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Judgment of the Court in Case C-124/21 P | International Skating Union v Commission

The rules of the International Skating Union on the prior authorisation of skating competitions infringe EU law

They have the object of restricting competition to the detriment, in particular, of athletes, consumers and audiences

Following the European Commission and the General Court, the Court of Justice confirms that the rules of the International Skating Union, which empower it to subject international skating competitions to its approval and to impose severe penalties on athletes who take part in unauthorised competitions, are unlawful because they are not subject to any guarantee ensuring that they are transparent, objective, non-discriminatory and proportionate. They give the ISU a clear advantage over its competitors and have unfavourable effects for athletes as well as consumers and broadcast audiences.

The International Skating Union (ISU) is the only international sports association recognised by the International Olympic Committee ('the IOC') in the field of figure skating and speed skating. It regulates, governs and promotes that sport on a worldwide basis. At the same time, it carries out an economic activity consisting of organising international competitions and exploiting the associated rights.

According to the rules of the ISU, the organisation of international competitions require its prior approval. Moreover, athletes who take part in a competition that has not been authorised by the ISU are liable to be excluded from all competitions for a specific period or for life. Lastly, authorisation refusals and sanctions may be challenged only before the Court of Arbitration for Sport in Lausanne (Switzerland).

In 2017, the Commission found that the rules on the authorisation of competitions and athletes' participation infringe EU law^{1 2}. They allow the ISU to prevent the organisation of events in competition with its own and to prevent professional skaters from taking part in them. Furthermore, according to the Commission, the arbitration rules deprive such skaters of effective access to the courts.

In 2020, the General Court of the European Union dismissed³ the action brought by the ISU against the Commission decision concerning the rules governing authorisation and participation, and thereby confirmed that they were unlawful. However, it held that the Commission had incorrectly called in question the arbitration rules.

By today's judgment, **the Court of Justice** dismisses the appeal lodged by the ISU against the judgment of the General Court and thereby further confirms that the **rules of the ISU** are unlawful. However, the Court of Justice holds, in contrast to the General Court, that the Commission had correctly called in question the arbitration rules.

The Court of Justice observes, first of all, that the organisation of sporting competitions clearly constitutes an economic activity. That activity must therefore comply with the competition rules, even though sport as an economic activity has certain specific features, such as the existence of associations with regulatory, control and sanctioning powers.

Next, the Court stresses that a sports association such as the ISU may adopt and ensure compliance with, by means of sanctions, rules relating to the organisation and holding of competitions. However, **those rules must be subject to a framework so as to ensure that they are transparent, objective, non-discriminatory and proportionate.**

If this is not the case, those rules are liable to make it possible to exclude any competing undertaking from the market and restrict the holding of new competitions. In addition, they may prevent athletes from taking part in those competitions. Lastly, they may deprive spectators and broadcast audiences of any opportunity to watch such competitions.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ See Commission Press Release [IP/17/5184](#).

² Article 101(1) of the Treaty on the Functioning of the European Union declares incompatible with the internal market and prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market.

³ Judgment of the General Court of 16 December 2020, *International Skating Union v Commission*, [T-93/18](#) ; see also [PR No 159/20](#).