



COURT OF JUSTICE
OF THE EUROPEAN UNION

THE COURT OF JUSTICE AND YOUNG PEOPLE



INTRODUCTION

Since 1952, the Court of Justice of the European Union (CJEU) has ensured the observance and correct application of EU law in the Member States. Over the years, it has delivered judgments which have reinforced European integration while granting citizens, and in particular young people, rights which are ever more far-reaching. Several prominent judgments by the Court are set out over the following pages, according to topic.



THE RIGHTS OF STUDENTS

The Court has been faced with many disputes in this field, since an ever-growing number of students pursue part of their studies in a Member State other than their own. It has thus had to deal with the following issues: does restricting the access of students from other Member States to a Member State's universities constitute discrimination ? May a Member State refuse to grant certain allowances to students from other Member States ? And do the children of cross-border workers have rights in the Member State in which their parents work ?



THE RIGHTS OF STUDENTS



Access to higher education

In 2004, the Court held that Belgium was discriminating against holders of secondary education diplomas from other Member States (such as holders of the French Baccalaureate or the German Abitur), on the grounds that they could not access Belgian higher education under the same conditions as those reserved to holders of Belgian secondary education diplomas (judgment of 1 July 2004, *Commission v Belgium*, C-65/03). The same finding was made against Austria one year later, in 2005 ([judgment of 7 July 2005, *Commission v Austria*, C-147/03](#)).

In 2010, the Court also stated that a Member State may not, as a rule, limit the registration of students from other Member States for certain university courses in the medical field unless such a limitation is justified on the grounds of the protection of public health. In that regard, the Member State must establish, with solid and consistent data, that there is a risk of a reduction in the number of graduates prepared to ensure health care services in its territory ([judgment of 13 April 2010, *Bressol and Others*, C-73/08](#)).



THE RIGHTS OF STUDENTS

Financing studies and the allowances granted to students

A Member State may not refuse a student loan or grant to students who reside in that State and who fulfil the conditions to remain there ([judgment of 15 March 2005, *Bidar*, C-209/03](#)). Nevertheless, Member States may reserve entitlement to those loans or grants to students who demonstrate a degree of integration into their society and who have been resident for a certain duration in that State. In 2008, the Court held on this issue that a requirement of 5 years' prior residence complied with EU law ([judgment of 18 November 2008, *Förster*, C-158/07](#)).

In 2012, the Court held that Austria discriminated against students from other Member States inasmuch as only students whose parents received Austrian family allowances were entitled to reduced transport rates (judgment of 4 October 2012, *Commission v Austria*, C-75/11).



THE RIGHTS OF STUDENTS

The situation of children of cross-border workers

In 2013, the Court ruled that a Member State (in this case, Luxemburg) may not systematically refuse the children of cross-border workers entitlement to grants, even if those children are not resident on its territory. It is sufficient that the parents (or one of the parents) have worked for a significant period of time in the Member State in question for a sufficient attachment with that State to be formed ([judgment of 20 June 2013, *Giersch and Others*, C-20/12](#)).

The Court also stated that children of cross-border workers were discriminated against in the Netherlands on the ground that only students who had been resident in the Netherlands for at least 3 of the 6 preceding years were eligible for funding for pursuing studies abroad. According to the Court, that residence requirement was too exclusive ([judgment of 14 June 2012, *Commission v Netherlands*, C-542/09](#)).



PROTECTION OF PERSONAL DATA

In the era of information technology and the internet, respect for privacy and the protection of personal data have become extremely sensitive topics. The Court has, in particular, answered two questions in that field: is there 'a right to be forgotten' on search engines and is the personal data of EU citizens sufficiently protected within and outside the EU ?

In 2014, the Court found that there was 'a right to be forgotten' on search engines. Thus, a person who wishes a link to information about his private life no longer to appear following a search made of his name may request the operator of the search engine and, in the event of its refusal, the competent authorities, to remove that link on the list of results. The Court nevertheless stated that, in certain cases, the public's right to information may override a request for removal of a link ([judgment of 13 May 2014, *Google Spain and Google*, C-131/12](#)).

In 2015 the Court furthermore declared invalid the decision of the European Commission allowing Facebook to transfer the personal data of its European users to the United States, in particular because that decision did not guarantee adequate protection against access by the American authorities to the data transferred from EU countries ([judgment of 6 October 2015, *Schrems*, C-362/14](#)).



THE RIGHTS OF AIRLINE PASSENGERS

Three thousand million passengers take flights every year. The Court has adjudicated on their rights and in particular has answered a recurrent question: in which cases and under what conditions must an airline company pay compensation to its passengers ?

In 2009, the Court declared that passengers whose flight is delayed by three hours or more have the right to compensation, as do passengers whose flight is cancelled, unless the airline company can prove that the delay is due to extraordinary circumstances beyond its actual control ([judgment of 19 November 2009, *Sturgeon*, C-402/07](#)). The Court then specified that the collision of a set of mobile boarding stairs with an aeroplane and most unexpected technical problems do not constitute extraordinary circumstances and thus do not exclude the right to compensation (judgment of 14 November 2014, *Siewert and Others*, C-394/14; [judgment of 17 September 2015, *van der Lans*, C-257/14](#)).

