COURT OF JUSTICE
OF THE EUROPEAN UNION

Newsletter

Weeks IX - X: 27th February to 10th March 2023

Contact us
Jacques René Zammit
+352 4303 3355

EN Desk Email
Press.ENdesk@curia.europa.eu

Follow @EUCourtPress on Twitter

***

Download our app

DISPONIBLE SUR Google Play

Download on the App Store

***

All times are 9:30 unless otherwise stated.

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

Week IX – 27th February to 3rd March

Tuesday 28th February

Judgment in Cases C-695/20 Fenix International
(VAT)

Fenix International, a company registered in the United Kingdom for VAT purposes, operates a social networking platform on the Internet known as Only Fans (hereinafter the "Only Fans platform"). This platform is offered to "users" from all over the world, who are divided into "creators" and "fans". Fenix provides not only the Only Fans platform, but also the mechanism for the collection and distribution of payments made by fans. Fenix takes 20% of every payment made to a creator and charges the creator for the amount. Fenix charges VAT at a rate of 20% on the amount deducted, which appears on the invoices it issues.

HM Revenue & Customs issued tax notices to Fenix in respect of the VAT payable for a period between 2017 and 2020, taking the view that Fenix should be regarded as acting in its own right and should therefore pay VAT on the full amount received from a fan and not just on the 20% of that amount, which it was charging as remuneration. Fenix brought an action before a court in the United Kingdom. In this action, Fenix is essentially challenging the validity of the legal basis for the tax notices, namely a provision in an EU Council implementing regulation to clarify the VAT Directive. The Fenix court referred a question to the Court of Justice for a preliminary ruling before the end of the transitional period following Brexit, so that the Court still has jurisdiction to answer it. It wishes to know whether the disputed provision is invalid in so far as the Council has supplemented or amended the VAT Directive, thereby exceeding the implementing powers conferred on it.

Background Documents C-695/20

There will be a press release in this case.

Wednesday 1st March

General Court

Judgment in Cases T-480/20 Hengshi Egypt Fibreglass Fabrics & Jushi Egypt for Fibreglass Industry v Commission and T-540/20 Jushi Egypt for Fiberglass Industry v Commission
(Commercial Policy)

Further to a complaint lodged on 1 April 2019, the European Commission adopted Implementing Regulation 2020/776 imposing a definitive countervailing duty on imports of certain woven and/or sewn glass fibre fabric ("WF) originating in the People's Republic of China and Egypt.

Following a second complaint lodged on 24 April 2019, the Commission further adopted Implementing Regulation 2020/870 imposing a definitive countervailing duty and collecting definitively the provisional countervailing duty on imports of continuous filament glass fibre products ("SFV") originating in Egypt and collecting definitively the countervailing duty on registered imports of SFV. SFV is the main raw material used to produce TFV.

Hengshi Egypt Fiberglass Fabrics SAE ("Hengshi") and Jushi Egypt for Fiberglass Industry SAE ("Jushi"), two companies incorporated under the laws of Egypt whose shareholders are Chinese entities, produce and export PFT to the EU. In addition, Jushi produces and exports SFV to the EU. Both companies are located in Egypt in the Sino-Egyptian Economic and Trade Cooperation Zone (hereinafter the "CECS Zone"), which was jointly established by Egypt and the People's Republic of China in accordance with their respective national strategies, namely the Suez Canal Corridor Development Plan for Egypt and the "One Belt, One Road" initiative for China. The latter initiative allows Chinese public authorities to grant certain advantages, including financial support, to Chinese companies established in the CECS area.

Hengshi and Jushi considered that they had been adversely affected by the countervailing duties imposed by the Commission and brought an action before the Court of First Instance for the annulment of the implementing regulation 2020/776. In a separate action, Jushi also sought the annulment of Implementing Regulation 2020/870.

Background Documents T-480/20
Background Documents T-540/20

There will be one press release for these cases.

Thursday 2nd March

Judgment in Case C-477/21 MÁV-START
(Social Policy)

A train driver employed by MÁV-START, the Hungarian national railway company, is

challenging in the Miskolc court his employer's decision not to grant him a daily rest period of at least 11 consecutive hours (which the Working Time Directive requires the worker to have during each 24-hour period) when this period precedes or follows a weekly rest period or a holiday period.

MÁV-START argues that the collective agreement applicable in this case provides for a minimum weekly rest period that is much higher (at least 42 hours) than that required by the Directive (24 hours), so that its employee is not disadvantaged by its decision.

In particular, the Miskolc court asked the Court of Justice whether, under the Directive, a daily rest period granted contiguous to a weekly rest period forms part of the latter.

Background Documents C-477/21

There will be a press release in this case.

