Newsletter

Weeks XLVII – XLVIII: 20th November to 1st December 2023

Contact us
@ENDesk

Jacques René Zammit
Press Officer
+352 4303 3355

Monica Pizzo
Assistant
+352 4303 3366

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

***

Sorchadh Higgins & **Olivia Moore** assisted in the preparation of this Newsletter.

***

Follow @EUCourtPress on X (formerly Twitter)

***

Download our app

***

Week XLVII – 20th to 24th November

Wednesday 22nd November

General Court
Judgment in Joined Cases:
T-302/20 Del Valle Ruiz and others v SRB
T-303/20 Arias Mosquera and Others v SRB
T-307/20 Calatrava Real State 2015 v SRB
and in
T-304/20 Molina Fernandez v SRB, and T-330/20 ACMO and others v SRB

(*Banking – Economic and Monetary Policy*)

These cases concern a series of actions brought against Decision SRB/EES/2020/52 of the Single Resolution Board of 17 March 2020 determining whether compensation needs to be granted to the shareholders and creditors in respect of which the resolution actions concerning Banco Popular Español S.A. have been effected.

Background Documents T-302/20
Background Documents T-303/20
Background Documents T-304/20
Background Documents T-307/20
Background Documents T-330/20

There will be one press release for these cases.

Thursday 23rd November

Judgments in Case C-209/21 P Ryanair v Commission (aid to airline companies licenced in Sweden) and C-210/21 P Ryanair v Commission (aid to airline companies licenced in France)

(*State Aid*)

In March 2020, France notified the European Commission of an aid measure in the

All times are 9:30 unless otherwise stated.

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

form of a moratorium on payment of the civil aviation tax and the solidarity tax on airline tickets. This moratorium, which benefited airlines holding a French licence, consisted of the deferral of the payment of these taxes until 1 January 2021 and then spreading the payments over a period of 24 months, i.e. until 31 December 2022.

In April 2020, Sweden notified the Commission of an aid measure in the form of a loan guarantee scheme of up to SEK 5 billion to support airlines holding a Swedish operating licence in the context of the COVID-19 pandemic.

The European Commission approved the aid measures. Ryanair challenged these approvals before the General Court of the European Union, which dismissed the appeals after finding that the disputed aid measures complied with EU law.

It held that the Swedish aid scheme was presumed to have been adopted in the interests of the Union. Furthermore, the moratorium introduced by France was appropriate to remedy the economic damage caused by the Covid-19 pandemic and did not constitute discrimination.

Ryanair has appealed both of the General Court decisions.

Background Documents C-209/21 P
Background Documents C-210/21 P

There will be one press release for these cases.

Thursday 23rd November

Judgment in Case C-321/22 Provident Polska

(*Consumer Protection*)

Three citizens have entered into consumer credit agreements. Under the terms of these contracts, they are obliged to pay various fees and commissions in addition to the sum borrowed plus interest. These credit costs, excluding interest, are very high. They correspond to several tens of percentage points of the amounts lent. By invoking the overvalued and unreasonable nature of these costs, the consumers asked a Polish court to declare that the clauses relating to them were unfair and therefore not binding on them.

That court hesitated as to whether those terms could be so classified on the sole ground that the charges and commissions were manifestly excessive. Moreover, the Polish court noted that, under some of these contracts, the weekly instalments are payable exclusively in cash in the hands of the lender's agent when he visits the consumer's home. Such a solution would, in turn, be abusive because it could only be

explained by the desire to exert emotional pressure on the consumer.

However it is doubtful as to whether declaring a single clause governing the method of payment to be unfair would be tantamount to declaring the entire contract null and void. Uncertain about the interpretation of the Directive on unfair terms in consumer contracts, the Polish judge turned to the Court of Justice.

Background Documents C-321/22

There will be a press release for this case.

Thursday 23rd November

Judgment in Case C-354/22 Weingut A

(*Agriculture and fisheries*)

A vintner in the Moselle region of Germany also uses the terms "Weingut" (winegrowing estate) and "Gutsabfüllung" (bottling on the estate) for wine he produces from grapes grown on rented vineyards around 70 km from his own farm. Under the terms of the contract that this eponymous vintner has signed with the vintner to whom these vineyards belong, the latter cultivates the rented vines according to the former's instructions.

