Newsletter

Week XXXIX - XXXX: 23rd September to 4th October 2024

Contact us
@ENDesk

Jacques René Zammit
Press Officer
+352 4303 3355

Monica Pizzo
Assistant
+352 4303 3366

Desk Email
Press.ENdesk@curia.europa.eu

***
***

Follow @EUCourtPress on X (formerly Twitter)
***

Download our app

***

All times are 9:30 unless otherwise stated.

Week XXXIX 23rd to 27th September

Wednesday 25th September

General Court

Judgments in Cases T-446/21 Commission de régulation de l'énergie v ACER, T-472/21 RTE v ACER, T-476/21 TransnetBW v ACER, T-482/21 TenneT TSO and TenneT TSO v ACER, T-484/21 Polskie sieci elektroenergetyczne v ACER and T-485/21 BNetzA v ACER

(Energy)

Under EU law (Regulation (EU) 2015/1222), the transmission system operators (TSOs) of each region must propose a common methodology for allocating the costs of redispatching and counterparty exchanges.

The proposal of the region comprising Belgium, the Czech Republic, Germany, France, Croatia, Luxembourg, Hungary, the Netherlands, Austria, Poland, Romania, Slovenia and Slovakia (CORE region) should have been submitted by March 17, 2018 at the latest.

The TSOs of the CORE region submitted such a proposal to all the national regulatory authorities (NRAs) of this region after the deadline: i.e. March 27, 2019. These NRAs had six months to decide on this proposal.

On September 26, 2019, at the request of those NRAs, the European Union Agency for the Cooperation of Energy Regulators (ACER) decided to extend by six months the time-limit set for them to approve that proposal, i.e. until March 27, 2020.

On March 27, 2020, the Chairman of the Forum of Energy Regulators of the CORE region announced that the NRAs of the CORE region were not in a position to take a decision on the submitted proposal by the same day, as the proposal was considered to be largely incomplete to such an extent that the NRAs were not in a position either to approve it or to request a modification.

On the same day, ACER declared itself competent to adopt a decision on the proposal. On November 30, 2020, ACER adopted, by Decision No 30/2020, the methodology for

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

cost allocation.

Following actions for annulment of that decision before ACER's Board of Appeal, on May 28, 2021 ACER confirmed the decision. Several NRAs brought actions before the General Court of the European Union against the decision of the Board of Appeal ('the Decision').

Background Documents T-446/21
Background Documents T-472/21
Background Documents T-476/21
Background Documents T-482/21
Background Documents T-484/21
Background Documents T-485/21

There will be one press release for these cases.

Wednesday 25th September

General Court

Judgment in Case T-483/21 Polskie sieci elektroenergetyczne v ACER

(Energy)

The European legislator has put in place a legal framework to guarantee the proper functioning of the internal electricity market and, in particular, the operational security of regional electricity networks (see in particular Regulation (EU) 2019/943 on the internal market for electricity and Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation).

One of the measures for coordinating this safety is the development of a 'safety methodology (ROSC)'. In particular, this document identifies the risks associated with network operation and develops common procedures in the event of incidents.

The safety methodology (ROSC) is proposed jointly by all the entities responsible (TSOs) for the management, maintenance and development of the electricity network in the region concerned. It also requires the approval of the national regulatory authorities. If the national regulatory authorities fail to reach an agreement within a given timeframe, or at their joint request, the European Union Agency for the Cooperation of Energy Regulators (ACER) decides on such a proposal.

On December 4, 2020, following an extensive period of consultation and discussion, ACER took a decision containing the security methodology (ROSC) for the region comprising thirteen Member States.

Polskie sieci elektroenergetyczne S.A. - the TSO responsible for the electricity network

in Poland - applied to have this decision annulled. Having lost the case before the ACER Board of Appeal, the company brought an action before the General Court of the European Union.

In particular, it contested ACER's power to depart from the initial proposal drawn up by the TSOs. In addition, it considers that certain elements of the contested methodology infringe the powers of the TSOs in a way that is incompatible with EU law.

Background Documents T-483/21

There will be a press release for this case.

