



Newsletter

Weeks XLIII – XLIV: 23rd October to 3rd November 2023

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Moore assisted
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Week XLIII – 23rd to 27th October

Wednesday 25th October

General Court

[Judgment in Case T-136/19 Bulgarian Energy Holding and others v Commission](#)

(Competition)

Bulgarian Energy Holding (BEH), a company wholly owned by the Bulgarian state, has several subsidiaries operating in the energy sector, including Bulgargaz and Bulgartransgaz. The former is the country's public gas supplier. Bulgartransgaz manages and operates the gas transmission network. It also controls the country's only natural gas storage facility, located underground at Chiren.

Bulgaria's gas supply depended almost entirely on imports from Russia. It was transported via Ukraine and then Romania via three gas pipelines: Romanian transit pipelines 1, 2 and 3, administered by Transgaz, the Romanian gas transmission system operator.

Since 1974, an intergovernmental agreement between Bulgaria and Romania has guaranteed the conditions for operating Romanian gas pipeline 1. In 2005, a new agreement was concluded under which Bulgargaz was granted exclusive use of the pipeline until the end of 2011, before being extended until 2016. In return, the Bulgarian company paid Transgaz a fixed annual fee, independent of the capacity actually used.

In 2010, Overgas, a player in the Bulgarian gas supply market, lodged a complaint with the European Commission against BEH and its two subsidiaries for infringing EU competition rules. Following in-depth investigations, in a decision dated 17 December 2018, the Commission found that these companies had abused their dominant position on the market for the supply of gas in Bulgaria. Between 30 July 2010 and 1 January 2015, the infringement consisted of a refusal to grant third parties access to several gas infrastructures. As a result, it imposed a fine of approximately € 77 million on the companies concerned.

Following this decision, BEH and its subsidiaries brought an action before the General Court of the European Union seeking annulment of the decision or, failing that, a

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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reduction of the fine.

[Background Documents T-136/19](#)

There will be a press release for this case.

Thursday 26th October

[Judgment in Case C-307/22 FT \(Copy of medical records\)](#)

(Principles, objectives and tasks of the Treaties)

A patient received dental treatment but suspected that his dentist had made mistakes. He asked the dentist for a copy of his medical records. The dentist required his patient to bear the costs of providing a copy of the medical records, as provided for under German national law.

Taking the view that he was entitled to a free copy, the patient brought the matter before the German courts. In this context, the German Federal Court of Justice referred questions to the Court of Justice for a preliminary ruling, since the German court considered that the resolution of the dispute depended on the interpretation to be given to the provisions of European Union law, namely the General Data Protection Regulation (GDPR).

[Background Documents C-307/22](#)

There will be a press release for this case.

Thursday 26th October

[Judgment in Case C-238/22 LATAM Airlines Group](#)

(Transport)

When a passenger was unable to check in for the flight from Frankfurt am Main to Madrid that she had booked for the following day, she contacted LATAM Airlines. LATAM Airlines informed her that it had transferred her to a flight that had taken place the previous day without informing her. It also informed her that her reservation for the return flight, which was due to take place more than two weeks later, had been blocked on the grounds that she had not taken the outbound flight. The passenger asked LATAM Airlines for lump-sum compensation of €250 because she had been denied boarding on the return flight.

The German court, to which the passenger appealed, asked the Court of Justice whether such compensation presupposes, under the regulation on air passenger

rights, that the passenger presented himself at check-in despite the fact that the airline had informed him in advance that he would not be allowed to board. The court also wishes to know whether the airline can, as in the case of flight cancellations, exempt itself from the obligation to pay compensation if it informs the passenger of the denied boarding sufficiently in advance, i.e. at least two weeks before the

scheduled departure time of the flight.

[Background Documents C-238/22](#)

There will be a press release for this case.

Thursday 26th October

[Opinion in Case C-670/22 Staatsanwaltschaft Berlin \(EncroChat\)](#)

(Area of Freedom, Security and Justice)

A European Investigation Order (EIO) is an EU instrument that enables cross-border cooperation in criminal investigations. It is regulated by the EIO Directive. In this reference, the Court is invited for the first time to interpret that directive in a situation where an EIO was issued for the transfer of evidence already in the possession of another State.

For the purposes of a criminal investigation in Germany, the Public Prosecutor's Office, Frankfurt, Germany issued several EIOs requesting the transfer of evidence gathered during a joint French-Dutch criminal investigation of EncroChat users. EncroChat was an encrypted telecommunications network offering its users near-perfect anonymity.

The present reference results from one of the criminal proceedings initiated before the Landgericht Berlin (Regional Court, Berlin, Germany) against a person based on intercepted telecommunications data, transferred based on the abovementioned EIOs. The question that arose before the referring court is whether the EIOs were issued in breach of the EIO Directive, and if so, what consequences that may have for the use of such evidence in the criminal procedure.

[Background Documents C-670/22](#)

There will be a press release for this case.

Week XLIV – 30th October to 3rd November

The Court is in All Saints recess from Monday 30th October to Sunday 5th November.

HEARINGS OF NOTE*

Court of Justice

Wednesday 25th October: 09.30 – [C-601/22 WWF Österreich and Others](#) (Environment)

General Court

Monday 23rd October: 09.30 – [T-734/22 Pumpyanskiy v Council](#) (Restrictive Measures)

Wednesday 25th October: 09.30 – [T-116/22 Belavia v Council](#) (Restrictive Measures)

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