COURT OF JUSTICE
OF THE EUROPEAN UNION

EN

MONTHLY CASE-LAW DIGEST
May 2026

I. INSTITUTIONAL PROVISIONS: ACCESS TO DOCUMENTS

Judgment of the General Court (Third Chamber, sitting with five Judges) of 6 May 2026, Novis v Commission, T-185/24

Link to the full text of the judgment

Access to documents – Regulation (EC) No 1049/2001 – Documents exchanged in the course of an investigation procedure under Article 17 of Regulation (EU) No 1094/2010 in respect of a breach of EU law – Refusal of access – Exception relating to protection of the purpose of investigations – Obligation to state reasons – General presumption of confidentiality – Obligation to undertake a specific and individual examination – Overriding public interest – Principle of proportionality – Article 41 of the Charter of Fundamental Rights

Hearing an action for annulment, which it dismisses, brought against a decision refusing access to documents based on Regulation No 1049/2001, [1] the General Court recognises the existence of a new general presumption of confidentiality covering all documents relating to an investigation procedure under Article 17 of Regulation No 1094/2010 [2] in respect of a breach of EU law.

In this case, the applicant, a Slovakian life insurance company subject to the supervision of the Národná banka Slovenska (National Bank of Slovakia; 'the NBS'), had applied to the European Commission for access to the documents exchanged between the European Insurance and Occupational Pensions Authority (EIOPA), the Commission and the NBS in the course of an investigation procedure under Article 17 of Regulation No 1094/2010 initiated by EIOPA against the NBS in respect of a breach of EU law. After the Commission refused to grant access, in whole or in part, to all the documents requested on the ground, in particular, of the protection of the purpose of investigations, the applicant brought an action for annulment of that refusal decision ('the contested decision').

Findings of the Court

Recalling the criteria established by case-law for recognising a general presumption of confidentiality, the Court holds that the documents exchanged by EIOPA, the Commission and the national authority concerned in the course of an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law are covered by a general presumption of confidentiality.

In that regard it notes, in the first place, that that procedure is sufficiently structured and formalised for it to be possible to define and identify precisely the documents relating to it. Moreover, in the present case, it is undisputed that the documents requested were exchanged, in the case of two of them, between EIOPA and the NBS, and in the case of the remaining 17, between the Commission and the NBS, during the same investigation procedure concerning the NBS. Those documents therefore form part of the same administrative file and, consequently, all belong to the same category of documents.

In the second place, the Court takes the view that, in accordance with the case-law, the Commission set out, in the contested decision, sound and convincing grounds justifying the application of a general presumption of confidentiality in the circumstances of the case at hand, relating in particular to the need to ensure the proper conduct of the investigation procedure and cooperation between

---

1 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

2 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ 2010 L 331, p. 48).

the authorities concerned. Moreover, the applicant does not dispute the relevance of those factors in justifying the recognition of a general presumption of confidentiality covering the documents exchanged in the context of Article 17 of Regulation No 1094/2010.

In the third place, the Court notes that the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law is governed by specific rules limiting the disclosure of information obtained or established in the course of such a procedure. Indeed, under Article 70(1) to (3) of Regulation No 1094/2010, EIOPA and its staff are subject to the requirements of professional secrecy and may not divulge confidential information or information covered by such professional secrecy which they receive or exchange with the competent national authorities. The Court also notes that there is no provision for the financial institution concerned by such an investigation to have access to the file or to documents relating to that investigation procedure.

Lastly, the Court clarifies that the general presumption of confidentiality specifically linked to the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law is distinct from the presumptions already recognised by the EU judicature as regards documents drawn up and exchanged, first, during the pre-litigation stage of an infringement procedure and, second, in the context of an EU Pilot procedure.

II. WITHDRAWAL OF A MEMBER STATE FROM THE EUROPEAN UNION

Judgment of the Court of Justice (Grand Chamber) of 19 May 2026, Crédit agricole Corporate & Investment Bank, C-350/24

Link to the full text of the judgment

Reference for a preliminary ruling – Article 50 TEU – Article 288 TFEU – Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community – Court of a Member State seised before the end of the transition period provided for in that agreement – Application by the courts of the forum of the law of another State – United Kingdom legislation transposing a directive – Directive 2006/54/EC – Applicability of EU law – Principle of mutual trust – Principle that national law must be interpreted in conformity with EU law

Hearing a request for a preliminary ruling from the Cour de cassation (Court of Cassation, France), the Court of Justice, sitting as the Grand Chamber, rules on the novel question of the scope of the principle that national law must be interpreted in conformity with EU law where a court of a Member State is seised of a dispute in which the applicable law is that of a State which, at the time when the dispute arose and the court was seised, was a member of the European Union but which withdrew from it before that court gave a ruling.

In 2007, the appellant in the main proceedings was employed under a contract of employment governed by United Kingdom law. In 2013, taking the view that she had suffered discrimination on grounds of her sex and psychological harassment, she brought an action before a conseil de prud'hommes (Labour Tribunal, France) seeking payment of various sums, inter alia by way of compensation.

After her claims were dismissed at first instance and on appeal, the appellant brought an appeal before the Cour de cassation (Court of Cassation), in which she claims, inter alia, that the appellate

court ruled on the basis of an interpretation of the applicable United Kingdom law contrary to Article 19(1) of Directive 2006/54. [3]

It was in the particular context of that dispute which was pending on the date of the end of the transition period provided for in the Withdrawal Agreement [4] and relating to alleged acts of discrimination which occurred before that date in the context of the performance of an employment contract governed by United Kingdom law that that court decided to refer the matter to the Court of Justice. It seeks to ascertain, first, whether the applicability of Article 19 of Directive 2006/54, which lays down the rules relating to the burden of proof in the context of the implementation of the principle of equal treatment of men and women in matters of employment, has been called into question by Article 50(3) TEU and the Withdrawal Agreement. Second, that court is uncertain whether the principle that national law must be interpreted in conformity with EU law, which is binding on a court of a Member State, applies where that court must apply the law of another Member State.

Findings of the Court

In the first place, the Court observes that the United Kingdom has not been a Member State since 1 February 2020, [5] but that, in order to ensure an orderly withdrawal, the Withdrawal Agreement expressly provides for the extension of the application of EU law to that State, with a few exceptions, until 31 December 2020, the date of the end of the transition period.

Although the Withdrawal Agreement does not contain any general provision governing the applicability of EU law beyond that date, the Court notes that that agreement expressly recognises that EU law may apply to certain contractual relationships and to certain disputes which arose before the end of the transition period and which are still pending after that period. Moreover, Article 50(3) TEU does not in any way indicate that EU law is no longer applicable to pre-existing situations in a State after its withdrawal from the European Union.

Thus, according to the Court, it follows from the general scheme of the Withdrawal Agreement that the parties to that agreement wished to preserve the stability of legal situations existing before the end of the transition period in accordance with the principle of legal certainty, compliance with which that agreement seeks to ensure. In view of the fundamental importance of that principle, the Court considers that it cannot, in the absence of an express provision in the Treaties and in the Withdrawal Agreement, be considered that the European Union and the United Kingdom have agreed to terminate retroactively the application of EU law to a dispute which was pending on the date of the end of the transition period and relates to alleged acts of discrimination which occurred before that date in the context of an employment contract governed by United Kingdom law.

As regards more specifically Article 19(1) of Directive 2006/54, the Court states that that provision lay downs not a mere procedural rule but a substantive legal rule governing the employment relationship created by a contract concluded before the end of the transition period, with the result that that rule continues to apply, even after the end of that period, to disputes concerning that relationship. An interpretation to the contrary would result in a serious limitation of the scope of the principle of legal certainty and of the effective implementation of the principle of equal treatment which is at the heart of Directive 2006/54.

Consequently, the Court holds that Article 50(3) TEU, read in conjunction with Articles 126 and 127 of the Withdrawal Agreement, must be interpreted as meaning that that agreement has not called into question the applicability of Article 19 of Directive 2006/54 to a dispute such as that at issue in the main proceedings.

---

3 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23).

4 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ 2020 L 29, p. 7; 'the Withdrawal Agreement').

5 Under Article 50(3) TEU, the Treaties ceased to apply to the United Kingdom on the date on which the Withdrawal Agreement entered into force, namely on 1 February 2020.

In the second place, the Court recalls that when national courts apply their domestic law, they are bound to interpret it, so far as possible, in the light of the wording and the purpose of the directive implemented by that law in order to achieve the result sought by the directive and consequently in order to comply with the third paragraph of Article 288 TFEU.

The application of the principle that national law must be interpreted in conformity with EU law contributes to observance of the principle of mutual trust between the Member States, which requires each of them, save in exceptional circumstances, to consider the other Member States to be complying with EU law. Thus, where national courts apply the law of another Member State, they endeavour to investigate the content of that law and the interpretation given to it by the courts of that State. They must apply national law in conformity with EU law and, where appropriate, disapply any provision of that national law which cannot be applied in conformity with EU law.

The Court specifies that the review carried out by a court hearing an appeal on a point of law in response to a plea alleging that a lower court or tribunal has interpreted the law of another Member State in breach of a directive cannot be limited solely on the ground that, as a general rule, that court treats foreign law as a factual matter. That review must relate to whether the lower court has complied with the obligation to interpret in conformity with the result prescribed by the directive which exists irrespective of whether the law to be interpreted is that of the forum or of another Member State.

Accordingly, the Court holds that Article 288 TFEU must be interpreted as meaning that, where a court of a Member State interprets and applies the legislation of another Member State which implements a directive, it is required, as it is when interpreting and applying its own law, to observe the principle that national law must be interpreted in conformity with EU law.

III. BORDER CHECKS, ASYLUM AND IMMIGRATION: ASYLUM POLICY

Judgment of the Court of Justice (Grand Chamber) of 7 May 2026, INPS (Social assistance and access to employment – Indirect discrimination), C-747/22

Link to the full text of the judgment

Reference for a preliminary ruling – Area of freedom, security and justice – Asylum policy – Subsidiary protection status – Directive 2011/95/EU – Article 26 – Access to employment – Article 29 – Social welfare – Equal treatment – Social protection measure and access to employment – Condition of residence for a minimum period of 10 years, the final 2 years of which must have been continuous – Indirect discrimination

Hearing a request for a preliminary ruling from the Tribunale ordinario di Bergamo (District Court, Bergamo, Italy), the Court of Justice has ruled on the principle of equal treatment between beneficiaries of international protection and nationals of the Member State which has granted that protection in the fields of access to employment and social assistance, provided for in Articles 26 and 29 of Directive 2011/95, [6] and, specifically, on the compatibility of national legislation which makes the

[6] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

application of a national measure, such as 'citizens' income', [7] which aims at combating poverty and supporting access to work and social integration, subject to a condition of at least 10 years' residence in the Member State concerned, the last 2 years of which must have been continuous ('the residence condition').

KH is a third-country national enjoying subsidiary protection status in Italy, who has resided there continuously since 2013. Having declared that he satisfied the residence condition, he was granted 'citizens' income'. In 2021, after finding that that condition was not satisfied, the Italian authorities revoked its grant and requested repayment of the sums unduly paid.

The applicant then brought an action before the referring court seeking recognition by that court of his right to receive that benefit. He submits, in that regard, that the residence condition constitutes indirect discrimination based on nationality, which is contrary to Articles 26 and 29 of Directive 2011/95, and must not therefore be applied to him.

In those circumstances, the referring court decided to stay the proceedings and to refer a question to the Court of Justice for a preliminary ruling regarding whether or not the residence condition constituted indirect discrimination.

Findings of the Court

As regards the scope of Articles 26 and 29 of Directive 2011/95, the Court notes, in the first place, as regards Article 26, that, under paragraphs 2 and 3 thereof, Member States are obliged to make available to beneficiaries of international protection, under equivalent conditions as nationals, access to activities such as counselling services and education opportunities related to employment and occupational integration, and to endeavour to facilitate the full access of such beneficiaries to those activities.

In the present case, the Court observes, first, that, under the Italian legislation concerned, the grant of 'citizens' income' is subject, inter alia, to participation in a personalised programme of support for occupational and social integration, including activities which largely coincide with those referred to in Article 26(2) of Directive 2011/95. Second, subject to verification by the referring court, the Italian legislation pursues the same objective as that provision, namely that of facilitating the entry of the persons concerned into the labour market.

In the second place, the Court notes that 'citizens' income' constitutes an assistance measure, one of the core objectives of which is to 'combat poverty', inter alia, by supplementing the income of those who receive it in order to enable them to meet their basic needs, and it therefore constitutes a social assistance benefit within the meaning of Article 29 of Directive 2011/95.

