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FOLLOW-UP DECISIONS
OVERVIEW FOR NOVEMBER 2024 - END OF JANUARY 2025

Germany – Federal Court of Justice

[W.GmbH, C-67/23]

Restrictive measures – Ban on the import of teak wood from Myanmar – Criminal conviction – Partial acquittal

Following the judgment of the Court of Justice in Case C-67/23, the Federal Court of Justice partially acquitted the defendants in criminal proceedings for offences related to the import of teak wood from Myanmar.
In this case, the manager of a timber business and three employees of the company had been given suspended sentences or fines for violating the Foreign Trade Act by importing teak wood into Germany in violation of Regulation (EC) No 194/2008, which imposed an embargo on teak wood from Myanmar.
In its judgment, the Court of Justice had essentially ruled that the cutting of teak logs into sawn timber in a third country, as opposed to the processing into teak squares and the simple debranching and debarking of logs in third countries, resulted in a 'change of origin'.
On that basis, the German high court then overturned the convictions insofar as they concerned the import of sawn wood processed in Taiwan, but upheld them with regard to the import of teak squares and logs that were simply trans-shipped in Singapore or Malaysia.

*Bundesgerichtshof, order of 25/11/2024, 3 StR 373/21 (**DE**)*
Press release (DE)

Hungary – Supreme Court

[MOL, C-425/22)

Jurisdiction in matters of tort or quasi-tort – Place where the damage occurred – Cartel declared contrary to Article 101 TFEU – Subsidiaries established in different Member States

The Supreme Court rejected the appeal in cassation that had been brought before it, in which the appellant had invoked the international jurisdiction of the Hungarian courts on the basis of Article 7(2) of Regulation (EU) No 1215/2012. The applicant argued that its head office, as the centre of the economic and patrimonial interests of the group of companies that it formed with its subsidiaries, was the place where the 'harmful event' had occurred, within the meaning of that provision. Agreeing with the interpretation given by the Court of Justice in its judgment in Case C-425/22, the Hungarian Supreme Court ruled that, in the case of a group of companies where the subsidiaries' registered offices are located in different Member States of the European Economic Area, the concept of 'place where the harmful event occurred' does not extend to the registered office of a parent company that brings an action for damages for harm suffered solely by its subsidiaries as a result of anti-competitive conduct by a third party in breach of Article 101 TFEU, even where it is alleged that that parent company and those subsidiaries form a single economic unit.

*Kúria, order of 27/11/2024, Gfv.VI.30.221/2024/4. (**HU**)*

Spain – High Court of Justice of Catalonia

[Prestige and Limousine, C-50/21]

Freedom of establishment – Restrictions – Service for hiring private vehicles with driver

The Superior Court of Justice of Catalonia annulled the regulations on private hire vehicle with driver services in the Barcelona metropolitan area on the grounds that the Barcelona metropolitan area did not have the authority to enact such regulations.
In this judgment, the Superior Court of Justice of Catalonia also ruled that the need to implement an additional local operating licence in addition to the national licence was not justified, and that certain measures implemented by said regulation were neither necessary nor proportional to the purpose pursued by it.
Furthermore, adopting the case-law of the Court of Justice in its judgment in Case C-50/21, it considered that the establishment of a ratio of 1 private hire vehicle to 30 taxis is contrary to European Union law, on the grounds that such a measure is not justified by overriding reasons in the general interest.

*Cour supérieure de justice de Catalogne [the name should be in Spanish], judgment of 27/11/2024 No 4104/2024 (**ES**)*

Belgium – Liège Labour Court

[Commune d'Ans, C-148/22]

Social policy – Working regulations of a public administration prohibiting the visible wearing of any philosophical or religious sign in the workplace – Islamic headscarf

Following the judgment of the Court of Justice in Case C-148/22, the Liège Labour Court declared the request of the interested party to be well founded. Considering that the Law of 10 May 2007 aimed at combating certain forms of discrimination applied to the dispute, the Belgian court found the existence of discrimination based on a protected criterion – religious belief – within the meaning of this law. The Court ruled that the Municipality of Ans had the material competence to adopt a working regulation aimed at regulating issues of restrictions on the freedoms referred to in Article 19 of the Belgian Constitution. Furthermore, it ruled that, while the application of Article 9 of the working regulations in question had not created direct discrimination to the detriment of the interested party, it had nevertheless created indirect discrimination against the interested party.

