation, the latter terminated the contract with notice without stating the reasons for his decision.

The applicant considered that his dismissal was unlawful and argued that a judgment to anything but that effect would be incompatible with the EU principle of non-discrimination. The provision of Polish law relating to an obligation to state reasons for termination of indefinite term contracts was raised in the proceedings.

The Polish referring court asks the Court of Justice whether this difference in termination requirements, depending on the type of employment contract concerned, is compatible with the [Framework Agreement on fixed-term work](#) and whether this agreement can be invoked in a dispute between individuals.

[Background Documents C-715/20](#)

There will be one press release for this case.

Wednesday 21st February

General Court

[Judgment in Case T-361/21 Papouis Dairies and Others v Commission](#)

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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On April 5, 2012, several Cypriot companies and organisations operating in the cheese production sector applied to the Cypriot authorities to register the name "Χαλλούμι" (Halloumi)/"Hellim" as a Protected Designation of Origin (PDO). This application was based on the standard providing that halloumi may be produced from ewe's or goat's milk, or a mixture of both, with or without cow's milk, and sought to have this standard interpreted as requiring halloumi producers to use more than 50% ewe's or goat's milk.

Subsequent to the registration of this denomination by the Commission, three standard amendments were made to its specifications.

Papouis Diairies Ltd, established in Nicosia (Cyprus), and five other organisations seek the annulment of the [Commission Implementing Regulation \(EU\) 2021/591](#), registering the name "Χαλλούμι" (Halloumi)/"Hellim" (PDO) in the register of protected designations of origin and protected geographical indications, and the annulment of the three standard amendments to the specification.

[Background Documents T-361/21](#)

There will be a press release for this case.

Thursday 22nd February

[Judgment in Case C-54/22 P Romania v Commission](#)

(Law governing the institutions)

The European Citizens' Initiative ('ECI') is an instrument of participative democracy introduced by the Treaty of Lisbon to provide European Union citizens with the possibility to influence the EU legal order directly by inviting the European Commission to prepare a proposal for an EU legal act ([Regulation \(EU\) No 211/2011](#)).

On June 18, 2013, the proposal for the ECI entitled "Cohesion policy for regional equality and the preservation of regional cultures" was presented to the European Commission. It aimed to ensure that, in the framework of its cohesion policy, the EU pays particular attention to regions whose ethnic, cultural, religious or linguistic characteristics differ from those of surrounding regions.

For an ECI to progress, it must successfully pass several steps, the very first one being its 'registration'. During that 'admissibility' stage, the Commission verifies, *inter alia*, whether or not the matter on which it is invited to act manifestly falls outside the framework of its powers to submit a proposal for an EU legal act. That first stage culminates, in principle, in a decision by which the Commission registers an ECI or,

conversely, rejects its registration.

In a decision dated July 25, 2013, the Commission rejected the registration of the mentioned ECI proposal, stating that it fell outside its remit.

The action for annulment before the General Court of the European Union was dismissed on May 10, 2016 ([T-529/13](#)). On appeal, the Court of Justice set aside the judgment of the General Court and the decision of July 25, 2013 ([C-420/16 P](#)).

On April 30, 2019, the Commission adopted a [new decision](#) registering the proposed ECI. In 2021, the General Court dismissed Romania's appeal against this decision ([T-495/19](#)).

Romania is now asking the Court to annul the General Court's judgment of 2021, considering that it misinterpreted the Commission's margin of appreciation in registering ECI proposals.

[Background Documents C-54/22 P](#)

There will be a press release for this case.

Thursday 22nd February

[Judgment in Case C-491/21 Direcția pentru Evidența Persoanelor și Administrarea Bazelor de Date](#)

(Citizenship of the Union)

A Romanian lawyer has been residing in France since 2014, and has been carrying out his professional activities both in France and in Romania.

In 2017, he asked the Romanian authorities to issue him with an identity card, simple or electronic, as a travel document enabling him to move around France. This request was rejected on the grounds that he is living abroad.

In the present case, the Romanian referring court seeks a preliminary ruling on the interpretation of the Charter of Fundamental Rights of the European Union and [Directive 2004/38/EC](#) in the sense of the principle of freedom of movement and residence in the EU.

[Background Documents C-491/21](#)

There will be a press release for this case.