The Court notes, moreover, that while it is true that the Member States may, in accordance with paragraph 2 of that provision, limit the social assistance that is to be granted to beneficiaries of subsidiary protection status to core benefits, paragraph 2 establishes a derogation from the general rule laid down in paragraph 1 of that provision and must therefore be interpreted strictly. In addition, those core benefits cover, as a minimum, the provision of support, inter alia, in the form of minimum income support. The objective of the measure at issue in the main proceedings appears to be to ensure a minimum level of subsistence. In any event, it does not appear from the file available to the Court that the Italian Republic had flagged its intention to have recourse to that derogation. Accordingly, the 'citizens' income' provided for by the Italian legislation at issue comes within the scope of Articles 26 and 29 of Directive 2011/95; however, that remains something which the referring court must confirm. The fact that 'citizens' income' is complex in nature and comprises multiple components is irrelevant in that regard.

As regards the compatibility of the residence condition with Articles 26 and 29 of Directive 2011/95, the Court recalls that the principle of equal treatment, of which those articles are an expression, prohibits not only overt discrimination but also all covert forms of discrimination which, although

---

7 Introduced by decreto-legge n. 4 Disposizioni urgenti in materia di reddito di cittadinanza e di pensioni (Decree-Law No 4 containing urgent provisions on citizens' income and pensions) of 28 January 2019 (GURI No 23 of 28 January 2019).

based on ostensibly neutral distinguishing criteria, ultimately produce the same discriminatory effects. The legislation at issue in the main proceedings constitutes indirect discrimination against beneficiaries of international protection in that it lays down a residence condition which primarily affects non-nationals.

The Court also finds that that indirect discrimination does not appear to be objectively justified. It points out, in particular, that the administrative and financial costs of granting the measure concerned, which were relied on by the Italian Government, cannot constitute such justification. That grant entails costs for the competent institution regardless of whether the person concerned is a beneficiary of international protection or a national of the Member State concerned.

Furthermore, accepting the argument that the national legislature is entitled, in the light of the administrative and financial costs of the measure concerned, to limit access to that measure solely to beneficiaries of international protection who are permanently established and well-integrated in the Member State concerned would amount to introducing a derogation from the rules set out in Articles 26 and 29 of Directive 2011/95 that is neither provided for nor permitted by that directive. The Court has held previously that the rights conferred on all beneficiaries of international protection by Chapter VII of that directive, which includes those articles, cannot be dependent on the issuance of a residence permit or on the length of their stay in the Member State concerned and may be limited only in accordance with the conditions set by that chapter.

IV. JUDICIAL COOPERATION IN CRIMINAL MATTERS

1. EUROPEAN ARREST WARRANT

Judgment of the Court of Justice (Fifth Chamber) of 21 May 2026, Khuzdar, C-95/24

Link to the full text of the judgment

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Framework Decision 2002/584/JHA – European arrest warrant – Surrender procedure between Member States – Optional grounds for non-execution – Article 4(6) – Undertaking by the executing Member State to execute the sentence in accordance with its domestic law – Framework Decision 2008/909/JHA – Mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty – Grounds for non-recognition and non-enforcement – Article 9(1)(i) – Person concerned who did not appear in person at the trial resulting in his or her conviction – Information regarding the scheduled date of the hearing and place of that trial – Voluntary and unequivocal waiver by the person concerned of the right to appear in person at that trial – Assessment by the competent authority of the executing Member State – Obligation to interpret national law in conformity with EU law

Hearing a request for a preliminary ruling from the Corte di appello di Napoli (Court of Appeal, Naples, Italy), the Court provides clarification on the expression 'aware of the scheduled trial' set out in Article 9(1)(i)(ii) of Framework Decision 2008/909, [8] and the discretion that the national competent authorities have when applying the ground for non-recognition and non-enforcement, referred to in

[8] Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2008/909').

Article 9(1)(i) of that framework decision, in the context of the execution of a European arrest warrant (EAW).

The referring court was asked to examine a request for surrender of the person concerned, ATAU, which was submitted by the Slovak competent authorities by means of an EAW issued on 5 October 2015, for the purposes of execution of a five-year custodial sentence. The person concerned asked that court to refuse that surrender and to order the enforcement of the sentence in Italy.

In order to assess that request, the referring court asked the Slovak competent authorities for information concerning the procedural safeguards to which ATAU was entitled. In response, that court was informed that the person concerned was aware of the ongoing trial against him, but that he had not personally participated in the proceedings resulting in his conviction. His trial did, however, take place in the presence of his lawyer, who represented him.

In that context, seeking to ascertain the compatibility with EU law of the national legislation which transposed Article 9(1)(i) of Framework Decision 2008/909, which provides for stricter procedural safeguards for the recognition of a sentencing judgment than those applicable to the execution of an EAW, the referring court decided to make a reference for a preliminary ruling to the Court of Justice.

Findings of the Court

First, the Court points out that the conditions for applying the situations in which the fact that the person concerned did not appear in person at the trial resulting in his or her conviction cannot constitute a ground for non-execution of the EAW issued for the purposes of execution of a sentence, under Article 4a(1)(a) to (c) of Framework Decision 2002/584, [9] do not differ from those for situations in which such a fact cannot constitute a ground for non-recognition or non-enforcement of the judgment imposing a sentence, in accordance with Article 9(1)(i) of Framework Decision 2008/909.

Consequently, Article 4(6) of Framework Decision 2002/584 and Article 9(1)(i) and Article 25 of Framework Decision 2008/909 preclude national legislation under which, in the case of a sentence imposed without the person concerned having appeared in person at the trial resulting in his or her conviction, where the conditions for refusing the surrender of that person, on the one hand, and for ordering the enforcement of that sentence in the territory of the executing State, on the other hand, are satisfied, in accordance with the provisions of that legislation transposing Framework Decision 2002/584, enforcement of that sentence may not be ordered by the court of the executing Member State on the ground that the conditions concerning the recognition of the sentencing judgment, under the provisions of that legislation transposing Framework Decision 2008/909, are not satisfied.

As regards, more specifically, Article 9(1)(i)(ii) of Framework Decision 2008/909, the Court states, in the first place, that the requirement at the start of point (ii) requires that the person concerned was informed of the scheduled date of the hearing and place of the trial which resulted in his or her conviction.

In the second place, as regards the criteria for assessing the conditions for applying the situations referred to in points (i) to (iii) of Article 9(1)(i) of Framework Decision 2008/909, in particular the requirement concerning the information relating to the scheduled trial, the Court states that, to establish whether that condition is satisfied, it is necessary to pay particular attention (i) to the diligence exercised by the public authorities in order to inform the person convicted *in absentia* of the trial and (ii) to the diligence exercised by that person in order to receive the information relating to that trial. It is only where it is clear from precise and objective indicia that the person concerned, while having been officially informed that he or she is accused of having committed a criminal offence and, therefore being aware that he or she is going to be brought to trial, deliberately avoids receiving the information regarding the date and place of that trial, that that person may be deemed to have been informed of the scheduled trial and to have waived, voluntarily and unambiguously, his or her right to be present at his or her trial. Such indicia may, for example, be found to exist where the person

[9] Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1), as amended by Framework Decision 2009/299 ('Framework Decision 2002/584').

concerned voluntarily did not provide an address to the national competent authorities or has deliberately avoided all contact with the legal counsellor whose address for service he or she had provided.

The Court concludes that the requirement concerning awareness of the scheduled trial at the start of point (ii) of Article 9(1)(i) of Framework Decision 2008/909 is met where, in the light of all the relevant circumstances duly taken into account, in particular the conduct of the person concerned, that person may be deemed to have been informed of the scheduled date of the hearing and place of the trial which resulted in his or her conviction.

Second, the Court holds that Article 4(6) of Framework Decision 2002/584 and Article 9(1)(i) and Article 25 of Framework Decision 2008/909 preclude national legislation under which, in the case of a sentencing judgment handed down without the person concerned having appeared in person at the trial which resulted in his or her conviction and without the conditions for applying the situations referred to in Article 9(1)(i), in particular the situation set out in point (ii) of that provision, being satisfied, the competent authority of the executing Member State does not have the possibility of recognising that sentencing judgment. Such legislation deprives that authority of the discretion to assess, on the basis of the circumstances of the case, whether the rights of the defence of the person concerned may nevertheless be considered as having been complied with and, therefore, to decide to recognise and enforce the sentencing judgment concerned.

2. MUTUAL RECOGNITION OF CUSTODIAL SENTENCES

Judgment of the Court of Justice (Fifth Chamber) of 21 May 2026, Höldermann, C-447/24

Link to the full text of the judgment

Reference for a preliminary ruling – Judicial cooperation in criminal matters – Framework Decision 2008/909/JHA – Mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty – Grounds for non-recognition and non-enforcement – Article 9(1)(i) – Person concerned who did not appear in person at the trial resulting in his or her conviction – Exceptions – Mandate conferred by the person concerned on a legal counsellor to defend that person at his or her trial and accept service of documents addressed to that person – Information regarding the scheduled date of the hearing and place of that trial – Voluntary and unequivocal waiver by the person concerned of the right to appear in person at that trial – Discretion of the competent authority of the executing Member State – Obligation to interpret national law in conformity with EU law

Hearing a request for a preliminary ruling from the Kammergericht (Higher Regional Court, Berlin, Germany), the Court provides clarification on the expression 'aware of the scheduled trial' set out in Article 9(1)(i)(ii) of Framework Decision 2008/909, [10] and the discretion that the national competent authorities have when applying the ground for non-recognition and non-enforcement, referred to in Article 9(1)(i) of that framework decision, in the context of proceedings relating to the recognition and enforcement of a judgment sentencing the person concerned who did not appear in person at the trial resulting in his or her conviction.

In 2019, SO was sentenced by the Sąd Okręgowy w Zielonej Górze (Regional Court, Zielona Góra, Poland) to a one-year custodial sentence, confirmed on appeal in 2022. The Polish authorities then

[10] Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ 2008 L 327, p. 27), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2008/909').

granted SO's application to have the custodial sentence enforced in Germany on account of, inter alia, his nationality, and sent all of the necessary documents for that purpose to the German authorities.

However, SO objected to the enforcement of his sentence in Germany before the Landgericht Berlin (Regional Court, Berlin, Germany). It is apparent from the additional information provided by the Sąd Okręgowy w Zielonej Górze (Regional Court, Zielona Góra), that SO personally attended only certain hearings at first instance. Furthermore, although he brought an appeal, through his defence counsel, he did not appear in person at the appeal hearing. He was, however, represented at that hearing by a lawyer who replaced his defence counsel, whose professional address SO had designated as the address to which service was to be effected on him and at which the summons for the appeal had been served.

By decision of 24 November 2023, the Landgericht Berlin (Regional Court, Berlin), rejected the application made by the Staatsanwaltschaft Berlin (the Public Prosecutor's Office, Berlin, Germany) seeking a declaration that enforcement of the sentence in Germany was permissible, finding that SO had not been summoned to a number of hearings and that it had not been established that he was aware of those hearings or that he was represented at those hearings. The Public Prosecutor's Office, Berlin, brought an appeal against that decision, submitting, inter alia, that SO's absence was his own choice.

It is in that context that the referring court decided to refer questions to the Court of Justice for a preliminary ruling on the interpretation of Article 9(1)(i) of Framework Decision 2008/909.

Findings of the Court

In the first place, the Court rules that the condition of awareness of the scheduled trial set out in Article 9(1)(i)(ii) of Framework Decision 2008/909 is satisfied where a summons was not directly served on the person concerned, but on a legal counsellor who was given a mandate by the person concerned to defend him or her at the trial and who he or she has designated in the Member State which issued a judicial decision against him or her (the issuing Member State) to accept service. Contrary to a summons handed over to a third party, the sending of that summons by the competent authority of the issuing Member State to the address of the firm of the legal counsellor for the person concerned is tantamount to informing that person, who is therefore deemed to have received the summons.

In the second place, following a contextual and teleological interpretation, the Court finds that that condition of awareness of the scheduled trial requires the person concerned to be informed of the scheduled date and place of the hearing for the trial which resulted in his or her conviction, without it being necessary for that person to have received that information before or after he or she gave a mandate to a legal counsellor to defend him or her during his or her trial. The Court notes, in that regard, that where the person concerned gives a mandate to a legal counsellor to lodge an appeal and to represent him or her in the context of the proceedings concerned, that mandate necessarily precedes the information as regards the scheduled date and place for the appeal proceedings which, by definition, are not yet known at that stage.

Consequently, the Court holds that Article 9(1)(i)(ii) of Framework Decision 2008/909 makes the application of that provision subject to the person concerned being informed, in due time, of the scheduled date of the hearing for his or her trial but not that the person concerned has that information before a mandate is given to a legal counsellor to defend him or her at that trial.