In addition, each year this other vintner rents a pressing facility from the eponymous vintner for a period of 24 hours, during which time the grapes from the rented vineyards are pressed exclusively in accordance with the eponymous vintner's oenological practices. The resulting wine is then transported to the vintner's premises.

The Land of Rhineland-Palatinate considers that the eponymous vintner cannot use the indications in question for wine made on the premises of the other vintner. In order for certain indications referring to a holding, such as "Weingut", to be used, EU law requires that the grapevine product be made exclusively from grapes harvested in the vineyards cultivated by that holding and that the winemaking be carried out entirely on that holding.

The German Federal Administrative Court, hearing the case, referred a question to the Court of Justice concerning the latter condition.

Background Documents C-354/22

There will be a press release for this case.

Thursday 23rd November

Opinion in Case C-29/22 P KS and KD v Council and C-44/22 P Commission v KS and others

(*Common Foreign and Security Policy – External Relations*)

Two individuals lost family members in the aftermath of the Kosovo conflict in 1999. The murders and disappearances remained unsolved. In 2008, the European Union established a civilian mission – the EU Rule of Law Mission in Kosovo (Eulex Kosovo) – that had, among its tasks, the investigation of such crimes.

The two individuals felt that Eulex Kosovo did not properly investigate the crimes involving their family members. As a result, they claimed a breach of their fundamental rights. They brought an action for damages requesting compensation before the General Court of the EU. The General Court dismissed their action, holding that it lacked jurisdiction to hear the action. The individuals and the EU Commission appealed the General Court's decision.

Background Documents C-29/22 P
Background Documents C-44/22 P

There will be one press release for these cases.

Thursday 23rd November

Opinion in Case C-351/22 Neves 77 Solutions

(*Common Foreign and Security Policy*)

Neves 77 Solutions SRL (Neves) is a Romanian company that has, as its main activity, brokering in the sale of products in the field of aviation. In 2020, the Romanian National Tax Administration Agency issued an infringement notice against Neves. It considered that Neves had infringed restrictive measures against the Russian Federation introduced by a Council Common Foreign & Security Policy (CFSP) Decision as well as the Romanian law regulating national implementation of such measures.

The Agency fined Neves around € 6,000 and confiscated approximately €3 million, representing the sums that Neves had received from the offending brokering transactions that fell within the scope of the CFSP Decision. Neves contested the Agency infringement notice before the Romanian courts. The referring Romanian court wonders whether the national implementing measures run counter to EU law and rights contained in the Charter of Fundamental Rights of the European Union. This indirectly raises the question whether the EU Courts have jurisdiction over matters concerning CFSP measures.

Background Documents C-351/22 P

There will be a press release for this case.

Thursday 23rd November

Judgment in Case C-84/22 Right to Know

(*Access to Documents – Environment*)

On 8 March 2016, Right to Know CLG, a not-for-profit organisation governed by Irish law, made a request to the Irish Taoiseach (Prime Minister) for access to all documents which showed cabinet discussions on Ireland's greenhouse gas emissions from 2002 to 2016. The Taoiseach (Prime Minister) refused that request in June 2016 following an internal review procedure. Right to Know thereupon brought proceedings before the High Court seeking a judicial review of that decision.

By judgment of 1 June 2018, Right to Know CLG v An Taoiseach ([2018] IEHC 372), the High Court remitted the decision to the Taoiseach (Prime Minister) for reconsideration. The High Court held inter alia, on the basis of a precedent discussed by the parties, that meetings of the Irish Government were to be characterised as 'internal communications' of a public authority, with the result that the requirement to disclose records on emissions into the environment did not apply. The Taoiseach (Prime Minister) had, however, failed to weigh the public interest served by disclosure and the interest in confidentiality.

By order of 16 August 2018, the Taoiseach (Prime Minister) granted partial access to the requested documents. Right to Know thereupon made a fresh application to the High Court for judicial review of that second decision. The judge who had delivered the judgment of 1 June 2018 is no longer responsible. The new judge referred the case to the Court of Justice.

The present request for a preliminary ruling seeks to clarify whether records of government cabinet discussions come under either the exception for internal communications, or under the exception for proceedings of public authorities. It must also be considered whether this question may be re-examined at all if it has already been decided in an earlier final judgment on the same request for access.