Thursday 2nd March

Opinion in Case C-718/21 Krajowa Rada Sądownictwa (Maintien en fonctions d'un juge)
(Principles of Community Law)

This reference for a preliminary ruling was made by the Izba Kontroli Nadzwyczajnej i Spraw Publicznych Sądu Nawyższego (Chamber of Extraordinary Control and Public Affairs, hereinafter the "Chamber of Extraordinary Control") of the Sąd Najwyższy (Supreme Court, Poland) in an action brought by L. G., a judge at the Sąd Okręgowy w K. (Regional Court of K., Poland), against the decision of the Krajowa Rada Sądownictwa (National Council of the Judiciary, Poland) not to take action against him in the procedure for authorising him to continue to perform the duties of a judge after reaching retirement age, on the ground that the time-limit for making a declaration of intention to that effect had expired.

Background Documents C-718/21

There will be a press release in this case.

Thursday 2nd March

Judgment in Case C-723/21 Stadt Frankfurt (Oder) and FWA
(Environment)

The Regional Office for Mining, Geology and Raw Materials, Cottbus (Germany) approved an application submitted by Lausitz Energie Bergbau AG for the construction of an artificial lake. The lake, created by flooding a pit resulting from the extraction of lignite, would have an overflow that would flow into the River Spree. Upon creation of

the lake, the water leaving the overflow will have a significantly higher sulphate concentration than the water already in the Spree.

The Spree is one of the sources Frankfurter Wasser- und Abwassergesellschaft (FWA) uses to produce drinking water and the river's water already has a high concentration of sulphate, originating from closed open-cast mines. The drinking water fed into the supply lines is subject to a certain sulphate value, a requirement which has so far been only narrowly complied with by FWA.

The City of Frankfurt (Oder) and FWA fear that, due to the planned inflow into the water of the Spree, that river's sulphate concentration will exceed the limit and they will have to stop producing drinking water at that point or fundamentally overhaul production. The City of Frankfurt (Oder) and FWA therefore brought an action against the planning approval decision.

The Verwaltungsgericht Cottbus (Administrative Court, Cottbus, Germany) referred several questions to the Court of Justice for a preliminary ruling aimed at interpreting for the first time Article 7(3) of the Water Framework Directive .

According to that provision, Member States are to ensure the necessary protection for the bodies of water identified with the aim of avoiding deterioration in their quality in order to reduce the level of purification treatment required in the production of drinking water, and they may establish safeguard zones for those bodies of water.

Background Documents C-723/21

There will be a press release in this case.

Week X – 6th to 10th March

Thursday 9th March

Judgment in Cases C-682/20 P Les Mousquetaires et ITM Entreprises v Commission, C-690/20 P Casino, Guichard-Perrachon et Achats Marchandises Casino vCommission, and C-693/20 P Intermarché Casino Achats v Commission
(Competition)

Having received information about exchanges of information between several companies and associations of companies in the food and non-food retail sector, the Commission adopted a series of decisions in February 2017 ordering several companies to submit to inspections.

As part of its inspections, the Commission carried out, among other things, visits to the

offices of the companies concerned, where copies of the contents of the computer equipment were made.

Les Mousquetaires, ITM Entreprises, Casino, Guichard-Perrachon, Achats Marchandises Casino and Intermarché Casino Achats brought actions before the General Court of the European Union seeking the annulment of the abovementioned Commission decisions.

In its judgments of 5 October 2020 , the General Court upheld these actions only in part.

Those undertakings have appealed to the Court of Justice against the judgments of the General Court.

Background Documents C-682/20 P
Background Documents C-690/20 P
Background Documents C-693/20 P

There will be one press release for these cases.

Thursday 9th March

Opinion in Case C-680/21 Royal Antwerp Football Club
(Competition)

As of the 2007/2008 season, the Union of European Football Associations (UEFA) has required football clubs to include a minimum of eight so-called home-grown players on the match sheet that contains a maximum of 25 players. Home-grown players are defined as players who, regardless of their nationality, have been trained by their club or by another club in the same national league for at least three years between the ages of 15 and 21. Out of these eight players, four at least must have been trained by the club at issue.

On the basis of these rules, the Union royale belge des sociétés de football association (URBSFA) has adopted essentially similar regulations for football clubs participating in the professional football divisions. Contrary to the UEFA rules, however, the Belgian rules do not require that four out of eight home-grown players have been trained by the club at issue.

Before the Brussels Court of First Instance (French-speaking) (Belgium), UL (a professional football player) and Royal Antwerp (a professional football club) argue, in substance, that the UEFA and URBSFA rules on home-grown players infringe the freedom of movement for workers in the EU.

According to them, those rules restrict the possibility for a professional football club to

recruit players who do not meet the requirement of local or national roots, and to field them in a match.

The same rules also restrict the possibility for a player to be recruited and fielded by a club in respect of which he cannot rely on such roots. The Belgian court has referred questions in that regard to the Court of Justice.

Background Documents C-680/21

There will be a press release in this case.