In the third place, the Court finds that the competent authority of the Member State responsible for the enforcement of a judicial decision (the executing Member State) may, in any event, after having found that the conditions for applying the situations referred to in points (i) to (iii) of Article 9(1)(i) of Framework Decision 2008/909 are not satisfied, take into account all of the circumstances specific to each case, in particular the conduct of the person concerned, that enable it to satisfy itself that the recognition and enforcement of the sentencing judgment do not entail a breach of the rights of the defence of that person.

In those circumstances, the Court holds that Article 9(1)(i) of Framework Decision 2008/909 precludes national legislation which requires the competent authority of an executing Member State to refuse to recognise and enforce a sentencing judgment handed down in the issuing Member State where none of the conditions for applying the situations referred to in points (i) to (iii) of that provision is

satisfied. Such legislation deprives that authority of the discretion to assess, on the basis of the circumstances of the case, whether the rights of the defence of the person concerned may nevertheless be considered as having been complied with and, therefore, to decide to recognise and enforce the sentencing judgment concerned.

In the light of the findings mentioned above, the Court states, in the last place, that the competent authority of the executing Member State may, where it finds that the conditions for applying the situations referred to in points (i) to (iii) of Article 9(1)(i) are not satisfied, take into account the fact that the person concerned applied to the competent authority of the issuing Member State to have the sentence enforced in the Member State in which he or she is a national and where that person has his or her centre of interests in order to decide that that enforcement does not involve a breach of his or her rights of defence.

V. JUDICIAL COOPERATION IN CIVIL MATTERS: REGULATION NO 655/2014 ESTABLISHING A EUROPEAN ACCOUNT PRESERVATION ORDER PROCEDURE

Judgment of the Court of Justice (Fourth Chamber) of 21 May 2026, Mr Green, C-198/24

Link to the full text of the judgment

Reference for a preliminary ruling – Cooperation in civil and commercial matters – Regulation (EU) No 655/2014 – European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters – Conditions for issuing – Article 7(1) – Urgency – Real risk that, without such a measure, the subsequent enforcement of the claim will be impeded or made substantially more difficult – Nature of that risk – Circumstances which may demonstrate the existence of that risk – Past actions of the debtor – Obstacles to enforcement in the Member State in which that debtor is domiciled – Legislation of a Member State which provides for the inadmissibility of any legal action concerning the lawfulness of providing gambling services from that Member State, which is authorised by the legislation of that Member State, and the obligation on the courts of that Member State to refuse to recognise or enforce any foreign judicial decision delivered following such an action

Ruling on a request for a preliminary ruling from the Landesgericht für Zivilrechtssachen Wien (Regional Court for Civil Matters, Vienna, Austria), the Court of Justice rules on the relevance of certain factors, in particular the conduct of the debtor and the regulatory framework in the Member State in which the debtor is established, in the context of assessing whether it is necessary to issue a European Preservation Order in accordance with Article 7(1) of Regulation No 655/2014. [11]

TQ gambled, from Austria, where he resides, in online games offered by Mr Green, a company established in Malta, which held a Maltese licence for online games of chance, but no Austrian licence. During the period from 2017 to 2019, TQ suffered losses totalling EUR 62 878.

TQ brought an action in Austria against Mr Green seeking reimbursement of those losses. He maintained that, since Mr Green did not hold a licence under the Austrian Law on games of chance,

[11] Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ 2014 L 189, p. 59).

the underlying gambling contract was null and void. Mr Green was subsequently ordered to reimburse him.

As the amount which Mr Green was ordered to reimburse to TQ had not been reimbursed to him, TQ applied in Austria for a Preservation Order under Regulation No 655/2014. In those proceedings, TQ maintained that past actions of Mr Green, in particular the termination of its business relationship with an Austrian payment service provider acting on its behalf as a third-party debtor, demonstrated a risk of its assets being shielded in the Member States covered by that application. In addition, TQ relied, as regards the existence of that risk, on obstacles to the enforcement, in Malta, of a foreign judgment and/or of a foreign judgment made subsequent to an action against gambling operators holding a Maltese licence, resulting, in his view, from an amendment to the Maltese Gambling Act.

In that context, the referring court asks, in essence, whether Article 7(1) of Regulation No 655/2014 must be interpreted as meaning that, in order to determine whether there is an urgent need to adopt a Preservation Order, a national court may take account, first, of conduct on the part of the debtor which took place a number of years before that application was lodged and, second, of the fact that there is, in the Member State in which the debtor is established, of a law capable of hindering the enforcement of the claim concerned.

Findings of the Court

According to the Court, whether there is an urgent need to issue a Preservation Order and the 'real risk' referred to in Article 7(1) of Regulation No 655/2014 constitute two inseparable aspects of one and the same condition. Therefore, that article must be interpreted as meaning that there is an urgent need to issue a Preservation Order where there is a real risk that, without such an order, enforcement of the claim by the time when the creditor is able to have an existing or future judgment enforced will be impeded or made substantially more difficult. Accordingly, the relevance of the circumstances noted by the referring court in the question it referred for a preliminary ruling must be assessed in the light of the condition of urgency as to the need to adopt a Preservation Order, established by there being such a real risk.

As regards the concept of 'real risk' within the meaning of Article 7(1) of Regulation No 655/2014, the Court finds, first of all, that it is clear from the wording of that article, and in particular from the use of the qualifying adjective 'real', that that concept must be interpreted as referring to a risk which is specific and current at the time when the application for a Preservation Order is lodged, and therefore not solely a potential or possible risk.

The Court points out, next, that recital 14 of Regulation No 655/2014 provides clarifications as to the scope of the concept of 'real risk'. On the basis of a reading of the third paragraph together with the fourth paragraph of that recital, the 'real risk' must be understood as being a risk arising from an intentional action by the debtor and, in particular, in the fact of the debtor taking measures, such as the dissipation, concealment or destruction of assets or their disposal under value, which are intended to evade payment of its debt and not in any other threat to the enforcement of the debt concerned.

Lastly, the Court states that such an interpretation is supported by the objectives of Regulation No 655/2014, which aims not only to establish an EU-level procedure, which is available to the creditor as an alternative to preservation measures under national law, but also seeks to strike an appropriate balance between the interests of the creditor and those of the debtor. An interpretation of Article 7(1) of Regulation No 655/2014 whereby any threat to the enforcement of the claim would constitute a 'real risk', within the meaning of that provision, would be liable to undermine that balance.

As regards the circumstances which a court dealing with an application for a Preservation Order may take into account in order to assess whether such a risk exists and, first, the relevance, in that regard, of actions by the debtor which occurred a number of years before that application was lodged, in particular, the termination of its commercial relationship with a payment service provider which acted on its behalf as a third-party debtor in the Member State of the creditor, the Court states that the court dealing with the application may take such conduct into account when carrying out the overall assessment of the circumstances relied on by the creditor which it would find necessary to carry out. The Court points out that there is nothing in Regulation No 655/2014 to indicate that the relevance of the debtor's conduct is necessarily dependent on the time when it took place and that that regulation

does not impose an obligation on the creditor to make its application at the very moment that the alleged risk to the enforcement of its claim arises.

As regards, second, the amendment of a law of the Member State in which the debtor is established which could impede the enforcement of the debt, the Court states that the fact of the creditor simply relying on such national legislation cannot be sufficient to prove that there is a 'real risk' within the meaning of Article 7(1) of Regulation No 655/2014, in particular as regards bank accounts held by the debtor in Member States other than the Member State which established that legislation. However, the court dealing with the application may take such legislation into account as a contextual element making it possible to assess the scope of the debtor's actions in order to determine whether it intends to avoid payment of the debt concerned.

The Court concludes that the national court before which an application for a European Preservation Order has been brought may take into account, in order to establish whether there is an urgent need to adopt that order, first, conduct on the part of the debtor which occurred a number of years before that application was lodged and, second, the existence, in the Member State in which the debtor is established, of a law capable of impeding the enforcement of the claim concerned.

VI. COMPETITION

1. AGREEMENTS, DECISIONS AND CONCERTED PRACTICES (ARTICLE 101 TFEU)

Judgment of the General Court (Third Chamber) of 6 May 2026, Westfälisches Textilwerk Adolf Ahlers v Commission, T-87/25

Link to the full text of the judgment

Competition – Agreement, decisions and concerted practices – Market for Pierre Cardin-licensed clothing and accessories for men, women and children – Decision finding an infringement of Article 101 TFEU – Fine – Error of law – Proportionality – Unlimited jurisdiction

The General Court dismisses the action brought by Westfälisches Textilwerk Adolf Ahlers Stiftung & Co. KG ('the applicant') against the decision of the European Commission imposing a fine on it for infringement of Article 101 TFEU. In its judgment, it specifies that the turnover of a subsidiary may be taken into account in calculating the ceiling of the fine imposed on its parent company, even if those two companies had ceased to form an economic unit on the date of the decision imposing that fine.

By decision of 28 November 2024, [12] the Commission found that, during the period from 1 January 2008 to 31 March 2021 ('the infringement period'), the applicant had participated in agreements or concerted practices relating to the marketing of Pierre Cardin-branded products.

During that period, the applicant indirectly held the majority of the capital of Ahlers AG, including its subsidiaries ('Ahlers AG'). However, on 15 July 2023, Ahlers AG's business operations were irreversibly transferred to an independent third-party investor in the context of insolvency proceedings.

[12] Commission Decision C(2024) 8150 final of 28 November 2024 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (AT.40642 – Pierre Cardin) ('the contested decision').

Nevertheless, in the contested decision, the Commission took the view that the ceiling of the fine imposed should correspond to 10% of the applicant's consolidated turnover relating to the last business year preceding the adoption of the contested decision, which ran from 1 December 2022 to 30 November 2023. Thus, that turnover included that achieved by Ahlers AG until 15 July 2023.

By its action before the General Court, the applicant disputes the taking into account of the consolidated turnover referred to above, in so far as it no longer formed an economic unit with Ahlers AG at the time when the contested decision was adopted.

Findings of the Court

The Court begins by recalling that, in so far as EU competition law is based on the principle of the personal responsibility of the economic unit which has committed the infringement, the unlawful conduct of a subsidiary may be attributed to the parent company in particular where, although having a separate legal personality, that subsidiary does not determine independently its own conduct on the market. In such a case, the parent company is held individually liable for an infringement of the EU competition rules which it is itself deemed to have infringed, because of the decisive influence which it exercised over the subsidiary.

Furthermore, where several natural or legal persons, such as a parent company and a subsidiary, may be held liable for the unlawful conduct of the relevant undertaking, the Commission is free to choose to impute the conduct to one of them or each of them at the same time.

In the present case, the Court finds that the applicant participated in the infringement penalised and that, throughout the infringement period and during part of the business year taken into consideration by the Commission in calculating the fine, the applicant indirectly held the majority of Ahlers AG's capital.

Furthermore, the abovementioned insolvency proceedings and the subsequent transfer of Ahlers AG's business operations, as a result of which Ahlers AG and the applicant no longer formed part of the same economic unit at the time of the adoption of the contested decision, do not remove the applicant's liability for the infringement found and penalised in the contested decision. In that decision, the Commission held the applicant liable for the infringement, without, however, including Ahlers AG in that statement of liability.

As regards, next, the turnover to be taken into account in calculating the ceiling of the fine as provided for in Article 23(2) of Regulation No 1/2003, [13] the Court observes that that constitutes a limit which is uniformly applicable to all undertakings, arrived at by reference to the size of each of them, which seeks to ensure that the fines are not excessive or disproportionate.

That objective must, however, be combined with the aim of ensuring that the fine has sufficient deterrent effect, which justifies taking into consideration the size and the economic power of the undertaking concerned, namely the global resources of the infringer. Thus, in order to assess those resources, the turnover of all the companies in respect of which the undertaking concerned has the opportunity to exercise a decisive influence is taken into account.

In the present case, in so far as the contested decision was adopted on 28 November 2024, the Commission correctly stated that the relevant 'preceding business year' for calculating the abovementioned turnover ceiling ran from 1 December 2022 to 30 November 2023.

Since the turnover achieved during that business year must reflect the undertaking's real economic situation during the period in which the infringement was committed, the Commission was justified in taking into account the consolidated turnover of the applicant as parent company, which therefore included that of its subsidiary, Ahlers AG, between 1 December 2022 and 15 July 2023. During the infringement period and up to 15 July 2023, the applicant formed a single economic unit with Ahlers AG, over which it exercised decisive influence.

---

13 Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 and 102 TFEU] (OJ 2003 L 1, p. 1).

Lastly, the applicant cannot rely on the case-law [14] according to which, where a parent company and its subsidiary no longer constitute an undertaking within the meaning of Article 101 TFEU on the date on which a decision imposing a fine on them for breach of the competition rules is adopted, each of them is entitled to have the 10% ceiling of turnover applied individually to itself. Only the applicant as parent company, to the exclusion of Ahlers AG as a former subsidiary, had the contested decision and the fine imposed on it therein addressed to it.

