



## Newsletter

Week XII - XIV: 18<sup>th</sup> March – 5<sup>th</sup> April 2024

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All times are 9:30  
unless otherwise  
stated.

## Week XII – 18<sup>th</sup> to 22<sup>nd</sup> March

### Wednesday 20<sup>th</sup> March

#### [Judgment in Case T-743/22 Mazepin v Council](#)

*(Restrictive measures – Ukraine)*

In March 2022, Nikita Dmitrievich Mazepin was included on the list of persons targeted by the restrictive measures adopted by the European Union following the Russian aggression against Ukraine.

In particular, his funds have been frozen and he has been banned from entering Member States. His inclusion on this list is based on his association with his father - Mr Dmitry Arkadievich Mazepin - an influential businessman who provides a substantial source of income to the Russian government. According to the Council, Dmitry Mazepin was the main sponsor of his son's activities as a racing driver with the Haas Formula 1 team.

In three consecutive series of decisions in September 2022, March 2023 and September 2023, the Council extended the restrictive measures against Nikita Mazepin until 15 March 2024.

Taking the view that these decisions were vitiated by an error of assessment by the Council, Mr Nikita Mazepin asked the General Court of the European Union to annul them.

#### [Background Documents T-743/22](#)

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

### Thursday 21<sup>st</sup> March

#### [Judgment in Case C-61/22 Landeshauptstadt Wiesbaden](#)

*(Charter of Fundamental Rights – Data protection)*

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

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A German citizen challenges before a German court the refusal of the town of Wiesbaden to issue him with a new identity card without the insertion of his fingerprints.

The German court asks the Court of Justice to verify the validity of the [Regulation \(EU\) 2019/1157](#) on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement. The EU regulation requires two fingerprints to be inserted in the storage medium of identity cards.

### [Background Documents C-61/22](#)

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

## Thursday 21<sup>st</sup> March

### [Judgment in Case C-10/22 LEA](#)

*(Culture)*

LEA is a collective management organisation governed by Italian law and authorised to mediate copyright in Italy. Jamendo, a company incorporated under Luxembourg law, is an independent copyright management entity which has been operating in Italy since 2004.

LEA has asked the Court of Rome to order Jamendo to cease its copyright intermediation activities in Italy. Under Italian law, this activity is reserved exclusively for the Italian Society of Authors and Publishers and the other collective management bodies referred to therein, such as LEA, while independent management entities are excluded from this field.

The Court of Rome asks the Court of Justice whether the [Directive 2014/26/EU](#) on collective management of copyright can be compatible with the legislation of a Member State excluding in a general and absolute manner the possibility for independent management bodies established in another Member State to provide their services in the first Member State.

### [Background Documents C-10/22](#)

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

## Thursday 21<sup>st</sup> March

### [Judgment in Case C-76/23 Cobult](#)

*(Transport)*

An air passenger booked a flight from Fortaleza (Brazil) to Frankfurt am Main with a scheduled connection in Lisbon operated by TAP Air Portugal (TAP). This connecting flight was cancelled.

To obtain reimbursement for the cancelled flights, TAP offers its passengers two alternatives: a) either immediate reimbursement in the form of travel vouchers by completing an online form, or b) reimbursement in another form, such as a sum of money, provided that the passenger first contacts its customer service department, which will examine the facts.

The conditions of acceptance specify that if the passenger chooses a refund in the form of a travel voucher, a cash refund of the ticket is excluded. The passenger requested a refund in the form of a travel voucher, which he immediately received by email.

Two months later, he transferred his rights to the consumer association Cobult, which asked TAP to refund the price of the cancelled flight in cash within 14 days. When TAP refused to make the refund, Cobult took the case to the German courts.

The Frankfurt am Main Regional Court is questioning the interpretation of the relevant regulation, that is to say [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. More specifically the notion of "signed agreement of the passenger", which is necessary to be able to resort to reimbursement by travel vouchers.

### [Background Documents C-76/23](#)

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

## Thursday 21<sup>st</sup> March

[Opinion Joined cases C-778/21 P Commission v Front Polisario and C-798/21 P Council v Front Polisario, Joined cases C-779/21 P Commission v Front Polisario and C-799/21 P Council v Front Polisario and Opinion C-399/22 Confédération paysanne \(Melons and tomatoes from Western Sahara\)](#)

*(External relations – International agreements – Agriculture and Fisheries)*

In 2021, the European Commission and the Council appealed against judgments of the General Court (Case [T-279/19](#) and Joined Cases [T-344/19](#) and [T-356/19](#)). In 2019, the Polisario Front asked the Court of First Instance to annul the Council decisions approving the conclusion of agreements between the European Union and Morocco.

