



Newsletter

Week XXIV - XXV: 10th to 21th June 2024

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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 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.

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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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.

Wednesday 12th June

[Judgment in Case T-604/22 Société du Tour de France v EUIPO - FitX \(TOUR DE X\)](#)

(Intellectual, industrial and commercial property – Trade marks)

Société du Tour de France is challenging the Decision of the Second Board of Appeal of The European Union Intellectual Property Office (EUIPO) of July 11, 2022 in Case R 1136/2019-2 (the contested decision), related to the application for European Union figurative mark TOUR DE X.

On May 22, 2017, the intervener, FitX Beteiligungs GmbH, submitted to the EUIPO an application for registration of an EU trade mark for the following figurative sign:



The mark applied for designated goods and services falling within Classes 25 (Clothes, shoes, headgear) 28 (Games, toys, video game machines, sports equipment...) and 41 (Sports education services, training, entertainment services, sporting and cultural activities) as defined in the [Nice Agreement concerning the international classification of goods and services for the purposes of the registration of marks](#).

On August 11, 2017, Société du Tour de France filed its opposition to the registration of the mark applied for the goods and services referred to in the above-mentioned classes, on the basis of prior rights.

Société du Tour de France brought an action before the General Court against EUIPO's contested decision, asking the General Court to annul it.

[Background Documents T-604/22](#)

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, where 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 this particular area infringes certain provisions of the above directives.

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

In this case 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)

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). After the Bulgarian authorities rejected their first applications for international protection, they sought asylum for the second time in Bulgaria in August 2022,

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-563/22](#)

There will be a press release for this case.

Week XXV 17th to 21th June

Tuesday 18th June

[Judgment in Case C-352/22 Generalstaatsanwaltschaft Hamm \(Extradition request for a refugee to Turkey\)](#)

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

Turkey has asked Germany to extradite a Turkish national of Kurdish origin, suspected of murder.

The German court called upon to rule on this request, wondered whether the fact that the person concerned had been granted refugee status in Italy in 2010, because he was at risk of political persecution by the Turkish authorities because of his support for the Kurdistan Workers' Party (PKK), precluded extradition.

As this issue falls within the scope of the European asylum system and the Charter of Fundamental Rights of the European Union, the German court asked the Court of Justice for guidance on the interpretation of [Directive 2013/32/EU](#) on international protection and Asylum procedures and [Directive 2011/95/EU](#) (the Qualification Directive).

Extract from the Opinion of AG Richard de la Tour:

“The present request for a preliminary ruling gives the Court an opportunity to clarify the relationship between the rules of EU law on international protection and the competence of the Member States in respect of extradition to take into account the special protection needs of a person who has refugee status in a Member State other than the one responsible for examining a request for extradition concerning that person.,,

...The present case raises the delicate question of whether a decision granting refugee status adopted by a Member State has a binding effect on the other Member States, in the sense that they are bound by that decision and cannot therefore depart from it. That question is of considerable importance for the Common European Asylum System as a whole. It is raised here in the context of a request for extradition issued by the Turkish authorities and addressed to the German authorities for the purposes of a criminal prosecution against a Turkish national residing in Germany, who had previously been granted refugee status by the Italian authorities on account of a risk of political persecution in Türkiye.

Thus, the Court is called upon to decide whether the decision granting refugee status taken by one Member State has, under EU law, binding effect in the context of an

extradition procedure conducted in another Member State, in the sense that the authority competent to conduct that procedure would be obliged to refuse extradition for as long as that decision is in force.”

[Background Documents C-352/22](#)

There will be a press release for this case.

Tuesday 18th June

[Judgment in Case C-753/22 Bundesrepublik Deutschland \(Effect of a decision granting refugee status\)](#)

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

A Syrian national granted refugee status in Greece (‘the first Member State’ granting refugee status) subsequently applied for international protection in Germany (‘the second Member State’).

A German court ruled that, because of the living conditions of refugees in Greece, she would run a serious risk of inhuman or degrading treatment, and therefore could not return to Greece.

The competent German authority rejected her application for refugee status, but granted her subsidiary protection.

The person concerned then brought an action against the refusal to grant her refugee status before the German courts.

The German Federal Administrative Court asked the Court of Justice whether, in such a situation, the competent authority was obliged to grant the applicant refugee status solely on the ground that such status had already been granted to her by the other Member State, or whether it could carry out a new independent examination of the merits of that application.

Quoting AG Medina’s opinion: “The referring court asks, in essence, whether EU primary law and the relevant provisions of three secondary acts adopted in the field of EU refugee law, namely the [Dublin III Regulation](#), the [Procedures Directive](#) and the [Qualification Directive](#), must be interpreted as meaning that the second Member State is bound to recognise the refugee status granted by the first Member State, without further examination of the material conditions necessary to qualify for refugee status.

[Background Documents C-753/22](#)

There will be a press release for this case.