The Court holds that, for the same reasons, the fine imposed is not disproportionate and dismisses the action in its entirety.

2. STATE AID

Judgment of the Court of Justice (Second Chamber) of 21 May 2026, Utiledulci, C-545/24

Link to the full text of the judgment

Reference for a preliminary ruling – State aid – Aid scheme that is incompatible with the internal market – Detailed rules for the application of Article 108 TFEU – Regulation (EU) 2015/1589 – Recovery of aid – Recovery obligation – Article 16(3) – Immediate and effective execution – Procedural autonomy afforded to Member States – Suspension of the national tax enforcement procedure – Condition relating to the provision of an appropriate guarantee – Compatibility

Hearing a request for a preliminary ruling from the Tribunal Administrativo e Fiscal do Funchal (Administrative and Tax Court, Funchal, Portugal), the Court of Justice clarifies the scope of the Member States' obligation to recover, immediately and effectively, State aid declared to be unlawful and incompatible with the internal market.

By decision of 4 December 2020, [15] the European Commission declared the aid scheme implemented by the Portuguese Republic in favour of the Madeira Free Zone to be illegal and incompatible with the internal market and ordered the recovery of the incompatible aid granted under that scheme.

On the basis of that decision, the Portuguese tax authority [16] initiated a tax enforcement procedure against the company Utiledulci [17] with a view to recovering the incompatible aid granted to it.

The provisions of Portuguese law governing that procedure enable the company concerned to request the suspension of that procedure in the event of a dispute over the tax debt or opposition to enforcement measures, and in the event of payment by instalments, provided that a suitable guarantee or any other appropriate means of guaranteeing the recovery of the tax liability is provided, or even in the absence of such a guarantee, if the company can prove that it is unable to provide it.

Relying on the principle of the primacy of EU law, the tax authority rejected Utiledulci's request for such a suspension.

---

14 Judgments of 26 November 2013, *Kendrion* v *Commission* (C-50/12 P, EU:C:2013:771), and of 25 November 2020, *Commission* v *GEA Group* (C-823/18 P, EU:C:2020:955).

15 Commission Decision (EU) 2022/1414 of 4 December 2020 on aid scheme SA.21259 (2018/C) (ex 2018/NN) implemented by Portugal for Zona Franca da Madeira (ZFM) – Regime III (OJ 2022 L 217, p. 49).

16 Autoridade Tributária e Assuntos Fiscais da Região Autónoma da Madeira (Tax and Fiscal Affairs Authority of the Autonomous Region of Madeira; 'the tax authority').

17 Utiledulci – Comércio Internacional e Serviços, Sociedade Unipessoal, Lda. – Zona Franca da Madeira ('Utiledulci').

Hearing an action brought by Utiledulci against that rejection decision, the referring court decided to seek a preliminary ruling on the question whether Article 16(3) of Regulation 2015/1589 [18] requires the competent national authorities and the national courts to disregard national provisions such as those applicable in the main proceedings, which make it possible, under certain conditions, to suspend a procedure for the recovery of State aid.

Findings of the Court

As a preliminary point, the Court recalls that, under Article 16(3) of Regulation 2015/1589, recovery of aid is to be effected without delay and in accordance with the procedures under the national law of the Member State concerned, provided that they allow the immediate and effective execution of the Commission's recovery decision.

It also follows from the case-law that a Member State which is obliged to recover the unlawful aid, cannot fulfil that obligation unless the measures which it adopts are appropriate for the purpose of restoring the normal conditions of competition which were distorted by the grant of the unlawful aid. The objective of the recovery of unlawful State aid is to restore the situation which existed on the internal market prior to the payment of that aid.

In the light of that guidance, the Court notes, in the first place, that in the present case the Portuguese tax authorities have no discretion as regards, at the very least, the suspension of the national tax enforcement procedure, where the condition relating to the provision of a guarantee is satisfied. That automatic nature of the suspension is liable to delay significantly the recovery of unlawful aid and, in so doing, to prolong the undue competitive advantage which that aid conferred on its beneficiary, thereby undermining the requirement for immediate and effective recovery of that aid, as set out in Article 16(3) of Regulation 2015/1589.

According to the Court, the situation would be different only if the distortion of competition were fully eliminated, for example, by the attachment to or payment into a blocked account for the amount of the unlawful aid and the interest thereon.

In the second place, as regards the possibility, provided for under the national provisions applicable in the main proceedings, of exempting the party defending the enforcement procedure from the obligation to provide a guarantee when that party is not in a position to provide one, the Court states that considerations relating to the economic loss resulting from the repayment of the aid concerned cannot justify a delay in the recovery procedure.

In the third place, as regards the possibility, provided for by the national provisions applicable in the main proceedings, of payment in instalments of the sums due, the Court notes that such payment arrangements, where they are authorised beyond the period for recovery set by the Commission, cannot be reconciled with the obligation to enforce recovery without delay, which is intended, inter alia, to ensure that funds corresponding to the aid that has already been reimbursed are not once again made available to the beneficiary of the aid, even provisionally.

In the light of the foregoing, the Court holds that Article 16(3) of Regulation 2015/1589 requires the competent national authorities and the national courts to disregard national provisions allowing the suspension of a tax enforcement procedure intended to recover unlawful State aid that is incompatible with the internal market where the beneficiary of the aid provides a guarantee or any other appropriate means of guaranteeing the recovery of the claim of the party seeking enforcement, or even following a request by that beneficiary seeking exemption from the obligation to provide such a guarantee, unless the provision of the guarantee deprives that beneficiary of the competitive advantage linked to that aid.

---

18 Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 [TFEU] (OJ 2015 L 248, p. 9).

Judgment of the General Court (Second Chamber, sitting with five Judges) of 13 May 2026, Carpatair v Commission, T-522/20 RENV

Link to the full text of the judgment

State aid – Aviation sector – Measures implemented by Romania in favour of Timișoara Airport – Measures implemented by Timișoara Airport in favour of Wizz Air and airlines using that airport – Decision finding, in part, that there was no State aid in favour of Timișoara Airport and airlines using that airport – Airport charges – Action for annulment – Standing to bring proceedings – Individual concern – No substantial effect on the competitive position – Partial inadmissibility – Article 107(1) TFEU – Error of law – Selective nature – Advantage

Hearing a case referred back to it by the Court of Justice, the General Court annuls in part the decision [19] of the European Commission finding that measures implemented by Timișoara International Airport, which is operated by Societatea Națională 'Aeroportul Internațional Timișoara – Traian Vuia' SA (AITTV), in which the Romanian State holds 80% of the capital, in favour of Wizz Air Hungary Légiközlekedési Zrt. ('Wizz Air') do not constitute State aid, on the ground that the Commission erred in law in its assessment of whether the airport charges in the Aeronautical Information Publication ('AIP') of 2010 were selective. In so doing, it provides clarification, first, regarding the analysis of the standing to bring proceedings of an undertaking competing with an airline which is the beneficiary of such measures and, second, regarding the examination of whether State aid is selective.

Following a complaint submitted by the Romanian regional airline Carpatair SA ('the applicant'), the Commission initiated a formal investigation procedure in 2011 concerning, inter alia, the 2010 AIP and the agreements signed in 2008 between AITTV and Wizz Air, determining the terms and conditions for the use of the airport infrastructure and services by Wizz Air ('the 2008 agreements'). Two of those agreements were amended in 2010 by way of a new discount scheme agreed between AITTV and Wizz Air ('the 2010 agreements').

The Commission adopted the contested decision, in which it considered, inter alia, that the airport charges in the 2010 AIP and the 2008 and 2010 agreements did not constitute State aid. The applicant brought an action against that decision before the General Court.

By judgment of 8 February 2023, [20] the General Court declared the action admissible and annulled the contested decision in so far as it concluded that the airport charges in the 2010 AIP and the 2008 and 2010 agreements did not constitute State aid. The Commission, Wizz Air and AITTV each brought an appeal against that judgment.

By judgment of 13 February 2025, [21] the Court of Justice set aside the initial judgment in its entirety on grounds relating to the demonstration of the applicant's standing to bring proceedings, and referred the case back to the General Court.

Findings of the Court

The General Court begins by examining the admissibility of the action. It notes that the contested decision constitutes, first, an individual act, in so far as it is found in that decision that the 2008 and 2010 agreements are not State aid. In order to establish its standing to bring proceedings, the applicant must therefore demonstrate that it is directly and individually concerned by that part of the contested decision. That decision constitutes, second, a regulatory act not entailing implementing measures, within the meaning of the third limb of the fourth paragraph of Article 263 TFEU, in so far as it finds that the system

19 Commission Decision (EU) 2021/1428 of 24 February 2020 on the State Aid SA.31662 – C/2011 (ex NN/2011) implemented by Romania for Timișoara International Airport – Wizz Air (OJ 2021 L 308, p. 1; 'the contested decision').

20 Judgment of 8 February 2023, *Carpatair* v *Commission* (T-522/20, EU:T:2023:51) ('the initial judgment').

21 Judgment of 13 February 2025, *Commission and Others* v *Carpatair* (C-244/23 P to C-246/23 P, EU:C:2025:87) ('the judgment on appeal').

of airport charges established by the 2010 AIP is not State aid. In order to establish its standing to bring proceedings, it is therefore sufficient for the applicant to demonstrate that it is directly concerned by that part of the decision.

As regards, first, whether the applicant is individually concerned by the part of the contested decision relating to the 2008 and 2010 agreements, since the applicant is not a beneficiary of the measures resulting from those agreements, it must demonstrate that its position on the market concerned is substantially affected by the aid at issue. For that purpose, in so far as the applicant no longer operated at the airport as from 2014, it cannot rely on potential future competition in order to demonstrate that it is individually concerned, but must show that there was effective competition with Wizz Air at the time when the 2008 and 2010 agreements produced their effects.

In the present case, the Court finds that, in so far as the applicant and Wizz Air operated routes serving the same airports or airports situated less than 100 km apart, potential customers could choose between the services offered by each of them, with the result that they were in direct competition on five routes serving those airports. In that sense, the fact that the applicant and Wizz Air operated different business models and the argument that their aircraft fleets had different technical characteristics, which enabled Wizz Air to achieve economies of scale, do not preclude the existence of competition between them.

However, the applicant has not proved that it had a particular status as compared with the other airlines operating at the airport. In that regard, the fact that it faced competition from Wizz Air on a greater number of routes than those airlines, that the activity of the airport was centred on the applicant's operations and that the applicant derived 90% of its turnover from its operations at that airport does not constitute sufficient evidence to recognise such a particular status.

In addition, for the purpose of establishing the particular status referred to above, the applicant has not sufficiently demonstrated that its competitive position was substantially affected by the competition from Wizz Air, which benefited from the 2008 and 2010 agreements. Wizz Air's activity is not, by itself, capable of explaining the reduction in the applicant's net yields during that period. Moreover, it has not demonstrated a loss of an opportunity to make a profit or a less favourable development than would have been the case without those agreements. Lastly, other factors may have had an impact on its yields.

Accordingly, the applicant is not individually concerned by the contested decision as regards the 2008 and 2010 agreements. The action for annulment is therefore inadmissible in that respect on the grounds of lack of standing to bring proceedings.

As regards, second, the question whether the applicant is directly concerned in relation to the 2010 AIP, the Court finds that Wizz Air could benefit, in the same way as other airlines, from the discounts provided for in the 2010 AIP, and did in fact do so. Moreover, since the contested decision produces legal effects purely automatically by virtue of EU rules alone, the applicant is therefore directly concerned by that decision in so far as it relates to the 2010 AIP and is entitled to challenge the merits thereof.

As regards the substance, the Court holds that the Commission erred in law in finding that the airport charges established by the 2010 AIP did not constitute State aid, without examining whether the discounts provided for in respect of aircraft with a maximum take-off weight above 70 tonnes and with more than 10 000 embarked passengers per month were intended to apply selectively.

It observes, first of all, that, notwithstanding its possible legitimacy, the objective pursued by those discounts, namely to attract larger aircraft in order to increase the airport's revenue, cannot in itself rule out selectivity.

Next, the Court finds that it is true that the system of airport charges and the discounts and rebates in principle applied to all airlines using, or liable to use, the airport. However, the two cumulative criteria laid down by the AIP were formulated in such a way that the circle of potential beneficiaries of the reductions in question was necessarily limited.

Therefore, the fact that a very limited number of airlines were capable of benefiting from those reductions had to be regarded as the inevitable result of the fact that they were specifically designed in such a way that only those airlines could obtain them.

