



Newsletter

Week XXIII - XXIV: 3rd to 14th June 2024

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Week XXIII 3rd to 7th June

Wednesday 5th June

General Court

[Judgment in case T-134/21 Malacalza Investimenti and Malacalza v ECB](#)

(Economic and monetary policy – European Central Bank (ECB))

Banca Carige is a large credit institution based in Italy, listed on the stock exchange and subject to direct prudential supervision of the European Central Bank (ECB) since 2014.

Between 2015 and 2019, the ECB has adopted several intervention measures as part of this supervision.

Malacalza Investimenti and Mr Malacalza are shareholders in the Carige bank. Mr Malacalza had also been a member and vice-chairman of the bank's board of directors.

They have brought an action before the General Court of the European Union, seeking compensation for the damage they believe they have suffered as a result of various actions taken by the ECB in connection with the exercise of its supervisory functions over Banca Carige.

In their view, the ECB's conduct and measures are contrary, in several respects, to the duties associated with its supervisory functions, particularly with regard to safeguarding the sound and prudent management of banks. They also allege that the ECB is in breach of the principles of protection of property, proportionality, sound administration, equality, impartiality and equal treatment, transparency, good faith and the protection of legitimate expectations.

They request that the ECB be ordered to pay Malacalza Investimenti €870,525,670 and Mr Malacalza €9,546,022 and to order the ECB to take a number of measures of inquiry.

[Background Documents T-134/21](#)

There will be a press release for this case.

All times are 9:30 unless otherwise stated.

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



Wednesday 5th June

General Court

[Judgment in Case T-58/23 Supermac's v EUIPO - McDonald's International Property \(BIG MAC\)](#)

(Intellectual, industrial and commercial property – Trade marks)

Supermac's and McDonald's, an Irish and American fast food chain respectively, are involved in a dispute concerning the use of the word sign BIG MAC registered in the EU.

McDonald's registered the word sign in 1996 to cover a number of goods and services.

In 2017, Supermac's applied for revocation on the grounds that the mark had not been put to genuine use in the EU for an uninterrupted period of five years. The European Union Intellectual Property Office (EUIPO) had established the revocation of rights in respect of certain goods and services.

However, it confirmed McDonald's right to use the word sign BIG MAC for certain goods and services, including meat and chicken sandwiches, as well as for services provided or connected with the operation of restaurants and other catering establishments or infrastructures for consumption and "drive-in".

Supermac challenged EUIPO's decision before the General Court.

[Background Documents T-58/23](#)

There will be a press release for this case.

Thursday 6th June

[Judgment in Case C-441/21 P Ryanair v Commission](#)

(Competition – State aid)

In July 2020, Spain notified the European Commission of an aid scheme to create a solvency support fund. The beneficiaries were strategic Spanish companies (non-financial) that were experiencing temporary difficulties as a result of the Covid-19 pandemic.

The scheme provided for the adoption of various recapitalisation measures. It sought to remedy the serious disruption to the Spanish economy, taken as a whole, in its diversity and with a view to sustainable economic development.

The budget, financed by the State, has been set at €10 billion until June 30, 2021.

By a decision of July 31, 2020, the Commission declared the notified scheme compatible with the internal market.

The Irish airline Ryanair brought an action before the General Court of the European Union against the Commission's decision.

This action was dismissed by judgment of May 19, 2021 ([T-628/20](#), see also [press release 83/21](#)).

Ryanair has appealed to the Court of Justice against the judgment of the General Court.

[Background Documents C-441/21 P](#)

There will be a press release for this case.

Thursday 6th June

[Judgment in Case C-547/22 INGSTEEL](#)

(Approximation of laws)

In 2013, during the award of a public contract for the reconstruction, modernisation and construction of sixteen football stadiums, the Slovak Football Association excluded the bidding company INGSTEEL spol s.r.o. from participating, because it failed to satisfy the economic and financial requirements.