The agreements in question were a partnership agreement on sustainable fisheries between the EU and Morocco and an amendment to the Euro-Mediterranean Association Agreement on the arrangements applicable to imports into the EU of agricultural products originating in Morocco.

The Polisario Front had requested the annulment of these decisions on the grounds that, by approving the disputed agreements without the consent of the people of Western Sahara, the Council had violated its obligations under EU and international law. According to this move, the territory of Western Sahara does not belong exclusively to Morocco: any international agreement applicable to the territory of Western Sahara and adjacent waters should be made with the consent of the people of Western Sahara as they are directly and individually concerned.

The Court upheld the claims of the Polisario Front and annulled the decisions relating to the disputed agreements. Following this annulment, the Commission and the Council, for their part, asked the Court to set aside the judgments of the Court of First Instance, which had allegedly committed several errors of law, as regards both the admissibility of the action and its merits.

On the one hand, the Commission and the Council maintain that the Court of First Instance disregarded the provisions of the Treaty by recognising that the Polisario Front not only has the capacity to bring an action before the courts of the European Union, but also that it is directly and individually concerned by the disputed agreements. On the other hand, they claim that the Court of First Instance erred in law in holding that the Polisario Front can invoke the principle of self-determination and the principle of the relative effect of treaties, in particular as regards the concept of 'consent' of the people of Western Sahara.

[Background Documents C-778/21 P and C-798/21 P](#)

[Background Documents C-779/21 P and C-799/21 P](#)

[Background Documents C-399/22](#)

**There will be three press releases for these cases.**

### Thursday 21<sup>st</sup> March

[Opinion Joined cases C-611/22 P Illumina v Commission and C-625/22 P Grail v Commission and Illumina](#)

*(Competition – Concentrations between undertakings – Referral request)*

The EU system of merger control – governed by the [Merger Regulation](#) – is primarily based on the turnover of the merging companies. Some provisions in that regulation, by way of exception, empower the Commission to review mergers not meeting the turnover thresholds in question, when cases are referred to it by the Member States'

authorities and, as the case may be, after being invited to do so by the Commission.

In the present case the Court is being essentially asked whether Article 22 of the Merger Regulation enables the Commission to review a merger referred to it by some Member State's authorities, where the latter lack any competence to review it, since the merger in question falls below the thresholds set out in their national legislation on merger control.

The merger involves the acquisition of sole control of Grail LLC, a company that develops blood tests for the early detection of cancer, by Illumina Inc. – a US-based company marketing sequencing- and array-based solutions for genetic and genomic analysis. Since the merger did not have a European dimension, due to the low turnover of the parties as defined by the Merger Regulation, it was not notified to the Commission. Additionally, since it did not fall within the scope of national merger control rules it was not notified to EU and EEA member states.

Following a complaint relating to the concentration and following exchanges with Member State Competition Authorities, the Commission received a referral request from a the French Competition Authority asking it to examine the concentration at issue. Through an information letter, the Commission had informed Illumina and Grail of the referral request, stating that the concentration at issue could not be implemented.

By its judgment in *Illumina v Commission* ([T-227/21](#)), the General Court dismissed the action by Illumina challenging the Commission's decisions concerning the proposed merger.

Illumina and Grail have appealed this judgment.

[Background Documents C-611/22 P and C-625/22 P](#)

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

## Week XIII & XIV 25<sup>th</sup> March to 5<sup>th</sup> April

**The Court is in Easter recess between the 25<sup>th</sup> March and 5<sup>th</sup> April.**

## HEARINGS OF NOTE\*

### Court of Justice

Monday 18<sup>th</sup> March: **15:00** – Case [C-240/23 Herbaria Kräuterparadies II](#) (Agriculture and Fisheries)

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Tuesday 19<sup>th</sup> March: 09:30 – Case [C-248/23 Novo Nordisk \(VAT - Contributions paid under a legal obligation\)](#) (Taxation)

Thursday 21<sup>st</sup> March: 14:30 – Case [C-118/23 Getin Holding and Others](#) (Economic policy)

### General Court

Wednesday 20<sup>th</sup> March: 09:30 – Case [C-80/23 Ministerstvo na vatreshnite raboti \(Storage of biometric and genetic data II\)](#) (Principles, objectives and tasks of the Treaties – Data protection)

Wednesday 20<sup>th</sup> March: 09:30 – Case [T-587/22 Crown Holdings and Crown Cork & Seal Deutschland v Commission](#) and Case [T-589/22 Silgan Holdings and Others v Commission](#) (Competition)

Friday 22<sup>nd</sup> March: 09:30 – Case [T-72/22 Interneto žiniasklaidos asociacija and Others v Commission](#) (State aid)

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