Consequently, the Court annuls the contested decision in so far as it finds that the 2010 AIP does not constitute State aid on the ground that it is not selective in nature.

VII. APPROXIMATION OF LAWS

1. INTELLECTUAL PROPERTY

Judgment of the Court of Justice (Grand Chamber) of 12 May 2026, Meta Platforms Ireland (Fair compensation), C-797/23

Link to the full text of the judgment

Reference for a preliminary ruling – Intellectual property – Copyright and related rights – Directive (EU) 2019/790 – Article 15 – Protection of press publications concerning online uses – National legislation providing for the publishers of those publications to be entitled to 'fair compensation' – Obligations imposed on information society service providers – Powers conferred on an independent administrative authority – Charter of Fundamental Rights of the European Union – Article 16 – Freedom to conduct a business – Limitation on the exercise of that freedom – Article 52(1) – Justification – Weighing of that freedom against other fundamental rights – Article 11(2) – Freedom and pluralism of the media – Article 17(2) – Protection of intellectual property

Hearing a request for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), the Court, sitting as the Grand Chamber, rules for the first time on the extent of the discretion enjoyed by the Member States in the context of the transposition of Article 15 of Directive 2019/790. [22]

The Italian legislature transposed that provision with Article 43-*bis* of the Law on Copyright [23] which provides, in favour of publishers of press publications, the right to fair remuneration for the online use of their publications and establishes a system intended to ensure that remuneration. The Italian legislation thus requires information society service providers to enter into negotiations with the publishers concerning that remuneration, without limiting the visibility of their contents in search results during the negotiations, and to provide the data necessary for calculating the remuneration. It also entrusts the Autorità per le Garanzie nelle Comunicazioni (Communications Regulatory Authority, Italy) (AGCOM) with the task of laying down the criteria for that remuneration, determining it in the event of disagreement, and ensuring compliance with the obligation to provide information incumbent on providers, including by means of penalties.

On 19 January 2023, AGCOM adopted Decision No 3/23/CONS on the basis of that law. That decision lays down the criteria for determining the fair compensation payable to publishers by information society service providers for the online use of press publications. Meta Platforms Ireland Ltd, which is such a service provider, brought an action before the referring court seeking annulment of AGCOM's decision.

Entertaining doubts as to the compatibility of the national legislation with EU law, that court decided to ask the Court about the interpretation of Article 15 of Directive 2019/790 and Articles 16 and 52 of the Charter of Fundamental Rights of the European Union ('the Charter').

---

22 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ 2019 L 130, p. 92).

23 Article 43-*bis* of legge n. 633 – Protezione del diritto d'autore e di altri diritti connessi al suo esercizio (Law No 633 for the protection of copyright and other rights relating to its exercise) of 22 April 1941 (GURI No 166 of 16 July 1941), in the version applicable to the dispute in the main proceedings ('Article 43-*bis*').

Findings of the Court

In the first place, as regards Article 15 of Directive 2019/790, the Court recalls that that provision [24] requires Member States to guarantee to publishers of press publications the exclusive rights of reproduction of those publications and making them available to the public. Although those States do not have any discretion to regulate the substantive law, they nevertheless, when transposing those rights, enjoy discretion as to how they are to be implemented.

The Court states that the detailed rules for implementation cannot, however, have the effect of altering the substantive law, in particular in terms of and scope, and must be fully compatible with both the general objective of that directive and the specific objective of Article 15 thereof.

In that regard, the Court states, first, that the general objective of that directive is to harmonise the laws of the Member States on copyright and related rights, while keeping a high level of protection of those rights and contributing to the achievement of a well-functioning and fair marketplace for copyright. As regards the objective of Article 15 of Directive 2019/790, the Court states that the introduction into EU law of the rights enshrined in that article aims, inter alia, to address the problems that publishers face in licensing the online uses of their publications by information society service providers and to ensure that they may recoup the investments required by the production of those publications.

Second, the Court notes that the exclusive rights enshrined in Article 15 are preventive in nature, in the sense that any use of press publications falling within the scope of that article requires prior authorisation from the publishers of such publications. Although, given that preventive nature, publishers may make the authorisation to use their publications subject to any remuneration which they deem appropriate, the Court also stresses that they must be able to grant free of charge the authorisation for online uses of their press publications and to prohibit such uses. At the same time, information society service providers must, for their part, retain the freedom to decide on such use. Thus, no payment obligation may be imposed on them under Article 15 of Directive 2019/790 where they do not use nor intend to use those press publications.

In the present case, the Court notes, first of all, that it is for the referring court to assess whether the national legislation at issue, which provides for the right of publishers to obtain fair remuneration, meets those requirements.

Next, the Court states that the obligations imposed on service providers by that legislation, namely the obligation to provide the data necessary for the determination of the amount of remuneration and the obligation to refrain from limiting the visibility of press publications in the search results during negotiations, contribute to the attainment of the objectives of Directive 2019/790 and Article 15 thereof, by strengthening the level of protection intended by that directive and, in particular, Article 15 thereof. In that regard, the Court explains that only those providers possess the relevant information for the economic value of the online use of press publications to be assessed, which places the publishers of those publications in a weaker negotiating position as regards the determination of their remuneration.

Therefore, those obligations make it possible to ensure that negotiations between providers and publishers are fair and that the publishers are able to decide freely and on the basis of all relevant information whether and, if so, in return for what remuneration, they may wish to grant providers authorisation to reproduce press publications or make them available to the public.

Last, as regards the powers conferred on AGCOM by the national legislation at issue, the Court finds that, in addition to the role of that authority in determining the amount of the remuneration, providers and publishers remain free not to conclude a contract. It adds that the power of that authority to monitor compliance with the obligation to provide information incumbent on providers

---

[24] Read in conjunction with Articles 2 and 3 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

and to penalise any infringements cannot be regarded as contrary to Article 15, subject to observance of the principle of proportionality.

In the second place, as regards Articles 16 and 52 of the Charter, the Court considers that national legislation which provides for 'fair compensation' which is understood to be consideration freely determined by the parties cannot be regarded as containing a limitation on the exercise of the providers' freedom to conduct a business. However, the obligations to provide certain data and not to limit the visibility of publications incumbent on those providers and the powers conferred on AGCOM in that regard are liable to limit the exercise of that freedom.

After finding that the national legislation at issue, in so far as it merely limits the possibility for service providers to assert their interests in the context of a contractual relationship, cannot undermine the essence of the freedom to conduct a business, the Court examines observance of the principle of proportionality.

In that regard, it notes, first of all, that that legislation is appropriate for achieving the objective which it pursues. Next, it is not obvious that there are less restrictive measures capable of achieving that objective just as effectively. Last, as regards, in particular, the obligation incumbent on service providers to provide certain data, the Court notes, first, that the data to be communicated appear to be limited to those necessary for the determination of any remuneration payable to publishers, the latter having to respect the confidentiality of commercial, industrial and financial information. Second, the penalty that may be imposed for failure to comply with that obligation takes account of the provider's financial capacity, thus not placing a manifestly unreasonable burden on it. The imposition of such an obligation therefore appears proportionate to the objective pursued, since it is capable of striking a fair balance between the fundamental rights and freedoms concerned: the freedom to conduct a business guaranteed in Article 16 of the Charter, on the one hand, and the right to intellectual property enshrined in Article 17(2) of the Charter and the right to freedom and pluralism of the media guaranteed in Article 11(2) of the Charter, on the other.

Accordingly, the Court rules that Article 15 of Directive 2019/790 and Articles 16 and 52 of the Charter do not preclude national legislation which confers on publishers a right to fair remuneration in return for the authorisation to use their publications granted to information society service providers, which imposes certain obligations on those providers and which empowers a public authority to define the benchmark criteria to be used to determine that remuneration and to monitor compliance with one of the obligations as well as to penalise non-compliance, provided, on the one hand, that that legislation does not deprive publishers of the possibility of refusing to grant such authorisation, or that of granting such authorisation free of charge, and that it does not impose on providers any payment obligation unrelated to the use of such publications, and, on the other, that the obligations and any penalties imposed on them observe the principle of proportionality.

2. MONEY LAUNDERING

Judgment of the Court of Justice (First Chamber) of 21 May 2026, Across Fiduciaria and Others, C-684/24 and C-685/24

Reference for a preliminary ruling – Prevention of the use of the financial system for the purposes of money laundering or terrorist financing – Directive (EU) 2015/849 – Article 31 – Concept of legal arrangements having 'a structure or functions similar to trusts' – Trust mandates concluded by Italian trust companies (*mandato fiduciario*) – Access by persons with a legitimate interest to beneficial ownership information – Validity – Articles 7 and 8 of the Charter of Fundamental Rights of the European Union – Respect for private and family life – Protection of personal data – Principle of legal certainty – Concept of 'legitimate interest' – Right to an effective judicial remedy – Interim legal protection

Hearing requests for a preliminary ruling from the Consiglio di Stato (Council of State, Italy), the Court finds that examination of the questions referred has not revealed any factor of such a kind as to call

into question the validity of Article 31 of Directive 2015/849, [25] and interprets that provision in an unprecedented manner.

Several Italian trust companies have raised before the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), inter alia, the illegality of that provision and of the transposing acts which led to the classification of trust mandates governed by Italian law as 'legal arrangements similar to trusts', requiring them to provide information on the beneficial owners of those mandates.

After their application had been dismissed, those companies brought an action before the Consiglio di Stato (Council of State), which seeks the Court's guidance as to the validity and interpretation of Article 31 of Directive 2015/849.

Findings of the Court

First, the Court rules on the validity of Article 31 in that it allows the Member States a degree of discretion regarding the identification of legal arrangements similar to trusts.

The Court notes that the concept of 'trusts' is not defined by the directive and that there are certain differences between the language versions of that directive. That concept nevertheless lends itself to a sufficiently clear interpretation as most of the translations make explicit reference to 'trusts', a legal concept which is widespread in common law countries and in respect of which there is a precise definition in public international law. Article 31 of Directive 2015/849 also applies to 'other types of legal arrangements'. It is for the Member States to identify solely legal arrangements governed by their respective laws that 'have a structure or functions similar to trusts', while taking into account the risk that those arrangements may be used for the purposes of money laundering and terrorist financing.

In those circumstances, the regulatory technique chosen by the EU legislature is consistent with the case-law, in that the scope of the discretion and the manner of its exercise, conferred on the national authorities, are defined with sufficient precision. Moreover, in order to ensure legal certainty, Member States must communicate to the Commission the categories and characteristics of similar legal arrangements identified, from which the Commission is then required to publish a consolidated list. Those requirements are intended to enable the persons concerned to know precisely the extent of their obligations.

Second, the Court rules on the interpretation of the concept of 'other types of legal arrangements'.

After noting that there are certain differences between the language versions of Article 31 as to the concept of 'legal arrangements', the Court considers that that concept cannot be interpreted restrictively, which would presuppose the existence of specific rules. That concept covers types of legal operations which are capable of being categorised according to their specific characteristics. In addition, the applicability of Article 31 to 'other types of legal arrangements' presupposes that the latter 'have a structure or functions similar to trusts'.

Moreover, when identifying 'other types of legal arrangements', Member States must take into account the risk that a legal arrangement may be used for the purposes of money laundering and terrorist financing.

In the present case, the Italian trust mandate appears to have characteristics comparable to trusts. Those characteristics concern, in particular, a mechanism whereby another person's property is placed in the name of a different person for the purposes of ensuring the administration and management of that property and entailing a separation between, on the one hand, the person who administers and manages that property and, on the other, the person who entrusts that task to that person and in whose interest that task is carried out, on the basis of a fiduciary relationship.

---

[25] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ 2015 L 141, p. 73), as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 (OJ 2018 L 156, p. 43) .

Moreover, placing that property in the name of the trustee would create a 'veil effect' enabling the identity of the settlor to be concealed, which constitutes a relevant factor in the light of the principal objective of Directive 2015/849. Therefore, trust mandates concluded by trust companies governed by Italian law may fall within the concept of 'other types of legal arrangements', which it is for the referring court to ascertain. The Court of Justice states in that regard that a transfer of ownership does not constitute a mandatory condition for classifying operations as 'other types of legal arrangements'.

Third, the Court rules on the validity of Article 31 in that it permits any natural or legal person demonstrating a legitimate interest to access beneficial ownership information.

The Court finds that such access constitutes an interference with the rights guaranteed in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union ('the Charter'). However, that interference pursues an objective of general interest, namely, the prevention of money laundering and terrorist financing by means of increased transparency. Such an objective is capable of justifying even serious interferences with those fundamental rights.

