



Newsletter

Week XIX - XX: 6th – 17th May 2024

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**Graziella
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assisted in the
preparation of
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Week XIX 6th to 10th May

Tuesday 7th May

[Judgment in Case C-115/22 NADA and Others](#)

(Principles, objectives and tasks of the Treaties – Data protection)

A professional athlete was found guilty of violating Austrian anti-doping rules between 1998 and 2015. The Austrian Anti-Doping Commission (ÖADR) declared all results obtained by the athlete during the period in question invalid, and hence revoked any participation rights and/or bonuses and banned her from taking part in any type of sporting competition for four years.

This decision was confirmed by the ÖADR and the Austrian Independent Arbitration Commission (USK). The Austrian Independent Anti-Doping Agency (NADA) also published the name of the athlete, her anti-doping rule violations and the period of suspension in a table of suspended athletes on its publicly accessible website.

The athlete applied to USK for a review of this decision. In particular, this body is questioning the publication of the personal data of a doping professional on NADA's website and its compatibility with the GDPR ([Regulation \(EU\) 2016/679](#)).

In proceedings concerning the applicant's request that her personal data not be disclosed on NADA's website, the USK decided to stay the proceedings and refer questions to the Court of Justice for a preliminary ruling, including the following ones:

- 1) Does the GDPR preclude a national law allowing the disclosure of the details of a person subject to a decision of the USK, including that person's name, the duration of their ban and the reason behind such a ban, when it is not possible to infer any health data of the person concerned from the data disclosed?
- 2) Does the GDPR, prior to the disclosure, require a balancing of interests between the personal interests of the person affected by the disclosure, on the one hand, and the interest of the general public to be informed of the anti-doping violation committed by an athlete, on the other?
- 3) Does the disclosure of the information that a certain person has committed 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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specific doping violation, as a result of which that person has been banned from taking part in both national and international competitions, constitute the processing of personal data relating to criminal convictions and offences?

[Background Documents C-115/22](#)

There will be a press release for this case.

Tuesday 7th May

[Opinion in Case C-4/23 Mirin](#)

(Citizenship of the Union – Right of entry and residence)

A Romanian citizen was registered as female at birth in Romania.

After moving to the United Kingdom (UK), she acquired British nationality. In 2016, before Brexit, she began the process of changing her name and gender in the UK. In 2020, the citizen obtained full legal recognition of his male gender. However, Romania asked him to start the process all over again following a national regulation that required him to follow a new legal procedure.

In his view, the regulation violated his right to move and reside freely within the territory of the European Union ([Article 21](#) of the Treaty on the Functioning of the European Union and [Article 45](#) of the Charter of Fundamental Rights of the European Union).

In this case, the Romanian referring court asked the Court of Justice whether a Member State's refusal to recognise changes in the identity of a European Union citizen obtained in the UK, when EU law was still applicable, complies with EU law. It also asks for clarification of the consequences of the United Kingdom's withdrawal from the EU in this respect.

[Background Documents C-4/23](#)

There will be a press release for this case.

Wednesday 8th May

[Judgment in Case C-53/23 Asociația “Forumul Judecătorilor din România” \(Associations of magistrates\)](#)

(Principles, objectives and tasks of the Treaties – Accession – Fundamental rights)

A professional association of Romanian magistrates has challenged the appointment

of certain prosecutors responsible for prosecuting corruption cases in Romania. They believe that the national regulations that led to these appointments violate European Union law and should be annulled.

The Pitești Court of Appeal in Romania, before which this case was brought, asked the Court of Justice whether the Romanian procedural rules limiting the remedies available to magistrates' associations complied with EU law – [Article 2](#) and [Article 19](#) Treaty on European Union, read in the light of [Article 12](#) and [Article 47](#) of the Charter of Fundamental Rights of the European Union.

Those rules make the admissibility of such an action subject to the existence of a legitimate private interest. The Romanian court also raises questions about the compatibility of these rules with EU law and with Romania's commitments in the fight against corruption.

[Background Documents C-53/23](#)

There will be a press release for this case.

Wednesday 8th May

General Court

[Judgment in Case T-28/22 Ryanair v Commission \(Condor; restructuring aid\)](#)

(Competition – State aid)

By decision [State aid SA.63203 \(2021/N\) – Germany - Restructuring aid for Condor](#) of 26 July 2021, the Commission authorised, without opening a formal investigation, restructuring aid amounting to €321 million, which Germany intended to grant to the German charter airline Condor.

The aid was intended to support the restructuring and continuation of Condor's activities, remedying the difficulties Condor was facing because of the bankruptcy of its former parent company, Thomas Cook. In the context of that bankruptcy, Condor had already benefited from rescue aid, which the Commission had approved by decision of 14 October 2019 (see the [press release by the Commission](#)). Ryanair's appeal against that decision was dismissed by the General Court by judgment [T-577/20 Ryanair v Commission \(Condor; rescue aid\)](#) of 18 May 2022 – see also [press release No 87/22](#).