Following the Court judgement [C-76/16](#), which was a preliminary ruling requested by the Slovak Supreme Court, the same Court declared this exclusion unlawful, and referred the case to the Slovak Public Procurement Regulatory Authority to take the necessary measures. The Slovak Football Association was hence ordered to annul the decision to exclude INGSTEEL from the public procurement procedure.

In the meantime, the procurement procedure was closed by the conclusion of a framework agreement with the only remaining bidder. Consequently, INGSTEEL brought an action for damages for the loss resulting from the unlawful decision taken against it.

In particular, compensation was claimed for a loss of opportunity. Even though Slovak law does not distinguish between different categories of compensable loss, loss of an opportunity falls within the category of loss of profit.

Bratislava II District Court, Slovakia asks the Court of Justice for guidance on how to interpret [Directive 89/665/EEC](#) on the rules relating to the application of review

procedures to the award of public supply and public works contracts.

In particular, the referring Court is asking whether EU law requires Member States to admit a claim in damages for the loss of opportunity suffered by a tenderer after unlawfully being excluded from a procedure for the award of a public contract, where that procedure has concluded and a contract was entered into with the successful tenderer.

The answer to that question requires the Court of Justice to determine whether the laws of the Member States regulate the award of damages to which Directive 89/665/EEC refers. If so, the Court must examine the consequences of the requirement that those laws must comply with the principle of effectiveness.

[Background Documents C-547/22](#)

There will be a press release for this case.

Week XXIV 10th to 14th June

Tuesday 11th June

[Judgment in Case C-646/21 *Staatssecretaris van Justitie en Veiligheid \(Women who identify with the value of gender equality\)*](#)

(Area of Freedom, Security and Justice – Asylum policy)

From the Opinion by AG Collins 12 July 2023:

(This case) concerns the applications for international protection of K and L, two teenage girls from Iraq who lived in the Netherlands for five years whilst their family's initial applications for international protection were being examined.

During that time, they were part of a society that values gender equality and they adopted the values, norms and conduct of their peers.

In their subsequent applications for international protection, the appellants claim that, if they return to Iraq, they will be unable to conform to values, norms and conduct that do not afford women and girls the freedoms that they enjoyed in the Netherlands, the expression of which would expose them to the risk of persecution. The *Staatssecretaris van Justitie en Veiligheid* (State Secretary for Justice and Security, Netherlands) has rejected these claims as manifestly unfounded.

The questions referred for a preliminary ruling ask whether persons in the appellants' circumstances may be entitled to international protection because they are members

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of a particular social group within the meaning of Article 10(1)(d) of [Directive 2011/95/EU](#) (Qualification Directive). They also ask how a child's best interests may be taken into account in the assessment of applications for international protection.

[Background Documents C-646/21](#)

There will be a press release for this case.

Tuesday 11th June

[Judgment in Case C-221/22 P Commission v Deutsche Telekom](#)

(Competition)

On October 15, 2014, the European Commission fined Deutsche Telekom AG approximately €31 million for abuse of a dominant position on the Slovak broadband telecommunications services market. Deutsche Telekom brought an action for annulment of this decision before the General Court of the European Union, but provisionally paid the fine on January 16, 2015.

The General Court partially upheld this action and reduced the fine by approximately €12 million. The Commission therefore repaid this amount to Deutsche Telekom on February 19, 2019. Deutsche Telekom subsequently asked the Commission to pay it default interest on this amount for the period from the date of payment of the fine to the date of repayment, i.e. for more than four years.

When the Commission refused, Deutsche Telekom again appealed to the General Court, which ordered the Commission to pay Deutsche Telekom approximately € 1.8 million.

The Commission has appealed this judgment of the General Court.

[Background Documents C-221/22 P](#)

There will be a press release for this case.