The Court then examines the proportionality of that interference. First, access based on a legitimate interest is appropriate for contributing to the attainment of the objective of general interest pursued. Next, such legislation is capable of limiting the interference to what is strictly necessary, since it does not allow generalised access, but makes that access conditional upon the demonstration of a legitimate interest. Conversely, a restriction on access solely to authorities and obliged entities would undermine the objective pursued. Lastly, the Court balances the seriousness of the interference and the importance of that objective, and recalls that generalised public access has been held to be disproportionate whereas access limited to persons demonstrating a legitimate interest constitutes a considerably less serious interference. Furthermore, as regards the concept of 'legitimate interest', the Court states that the person requesting access to such information must demonstrate a legitimate interest in connection with preventing money laundering and combating terrorist financing.

Fourth, the Court interprets Article 31 in the light of national legislation granting individuals, including those with a diffuse interest, access to information on beneficial ownership.

In that regard, the Court notes that the Italian legislation defines the concept of 'legitimate interest', while leaving discretion to the competent authorities which must apply that concept to a particular case. It is therefore for them to ensure a fair balance is struck between the objective of preventing money laundering and combating terrorist financing and the protection of fundamental rights. In those circumstances, it does not appear that the Italian legislature exceeded its discretion in transposing point (c) of the first subparagraph of Article 31(4) of Directive 2015/849.

Fifth, the Court interprets Article 31 in the light of national legislation conferring on a non-judicial administrative body the power to grant an exemption from access to beneficial ownership information.

Article 31(7a) makes it possible, in exceptional circumstances, to limit access to information where such access exposes the beneficial owner to serious risks. That provision also provides for the right to administrative review and the right to an effective judicial remedy. The Court states that those exemptions may be granted by a non-judicial administrative body, but must be subject to subsequent judicial review in accordance with Article 47 of the Charter. In addition, the national court must be able to grant interim relief in order to ensure the effectiveness of the remedy. In the present case, the Italian legislation provides for judicial review but does not allow the court to order interim relief.

VIII. CONSUMER PROTECTION: CONSUMER INFORMATION REGARDING CONTRACTS OTHER THAN DISTANCE OR OFF-PREMISES CONTRACTS

Judgment of the Court of Justice (Fourth Chamber) of 13 May 2026, Kigas, C-488/24

Link to the full text of the judgment

Reference for a preliminary ruling – Consumer protection – Directive 2011/83/EU – Article 5(1)(a) and (c) – Information requirements for contracts other than distance or off-premises contracts – Obligation on the trader to inform the consumer of the main characteristics of the service – Contract for the International Carriage of Goods by Road – Customs duties – Obligation on the trader to inform the consumer of the total price of the service – Additional charges – Content of the information to be provided to the consumer – Convention on the Contract for the International Carriage of Goods by Road (CMR) – Articles 6 and 11

Ruling on a request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania), the Court of Justice rules, for the first time, on the extent of the obligations on traders to provide information to consumers as referred to in Article 5 of Directive 2011/83, [26] in the context of a contract for the international carriage of goods by road.

D.V., a consumer, concluded, by telephone with Kigas, a contract for the carriage of goods belonging to him from Norway to Lithuania. In response to a question from that company, D.V. stated that the goods to be carried were intended for his personal use, with the result that it was not necessary to provide a customs declaration. However, during a check at the border on entry into the territory of the European Union, the customs authorities concluded that those goods had to be declared to customs and set an amount of customs duty, paid by Kigas.

Kigas therefore sent an invoice to D.V. including the amount agreed for the carriage of goods service as well as the customs duties. In addition, it delivered all the goods entrusted to it except one, which it retained pending payment of the invoice.

D.V. then brought an action before the courts, while Kigas filed a counterclaim. Both the first instance court and the court ruling on appeal applied the Convention on the Contract for the International Carriage of Goods by Road [27] and ordered D.V. to pay Kigas the amounts claimed, while ordering Kigas to return the goods retained.

Hearing an appeal on a point of law, the referring court asks the Court, in essence, whether, for contracts concluded for the international carriage of goods by road, the trader is required to inform the consumer of the customs formalities and customs duties which may be payable, in accordance with Article 5(1)(a) and (c) of Directive 2011/83.

Findings of the Court

In the first place, the Court notes that the extent of the information which must be communicated beforehand by a trader in the context of a contract for the international carriage of goods must be assessed in the light of, inter alia, the nature of the service. In that regard, it notes that, taking account of the cross-border nature of that contract and of the fact that importing goods from a third country is habitually subject to customs duties, customs formalities constitute one of the main characteristics of that type of contract, of which a consumer must be informed before the contract is concluded.

---

26 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

27 The Convention on the Contract for the International Carriage of Goods by Road, signed in Geneva on 19 May 1956, as amended by the Protocol signed in Geneva on 5 July 1978.

The trader carrier is therefore under a duty to inform the consumer that importing carried goods may require customs formalities to be completed. However, where the trader undertakes solely to provide carriage of the goods without providing a customs brokerage service, that trader is not required to provide detailed information on the documents to be presented to customs, which is supported by Article 11(2) of the Convention on the Contract for the International Carriage of Goods by Road.

In the second place, as regards the trader's obligation to inform the consumer of the total price of the service, the Court observes that, regardless of the reference to the total price or the method of calculating that price, account must be taken of the additional charges which may be added to the total price of the service and which, if they cannot be calculated in advance, must be indicated to the consumer as potentially being payable.

Accordingly, the Court considers that, in contracts for the international carriage of goods, customs duties constitute additional charges which are added to the total price of the service, since they are payable not because of the performance of the carriage service, but because of the introduction into the customs territory of the European Union of the goods being carried. In that type of contract, it is not always possible for the trader to calculate the total price of the service 'inclusive of taxes' before the contract is concluded, since the exact amount of the customs duties may depend on certain factors which may not be known in advance.

Therefore, the trader is under a duty to inform the consumer solely of the fact that customs duties may be payable, which constitute additional charges payable by the consumer which cannot reasonably be calculated in advance and included in the price of the carriage service.

In the light of the foregoing, the Court concludes that, in a contract for the international carriage of goods by road from a third country to a destination in a Member State of the European Union, the obligation on the trader to provide information under Article 5(1)(a) and (c) of Directive 2011/83 entails informing the sender consumer that importing the goods into the territory of the European Union may require customs formalities to be completed and that customs duties may be payable by that sender consumer. However, the trader is under no duty either to provide detailed information on the documents to be presented to customs or to indicate the rates and amounts of customs duties applicable.

IX. COMMON FOREIGN AND SECURITY POLICY: RESTRICTIVE MEASURES

Judgment of the Court of Justice (First Chamber) of 21 May 2026, T Trust, C-483/23

Link to the full text of the judgment

Reference for a preliminary ruling – Common foreign and security policy – Restrictive measures taken in view of the military aggression against Ukraine – Regulation (EU) No 269/2014 – Article 2(1) – Freezing of funds and economic resources – Setting up of a trust – Settlor of the trust included on the list in Annex I to Regulation No 269/2014 – Freezing of the funds and economic resources held in the trust – Concepts of 'belonging to' and 'control'

Hearing a reference for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), the Court of Justice rules on the interpretation and scope

of the freezing of funds provided for in Article 2(1) of Regulation (EU) No 269/2014, [28] where the settlor of a trust is included on the list annexed to that regulation.

The dispute is between four Italian companies, that is to say, A, B, C and D, and T, a Swiss trust company, on the one hand and the Italian supervisory authorities, on the other, concerning the freezing of the funds of the companies A, B, C and D. Those companies are controlled in their entirety by a parent company which, in 2007, was placed in a trust, [29] the current trustee of which is T. On 16 March 2022, the Italian Financial Security Committee froze the funds belonging to the four Italian companies. It found those funds to be indirectly attributable to the settlor of the trust, who is subject to restrictive measures [30] and is considered to be the beneficial owner of those companies.

On 11 May 2022, the applicant companies brought an action before the referring court, seeking annulment of the asset-freezing decision, claiming that the settlor of the trust had been excluded from the group of beneficiaries on 7 February 2022. Since the settlor is nevertheless able to recover ownership of the assets, in the event of the trust being terminated before expiry or of the beneficiaries refusing to accept the transfer, the referring court is uncertain whether Article 2(1) of Regulation No 269/2014 must be interpreted as meaning that the funds and economic resources placed in a trust by the settlor of that trust, a person included on the list in Annex I to that regulation, must be regarded as 'belonging to' or as being 'controlled' by that settlor within the meaning of that provision.

Findings of the Court

The Court finds, in the first place, that Article 2(1) of Regulation No 269/2014 covers a variety of scenarios, ranging from ownership of the funds and resources to situations in which de facto power can be exercised over funds and resources, whether directly or indirectly. That provision applies, therefore, to legal and factual situations in which a person holds power enabling that person to use, benefit from, dispose of or have influence over funds and economic resources. In order to ensure the effectiveness of that provision, the concepts of belonging to and of control encompass factual situations in which such power can be established, even where that power is legally held by a different person or entity or where a power to influence exists in the absence of any legal link. Accordingly, where title to the funds and resources stands in the name of a trustee, those funds and resources can be regarded as belonging to or as being controlled by the settlor of the trust, if that settlor holds power enabling him, her or it to use, benefit from or dispose of them or to have influence over them or over the decisions made by the trustee in respect of funds and resources placed in that trust by the same settlor.

That interpretation is borne out by the context of Article 2(1) of Regulation No 269/2014 and by the objectives pursued by that regulation.

The Court clarifies, in the second place, that, in order to determine whether the settlor has retained such power over the funds and economic resources held in the trust or over the decisions made by the trustee, the referring court may have reference to the law applicable to the trust and in particular to the prerogatives of the settlor under that law. Although it may prove difficult to identify the legal relationship, the referring court must ascertain whether there is influence or whether those funds can be used, even if that influence or ability is not formalised in legal instruments.

---

28 Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6), as amended by Council Regulation (EU) 2022/330 of 25 February 2022 (OJ 2022 L 51, p. 1) ('Regulation No 269/2014').

29 A trust enables title to the assets placed in the trust by the settlor to be registered in the name of the trustee, the latter administering and managing those assets in accordance with the instrument setting up the trust and making the final transfer to the beneficiaries, who or which acquire full ownership of those assets on the date of the transfer.

30 By Council Decision (CFSP) 2022/337 of 28 February 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 59, p. 1) and by Council Implementing Regulation (EU) 2022/336 of 28 February 2022 implementing Regulation (EU) No 269/2014 (OJ 2022 L 58, p. 1), the Council included the settlor on the list of persons, entities and bodies subject to restrictive measures in the annex to Decision 2014/145 and in Annex I to Regulation No 269/2014.

The Court states, in that regard, that the relationships between the settlor and the other persons involved in the trust may be taken into account. For example, the settlor may have appointed persons who enjoy the confidence of the settlor and are likely to follow the latter's instructions or suggestions as regards the administration of the trust. The allocation of the funds held in the trust to activities intended primarily for the benefit of the settlor or of persons or entities linked to the settlor and the provision of goods or services by the companies held in the trust to the entities in which the settlor has a majority holding or which are controlled by the settlor may also constitute an indication of the settlor's influence over the trust. The settlor may also be found to have influence in the light of various indicators, such as the fact that the settlor indirectly holds a majority of the capital of or voting rights in the trustee, has a right to appoint or remove a majority of the members of the administrative body of the trustee or exercises decisive influence over the trustee including through shell companies. In situations in which companies are held in the trust, the settlor may also be found to have influence where the trustee is not a director of those companies but merely holds their capital. In that situation, it is for the referring court to determine the powers of the directors of those companies and the relationships between those directors and the settlor.

The Court sets out, last, a number of factors that may in themselves constitute an indication that a person included on the list in Annex I to Regulation No 269/2014 has control over an entity that is not included on that list, which include, in particular, the use of needlessly complex structures, the use of trusts associated with a person subject to the measures in question, the fact that some of those entities were set up or changed their identity shortly before the adoption of the sanctions regime or the person's listing or the fact that trusts are used as receivers of assets from an entity owned or controlled by a listed person.

The Court concludes that the funds and economic resources placed in a trust by its settlor, a person included on the list in Annex I to Regulation No 269/2014, must be regarded as 'belonging' to or as being 'controlled' by that settlor, within the meaning of Article 2(1) of that regulation, provided that the settlor in question continues to hold power enabling him, her or it to use, benefit from or dispose of those funds and economic resources or to have influence over them or over the decisions made by the trustee in respect of those funds and economic resources.