Wednesday 25th September

General Court

Judgments in Cases T-570/22 Herbert Smith Freehills v Commission and T-311/23 British American Tobacco Polska Trading v Commission

(Provisions governing the institutions – Access to documents)

The applicants – Herbert Smith Freehills LLP (case T-570/22) as well as British American Tobacco Polska Trading sp. z o.o. on its own behalf and on behalf of 4 other British American Tobacco group companies (case T-311/23) – asked the General Court for the annulment of two Commission decisions pursuant Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents: Commission Decisions C (2022) 4816 and C (2023) 5443.

The applicants asked for access to documents the Commission used to adopt the Delegated Directive 2022/2100, amending Directive 2014/40/EU as regards the withdrawal of certain exemptions in respect of heated tobacco products.

They included, *inter alia*, all documents containing data from the EU's common electronic entry point on the volume of sales of tobacco products by category (expressed in number of cigarettes/cigars/cigarillos or in weight) per Member State between January 1, 2015 and December 31, 2020.

Also, they requested documents containing supporting data and interim documents created within the Commission (including relevant statistics and findings) relating to the Commission's conclusion (recorded in the summary record of the Tobacco Policy Expert Group meeting of December 2, 2021 and presented to the same Group) that developments in the market for heated tobacco products constituted a significant change in the situation within the meaning of Directive 2014/40.

Indeed, after that Tobacco Policy Expert Group meeting, the Commission had informed the representatives of the Member States that "developments in the market

for heated tobacco products constituted a significant change in the situation" within the meaning of Directive 2014/40.

On June 15, 2022, the Commission published a report setting out significant developments in the situation for heated tobacco products under Directive 2014/40.

Following the report, on June 29, 2022, the Commission adopted Delegated Directive 2022/2100.

On March 11, 2022 (T-570/22) and on November 4, 2022 (T-311/23), the applicants made distinct applications to the Commission for access to documents under Regulation No 1049/2001. The documents requested were based on elements extracted from three different databases, namely Euromonitor, the "EU-CEP" and the "Tracking System".

On April 8, 2022 and on January 17, 2023, the Commission partially rejected the requests of access, however disclosing access to some documents corresponding to the subject of the requests the Commission had identified (the "disclosed documents").

The applicants took the view, first, that the Commission had not disclosed all the relevant interim documents and, second, that the Commission should have given it access to information from the relevant underlying databases which can be regarded as existing documents.

On July 3, 2022 and on August 4, 2023, the Commission adopted the two contested decisions (Commissions decisions C (2022) 4816 and C (2023) 5443, maintaining that it did not hold any documents other than those it had already disclosed.

The applicants challenged both decisions, asking the General Court to annul them, contesting that the Commission had no other documents than those disclosed.

In support of their action, the applicants raise, inter alia, the alleged infringement of Regulation No 1049/2001, by refusing access to the data contained in the three databases which it used to prepare the report: Euromonitor, the 'EU-ECP' and the 'traceability system'.

Background Documents T-570/22
Background Documents T-311/23

There will be one Info Rapide for these cases (available on request).

Thursday 26th September

Judgment in Case C-768/21 Land Hessen (Data protection authority's duty to act)

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

In Germany, a savings bank found that one of its employees had consulted a

customer's personal data on several occasions without being authorised to do so.

The savings bank did not inform the customer, as its data protection officer had deemed that there was no high risk to him.

In fact, the employee had confirmed in writing that she had not copied or stored the data, that she had not passed it on to third parties and that she would not do so in the future. In addition, the Sparkasse had taken disciplinary action against her. The Sparkasse nevertheless notified the Land's data protection commissioner of this violation.

After incidentally becoming aware of this incident, the customer lodged a complaint with the Data Protection Commissioner. After hearing the Sparkasse, the data protection commissioner informed the customer that he did not consider it necessary to take any remedial action against the Sparkasse.

The customer then brought an action before a German court, asking it to order the Data Protection Commissioner to take action against the Sparkasse and, in particular, to impose a fine.

The German court asked the Court of Justice to interpret the General Data Protection Regulation (GDPR) in this regard.

Background Documents C-768/21

There will be a press release for this case.