Thursday 22nd February

[Judgment in Case C-283/21 Deutsche Rentenversicherung Bund](#)

(Social security for migrant workers, Freedom of movement for workers)

A German woman who has returned to live in Germany and is receiving a pension for total incapacity for work is contesting before the German courts that the periods she spent raising her two children in the Netherlands were not taken into account when calculating her pension.

The court hearing the case asked the Court of Justice whether this failure to take into account periods of upbringing completed in another Member State was compatible with European Union law.

[Background Documents C-283/21](#)

There will be a press release for this case.

Thursday 22nd February

[Opinion in Case C-693/22 I. \(Selling a database\)](#)

(Principles, objectives and tasks of the Treaties)

This reference for a preliminary ruling is made in the context of a dispute between company I. and Mr W. concerning a claim for payment. Mr W. is a member of the board of directors of NMW, a company specialising in online sales, against which company I. has a claim, confirmed by a final court judgment.

At the request of company I., enforcement proceedings were commenced against NMW. However, the bailiff decided to put an end to the enforcement proceedings on the grounds that NMW had no assets that could be enforced.

In these circumstances, company I. brought an action against M.W., on the basis of national legislation, which provides for the liability of a member of the board of directors of the debtor company in the event of the impossibility of recovering a debt using that company's assets.

In dismissing this action, the member of the Board of Directors of NMW points out that the company owns, among other things, two databases of users of the M. platform that NMW has created. These databases contain the personal data of hundreds of thousands of people. However, the users of the M. platform would not have consented to the processing of their data by third parties outside said platform.

Unsure of whether the General Data Protection Regulation (GDPR – [Regulation \(EU\) 2016/679](#)) allows a bailiff to sell these databases, as part of an enforcement procedure, the Polish judge turned to the Court of Justice. The referring court requests clarification as to whether the sale of a database containing personal data, as being part of a compulsory execution procedure complies with the provisions of the GDPR, where the data subjects have not provided their consent to such a sale?

[Background Documents C-693/22](#)

There will be a press release for this case.

Thursday 22nd February

[Judgment in Case C-694/22 Commission v Malta \(Taxation of second-hand vehicles\)](#)

(Taxation)

The European Commission asks the Court to declare that Malta has failed to fulfil its obligations under [Article 110 TFEU](#). Malta was applying a higher annual circulation fee (the "ACT") on motor vehicles registered in other Member States (second-hand vehicles) before January 1, 2009 and brought into Malta from that date, than the fee applicable to similar vehicles registered in Malta before said date, hence infringing EU law.

On June 7, 2019, the Commission sent a letter of formal notice to Malta.

Malta replied, explaining that the vehicle registration tax scheme and the TAC scheme were complementary: the TAC scheme could therefore not be examined in isolation as regards its compliance with Article 110 TFEU.

Secondly, Malta stated that the scheme in respect of the TAC applicable to vehicles registered in Malta from January 1, 2009 (the "new system") was based on the "polluter pays" principle and favoured newer, smaller and cleaner vehicles.

Thirdly, it asserted that the application of the new system to vehicles registered in Malta before January 1, 2009 would penalise those who had purchased their vehicles before that date.

Malta was currently analysing the amendments to remedy the alleged discrimination, which would be introduced in respect of vehicles imported into Malta on or after 1 January 2009.

On June 9, 2021, the Commission issued a reasoned opinion, reiterating its view that

the TAC scheme had infringed EU law.

Malta replied, providing further details of the legislative measures envisaged to remedy the alleged infringement and highlighting again the adverse consequences that the new system would have for the owners of the vehicles registered in Malta before January 1, 2009.

Not convinced by Malta's reply, the Commission decided to bring the present action.

[Background Documents C-694/22](#)

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

Week IX – 26th February to 1st March

Wednesday 28th February

General Court

[Judgments in Cases T-7/19 Scandlines Danmark and Scandlines Deutschland v Commission, T-364/20 Denmark v Commission and T-390/20 Scandlines Danmark and Scandlines Deutschland v Commission](#)

(State aid)

The Fehmarn Belt fixed link is a tunnel under the Baltic Sea, which is currently under construction and is approximately 19km long. It connects Rodby (on the Danish island, Lolland) and Puttgarden (on the German island, Fehmarn). The Danish public entity Femern A/S is responsible for financing, building and operating the fixed link, which will contain an electrified railroad line and a freeway.

