

Week XLIII - XLIV: 21st October to 1st November 2024

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Niamh Leneghan assisted in the preparation of this Newsletter.

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Week XLIII: 21st to 25th October

Tuesday 22nd October

Judgment in Case C-652/22 Kolin Inşaat Turizm Sanayi ve Ticaret

(Freedom of establishment – Freedom to provide services)

A Croatian contracting entity launched a procedure for the award of a public contract for the construction of railway infrastructure linking two towns in Croatia. Kolin Inșaat Turizm Sanayi ve Ticaret, a company established in Turkey, challenged the legality of the decision by virtue of which another tenderer was selected.

The Administrative Court of Appeal, Croatia asks the Court of Justice to clarify the circumstances in which, after the deadline for submission of tenders has expired, contracting authorities may request tenderers to make corrections or clarifications. Before this clarification, however, the Court must first adjudicate upon two issues of law that regard the admissibility of the reference. Are economic operators established in non-EU countries, with which the European Union has no public procurement agreement, entitled to participate in procedures for the award of public contracts in the European Union? If so, can the Member States determine the conditions under which those operators may do so or is that exclusively a matter for the European Union to decide?

Background Documents C-652/22

There will be a press release for this case.

Thursday 24th October

Judgment in Case C-227/23 Kwantum Nederland et Kwantum België

(Intellectual, industrial and commercial property)

Vitra, a Swiss designer furniture company, owns the intellectual property rights to chairs designed by the American couple Charles and Ray Eames. In particular, Vitra manufactures the Dining Sidechair Wood, which was designed as part of a furniture design competition launched by the Museum of Modern Art in New York (USA) and

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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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exhibited there from 1950.

Kwantum, on the other hand, operates a chain of interior furniture shops in the Netherlands and Belgium. Kwantum is alleged to have marketed a chair, known as the 'Paris chair', in breach of Vitra's copyright in the Dining Sidechair Wood.

Vitra brought the matter before the Dutch courts. The Netherlands' Supreme Court decided to refer questions to the Court of Justice for a preliminary ruling.

In principle, copyright protects the works of national authors or those publishing for the first time on national territory, but excludes the authors of foreign works from this protection. It is only by virtue of international conventions that authors benefit from this protection outside the territory of their respective countries. At present, the main instrument of international copyright law worldwide is the <u>Berne Convention for the</u> <u>Protection of Literary and Artistic Works</u>.

The European Union is not a party to this Convention, but each individual Member State is. Therefore, the Member States, hence the Union, are obliged to comply with the substantive provisions of this Convention by virtue of its other international commitments.

Under the Berne Convention, authors who are nationals of signatory countries enjoy, in principle, the same rights as national authors in the other signatory countries.

One exception to this principle concerns the protection of works of applied art. Having failed to agree on a common regime, the contracting parties have established a material reciprocity clause. Under this clause works of applied art originating in countries in which such works are protected exclusively as designs or models cannot, in other signatory countries, benefit from both design and copyright protection.

The question referred by the Dutch Supreme Court to the Court of Justice is whether the Member States are still free to apply the reciprocity clause contained in the Berne Convention to works of applied art originating in third countries which protect such works only under a special regime.

Background Documents C-227/23

There will be a press release for this case.

Thursday 24th October

Judgment in Case C-240/22 P Commission v Intel Corporation

(Competition – Dominant position)

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In May 2009, the Commission imposed a fine of €1.06 billion on Intel, a US-based microprocessor manufacturer (Commission Decision of 13 May 2009 relating to a proceeding under Article 82 of the EC Treaty and Article 54 of the EEA Agreement (Case COMP/C-3/37.990 — Intel – see <u>summary</u>)). Intel was accused of abusing its dominant position on the x86 CPU market in breach of EU competition rules.

In 2014, the General Court dismissed Intel's action against the Commission's decision in its entirety (<u>T-286/09</u>, see also <u>press release No 82/14</u>).

On appeal by Intel, the Court of Justice set aside that judgment and referred the case back to the General Court for reconsideration (<u>C-413/14 P</u>, see also <u>press release No</u> <u>90/17</u>).

After re-examination, the General Court partially annulled the Commission's decision and annulled the €1.06 billion fine in its entirety. The Commission has lodged the present appeal against the judgment of the General Court of 2022 (<u>T-286/09 RENV</u>, see also <u>press release No 16/22</u>.

Background Documents C-240/22 P

There will be a press release for this case.

Week XLIV: 28th October to 1st November

The Court is in All Saints recess from Monday 28th October to Sunday 3rd November.

SAVE THE DATE - IRELAND

Thursday 21st November

WHAT: Breakfast Press Talk - Reporting the CJEUWHERE: European Public Space, Europe House, 12-14 Lower Mount Street, DublinWHEN: 21st November starting 0930

The Press Office of the Court of Justice of the EU will be organising a Breakfast Talk for the Press in Dublin on the 21st of November.

Jacques Zammit, the Press Attaché responsible for the English Desk, will be giving an informal briefing on the workings of the Court and of the services that are available to help better "report the Court". Join me for a chat over coffee and morning bites while we will discuss what the Court does and what tools are available to be better informed

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about what is happening in Luxembourg. By the end of the morning, reporting the Court will be a piece of cake (or croissant).

Although the Breakfast Talk is aimed at members of the press, other parties interested in learning how the CJEU works or following it regularly are welcome to attend.

Reserve a place by mailing: Press.ENDesk@curia.europa.eu

HEARINGS OF NOTE*

Information Note concerning streaming on the Curia website

Please note the following <u>new conditions</u> for streaming on the website including the new length of availability of the video recordings:

In order to facilitate public access to its judicial activity, the Court of Justice of the European Union offers a system for broadcasting hearings.

The delivery of judgments of the Court of Justice and the reading of opinions of the Advocate Generals are broadcast live on <u>this page</u>. Broadcasting will be enabled at the start of the hearing, at the time indicated in the <u>judicial calendar</u>.

Certain hearings of the Court of Justice involving oral pleadings are, however, broadcast with a delay. This concerns, as a rule, hearings in cases referred to the full Court, to the Grand Chamber, or, exceptionally, where this is justified by the importance of the case, to a Chamber of five Judges. The video recordings of those hearings will remain available on this website for a maximum period of one month after the close of the hearing.

Court of Justice

Monday 21st October 2024: 14:30 – <u>Case C-524/23 Commission v Belgique (Directive</u> 2016/1164 – <u>Double imposition</u>) (State Aid)

Thursday 24th October: 09:30 – Joined Cases C-281/23 and C-282/23 Polskie sieci elektroenergetyczne and Others v ACER (Energy)

General Court

Monday 21st October 2024: 14:30 and Tuesday 22nd October 2024: 09:30 – Case <u>T-625/22 Austria v Commission</u> (Environment)

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



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