Thursday 26th September

Judgment in Case C-600/22 P Puigdemont i Casamajó and Comín i Oliveres v Parliament

(Law governing the institutions)

Following the holding, on October 1, 2017, of the referendum on the self-determination of Catalonia (Spain), criminal proceedings were brought against Carles Puigdemont i Casamajó and Antoni Comín i Oliveres (who, at the time, were President and Member of the Autonomous Government of Catalonia, respectively).

They fled Spain. National arrest warrants were issued against them. Mr Puigdemont and Mr Comín subsequently stood as candidates and were elected in the elections to the European Parliament which were held in Spain on May 26, 2019.

On May 29, 2019, the then President of the European Parliament issued an instruction for the purposes of (i) refusing all the candidates elected in Spain access to the “special

welcome service" provided to persons newly elected to the European Parliament and (ii) suspending those candidates' accreditation until official confirmation of their election.

On June 14, 2019, Mr Puigdemont and Mr Comín requested the President of the European Parliament to take note of the results of the elections, as set out in the list of elected candidates declared by the Spanish Central Electoral Commission on June 13, 2019, in which their names were included. They also requested the President to withdraw the Instruction of May 29, 2019 so that they could, *inter alia*, take their seats and enjoy their rights as Members of the European Parliament from July 2, 2019, the date of the first plenary session following the elections.

On June 17, 2019, the Spanish Central Electoral Commission notified the European Parliament of the list of candidates elected in Spain. The names of Mr Puigdemont and Mr Comín were not on that list because they had not taken the oath to respect the Spanish Constitution, as required by national law.

The Central Electoral Commission therefore declared that their seats were vacant and that all the prerogatives attaching to their duties were suspended.
By letter of June 27, 2019, the President of the European Parliament informed Mr Puigdemont and Mr Comín that he could not regard them as future Members of the European Parliament because their names were not on the list of elected candidates officially communicated by the Spanish authorities.

The following day, Mr Puigdemont and Mr Comín brought an action for annulment before the General Court of the European Union, essentially directed against the refusals of the President of the European Parliament to grant them access to the special welcome service and to recognise their status as Members of the European Parliament (Case T-388/19).

At the plenary session of January 13, 2020, the European Parliament decided to take note, following the delivery of the judgment of the Court of Justice in the case Junqueras Vies (C-502/19 – see also Press Release No 161/19) of the election of Mr Puigdemont and Mr Comín to the Parliament with effect from July 2, 2019.

By judgment of July 6, 2022, the General Court dismissed the action brought by Mr Puigdemont and Mr Comín as inadmissible on the ground that the disputed refusals of the President of the European Parliament were not open to challenge.

Mr Puigdemont and Mr Comín then brought an appeal before the Court of Justice.

Background Documents C-600/22 P

There will be a press release for this case.

Thursday 26th September

Judgment in Case C-792/22 Energotehnica

(Charter of Fundamental Rights – Social policy)

Following the death of an electrician due to electrocution during an intervention, administrative proceedings were opened against his employer. At the same time, criminal proceedings for negligence and manslaughter were opened against the foreman. The victim's family also joined the criminal proceedings.

The administrative court hearing the case concluded that this was not an 'accident at work'. It annulled the administrative sanctions imposed on the employer and foreman. According to national legislation, as interpreted by the Romanian Constitutional Court, this administrative decision prevents the criminal court from reconsidering whether the accident was an accident at work.

In this context, the Court of Appeal of Brașov (Romania) questions the Court of Justice on the compatibility between this national law, as interpreted by the Constitutional Court, and EU law on the safety of workers (Council Directive 89/391/EEC).

Background Documents C-792/22

There will be a press release for this case.

Thursday 26th September

Judgment in Case C-330/23 Aldi Süd

(Consumer protection)

A German consumer association is challenging before a German court the way in which the discounter Aldi Süd advertises in its weekly leaflets by means of price reductions or 'shock prices' such as, for example, for bananas and pineapples.

According to the consumers' association, Aldi is not entitled to calculate a price reduction on the basis of the price immediately prior to the offer (in the first example €1.69), but, in accordance with EU law, should do so on the basis of the lowest price charged by Aldi in the last 30 days (in the first example EUR 1.29; however, that price is identical to the allegedly “reduced” price).