Judgment of the Court of Justice (First Chamber) of 21 May 2026, FZ AR and SX (Freezing of assets in trust), C-428/24 and C-476/24

Link to the full text of the judgment

Reference for a preliminary ruling – Common foreign and security policy – Restrictive measures taken in view of the military aggression against Ukraine – Regulation (EU) No 269/2014 – Article 2(1) – Freezing of funds and economic resources – Setting up of a trust – Trust beneficiary included on the list in Annex I to Regulation No 269/2014 – Freezing of the funds and economic resources held in the trust – Concepts of 'belonging to' and 'control'

Hearing references for a preliminary ruling from the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), the Court of Justice rules on the interpretation and scope of the freezing of funds provided for in Article 2(1) of Regulation (EU) No 269/2014, [31] where the beneficiaries of a trust are included on the list annexed to that regulation.

In Case C-428/24, FZ AR is a company controlled through a chain of companies, the voting rights in which are controlled by the company WX as trustee of XT Trust, of which Ms TU became the beneficiary in March 2022 after succeeding her spouse. In Case C-476/24, in February 2022, Ms TU became the sole beneficiary

[31] Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6), as amended by Council Regulation (EU) 2022/330 of 25 February 2022 (OJ 2022 L 51, p. 1) ('Regulation No 269/2014').

of the trust known as 'N Trust', in which the economic resources of the company SX were placed and the trustee of which is SY Ltd. The spouses having been made subject to restrictive measures, [32] the funds and economic resources of the companies FZ AR and SX were frozen by the Italian Financial Security Committee, which considered those funds and resources to be controlled by or attributable to the trust beneficiary. Each of the applicant companies brought proceedings before the referring court against the Italian supervisory authorities, seeking annulment of the asset-freezing decisions.

The referring court is uncertain whether Article 2(1) of Regulation No 269/2014 must be interpreted as meaning that the funds and economic resources held in a trust, the beneficiary of which is included on the list in Annex I to that regulation, must be regarded as 'belonging' to or being 'controlled' by that beneficiary, within the meaning of that provision, even though the law applicable to the trust and the clauses of the instrument setting it up prohibit that beneficiary from performing any act of enjoyment or disposal of those funds and economic resources throughout the period during which their enjoyment or disposal would constitute an infringement of EU law.

Findings of the Court

The Court finds, in the first place, that Article 2(1) of Regulation No 269/2014, in the different language versions thereof, covers a variety of scenarios, ranging from ownership of the funds and resources to situations in which de facto power can be exercised over them, whether directly or indirectly. That provision applies, therefore, to legal and factual situations in which a person holds power enabling that person to use, benefit from, dispose of or have influence over those funds and resources. In order to ensure the effectiveness of that provision, the concepts of belonging to and of control encompass factual situations in which such power can be established, even where that power is legally held by a different person or entity or where a power to influence exists in the absence of any legal link. Accordingly, where title to the funds and economic resources stands in the name of a trustee or in the name of a person or entity belonging to or directly or indirectly controlled by the trustee, and where the beneficiary cannot require the trustee to exercise its discretionary power in the beneficiary's favour, the funds and resources can be regarded as belonging to or as being controlled by that beneficiary, if the latter holds power enabling that beneficiary to use, benefit from or dispose of those funds and resources or to have influence over them or over the decisions made by the trustee in respect of those funds and resources.

That interpretation is borne out by the context of Article 2(1) of Regulation No 269/2014 and by the objectives pursued by that regulation.

The Court clarifies, in the second place, that in order to determine whether the beneficiary has such power over the funds and economic resources held in the trust or over the decisions made by the trustee, the referring court cannot have reference only to the law applicable to the trust, but must also have regard to the relevant factual circumstances. The fact that the funds and resources are managed in the interests solely of the beneficiary constitutes an indication that they may belong to or may be controlled by the beneficiary. Accordingly, the referring court must ascertain whether there is influence or whether those funds can be used, even if that influence or ability is not formalised in legal instruments.

The Court states, in that regard, that the relationships between the beneficiary and the other persons involved in the trust may be taken into account. For example, the trustee or protector may be a person who enjoys the confidence of the beneficiary and is likely to follow the latter's instructions or suggestions as regards the administration of the trust. The allocation of the funds held in the trust to activities intended primarily for the benefit of the beneficiary or of persons or entities linked to the beneficiary and

---

32 By Council Decision (CFSP) 2022/397 of 9 March 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 80, p. 31) and by Council Implementing Regulation (EU) 2022/396 of 9 March 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 80, p. 1), the Council included Mr ZU on the list of persons, entities and bodies subject to restrictive measures in the Annex to Decision 2014/145 and in Annex I to Regulation No 269/2014. By Council Decision (CFSP) 2022/883 of 3 June 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 153, p. 92) and by Council Implementing Regulation (EU) 2022/878 of 3 June 2022 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2022 L 153, p. 15), the Council included Ms TU on the same list.

the provision of goods or services by the companies held in the trust to the entities in which the beneficiary has a majority holding or which are controlled by the beneficiary may also constitute an indication of the beneficiary's influence over the trust. The beneficiary may also be found to have influence in the light of various indicators, such as the fact that the beneficiary indirectly holds a majority of the capital of or voting rights in the trustee, has a right to appoint or remove a majority of the members of the administrative body of the trustee or exercises decisive influence over the trustee including through shell companies. It is therefore for the referring court to determine the powers of the directors of SX and the relationships between those directors and Ms TU. The Court sets out, in addition, a number of factors that may in themselves constitute an indication that a person included on the list in Annex I to Regulation No 269/2014 has control over an entity that is not included on that list.

The Court adds, last, that a clause, which can be amended or revoked, contained in the instrument setting up the trust and which limits the powers of the trust beneficiary throughout the period of the restrictive measure is not decisive for the purposes of defining the link between the person subject to the measure and the funds and economic resources since such a link is a separate matter from the scope of the prohibition laid down in Article 2(2) of Regulation No 269/2014 to which the clause refers.

The Court concludes that the funds and economic resources held in a trust must be regarded as 'belonging' to or as being 'controlled' by a beneficiary subject to restrictive measures, even though the law applicable to the trust and the clauses of the instrument setting up the trust prohibit that beneficiary from performing any act of enjoyment or disposal of those funds and economic resources throughout the period of the restrictive measure or, in any event, throughout the period during which their enjoyment or disposal would constitute an infringement of EU law, if that beneficiary is able to use, benefit from or dispose of the funds and economic resources held in the trust or to have influence over them or over the decisions made by the trustee in respect of those funds and resources.

X. JUDGMENTS PREVIOUSLY DELIVERED

1. JUDICIAL COOPERATION IN CRIMINAL MATTERS: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

Judgment of the Court of Justice (Fourth Chamber) of 23 April 2026, Casotta, C-24/26

Link to the full text of the judgment

Reference for a preliminary ruling – Urgent preliminary ruling procedure – Area of freedom, security and justice – Judicial cooperation in criminal matters – Directive 2012/29/EU – Minimum standards on the rights, support and protection of victims of crime – Articles 6, 10 and 18 – Right to receive information about the case and right to be heard – National legislation providing for an extraordinary remedy, whereby a person convicted *in absentia* may have a conviction which has become final quashed – No recognition of the right of the victim to be informed of the application for that extraordinary remedy and of the right to participate in the related proceedings – Directive (EU) 2016/343 – Presumption of innocence and right to be present at the trial in criminal proceedings – Articles 8 and 9 – Right to a new trial or to another legal remedy which allows a fresh determination of the merits of the case – Article 47 of the Charter of Fundamental Rights of the European Union – Right to a fair trial – Artide 54 of the Charter of Fundamental Rights – Prohibition of abuse of rights

Hearing a reference from the Corte d'appello di Roma (Court of Appeal, Rome, Italy) in an urgent preliminary ruling case, the Court of Justice clarifies, first, the scope of the procedural rights of victims in the context of an extraordinary remedy applied for by a person convicted *in absentia* in order to have the conviction quashed and, where appropriate, new proceedings on the merits instituted, in the

light of Directive 2012/29 [33] and, second, the conditions governing the right to a new trial or to another legal remedy, in the light of Directive 2016/343. [34]

By judgment of 23 October 2023, the Tribunale ordinario di Roma (District Court, Rome, Italy) sentenced CV to a term of imprisonment of five years and three months and to a fine of EUR 1 500 for aggravated bodily harm and aggravated robbery with violence, committed as a co-perpetrator.

Criminal proceedings were instituted following CV's arrest in the act of committing the offences on 2 April 2022. Following his appearance before a court, the person concerned was released and declared that he was permanently resident in an accommodation facility located in Rome. Several attempts to serve an order for immediate judgment were unsuccessful since it was not possible to locate the person concerned. The authorities, inter alia, effected service at the specified accommodation facility and also attempted telephone contact before certain documents were finally served on CV's mother in Sicily.

In those circumstances, the District Court, Rome, considered that the steps taken made it possible to conclude that CV had had knowledge of the proceedings, inter alia on account of the service effected on his mother. That court therefore decided to continue the proceedings in CV's absence, which was deemed to be voluntary and deliberate, and handed down the judgment sentencing him. That judgment, which became final in the absence of an appeal, was followed by the arrest of the person concerned with a view to enforcing the sentence.

Hearing an application by CV for an extraordinary remedy in order to have that judgment set aside and new proceedings on the merits instituted, on the ground that he had been tried without having had actual knowledge of the proceedings brought against him, the referring court decided to refer the matter to the Court of Justice for a preliminary ruling.

Findings of the Court

First, the Court holds that Articles 6, 10 and 18 of Directive 2012/29, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, do not preclude national legislation which, where the victim of an offence did not join as a civil party, under national law, in the criminal proceedings that led to a conviction which was handed down *in absentia* and which has become final, does not provide, in the context of an extraordinary remedy such as that at issue in the main proceedings, for either an obligation to inform the victim that that extraordinary remedy has been applied for or the possibility for that victim to participate in the proceedings relating to that remedy.

In reaching that conclusion, the Court finds, in the first place, that it is apparent from Article 6 of Directive 2012/29 that the victim's right to receive information about the criminal proceedings instituted as a result of his or her complaint with regard to a criminal offence suffered by that victim, referred to in Article 6(2) of that directive, depends on the legal status conferred on him or her, in national law, in the context of those proceedings. The Member States are therefore not required to notify the victim of his or her right to receive that information or to provide him or her with that information, where such notification or information is not consistent with that status.

The Court considers that information about an application for an extraordinary remedy, such as that at issue in the main proceedings, the purpose of which is to have a conviction *in absentia*, which has become final, quashed, on the ground that it could not be handed down in the absence of the accused person, and, where appropriate, to secure a retrial of the case on the merits, may come under Article 6(2)(b) of Directive 2012/29, provided, first, that the criminal proceedings in question were instituted as a result of the complaint with regard to a criminal offence suffered by the victim, and, second, that the victim's right to receive such information, upon request, is in accordance with his or her role in the national criminal justice system. It follows that Article 6(2)(b) of that directive

---

33 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ 2012 L 315, p. 57).

34 Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

does not require that, in a national system which affords the victim the possibility of joining criminal proceedings as a civil party, that victim be informed of such an application when he or she is not a party to the proceedings in national law on the ground that he or she did not join those proceedings as a civil party.

In the second place, the Court states that the purpose of the right to be heard, enshrined in Article 10 of Directive 2012/29, is to provide the victim with the opportunity to participate in the criminal proceedings concerning him or her and, in particular, to contribute to the establishment of the relevant facts and to the gathering of evidence connected with the alleged offence and the harm suffered by him or her. In the context of an extraordinary remedy such as that which is concerned in the main proceedings, only the procedural rights of the convicted person, inter alia his or her right to a fair trial and rights of defence, are at issue. It follows that that provision does not require that the victim be heard in the context of such an extraordinary remedy.

In the third place, the Court observes that measures intended to prevent secondary victimisation, provided for in Article 18 of Directive 2012/29, cannot in themselves afford victims the right to participate in proceedings such as those at issue in the main case with the sole aim of preventing a new trial, or the right to be heard in the context of such proceedings, and holds that Article 18 of Directive 2012/29 does not in principle preclude the victim of a criminal offence from being heard again in the context of new proceedings, as might be the case if the conviction were to be quashed.

Second, the Court rules that Articles 8 and 9 of Directive 2016/343, read in the light of Articles 47 and 54 of the Charter of Fundamental Rights, do not preclude national legislation which, as interpreted in national case-law, requires the national court, in the absence of direct proof that a person convicted *in absentia* voluntarily avoided knowledge of the criminal proceedings that led to a conviction being handed down in respect of him or her, to grant a remedy such as that at issue in the main proceedings.

In that regard, the Court states that the right to a new trial, as provided for in Article 9 of Directive 2016/343, forms part of the right to be present at one's trial and, accordingly, is an integral part of the right to a fair trial. However, a person convicted *in absentia* may be deprived of the right to a new trial where the conditions laid down in Article 8(2) of that directive are satisfied. Points (a) and (b) of that provision require, first, that the person concerned has been informed in due time of the trial and, second, that that person has been informed of the consequences of his or her absence or that he or she has been represented by a mandated lawyer. In such a situation, Directive 2016/343 would not preclude the Member State concerned from refusing to afford the convicted person the right to a new trial.

