



## PRESS RELEASE No 80/24

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Judgment of the Court in Case C-115/22 | NADA and Others

### The Austrian arbitration committee competent to combat doping in sport is not entitled to submit questions to the Court of Justice

*The Court takes account of a number of criteria to determine whether a body is a 'court or tribunal' for the purposes of EU law, including the requirement of independence, which is not met by that body*

In Austria, a professional athlete was found to have infringed the anti-doping rules, as a result of which she was made subject to penalties. Thus, all her results achieved in competition as from 10 May 2015 were annulled. Moreover, all her titles, medals, prizes, entry fees and prize money as from that date were revoked, and she was suspended from sporting competitions of any kind for four years as from 31 May 2021.

The athlete is seeking, before the Austrian Independent Arbitration Committee (the USK), that her name, the infringements committed and the penalties imposed not be published. The USK has asked the Court of Justice whether such publication, as provided for by Austrian law, is compatible with the General Data Protection Regulation (GDPR) <sup>1</sup>.

The Court holds that the request for a preliminary ruling made by the USK is inadmissible.

The Court recalls the fact that the referring body – in the present case, the USK – must be capable of being classified as a 'court or tribunal' for the purposes of EU law in order to be entitled to submit questions to it. **The USK does not meet the requirement of independence. The members of the USK may be dismissed by the Federal Minister for Arts, Culture, Civil Service and Sport early 'on serious grounds', without that concept being defined in the national legislation. Furthermore, that decision is a matter exclusively for that minister, namely a member of the executive, without precise criteria or precise guarantees having been established in advance. Thus, there is no guarantee that the members of the USK are protected from external pressure that is liable to cast doubt on their independence.**

Nevertheless, **that fact in no way relieves the USK of the obligation to ensure that EU law is applied in its practice.** Furthermore, the Court notes that the athlete has also brought a challenge before the Austrian Federal Administrative Court in order to seek protection of her personal data. That court has stayed the proceedings before it pending an answer from the Court of Justice in the present case.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

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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<sup>1</sup> [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).