It would not be sufficient simply to mention the lowest price over the last 30 days in the advertisement. The same considerations would apply to the designation of a price as a ‘shock price’.

The German court asked the Court of Justice about this.

Background Documents C-330/23

There will be a press release for this case.

Week XXXX 30th September to 4th October

Wednesday 2nd October

General Court

Judgments in Cases T-797/22 Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council, T-798/22 Ordre des avocats à la cour de Paris and Couturier v Council and T-828/22 ACE v Council

(*External relations – Common foreign and security policy – Restrictive measures – Ukraine)*

In 2022, in response to Russia's escalating aggression against Ukraine, the Council of the European Union adopted a series of restrictive measures designed to put pressure on Russia to end its war of aggression. The measures include a ban on the provision of legal advice.

Subject to certain exceptions and exemptions, these acts prohibit any person who may provide legal advice (including those practising within the EU) from providing such services to the Russian government and to legal persons, entities or bodies established in Russia. The prohibition is intended to make it more difficult for the Russian Government and Russian companies to obtain goods and services or capital in the EU, by depriving them of the technical and legal assistance necessary for such operations.

The Dutch Bar Association of the Brussels Bar, the Paris Bar Association and Julie Couturier (a lawyer registered with the Bar Association), as well as the trade association Avocats Ensemble (ACE), applied to the General Court of the European

Union for the ban to be annulled.

In their view, the ban lacked a statement of reasons and infringed their fundamental rights (access to legal advice from a lawyer and interference with professional secrecy) as well as the principle of proportionality.

Furthermore, such a ban would infringe the right of lawyers to provide legal advice without any particular restrictions.

Background Documents T-797/22
Background Documents T-798/22
Background Documents T-828/22

There will be one press release for these cases.

Friday 4th October

Judgments in Joined Cases C-541/20 to C-555/20 Lithuania, Bulgaria, Romania, Cyprus, Hungary, Malta and Poland v Parliament and Council (Mobility Package)

(Transport)

Lithuania, Bulgaria, Romania, the Republic of Cyprus, Hungary, Malta and Poland have brought actions before the Court of Justice for annulment of the 'Mobility Package', which was adopted by the EU legislature, i.e. the Parliament and the Council, in 2020.

The package encompasses several pieces of legislation:

1) Regulation (EU) 2020/1054 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs;
2) Regulation (EU) 2020/1055 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector;
3) Directive (EU) 2020/1057 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012.

In particular, these Member States are challenging:

- the ban on drivers taking the normal weekly rest period or compensatory rest period on board the vehicle;
- the obligation for transport undertakings to organise their drivers' work in such a way that drivers are able to return, during working time, every three or four weeks to the undertaking's operational centre or to their place of

residence, in order to start or spend at least their normal or compensatory weekly rest period there;

- bringing forward the date of entry into force of the obligation to install second-generation intelligent tachographs and, in general, the date of entry into force of Regulation 2020/1054 providing for the prohibition and obligations mentioned above;
- the obligation, for vehicles used for international transport, to return to an operational centre located in the Member State of establishment of the transport undertaking concerned every eight weeks;
- the obligation for transport undertakings to have at their disposal on a regular and continuous basis a number of vehicles and drivers who are normally attached to an operational centre in their Member State of establishment, in both cases in proportion to the number of transport operations they carry out;
- the four-day waiting period during which, following a cabotage round in a host Member State, (non-resident) hauliers are not authorised to carry out cabotage operations with the same vehicle in the same Member State;
- the qualification of drivers of posted workers, so that they benefit from the working and employment conditions, in particular as regards pay, in the host Member State, in principle when they carry out cabotage operations, transport operations from one country to another, none of which is the Member State of establishment, or certain combined transport operations.

Background Documents C-541/20
Background Documents C-542/20
Background Documents C-543/20
Background Documents C-544/20
Background Documents C-545/20
Background Documents C-546/20
Background Documents C-547/20
Background Documents C-548/20
Background Documents C-549/20
Background Documents C-550/20
Background Documents C-551/20
Background Documents C-552/20
Background Documents C-553/20
Background Documents C-554/20
Background Documents C-555/20

There will be a press release for these cases.