As regards, more specifically, the Italian legislative framework governing trials *in absentia* and the extraordinary remedy at issue in the main proceedings, as interpreted by the Corte suprema di cassazione (Supreme Court of Cassation, Italy), the Court finds that, in contrast to that framework, Directive 2016/343 does not, for the purpose of assessing the first condition laid down in Article 8(2) of that directive, require direct proof that knowledge of the criminal proceedings brought against the convicted person who was tried *in absentia* was voluntarily avoided. Account may also be taken of any precise and objective indicia that that person, while having been officially informed that he or she was accused of having committed a criminal offence, and therefore aware that he or she was going to be brought to trial, took deliberate steps to avoid officially receiving the information regarding the date and place of that trial.

In that context, the Court observes that it follows from Article 1 of Directive 2016/343 that the purpose of that directive is to lay down common minimum rules concerning certain aspects of the presumption of innocence in criminal proceedings and the right to be present at the trial in those proceedings, and not to carry out exhaustive harmonisation of criminal proceedings. Accordingly, Directive 2016/343 does not prevent Member States from extending the right to a new trial to include situations in which the conditions laid down in Article 8(2) of that directive are satisfied, nor does it preclude the assessment of the diligence exercised by the accused person in order to receive information relating to the criminal proceedings brought against him or her from being based on standards of proof according to which only direct proof can show that that person voluntarily evaded those proceedings.

2. COMPETITION: AGREEMENTS, DECISIONS AND CONCERTED PRACTICES (ARTICLE 101 TFEU)

Judgment of the Court of Justice (Fifth Chamber) of 30 April 2026, CD Tondela and Others, C-133/24

Link to the full text of the judgment

Reference for a preliminary ruling – Competition – Professional football – No-poach-of-players agreement, conduded by a national sports association and a group of clubs following the suspension of the 2019/2020 sporting season due to the COVID-19 pandemic – Article 101(1) TFEU – Restriction of competition by object or by effect – Labour market – Recruitment of players by clubs – Unilateral termination of employment contract by players – Expiration of employment contract – Content of the agreement – Economic and legal context surrounding the agreement – Competition-related objective aims of the agreement – Whether justified – Conditions – Pursuit of legitimate objectives in the public interest – Necessity – Justification

Hearing a reference for a preliminary ruling from the Tribunal da Concorrência, Regulação e Supervisão (Competition, Regulation and Supervision Court, Portugal), the Court of Justice rules on the factors for assessing whether a no-poach-of-players agreement, concluded by professional football clubs in the context of the COVID-19 pandemic, has as its object the restriction of competition and is prohibited by Article 101(1) TFEU.

In March 2020, when the Portuguese authorities announced the adoption of a series of measures intended to contain the risk of spread of the COVID-19 pandemic, the Liga Portuguesa de Futebol Profissional (Portuguese Professional Football League (LPFP)) ordered the suspension of all sporting competitions. In April 2020, the LPFP and the clubs participating in the First and Second Divisions announced publicly that the clubs undertook not to recruit their respective players who unilaterally terminated their employment contracts citing difficulties caused by the COVID-19 pandemic.

In April 2022, the Autoridade da Concorrência (Competition Authority, Portugal) adopted a decision finding that those agreements had as their object the restriction of competition on the market for recruiting players eligible to play in the First and Second Divisions ('the agreement at issue').

An action against that decision was brought before the referring court. The referring court made a reference to the Court for a preliminary ruling concerning the categorisation of the agreement at issue as an agreement having as its object the restriction of competition and the possibility of its nevertheless being compatible with Article 101(1) TFEU.

Findings of the Court

As regards, in the first place, the question whether the agreement at issue may be categorised as having as its object the restriction of competition within the meaning of Article 101(1) TFEU, the Court observes that the concept of anticompetitive 'object' must be understood as referring to certain types of coordination between undertakings which can be regarded, by their very nature, as being injurious to the proper functioning of normal competition.

In order to determine whether an agreement has an anticompetitive object, it is necessary to examine, first, the content of the agreement; secondly, the economic and legal context of which it forms a part; and, thirdly, its objectives.

In that regard, the Court adds that, where there is a type of coordination that is particularly harmful to competition, the analysis of the economic and legal context may be limited to what is strictly necessary in order to establish the existence of a restriction of competition by object. However, in the case of other types of conduct which may present a sufficient degree of harm such as to support a finding of their having an anticompetitive object, a more in-depth examination should be carried out.

In the present case, as regards, first of all, the content of the agreement at issue, the Court notes that, by that agreement, the professional football clubs concerned determined jointly, for two high-level

competitions, their conduct on the 'upstream market' consisting in the recruitment of players who have already been trained or are currently undergoing training. That agreement, which is equivalent to a no-poach agreement, constitutes a manifest restriction of a competitive parameter which plays an essential role in high-level sport. Such an agreement is, moreover, likely to have an indirect, potential impact on the 'purchase price' of the clubs' human resources.

Next, as regards the economic and legal context, the Court observes that the conduct occurred in the context of the COVID-19 pandemic, which had a fundamental impact on the competitive functioning of the sector concerned. The occurrence of an event such as that pandemic is not per se such as to justify making an exception to the imperative provision that is Article 101(1) TFEU, even if the agreement does happen in the field of sport. However, such circumstances must be taken into account by the referring court for the purpose of determining whether the conduct at issue has as its object the prevention, restriction or distortion of competition.

Lastly, as regards the aims of the agreement, the Court observes that, although the agreement at issue pursues an objectively anticompetitive aim, it also pursues an objectively pro-competition aim, consisting in ensuring stability of player rosters playing in the First and Second Divisions.

Hence, it is for the referring court to determine whether or not, in view of all of the relevant elements of fact and law, that agreement presents a sufficient degree of harm as to be held to have as its object the restriction of competition.

In the second place, the Court examines the question whether and, if so, subject to which conditions, an agreement such as that at issue may be held to fall outside the scope of the prohibition laid down in Article 101(1) TFEU.

On that point, the Court states that, supposing that it does not have as its very object the restriction of competition, even if the conduct at issue in the main proceedings takes the form of an agreement concluded by undertakings which have acted in collaboration with an association of undertakings, it does not necessarily fall within the prohibition laid down in Article 101(1) TFEU, subject to three conditions.

Thus, the examination of the economic and legal context of which the agreement forms a part must lead to the conclusion that, first, the agreement is justified by the pursuit of one or more legitimate objectives of general interest; second, that the specific means employed to pursue those objectives are genuinely necessary for that purpose; and third, that the inherent anticompetitive effect of the means employed does not go beyond what is necessary.

Although the Court considers that the objective consisting in ensuring the regularity of sporting competitions is a legitimate objective in the public interest which may justify, in principle, the rules implemented by an agreement such as the one at issue, it holds that it is for the referring court to carry out the in-depth examination of the three aforementioned conditions in the light of all of the relevant elements of fact and law.

3. APPROXIMATION OF LAWS: PROTECTION OF NEW PLANT VARIETIES

Judgment of the General Court (Sixth Chamber) of 29 April 2026, Romagnoli Fratelli v CPVO (Melrose), T-573/24

Link to the full text of the judgment

Plant varieties – Grant of a Community plant variety right for the potato variety Melrose – Failure to pay the annual fee on time – Cancellation of right – Application for *restitutio in integrum* – Competence of the Board of Appeal – Concept of 'particular circumstances' – Conditions for notification of decisions and communications of the CPVO

In that judgment, the General Court makes a finding on the competence of the Board of Appeal of the Community Plant Variety Office (CPVO) to rule on an application for *restitutio in integrum* concerning a time limit for bringing an appeal before it which has not been complied with by the applicant.

The applicant is a company which, having lost, by decision of the CPVO of 21 March 2022, a Community plant variety right due to a failure to pay the annual fee, filed an application for *restitutio in integrum* concerning the time limit for payment of that fee and paid it. However, the CPVO did not grant that application, and the applicant's action for annulment brought before the Court against that decision was also dismissed. On 6 January 2023, the applicant brought an appeal against the decision of 21 March 2022 before the Board of Appeal of the CPVO and filed an application for *restitutio in integrum* before the CPVO, both of which were rejected by the Board of Appeal. The applicant then brought an action before the Court against that decision of the Board of Appeal.

Findings of the Court

At the outset, the Court notes that the appeal brought before the Board of Appeal of the CPVO against the decision of 21 March 2022 was brought more than seven months after the time limit for bringing an appeal had expired and that the application for *restitutio in integrum* sought to restore the applicant's rights to bring an appeal against that decision. In that respect, the Court finds that, in agreement with the parties, that appeal and the application for *restitutio in integrum* could not be separated, with the result that the Board of Appeal was competent to examine that application.

In that regard, the Court recalls that Chapter VI of Part Four of Regulation No 2100/94, [35] in particular in Article 80(1) thereof, lays down a series of 'conditions governing proceedings' and points out that there is nothing in the latter provision to suggest that the term 'Office' does not cover the Board of Appeal. However, the fact that no provision of that regulation expressly provides that the Board of Appeal of the CPVO is competent to rule on an application for *restitutio in integrum* in respect of a time limit which has not been complied with by the applicant does not mean that it is not competent to do so.

First, Article 35 of Regulation No 2100/1994 lays down, in paragraph 1 thereof, the principle that the President of the CPVO has competence to take all decisions which do not have to be made by the Boards of Appeal and, in paragraph 2 thereof, that competence is conferred on a committee. In the absence of procedural provisions in that regulation or in provisions adopted pursuant thereto, the CPVO is to apply the principles of procedural law which are generally recognised in the Member States. [36] As regards *restitutio in integrum*, the body competent to decide on the application is, by virtue of the principle of parallel competence, the body which was competent to find that the time limit had not been observed. Those considerations may thus lead to the conclusion that the EU legislature implicitly intended to allow the Board of Appeal of the CPVO to examine an application for *restitutio in integrum* concerning a time limit which an applicant has been unable to observe before that Board of Appeal.

Second, while Article 7 of Regulation No 874/2009 [37] provides that the committees are to deal with the *restitutio in integrum* pursuant to Article 80 of Regulation No 2100/94, it also provides that the *restitutio in integrum* is to be dealt with in addition to the decisions which the committees take on the basis of the competence conferred on them by Article 35(2) of Regulation No 2100/94. Accordingly, that first provision may be interpreted as conferring competence on committees to rule on questions concerning *restitutio in integrum* only in areas in respect of which competence has been conferred on them. [38] It follows that the question of *restitutio in integrum* relating to a time limit which an applicant

---

35 Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ 1994 L 227, p. 1).

36 Article 81(1) of Regulation No 2100/94.

37 Commission Regulation (EC) No 874/2009 of 17 September 2009 establishing implementing rules for the application of Regulation No 2100/94 as regards proceedings before the [CPVO] (OJ 2009 L 251, p. 3).

38 In accordance with the principle that an implementing regulation must be given, if possible, an interpretation consistent with the provisions of the basic regulation; judgments of 24 June 1993, *Dr Tretter* (C-90/92, EU:C:1993:264, paragraph 11), and of 10 September 1996, *Commission* v *Germany* (C-61/94, EU:C:1996:313, paragraph 52).

has been unable to observe before the Board of Appeal of the CPVO does not fall within the competence of the committees.

Furthermore, the Court adds that the rationale for Article 7 of Regulation No 874/2009 lies in the need to identify, at the level of the CPVO, the person or committee competent to rule on an application for *restitutio in integrum* where the failure to observe the time limit has occurred before those bodies. By contrast, the identification of such body serves no purpose where such an application relating to the failure to observe a time limit before the Board of Appeal of the CPVO is concerned, given the exclusive nature of its competence to rule on the matter.

Third, in the light of the twenty-sixth recital of Regulation No 2100/94, the Court notes that the Board of Appeal of the European Union Intellectual Property Office (EUIPO) has been granted competence to decide on an application for *restitutio in integrum* where the omitted act forming the subject matter of that application concerns an appeal which has been brought before it out of time. Regulation 2017/1001 [39] provides, in Article 104(4), under the heading '*Restitutio in integrum*', that 'the department competent to decide on the omitted act shall decide upon the application', in accordance with the principle of parallel competence.

Accordingly, the Court interprets, in so far as possible, the powers of the CPVO, including its Boards of Appeal, on the basis of the abovementioned rules established for EUIPO by Regulation 2017/1001, and finds that the Board of Appeal of the CPVO should be competent to examine an application for *restitutio in integrum* concerning a time limit which an applicant has been unable to observe before it.

39 Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017 L 154, p. 1).