Thursday 20th June

[Judgment in Case C-540/22 Staatssecretaris van Justitie en Veiligheid \(Posting of workers from non-EU countries\)](#)

(Freedom to provide services)

A Slovakian service provider posted Ukrainian workers to the Netherlands. The duration of the activities exceeded 90 days out of a period of 180 days.

In such situations, Dutch law provides that non-EU-country nationals must apply for a residence permit, which must be valid for a certain period of time and a fee must be paid to obtain it.

In a case brought by several of the workers concerned against the State, the Dutch court asked the Court whether such legislation complied with Articles [56](#) and [57](#) TFEU.

This question prompts the Court to clarify its case-law on the rules applicable to non-EU-country nationals posted within the European Union. While the requirement to hold a residence permit undoubtedly constitutes a restriction on the freedom to provide services, it will be necessary to examine to what extent that restriction may meet an overriding reason in the public interest and be proportionate.

[Background Documents C-540/22](#)

There will be a press release for this case.

Thursday 20th June

[Judgment in Case C-296/23 dm-drogerie markt](#)

(Laws governing the institutions – Acts of the institutions)

The drugstore chain dm-drogerie markt GmbH & Co KG (dm) was offering the disinfectant 'BioLYTHE' for sale. The product was labelled 'Universal ecological broad-spectrum disinfectant', 'Disinfects skin, hands and surfaces', 'Effective against SARS-Corona' and 'Skin-friendly - organic - alcohol-free'.

The German Centre for Protection against unfair competition considers this to be unfair advertising. Dm would have failed to comply with the rules of conduct laid down by EU law for disinfectant products, known as 'biocides'. The association therefore brought an action before the German courts, seeking to compel dm to cease designating or marketing the product in question as a 'universal broad-spectrum ecological disinfectant' and/or 'skin-friendly' and/or 'organic'.

Under EU law ([Regulation \(EU\) No 528/2012](#)), biocidal products may not be labelled in a way which misleads the user as to the risks that the product may pose to human health, animal health or the environment, or as to its effectiveness.

The German referring court asks the Court of Justice for guidance on how to interpret in detail the article related to advertisements for biocidal products.

[Background Documents C-296/23](#)

There will be a press release for this case.

Thursday 20th June

[Judgment in Case C-801/21 P EUIPO v Indo European Foods](#)

(Intellectual, industrial and commercial property – Trade marks – Brexit)

By its appeal, the European Union Intellectual Property Office (EUIPO) seeks annulment of the judgment of the General Court in Case [T-342/20 Indo European Foods v EUIPO - Chakari](#) (Abresham Super Basmati Sela Grade One World's Best Rice).

The contested judgment annulled the decision of the Fourth Board of Appeal of the EUIPO of **April 2, 2020** (Case R 1079/2019-4) firstly, in relation to the opposition proceedings between Indo European Foods Ltd and Mr. Hamid Ahmad Chakari, and, secondly, dismissed Indo European Foods' appeal as to the remainder.

The decision was made during the transitional period, i.e. at a time when, in the absence of provisions to the contrary in the Withdrawal Agreement, [Regulation 2017/1001](#) on EU trade marks continued to apply to earlier unregistered UK trade marks used in the course of trade. Therefore, the earlier trade mark concerned continued to enjoy the same protection as it would have enjoyed in the absence of the UK's withdrawal from the EU.

EUIPO had opposed the registration of the trade mark applied for because based, *inter alia*, on an earlier non-registered trade mark in the UK. Although the protection conferred on that trade mark by UK law remained relevant during the **period transition provided for in the UK Withdrawal Agreement** – hence **until December 31, 2020**. EUIPO alleged that the opposition proceedings and the action before the General Court were no longer valid after the expiration of that period.

Furthermore, EUIPO maintained that, since the annulment of the decision at issue could no longer procure any advantage to Indo European Foods, the latter no longer had any interest in bringing proceedings before the General Court.

In the judgment under appeal, the General Court held that the action was admissible and annulled the decision at issue.

[Background Documents C-801/21 P](#)

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

HEARINGS OF NOTE*

Court of Justice

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](#))

Wednesday 12th June 2024: 09:30 – [Case C-337/23 APS Beta Bulgaria and Agentsia za kontrol na prosrocheni zadalzhenia](#) (Consumer protection – Freedom of establishment – Freedom to provide services)

Monday 17th June 2024: 14:30 – Case [C-181/23 Commission v Malta](#) (Citizenship through investment) (Citizenship of the Union) ([streamed on Curia](#))

Tuesday 18th June 2024: 09:30 – Case [C-460/23 Kinsa](#) (Area of freedom, security and justice – Judicial cooperation in civil and criminal matters – Police cooperation) ([streamed on Curia](#))

Wednesday 19th June 2024: 09:30 – Case [C-383/23 ILVA \(Fine for infringing the GDPR\)](#) (Data protection)

General Court

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)

Wednesday 19th June 2024: 09:30 – Case [T-748/22 Kantor v Council](#) (Restrictive measures – Ukraine)

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

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