Friday 4th October

Judgment in Case C-581/22 P thyssenkrupp v Commission

(Competition)

Thyssenkrupp, a German industrial group, and Tata Steel, a company headquartered in India, are active in the manufacture and supply of flat carbon steel and magnetic steel products. Their production centres are located in Germany, the United Kingdom and the Netherlands respectively. The companies also have finishing plants in other Member States.

On September 25, 2018, the two companies notified the Commission under the Merger Regulation of their plans to acquire joint control of a newly created joint venture. The project mainly concerned metal-coated and rolled steel products for packaging and hot-dip galvanised steel products used in the automotive sector.

Following discussions with the companies involved and requests for information from a number of market participants, including competitors and customers, the Commission declared the transaction incompatible with the internal market and the European Economic Area by decision of June 11, 2019 (see summary of the decision).

Thyssenkrupp brought an action for annulment of the Commission's decision before the General Court of the European Union. In its judgment of June 22, 2022, the General Court rejected all the arguments put forward by the company and confirmed the Commission's decision (T-584/19, see also press release 110/22).

Thyssenkrupp then appealed to the Court of Justice against the judgment of the General Court.

Background Documents C-581/22 P

There will be a press release for this case.

Friday 4th October

Judgments in Joined Cases C-29/23 P Ferriera Valsabbia and Valsabbia Investimenti v Commission and C-30/23 P Alfa Acciai v Commission

(Competition)

By decision of 17 December 2002, the European Commission found that eight undertakings and an association of undertakings had infringed Article 65(1) of the Treaty establishing the European Coal and Steel Community (ECSC) by participating in a cartel on the Italian concrete reinforcing bar market which had as its object or effect the fixing of prices and the limitation and control of production between December 1989 and July 2000 (hereinafter the 'First Decision').

The General Court annulled that decision on the ground that its legal basis, namely Article 65(4) and (5) of the ECSC Treaty, was no longer in force at the time of its adoption, the ECSC Treaty having expired on July 23, 2002 (see judgments October 25,

2007, SP e.a./Commission: T-27/03, T-46/03, T-58/03, T-79/03, T-80/03, T-97/03, T-98/03, T-45/03, T-77/03 and T-94/03 and press release n. 78/07).

Consequently, the Commission adopted a new decision, on September 30 and December 8, 2009, finding the same infringement but based on the EC Treaty and Regulation (EC) No 1/20033 (hereinafter the 'Second Decision'), based on Article 65(4) of the ECSC Treaty.

That decision, confirmed by the General Court by judgments of December 9, 2014 (T-472/09 and T-55/10, T-69/10, T-70/10, T-83/10, T-85/10, T-90/10, T-91/10, T-92/10, T-489/09, T-490/09 and T-56/10) was annulled by the Court.

According to the latter, the General Court had erred in law in holding that the Commission was not required to organise a new hearing in the context of the procedure which led to the adoption of the second decision, the omission of such a hearing constituting an infringement of essential procedural requirements.

Accordingly, the Court held that the first hearing organised with a view to the adoption of the first decision did not comply with the procedural requirements for the adoption of a decision on the basis of Regulation 1/2003, insofar as the competition authorities of the Member States had not participated in it. The Court had therefore annulled the judgments of 9 December 2014 in their entirety (see Judgments September 21, 2017, Ferriera Valsabbia e.a./Commission, C-85/15 P, C-86/15 P, C-87/15 P, C-88/15 P and C-89/15 P).

Resuming the procedure at the point at which the illegality had been found by the Court, the Commission organised a new hearing and, by decision of July 4, 2019 (the 'third decision') again found the infringement which was the subject of the second decision.

However, due to the length of the procedure, a 50% reduction in the amount of all the fines imposed on the addressees was granted. Four of the eight undertakings concerned, namely Ferriera Valsabbia SpA and Valsabbia Investimenti SpA, Alfa Acciai SpA, Feralpi Holdings SpA and Ferriere Nord SpA brought actions for annulment of the contested decision, which imposed penalties on them ranging from € 2.2 million to € 5.1 million.