Ryanair had not appealed against this judgment to the Court of Justice, but challenged the decision of 26 July 2021 before the General Court of the European Union, stating, *inter alia*:

- the contested State aid falls outside the material scope of the [Rescue and](#)

[Restructuring Guidelines](#),

- the contested decision does not establish the appropriateness, nor the proportionality of the State aid to the damage caused by the COVID-19 crisis, and
- the contested decision violates the general principles of non-discrimination and free provision of services that have underpinned the liberalisation of air transport in the EU since the late 1980s conveyed in the sector through [Regulation \(EC\) No 1008/2008](#).

[Background Documents T-28/22](#)

There will be a press release for this case.

Wednesday 8th May

General Court

[Judgment in Case T-375/22 Izuzquiza and Others v Parliament](#)

(Provisions governing the institutions – Access to documents)

Luisa Izuzquiza, Arne Semsrott, Stefan Wehrmeyer, all from Berlin, requested access to documents relating to a Member of the European Parliament, in accordance with [Article 15](#) of the Treaty of the Functioning of the European Union and [Regulation \(EC\) No 1049/2001](#).

The above-mentioned treaty article gives EU citizens, residents and businesses the right of access to documents of the EU institutions, bodies, offices and agencies subject to certain principles and conditions. The regulation lays down the general principles and limits on access. Access can be requested to all documents drawn up or received by an institution, in all areas of EU activities.

The European Parliament refused to give access to the documents in its final decision, dated 8 April 2022, justifying the full and/or partial non-disclosure of the requested documents by invoking the exceptions listed under Article 4 of the above mentioned regulation:

- a) Article 4(1)(b) states: “The institutions shall refuse access to a document where disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data”.
- b) Article 4(6) states: “If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released”.

The defendants challenged that decision at the General Court.

[Background Documents T-375/22](#)

There will be a press release for this case.

Court Recess – Europe Day

The Court is in recess on the 9th and 10th of May.

Week XX 13th to 17th May

Thursday 16th May

[Judgment in Case C-27/23 Hocinx](#)

(Freedom of movement for workers – Social security for migrant workers)

A Belgian national works in Luxembourg and lives in Belgium. Since he has frontier worker status, he depends on the Luxembourg system for family allowances, which he has received for several years for a child placed in his home by court order.

In 2017, however, the Caisse de l'Avenir des Enfants (Luxembourg) withdrew his entitlement to this family allowance. This organisation considers that the payment of family allowances is limited to children who are directly related (legitimate, natural or adopted) to the frontier worker.

However, children residing in Luxembourg and placed into care are entitled to receive this allowance, which is paid to the natural or legal carers having custody over the children.

The Cour de Cassation (Luxembourg) asked the Court of Justice for guidance as to whether the rules of the Luxembourg Social Code constituted indirect discrimination by applying different conditions for entitlement depending on whether the worker was resident or not.

[Background Documents C-27/23](#)

There will be a press release for this case.

Thursday 16th May

[Judgment in Case C-405/23 Touristic Aviation Services](#)

(Transport)

In 2021, a flight from Cologne-Bonn (Germany) to the Greek island of Kos, operated by TAS, was delayed by 3 hours and 49 minutes. The delay was due to a number of reasons, but mainly due to a lack of staff at Cologne-Bonn airport to load baggages onto the plane.

A number of passengers affected by the delay have assigned their claims for compensation to Flightright. The latter brought an action against TAS before the German courts, arguing that the delay was attributable to TAS and could not be justified by extraordinary circumstances.

Under the EU law ([Regulation \(EC\) No 261/2004](#)), an airline is not obliged to pay compensation for a long delay, i.e. more than three hours, if it can prove that the delay was due to 'extraordinary circumstances' which could not have been avoided even if all reasonable measures had been taken.

The German court hearing the case asked the Court of Justice whether a shortage of the airport operator's staff responsible for loading luggage onto aircraft could constitute an 'extraordinary circumstance'.

[Background Documents C-405/23](#)

There will be a press release for this case.

HEARINGS OF NOTE*

Court of Justice

Tuesday 7th May: 09:30 – Case [C-253/23 ASG 2](#) (Competition) ([streamed on Curia](#))

Wednesday 8th May 2024: 09:30 – Case [C-121/23 P Swissgrid v Commission](#) (Energy)

Wednesday 8th May 2024: 09:30 –

Case [C-346/23 Banco de Santander \(Representing individual consumers\)](#) (Freedom of establishment – Free movement of capital – Internal market – Principles)

Tuesday 14th May 2024: 09:30 – Case [C-339/22 BSH Hausgeräte](#) (Area of freedom, security and justice – Judicial cooperation in civil matters) ([streamed on Curia](#))

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Thursday 16th May 2024: 09:30 – Case [C-137/23 Alsen](#) (Taxation)

General Court

Wednesday 8th May 2024: 09:30 – Case [T-426/23 Chiquita Brands v EUIPO - Compagnie financière de participation \(Representation of a blue and yellow oval\)](#) (Intellectual, industrial and commercial property – Trade marks)

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