In 2014, the Danish authorities notified the Commission of the financing model for this project. On July 23, 2015, the Commission adopted [decision C \(2015\) 5023](#), which did not raise any objections to this model. The measures granted to Femern A/S were compatible with the internal market.

In 2016, Scandlines Danmark and Scandlines Deutschland – operating ferry services between Denmark and Germany – asked the Commission to rule on certain measures granted in favour of the Fehmarn project, not included in its 2015 decision.

To this aim, on September 28, 2018, the Commission adopted [decision C\(2018\) 6268](#): the measures in question were compatible with the internal market and did not constitute unlawful state aid.

By its judgments of December 13, 2018 (**Scandlines Danmark and Scandlines Deutschland v Commission** [T-630/15](#) and **Stena Line Scandinavia v Commission**, [T-631/15](#)), confirmed by the Court of Justice by judgment of October 6, 2021 ([C-174/19 P et C-175/19 P](#)), the General Court of the EU annulled decision C(2015) 5023 on the grounds that the Commission had not initiated the formal investigation procedure.

After conducting the investigation procedure, the Commission adopted [decision C\(2020\) 1683](#). The measures in favour of Femern A/S, consisting of capital injections and a combination of state loans and state guarantees – which Denmark had at least partially implemented unlawfully – constituted state aid.

However, in view of the fact that these measures had been modified after the opening decision, the Commission considered them to be compatible with the internal market. In Case **T-7/19**, Scandlines Danmark and Scandlines Deutschland appealed against Commission Decision C(2018) 6268.

In case **T-364/20**, Denmark seeks the annulment of decision C(2020) 1683 insofar as the Commission considered that the measures in favour of Femern A/S constitute state aid.

In case **T-390/20**, Scandlines Danmark and Scandlines Deutschland seek annulment of decision C(2020) 1683 on the grounds of a series of alleged faults committed by the Commission.

[Background Documents T-7/19](#)

[Background Documents T-364/20](#)

[Background Documents T-390/20](#)

There will be one press release for these cases.

Thursday 29th February

[Judgment in Case C-222/22 Bundesamt für Fremdenwesen und Asyl \(Religious conversion at further stage\)](#)

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

An Iranian man, whose first application for international protection had been rejected by the Austrian authorities, submitted a new application (known as a "subsequent application") for international protection in Austria. He claimed that, in the meantime, he had converted to Christianity and feared persecution in his country of origin.

Having considered that he had converted as a result of "inner conviction", the Austrian

authorities subsequently granted subsidiary protection, However, the Austrian authorities refused to grant him refugee status.

Under Austrian law, recognition of refugee status following a subsequent application is subject to the condition that the new circumstance, created by the person concerned through his or her own actions, constitutes the expression and extension of a conviction already held in the country of origin.

The Austrian Administrative Court asks the Court of Justice whether such a condition is compatible with the [Qualification Directive](#).

[Background Documents C-222/22](#)

There will be a press release for this case.

Thursday 29th February

[Judgment in Case C-606/21 Doctipharma](#)

(Agriculture and Fisheries – Free movement of capital – Freedom to provide services – Internal market – Principles of approximation of laws)

The referring court – the Court of Appeal, Paris – asks the Court about the interpretation of [directive 98/34/EC](#) (as amended and modified by [directive 98/48/EC](#)) and [directive 2001/83/EC](#) (as modified by [directive 2011/62/EU](#)).

Should Doctipharma's activity on and from its website www.doctipharma.fr be classified as an "information society service" within the meaning of Directive 98/34? If so, does Doctipharma's activity on and from its website www.doctipharma.fr fall within the scope of directive 2001/83?

This request was made in the context of a dispute between Doctipharma SAS and the Union des Groupements de pharmaciens d'officine (UDGPO) concerning the legality of the online sale of medicines not subject to compulsory medical prescription from pharmacies' websites via a platform designed and managed by Doctipharma, www.doctipharma.fr, powered by Pictime Coreyre.