Tribunal du travail de Liège, order of 3/12/2024, No 24/8725 [decision not yet published]

Sweden – Supreme Administrative Court

[Keva and Others, C-39/23]

Free movement of capital – Public pension funds – Taxation of dividends

Taking into account the judgment handed down by the Court of Justice in Case C-39/23, the Supreme Administrative Court ruled that it is contrary to the free movement of capital to levy a withholding tax on dividends paid to three Finnish public pension institutions, while dividends paid to Swedish public pension funds are exempt from tax. The Swedish high court therefore considered that Finnish pension institutions are entitled to a refund of the tax paid. The case has been referred to the Swedish tax authorities so that they can verify whether the pension institutions concerned are also entitled to interest on the amounts refunded.

*Högsta förvaltningsdomstolen, judgment of 19/12/2024 No 6973--6977-21, 7550--7558-21, 664--669-22 (**SV**)*

Slovenia – Supreme Court

[Kubera, C-144/23]

Judicial proceedings – Preliminary examination of an application for leave to appeal – No national provisions on the examination of a party's proposal for referral to the Court of Justice for a preliminary ruling – Obligation to state reasons for refusing such a referral

Based on the judgment of the Court of Justice in Case C-144/23, the Supreme Court rejected an application for leave to appeal and justified this rejection by stating that the correct interpretation of Regulation (EU) No 608/2013 was so obvious that it left no room for reasonable doubt. In this respect, the high court specifies that it may be exempted from referring the matter to the Court of Justice when the question raised is not relevant, when the provision of Union law in question has already been interpreted by the Court of Justice or when the correct interpretation of Union law is so obvious as to leave no room for reasonable doubt, it being understood that, in such cases, it is required to give reasons. Furthermore, it notes that, when examining an application for leave to appeal, it is only obliged to consider referring the case to the Court of Justice if one of the parties to the proceedings has made such a proposal. It specifies that, when the Supreme Court's chamber for the admission of appeals considers, on the basis of the arguments raised by one of the parties to the proceedings, that such a referral is appropriate, it must admit the appeal for review and leave the final decision on said referral to the review chamber, which will rule on the merits of the case.

*Vrhovno sodišče Republike Slovenije, order of 25/1/2025, No X DoR 380/2022-30 **(SI)** [decision not yet published]*

Germany – Federal Court of Justice

[Kiwi Tours, C-584/22]

Package holidays – Right of cancellation – Unavoidable and extraordinary circumstances – COVID-19 pandemic

The Federal Court of Justice issued a ruling on the circumstances under which a traveller who cancels a package holiday contract before the start of the trip is exempt from paying compensation to the tour operator. Endorsing the interpretation by the Court of Justice of Article 12(2) of Directive (EU) 2015/2302 in its judgment in Case C-584/22, the high court clarified that the only determining factor was whether, at the time of cancellation, there were indeed exceptional and unavoidable circumstances having significant consequences on the completion of the journey or on the transport of passengers to the place of destination. Thus, neither the ban on entry nor the cancellation of the trip in the context of the COVID-19 pandemic, occurring after the termination of the travel contract, can be taken into account in this respect. As the Federal Court of Justice was not in a position to make a final decision on this issue, it annulled the appeal judgments and referred the cases back to the appeal courts for them to make a new decision.

*Bundesgerichtshof, judgments of 28/1/2025, X ZR 53/21, X ZR 55/22 (**DE**)*
Press release (DE)

The Research and Documentation Directorate's intranet site lists all the analyses of follow-up decisions received and processed by the Directorate since 1 January 2000, classified by year according to the date on which the case was brought before the Court. All the analyses drawn up in the context of the follow-up to preliminary rulings are also available, in particular via the internal portal, under each preliminary ruling, under the heading 'Litigation at national level', and on Eureka, under the source 'Analyses', under the heading 'National decision'.