



Newsletter

Weeks XXIX – XL 25th September to 6th October 2023

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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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Week XXIX– 25th to 29th September

Wednesday 27th September

General Court

[Judgment in Case T-77/20 Ascenza Agro and Industrias Afrasa v Commission](#)

(Agriculture and fisheries)

Two manufacturers of plant protection products, the Portuguese company Ascenza Agro and the Spanish company Industrias Afrasa, are asking the General Court of the European Union to annul a Commission implementing regulation by which the marketing approval for the active substance chlorpyrifos-methyl was not renewed.

In June 2013, Ascenza (then known as Sapec Agro SA) and another company producing CHP-methyl, Dow AgroSciences Ltd, each submitted an application for renewal of the approval of CHP-methyl.

As part of the human health risk assessment for this substance, EFSA issued two "statements" on 31 July and 8 November 2019, which contained considerations largely arising from the application of the cross-referencing method. This method makes it possible to take into account, for risk assessment purposes, data from studies carried out with another active substance that is close (in this case, chlorpyrifos). On the basis of these considerations, EFSA considered that the criteria for the protection of human health set out in Regulation 1107/2009 were not met.

On 6 December 2019, the Member States, meeting within the Standing Committee on Plants, Animals, Food and Feed, delivered a favourable opinion by qualified majority on a draft regulation not renewing the approval of CHP-methyl.

On 10 January 2020, the Commission adopted the contested regulation, together with another regulation not renewing the approval of chlorpyrifos. Ascenza and Industrias Afrasa then brought an action for annulment of the contested regulation.

[Background Documents T-77/20](#)

There will be a press release in this case.

Wednesday 27th September

General Court

[Judgment in Case T-172/21 Valve v Commission](#)

(Competition)

Having received information relating to the geographic blocking of certain PC video games on the Steam platform due to the geographic location of users, the Commission opened an investigation. By decision of 20 January 2021, it found that the platform operator, Valve, and five game publishers, namely Bandai, Capcom, Focus Home, Koch Media and ZeniMax, had infringed EU competition law.

The Commission accused Valve and the five publishers of having participated in a series of anti-competitive agreements or concerted practices. These allegedly aimed to restrict cross-border sales of certain PC games compatible with the Steam platform by implementing territorial control features during various periods between 2010 and 2015, in particular in the Baltic States and certain Central and Eastern European countries.

Valve has brought an action before the General Court to have the decision annulled.

[Background Documents T-172/21](#)

There will be a press release in this case.

Wednesday 27th September

General Court

[Judgments in cases :](#)

[T-826/14 Spain v Commission](#)

[T-12/15 Banco Santander and Santusa v Commission](#)

[T-158/15 Abertis Infraestructuras and Abertis Telecom Satélites v Commission](#)

[T-252/15 Ferrovial and others v Commission](#)

[T-253/15 Sociedad General de Aguas de Barcelona v Commission](#)

[T-256/15 Telefónica v Commission](#)

[T-257/15 Arcelormittal Spain Holding v Commission](#)

[T-258/15 Axa Mediterranean v Commission](#)

[T-260/15 Iberdrola v Commission](#)

(State Aid)

By their actions in nine separate cases, the applicants, seek the annulment of Commission Decision (EU) 2015/314 of 15 October 2014 on State aid SA.35550 (13/C) (ex 13/NN) (ex 12/CP) implemented by Spain - Scheme relating to the tax depreciation of financial goodwill in the event of the acquisition of foreign shareholdings (OJ 2015 L 56, p. 38).

[Background Documents T-826/14](#)

[Background Documents T-12/15](#)

[Background Documents T-158/15](#)

[Background Documents T-252/15](#)

[Background Documents T-253/15](#)

[Background Documents T-256/15](#)

[Background Documents T-257/15](#)

[Background Documents T-258/15](#)

[Background Documents T-260/15](#)

There will be one press release covering these cases.

Thursday 28th September

[Judgment in Cases C-320/21 P Ryanair v Commission and C-321/21 P Ryanair v Commission](#)

(State Aid)

In April 2020 Denmark and Sweden notified the Commission of two separate aid measures for SAS AB, each involving a guarantee on a revolving credit facility of up to 1.5 billion Swedish kronor (SEK). Those measures were intended to compensate SAS in part for the damage resulting from the cancellation or rescheduling of its flights after the imposition of travel restrictions amid the Covid-19 pandemic.