Thursday 13th June

[Judgment in Case C-123/22 Commission v Hungary \(Reception of applicants for international protection II\)](#)

(Law governing the institutions)

In response to the migration crisis and to the ensuing arrival of large numbers of applicants for international protection, Hungary adapted its legislation on the right to

asylum and return of illegally staying non-EU-country nationals. A law dated 2015 provided, *inter alia*, for the creation of transit zones, situated at the Serbian-Hungarian border, in which asylum procedures are applied. That law also introduced the concept of a 'crisis situation caused by mass immigration', leading, where such a situation is declared by the Government, to the application of derogatory rules in the guise of general rules. In 2017, a new law expanded the cases in which such a 'crisis situation' could be declared and amended the provisions allowing derogation from the general rules.

In 2015, the European Commission expressed its doubts to Hungary regarding the compatibility of its asylum legislation with EU law. The 2017 law raised additional concerns.

The Commission criticises Hungary in particular for having restricted access to the international protection procedure, systematically detaining applicants for international protection and forcibly deporting, to a strip of land at the border, illegally staying non-EU-country nationals, with no regard towards the substantive and procedural safeguards provided for in the [Asylum Procedures](#), [Reception Conditions](#) and [Return](#) Directives, including the guarantees provided for in the same Return Directive.

In that context, it brought an action for failure to fulfil obligations before the Court, seeking a declaration that a substantial part of the Hungarian legislation in the area infringes certain provisions of those directives.

In a judgment on December 17, 2020 (Case [C-808/18](#) - see [press release 161/20](#)), the Court, sitting as the Grand Chamber, had upheld for the most part the Commission's action for failure to fulfil obligations.

In Case C-123/22 the Commission is asking the Court to declare that, by failing to take all the measures necessary to comply with the aforementioned judgment of the Court of Justice, Hungary has failed to fulfil its obligations under [Article 260\(1\) TFEU](#) and, consequently, order Hungary to pay a lump sum and a penalty payment.

[Background Documents C-123/22](#)

There will be a press release for this case.

Thursday 13th June

[Judgment in Case C-563/22 Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite \(Refugee Status – Stateless person of Palestinian Origin\)](#)

(Area of Freedom Security and Justice – Asylum policy – Border checks)

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SN and LN are two stateless persons of Palestinian origin, who used to live in the Gaza Strip. They are registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). In August 2022, they sought asylum for the second time in Bulgaria, after the Bulgarian authorities rejected their first applications for international protection.

Under the [EU Qualification Directive](#), stateless persons of Palestinian origin registered with UNRWA are excluded from obtaining refugee status. However, that exclusion no longer applies if UNRWA's protection or assistance has 'ceased'.

The Sofia Administrative Court (Bulgaria) referred a series of questions concerning the interpretation of the Qualification Directive to the Court of Justice.

[Background Documents C-123/22](#)

There will be a press release for this case.

HEARINGS OF NOTE*

Court of Justice

Monday 3rd June 2024: 14.30 – Case [C-247/23 Deldits](#) (Principles, objectives and tasks of the Treaties – Data protection)

Wednesday 5th June 2024: 09:30 – Case [C-2/23 FL und KM Baugesellschaft and S](#) (Competition)

Thursday 6th June 2024: 09:30 – Case [C-393/23 Athenian Brewery and Heineken](#) (Area of freedom, security and justice – Judicial cooperation in civil matter)

Tuesday 11th June 2024: 09:30 – Case [C-254/23 INTERZERO and Others](#) (Environment – Waste – Freedom of establishment – Freedom to provide services) ([streamed on Curia](#))

General Court

Tuesday 04th June 2024: 09:30 – Case [T-732/22 Deripaska v Council](#) (Restrictive measures – Ukraine)

Thursday 6th June 2024: 09:30 – Case [T-23/23 Noyan Abr Arvan v Council](#) (Restrictive measures – Iran)

Monday 10th June 2024: 14.30 Case [T-326/22 Konov v Council](#) (Restrictive measures – Ukraine)

Tuesday 11th June 2024: 14.30 Cases [T-297/23](#) and [T-298/23 Timchenko v Council](#) (Restrictive measures – Ukraine)

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