The General Court rejected all these appeals.

Ferriera Valsabbia and Valsabbia Investimenti and Alfa Acciai challenged the decisions before the Court.

Background Documents C-29/23 P

There will be a press release for these cases.

Friday 4th October

Judgment in Case C-240/23 Herbaria Kräuterparadies II

(Agriculture and Fisheries)

The request for a preliminary ruling of the Federal Administrative Court, Germany concerns the interpretation of different articles of Regulation (EU) 2018/848 on organic production and labelling of organic products as well as of Article 20 of the Charter of Fundamental Rights of the European Union.

This reference for a preliminary ruling is made in proceedings between Herbaria Kräuterparadies GmbH, a company incorporated under German law ('Herbaria'), and the Land of Bavaria, Germany, concerning the possibility of using the organic production method in the labelling, advertising and marketing of a mixture of fruit juices and herbal extracts.

Herbaria is the manufacturer of 'Blutquick', a blend of fruit juices and herbal extracts containing, in addition to organic plant products, non-organic vitamins and iron gluconate. Blutquick is presented and marketed as a food supplement. Its packaging contains the organic production logo of the European Union, the national organic label and a reference to the origin of the ingredients from 'controlled organic cultivation'.

Since 2012, Herbaria has disputed the decision of the Land of Bavaria prohibiting it from using the reference to the organic production method in the labelling, advertising and marketing of a mixture of fruit juice and herb extracts which contains, in addition to the organic products, non-plant vitamins and ferrous gluconate not coming from organic farming.

A first judgment of the Court of Justice confirmed the Land of Bavaria's interpretation that the organic production logo of the European Union and any reference to organic production could not be used in such a situation (C-137/13).

Herbaria accepted that decision and relies on a breach of equality between its product and a similar American product to which non-organic non-plant vitamins and ferrous gluconate are added, but which is recognised as originating from organic production in the United States of America and which, on that basis, may be marketed on the territory of the European Union with the organic production logo of the European Union by reason of the recognition of the United States as a non-EU country whose rules on production and control are equivalent.

The request by the referring court will allow the Court to clarify the use that must be made of the organic production logo of the European Union in the event of imports of products originating from organic farming.

Background Documents C-240/23

There will be a press release for this case.

Friday 4th October

Judgment in Case C-4/23 Mirin

(Citizenship of the Union)

A Romanian citizen was registered as female at birth in Romania.
After moving to the United Kingdom (UK), he acquired British nationality while retaining his Romanian nationality. It was in this country that, in 2017, he changed his first name and civil title from female to male and, in 2020, obtained legal recognition of his male gender identity.

In May 2021, on the basis of two documents obtained in the UK attesting to these changes, this citizen asked the Romanian administrative authorities to enter in his birth certificate the particulars relating to his change of forename, sex and personal identification number so that it corresponded to the male sex.

He also asked them to issue him with a new birth certificate containing these new details. However, the Romanian authorities refused his requests while inviting him to follow a new legal procedure in Romania, aimed directly at obtaining approval for the change of sex.

Relying on his right to move and reside freely within the territory of the European Union, the citizen concerned asked a Bucharest court to order that his birth certificate be brought into line with his new forename and his gender identity, which had been definitively recognised in the UK.

The court asked the Court of Justice whether the national legislation on which the Romanian authorities' refusal was based complied with EU law and whether Brexit had any impact on the case.

Background Documents C-4/23

There will be a press release for this case.

Friday 4th October

Judgment in Case C-650/22 FIFA

(Freedom of movement for persons)

A former professional footballer is challenging the rules governing contractual relations between players and clubs. The rules in question, entitled 'Regulations on the Status and Transfer of Players' (RSTP), were adopted by the Fédération Internationale de Football Association (FIFA) – an association responsible for organising football competitions at world level.

These rules that are implemented both by FIFA and by its member national football associations apply, among other things, to a situation where there is a dispute between a player and a club as to a termination of a contract without just cause. In such cases, that player and any club wishing to employ him are jointly and severally liable for any compensation due to his former club.