The UDGPO claims that the online sales process offered to pharmacies by Doctipharma allows that company to participate in e-commerce in medicinal products despite not being a pharmacist. The UDGPO submits that such sales activities are unlawful and requests that they be stopped, bringing the case in front of the Commercial Court, Nanterre.

By judgment of May 31, 2016, the Nanterre Commercial Court found that the www.doctipharma.fr site was unlawful as far as the sale of medicinal products was

concerned and essentially ordered Doctipharma to stop engaging in e-commerce in medicinal products on that site.

Doctipharma then referred the matter to the Court of Appeal, Versailles, which overturned the judgment by its judgment of December 12, 2017, taking the view the view that the www.doctipharma.fr site was lawful because the internet users' orders of medicinal products merely passes through the platform as technical support for the pharmacies' sites. Indeed, the orders are received by the pharmacists themselves, and the company has no other involvement in their processing since the contested site puts the customers in direct contact with the pharmacies.

By judgment of June 19, 2019, the Court of Cassation set aside the judgment of the Versailles Court of Appeal, and remitted the case to the Paris Court of Appeal, the referring court.

[Background Documents C-606/21](#)

There will be a press release for this case.

Thursday 29th February

[Judgment in Case C-679/22 Commission v Ireland \(Audiovisual media services\)](#)

(Freedom to provide services – Freedom of movement for workers)

The European Commission asks the Court to declare that Ireland has failed to fulfil its obligations by failing to adopt the laws, regulations and administrative rules necessary to comply with [Directive \(EU\) 2018/1808](#), amending the Audiovisual Media Services Directive ([Directive 2010/13/EU](#)).

On November 20, 2020, the Commission sent a letter of formal notice to Ireland.

The Irish authorities replied, explaining that giving effect to that directive in Ireland would entail a substantial revision of the national broadcasting and media regulatory framework. They indicated their hope that the transposition measures would be adopted during 2021, in particular after the expiry, on March 11, 2021, of the standstill period following the notification to the Commission of the general outline of the draft law transposing Directive 2018/1808.

On September 23, 2021, having not received any indications from the Irish authorities of a timetable or date for the required transposition, the Commission sent a reasoned opinion to Ireland.

The Irish authorities replied, reiterating the hope to publish the draft legislation before the end of 2021 so as to launch the process of its adoption by the *Oireachtas*

(Irish Parliament).

On May 19, 2022, noting that the measures for the full transposition of Directive 2018/1808 had still not been adopted by Ireland, the Commission decided to bring the present action before the Court.

On November 4, 2022, the Commission lodged the present appeal at the Court.

[Background Documents C-679/22](#)

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

HEARINGS OF NOTE*

Court of Justice

Tuesday 20th February: 09:30 – Case [C-158/23 Keren](#) (Area of Freedom, Security and Justice – Asylum policy)

Wednesday 21st February: 09:30 – Case [C-255/22 P Polski Koncern Naftowy Orlen v Commission](#) (Competition – Dominant position)

Tuesday 27th February: 09:30 – Case [C-188/23 Conti 11. Container Schiffahrt II](#) (Environment)

Wednesday 28st February: 09:30 – Case [C-683/22 Adusbef \(Pont Morandi\)](#) (Freedom of establishment)

Thursday 29th February : 09:30 – Joined Cases [C-17/22 and C-18/22 HTB Neunte Immobilien Portfolio](#) (Principles, objectives and tasks of the Treaties)

Thursday 29th February : 09:30 – Joined Cases [C-123/23 and C-202/23 Khan Yunis and Baabda](#) (Area of Freedom, Security and Justice – Asylum policy, Gaza Strip)

Thursday 29th February : 14:30 – Case [C-264/23 Booking.com and Booking.com \(Deutschland\)](#) (Competition)

General Court

Tuesday 20th February: 09:30 – Case [T-462/22 Millennium BCP and BCP África v Commission \(Madeira's free trade zone\)](#) (State Aid)

Tuesday 20th February: 14:30 – Case [T-59/22 Conserve Italia and Conserves France v Commission](#) (Competition)

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Wednesday 21st February: 09:30 – Case [T-720/22 Nova Ship Invest v Commission \(Madeira's free trade zone\)](#) (State Aid)

Tuesday 27th February: 09:30 – Case [T-744/22 Tokareva v Council](#) (Restrictive measures – Ukraine)

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