The Court also stated in 2014 that the effective arrival time of the flight refers to the time at which at least one of the doors of the aeroplane is opened. It is only when the passengers are authorised to leave the aircraft that they may resume their activities without constraints ([judgment of 4 September 2014, *Germanwings*, C-452/13](#)).



THE RIGHTS OF CONSUMERS

To what extent may pictures on the packaging of a foodstuff and information on the low salt content of mineral water mislead consumers ? These are two questions to which the Court, among its numerous judgments on consumer protection, has recently responded.

In 2015, the Court observed that consumers must have correct, neutral and objective information. Thus, where a product's packaging suggests the presence of an ingredient which is in fact absent, the purchaser may be misled even if the list of ingredients is accurate. That was the case with a fruit tea whose packaging showed images of raspberries and vanilla-flower, although it did not contain any natural ingredient of raspberry or vanilla-flower ([judgment of 4 June 2015, Teekanne, C-195/14](#)).

Also in 2015, the Court confirmed that the sodium content stated on the packaging of bottles of mineral water must reflect the total quantity of sodium in all its forms (table salt and sodium bicarbonate). Consumers might be misled if a water was presented as low in salt, even though it was rich in sodium bicarbonate ([judgment of 17 December 2015, Neptune Distribution, C-157/14](#)).



SOCIETY/ HEALTH

Since EU law covers vast and varied fields, it is not unusual for the Court to be faced with questions on society or health. In particular, the Court has had to answer the two following questions: may a same-sex life partner be entitled to a widower's pension and may EU citizens receive medical treatment in a Member State other than their own ?

As far back as 1998, the Court held that EU citizens may receive medical treatment in a Member State other than their own and be reimbursed in accordance with the rates of the Member State where they are insured (the State in which they are registered with the health insurance fund). That principle originated from the fact that the Luxemburgish health insurance fund refused two Luxemburgish nationals reimbursement of a pair of glasses bought in Belgium and orthodontic treatment in Germany respectively ([judgments of 28 April 1998, *Decker*, C-120/95 and *Kohll*, C-158/96](#)). As regards hospital treatment delivered in another Member State, although it is subject to prior authorisation from the Member State where the patient is insured, the authorisation must not be refused arbitrarily. In particular, a person may undergo an operation in another Member State if the waiting time for the operation in his own State exceeds an acceptable period, having regard to his state of health (judgment of 12 July 2001, *Smits and Peerbooms*, C-157/99 and [judgment of 16 May 2006, *Watts*, C-372/04](#)).

In 2008, the Court held that the refusal to grant a widower's pension to a homosexual life partner constituted direct discrimination on the basis of sexual orientation in so far as the surviving life partner is in a comparable situation to that of a surviving spouse. In the case in question, a German occupational pension scheme had refused to grant a widower's pension to a man whose registered life partner had died ([judgment of 1 April 2008, *Maruko*, C-267/06](#)).



SPORT

The Court has, on several occasions, been called upon to settle disputes essentially concerning sport and in particular on the right to information and the accessibility of broadcasts in relation to sports competitions.

In 1995, the Court held that footballers are workers who are thus free to accept employment with the club of their choice at the end of their contract without their new club being liable to pay any fee in that respect. Since that judgment, football clubs may put forward a team for a national championship in which no player has the nationality of the country in which the championship is taking place (judgment of 15 December 1995, *Bosman*, C-415/93).

The Court further confirmed in 2013 that the Member States may require the free broadcasting of football matches in the World Cup and the EURO ([judgment of 18 July 2013, *UEFA v Commission*, C-201/11](#)). Also in 2013, the Court held that the authorities may restrict broadcasting fees for short extracts from football matches, such that television channels may make short news reports at a lower cost ([judgment of 22 January 2013, *Sky Österreich*, C-283/11](#)).



PROTECTION OF THE ENVIRONMENT

The Court often has the opportunity to adjudicate on environmental topics, since the European Union adopts many measures in this field. Thus, the Court has already ruled on the protection of many animal species (birds, tortoises, hamsters, lynx, etc.), on the treatment of waste and of urban waste-water, the observance of nitrogen dioxide limit values, the rules on the marketing of products derived from seal or on greenhouse gas emission quotas.

Under the ‘twofold infringement procedure’ (on account of the failure by a Member State to comply with an initial judgment delivered against it), the Court has been led to impose — sometimes significant — financial sanctions on Member States which have failed to comply with its judgments on environmental protection. Thus, the largest fixed sum imposed (EUR 40 million) was on Italy in 2014 for infringement of the EU rules on waste treatment ([judgment of 2 December 2014, *Commission v Italy*, C-196/13](#)). The heaviest fine (EUR 57.55 million per six-month period of delay) was imposed on France for having failed to carry out correct controls on the fishing of certain fish (hake under the minimum size required by the EU, [judgment of 12 July 2005, *Commission v France*, C-304/02](#)).





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