The player and the new club are also liable to sporting and financial sanctions in case of non-compliance. Furthermore, the association to which the player's former club belongs may refuse to deliver an International Transfer Certificate to the new association where the player's new club is registered as long as the dispute with the former club is standing.

The professional football player had signed for the Russian football club Lokomotiv Moscow only to see that contract terminated by this club one year later for an alleged breach "and termination of contract without just cause".

Lokomotiv Moscow applied to the FIFA Dispute Resolution Chamber for compensation and the player submitted a counterclaim seeking compensation of unpaid wages. The player claims that the search for a new club proved to be difficult because, under the RSTP, any new club would be held jointly and severally liable with himself to pay any compensation due to Lokomotiv Moscow.

He claims that a potential deal with Belgian club Sporting du Pays de Charleroi fell through because of the RSTP conditions and he sued FIFA and URBSFA (the governing body for Belgian football) before a Belgian court for damages and loss of earnings of €6 million.

Background Documents C-650/22

There will be a press release for this case.

Friday 4th October

Judgment in Case C-446/21 Schrems (Communication of data to the general public)

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

Maximilian Schrems is challenging Meta Platforms Ireland's unlawful processing of his

personal data on the Facebook social network before the Austrian courts. The data in question includes information about his sexual orientation.

Meta collects the personal data of Facebook users, including Mr Schrems, relating to the activities of those users both on and off that social network. This includes data relating to visits to the online platform and to third-party websites and applications. To this end, Meta uses 'cookies', 'social plugins' and 'pixels' inserted on the web pages concerned.

On the basis of the data at its disposal, Meta can also identify Mr Schrems' interest in sensitive subjects such as sexual orientation, which makes it possible to send him advertising targeted in that regard.

The question therefore arises whether Mr Schrems can no longer rely on the prohibition in principle laid down by the General Data Protection Regulation (GDPR) on the processing of such sensitive data by reason of the fact that he communicated his sexual orientation to Meta at the time of his registration.

Schrems can no longer rely on the prohibition in principle laid down by the General GDPR on processing such sensitive data by reason of the fact that he disclosed the fact that he was homosexual at a public round table.

In this context, the Austrian Supreme Court asked the Court of Justice to interpret the GDPR (see also case C-498/16 and press release n. 7/18. With regard to the judgment of 4 July 2023, Meta Platforms and others (General terms and conditions of use of a social network) C-252/21 (see also press release n. 113/23, the Supreme Court withdrew some of its questions.

Background Documents C-446/21

There will be a press release for this case.

Friday 4th October

Judgment in Case Joined cases C-608/22 and C-609/22 Bundesamt für Fremdenwesen und Asyl e.a. (Afghan women)

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

Since the return of the Taliban regime to Afghanistan, the situation of women has deteriorated to the point that their very identity can be said to be denied.

That regime is characterised by an accumulation of acts and discriminatory measures which restrict, or even prohibit, *inter alia*, their access to health care and education, their gainful employment, their participation in public and political life, their freedom

of movement and their right to take part in sports, which deprive them of protection against gender-based and domestic violence and require them to cover their entire body and face.

An Austrian court asked the Court of Justice whether such treatment can be classified as an act of persecution justifying the grant of refugee status.

It also asks whether, for the purposes of the individual assessment of the application for international protection, a Member State can conclude that there is a well-founded fear of persecution taking into account only the gender of the applicant.

Background Documents C-608/22 and C-609/22

There will be a press release for these cases.

Friday 4th October

Opinion in Case C-181/23 Commission v Malta (Citizenship by investment)

(Citizenship of the Union)

The Commission is seeking a declaration that by establishing and operating a citizenship investment programme, such as the Maltese Citizenship by Naturalisation for Exceptional Services by Direct Investment (2020), that offers naturalisation in the absence of a genuine link of the applicants with the country, in exchange for pre-determined payments or investments, the Republic of Malta has failed to fulfil its obligations under Article 20 TFEU and Article 4(3) TEU.

Background Documents C-181/23

There will be a press release for this case.