Background Documents C-84/22

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

Thursday 23rd November

Opinion in Case C-801/21 P EUIPO v Indo European Foods

(*Intellectual property – Effects of Brexit*)

By its appeal, the European Union Intellectual Property Office (EUIPO) seeks annulment of the judgment of the General Court of the European Union of 6 October 2021 in Case T-342/20 Indo European Foods v EUIPO – Chakari (Abresham Super Basmati Selaa Grade One World's Best Rice). In that judgment, the General Court upheld the challenge brought by Indo European Foods Ltd against the decision of the Fourth Board of Appeal of the EUIPO of 2 April 2020 concerning the application for registration of the figurative mark Abresham Super Basmati Selaa Grade One World's Best Rice.

This case gives the Court the opportunity to clarify the issue of the disappearance during the proceedings of the right on which an application to oppose the registration of a Union trade mark was based, as a result of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

More particularly, the question arises as to the procedural implications of such a disappearance, since the appeal is concerned exclusively with the Court's examination of the admissibility of the action for annulment of the decision rejecting the opposition application.

Background Documents C-801/21 P

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

Week XLVIII – 27th November – 1st December

Tuesday 28th November

Judgment in Case C-148/22 Commune d'Ans

(*Employment - Discrimination*)

An employee of the municipality of Ans (Belgium), who performs her duties as an office manager without any contact with public service users, was banned from wearing an Islamic headscarf in the workplace. In the wake of this, the municipality amended its working regulations and now requires its employees to observe strict

neutrality: any form of proselytising is prohibited, and the wearing of conspicuous signs of ideological or religious affiliation is banned. The interested party seeks a declaration that her freedom of religion has been infringed and that she is a victim of discrimination.

The case was referred to the Liège Labour Court, which considered whether the neutrality rule gave rise to unjustified indirect discrimination. It informed the Court of Justice of its doubts as to the conformity with Union law of such an obligation of neutrality for all employees of a public administration, including those who are not in contact with the public service users.

Background Documents C-148/22

There will be a press release for this case.

Thursday 30th November

Judgment in Joined Cases: C-228/21, C-254/21, C-297/21, C-315/21, C-328/21 Ministero dell'Interno (Common brochure – Indirect Refoulement)

(*Asylum Policy*)

Several people from Afghanistan and Pakistan, among other countries, have applied for international protection in Italy. Previously, each of them had submitted a similar application in another EU Member State (i.e. Slovenia, Sweden, Germany or Finland), which in two cases had already been rejected. As these other Member States had agreed, in accordance with the Dublin III Regulation, to take back these applicants, Italy adopted transfer decisions for them. In principle, the first Member State to receive an application is responsible for examining whether international protection should be granted.

All the applicants opposed the transfer, fearing that they would be sent back to their countries of origin by the first Member States. The Italian courts, hearing these cases, wondered whether an applicant making a second application should, as in the case of the first, receive the "common brochure" (i.e. uniform throughout the EU) providing information on the procedure and on the rights and obligations of applicants, and whether an individual interview should be held. They also wondered whether the risk of the applicants being returned to their countries of origin could be taken into account when examining the transfer decision. These courts have therefore referred the matter to the Court of Justice for clarification.

Background Documents C-228/21
Background Documents C-254/21
Background Documents C-297/21
Background Documents C-315/21

Background Documents C-328/21

There will be one press release for these cases.

HEARINGS OF NOTE*

Court of Justice

Wednesday 22nd November: 09.30 – C-36/23 Familienkasse Sachsen (Social security for migrant workers)

Thursday 23rd November: 09.30 – C-757/22 Meta Platforms Ireland (GDPR)

Tuesday 28th November: 09.30 – C-763/22 - Procureur de la République (Request for extradition and European arrest warrant) (Area of Freedom, Security and Justice)

Thursday 30th November: 09.30 – C-123/22 Commission v Hungary (Reception of applicants for international protection) (Provisions governing the institutions)

Thursday 30th November: 09.30 – C-623/22 Belgian Association of Tax Lawyers and Others (Taxation)

General Court

Tuesday 28th November: 09.30 – T-497/22 Mordashova v Council (Restrictive measures – Ukraine)

Wednesday 29th November: 09.30 – T-471/22 Anbouba v Council (Restrictive measures – Syria)

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