By decisions of 15 April 2020 2 and of 24 April 2020, 3 the Commission classified the notified measures as State aid that was compatible with the internal market.

In accordance with that provision, aid to make good the damage caused by natural disasters or exceptional occurrences is to be compatible with the internal market.

The airline Ryanair brought actions for annulment of those decisions, which were, however, dismissed by the Tenth Chamber (Extended Composition) of the General Court of the European Union. In that respect, the General Court confirmed for the first time the legality of individual aid measures adopted in order to address the consequences of the Covid-19 pandemic.

Ryanair appealed both judgments.

[Background Documents C-320/21 P](#)

[Background Documents C-321/21 P](#)

There will be one press release for these cases.

Thursday 28th September

[Opinion in Case C-470/21 La Quadrature du Net and others \(Private data and fight against counterfeiting\)](#)

(Approximation of Laws)

The role of the High Authority for the Distribution of Works and the Protection of Rights on the Internet (Hadopi) in France is to ensure that property rights are respected. When an infringement of copyright by a user of an online public communication service is detected, Hadopi sends that person a recommendation to refrain from any further infringement, followed by a further warning if the infringement is repeated. If the first two warnings are ignored and a third infringement occurs, Hadopi may refer the matter to the relevant judicial authority for criminal prosecution.

This graduated response system presupposes that the rights protection commission can identify the perpetrator of the infringement in order to send him or her these recommendations. To do this, a decree adopted in 2010 enables Hadopi to collect connection data, in particular IP addresses. It then passes this data on to electronic communications operators so that they can return the civil identity data of the users to whom these IP addresses are assigned.

Four associations for the protection of rights and freedoms on the Internet are challenging the adoption of this decree in court, and the French Council of State is questioning whether the collection of civil identity data corresponding to IP addresses, as well as the automated processing of this data, for the purposes of preventing infringements of intellectual property rights, without prior control by a court or an administrative body, is compatible with European Union law.

[Background Documents C-470/21](#)

There will be a press release for this case.

Thursday 28th September

[Judgment in Case C-692/20 Commission v United Kingdom \(Marked fuel\)](#)

(Taxation)

From AG Collins Opinion:

In its judgment of 17 October 2018 in *Commission v United Kingdom* (C-503/17), the Court held (2) that, by allowing the use of marked fuel for the purpose of propelling private pleasure craft, even where that fuel is not subject to any exemption from or reduction in excise duty, the United Kingdom of Great Britain and Northern Ireland had failed to fulfil its obligations under Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene.

On 21 December 2020, the European Commission brought the present action under Article 260 TFEU against the United Kingdom, seeking a declaration that it had failed to comply with the judgment in Case C-503/17 and requesting that the Court impose a financial penalty.

The present action has at least three novel features. First, it is the only one of its kind taken against the United Kingdom during its membership of the European Union. Second, it commenced during the transition period laid down in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the Withdrawal Agreement'). Third, at the expiry of that transition period, the United Kingdom was obliged to comply with the judgment in Case C-503/17 in respect of Northern Ireland only.

In ruling upon this action, the Court is thus required to determine whether the last of these three features (a) mitigates the seriousness of the infringement and/or (b) has the consequence that the gross domestic product (GDP) of Northern Ireland, as distinct from that of the United Kingdom, is to be used to calculate the lump sum payment.

[Background Documents C-692/20](#)

There will be a press release for this case.

Week XL – 2nd to 6th October

Thursday 5th October

[Judgment in Case C-565/22 Sofatutor](#)

(Approximation of Laws)

The reference for a preliminary ruling concerns the interpretation of the Directive on consumer rights.

That application was made in proceedings between the Association for Consumer Information, Austria (VKI) and Sofatutor GmbH, a company incorporated under German law, concerning VKI's request that that company be ordered to inform consumers of the conditions, time-limits and procedures for exercising their right to withdraw from a contract concluded at a distance..

[Background Documents C-565/22](#)

There will be a press release for this case.

HEARINGS OF NOTE*

General Court

Tuesday 26th September: 14:30 – [T-235/22 Russian Direct Investment Fund v Council](#)
(Restrictive Measures)

Wednesday 27th September: 09:30 – [T-591/22 Polaroid IP v EUIPO - Klimeck](#)
(Intellectual Property)

Thursday 5th October: 09:30 - [T-489/21 Spain v Commission](#) (State Aid)

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