Friday 4th October

Judgment in case C-21/23 Lindenapotheke

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

This reference for a preliminary ruling from the Bundesgerichtshof (Federal Court of Justice, Germany) concerns the interpretation of different articles of the General Data Protection Regulation ('the GDPR') in relation to, first, the system of remedies established by that regulation and, second, the category of particularly sensitive data consisting of 'data concerning health'.

This reference is made in the context of a civil dispute between two pharmacy

operators in Germany concerning the right to distribute medicinal products sold exclusively in pharmacies on the online sales platform 'Amazon-Marketplace'.

The claimant at first instance operates under the trade name 'Winthir Apotheke' and the defendant operates under the trade name 'Lindenapotheke'.

Lindenapotheke holds a mail order licence and markets its product range on its own online platform. In addition, in 2017 Lindenapotheke offered its product range, which includes medicines sold exclusively in pharmacies, on the 'Amazon-Marketplace' online sales platform. Winthir Apotheke brought an action against Lindenapotheke, requesting that Lindenapotheke be prohibited, subject to a fine, from marketing, for competition purposes, medicines subject to sale in pharmacies via the Amazon-Marketplace online sales platform, as long as the registration or purchase process via that online sales platform does not guarantee that the customer has given his prior consent to the collection, storage and use of his health data to a person or institution authorised to process those data.

The request for a preliminary ruling was then made in the context of an action for an injunction, based on the prohibition, in national law, of acts of unfair competition, and brought by an undertaking with a view to putting an end to the online marketing of non-prescription medicines by one of its competitors.

The alleged act of unfair competition consists, according to that undertaking, of failure to comply with the requirements arising from the GDPR with regard to the processing of 'data concerning health'.

The Court is asked to define the outlines of the concept of 'data concerning health' that determine whether an enhanced protection regime is applicable.

Background Documents C-21/23

There will be a press release for this case.

Friday 4th October

Judgment in Case C-585/22 Staatssecretaris van Financiën (Interest on intra-group borrowings)

(Freedom of establishment – Free movement of capital – Freedom to provide services)

This request for a preliminary ruling from the Supreme Court of the Netherlands arises in the context of provisions of national law on corporation tax, specifically designed to tackle tax avoidance practices. Under that legislation, the contracting of a loan debt by a taxable person with a related entity – for the purposes of acquiring or extending an interest in another entity – is, in certain circumstances, presumed to be

an artificial arrangement, designed to erode the Netherlands tax base. Consequently, that person is precluded from deducting the interest on the debt from its taxable profits unless it can rebut that presumption.

The national court invites the Court to clarify its case-law on, *inter alia*, the freedom of establishment laid down in Article 49 TFEU, specifically whether it is compatible with that freedom for the tax authorities of a Member State to refuse to a company belonging to a cross-border group the right to deduct from its taxable profits the interest it pays on such a loan debt.

Background Documents C-585/22

There will be a press release for this case.

HEARINGS OF NOTE*

Court of Justice

Monday 30th September 2024: 14:30 – Case C-417/23 Slagelse Almennyttige Boligselskab, Afdeling Schackenborgvænge (Social policy) (**streamed on Curia**)

Tuesday 01st October 2024: **09:00** – Case C-600/23 Royal Football Club Seraing

(Fundamental rights- Charter of Fundamental Rights) (**streamed on Curia**)

General Court

Monday 23rd September 2024: 14:30 – Case T-289/23 Khan v Council (Restrictive measures – Ukraine)

Tuesday 24th September 2024: 09.30 – Case T-329/23 Czech Republic v Commission (Law governing the institutions)

Wednesday 25th September 2024: 09.30 – Joined cases T-577/22 and T-648/22 ClientEarth v Council (Fisheries policy)

Wednesday 25th September 2024: 09.30 – Case T-281/23 Dana Astra v Council (Restrictive measures – Belarus)

Wednesday 02nd October 2024: 09.30 – Case T-230/23 Hitit Seramik v Commission (Commercial policy)

Wednesday 02nd October 2024: 09.30 – Case T-263/23 Symrise v Commission (Competition)

Wednesday 02nd October 2024: 14.30 – Case T-231/23 Akgün Seramik and Others v

Commission (Commercial policy)