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Survey

Private enforcement of competition law: a survey of preliminary references to the Court of Justice (2024–2025)

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Key Points

- The cases reported concern the assignment of claims to third-party litigators, limitation periods, and the consequences of the competition law concept of a 'single economic unit' with regard to the jurisdiction of national courts under the Brussels I bis Regulation.
- For example, in *ASG 2*, the Court of Justice was asked whether EU law requires that collective redress, in some form, be available in the Member States, but allowed the Member States a rather wide margin of discretion on the matter.
- Another example was *Heureka*, in which the Court of Justice ruled that EU law precludes national rules on the limitation of follow-on damages actions if they do not provide for the limitation period to be suspended, at the very least, until one year after the date on which the public enforcement decision finding an infringement has become final.
- As the case law develops, we gain legal foreseeability in private enforcement of competition law that will, in turn, further increase incentives to seek compensation for harm caused by infringements.

1. Introduction

This survey reports developments in private enforcement of EU competition law in the years 2024 and 2025, up until 31 May of the latter year. As there have been no news in EU regulation during this period, the report focuses on case law developments.

Private enforcement of competition law takes the form of civil litigation. As a consequence, it falls under the jurisdictions of national courts and will only find its way to the Court of Justice of the European Union (CJEU) through references for a preliminary ruling. For the purposes of this report, this also means there have been many cases before national courts that will be interesting but cannot be covered here. To offer just two examples, the infamous trucks cartel[1] and the Booking.com infringement[2] have both given rise to an array of damages claims across European jurisdictions.[3]

The CJEU case law to be reported mainly concerns three core aspects that will each be covered in one of the sections below. First, whether national law can preclude or restrict the possibility for victims of an infringement of competition law to assign their damages claim to a provider of legal services (a 'third-party litigator'). This is an issue of fundamental importance to the business model of certain providers active in the private enforcement of competition law. Second, several cases referred to the Court of Justice have concerned limitation periods that apply to damages claims, whether or not the rule on limitation periods in the 2014 Competition Damages Directive[4] is temporally applicable in the proceedings. A new case on this issue is reported below. Third, issues related to jurisdiction and other procedural matters where the infringer is an undertaking that includes both subsidiaries and parent companies who are jointly and severally liable to compensate the victims of the infringement. Over and above these core issues that have been further developed, I will briefly highlight a reference for a preliminary ruling which is pending before the Court of Justice, concerning the accrual of

[1] *Trucks* (Case AT.39824) Commission Decision of 27 September 2017. An appeal by Scania was finally dismissed in Case C-251/22 P *Scania and Others v Commission*, EU:C:2024:103.

[2] The case relates to public enforcement by several national competition authorities. It first found its way to the CJEU in Case C-264/23 Booking.com *BV and* Booking.com *(Deutschland) GmbH v 25 hours Hotel Company Berlin GmbH and Others*, EU:C:2024:764. The reference for a preliminary ruling stems from private enforcement litigation in the Netherlands, but the questions referred did not concern private enforcement issues. Hence, it will not be reported here.

[3] Many of these have been brought before courts in Spain. Readers interested in the Spanish claims can follow the extensive reporting by professor Francisco Marcos at the blog site Almacén de Derecho (Madrid), available at https://almacendederecho.org/category/autor/francisco-marcos. Other examples in Europe include the ongoing Booking.com litigation in the Netherlands (n 2) and the German trucks cartel judgment by the *Bundesgerichtshof* of 9 July 2024, KZR 98/20.

[4] Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union [2014] OJ L349/1.

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interest on damages awards. In the final section a few concluding and forward-looking remarks will be offered.

2. Assignment of the right to claim damages

The funding and carrying out of litigation for a group of victims of an infringement of competition law is a growing business in the EU. The business model depends on the capacity of victims to assign their right to claim damages to a third party, who will then pursue the claims jointly and reap a share of the final damages award, if any. The case reported here, *ASG 2*,[5] concerned whether a national limitation of this capacity was compatible with EU law. As Advocate General Szpunar pointed out in his Opinion in this case, it is well-known that damages claims for an infringement of competition law (Articles 101 and 102 TFEU both) are often collected into some form of collective proceedings.[6] Indeed, among others, Beard and Jones have observed that victims of the infringement may often have too little individual incentive to bring proceedings.[7] The costs for bringing complex evidence will be too high for them to bother with collecting what may for each victim be a rather small amount of compensation. Therefore, group actions brought by professional providers of legal services specializing in collection for the collective of victims can contribute to the system of accountability for infringements, and thereby indirectly to deterrence from infringements.[8]

This preliminary ruling by a Grand Chamber originated from the Landgericht (Regional Court) Dortmund, in the context of a group action for damages for harm caused by an alleged cartel infringement of Article 101 TFEU. The cartel infringement consisted in a harmonisation of prices for unwrought coniferous timber by a number of German regions (Länder) during the period from 28 June 2005 to 30 June 2019. The victims of the alleged cartel were 32 sawmills established in Germany, Belgium and Luxembourg. The defendant was Land Nordrhein-Westfalen.

The victims had assigned their rights to damages in respect of the infringement of competition law to a third-party litigator, ASG 2 Ausgleichsgesellschaft für die Sägeindustrie Nordrhein-Westfalen GmbH, which acted as claimant in the main proceedings. In its arguments presented to the national court, the defendant challenged, *inter alia*, the standing of such a claimant. Although it was accepted under German law to assign rights to damages in a number of contexts, for the purposes of bringing a group action for damages, this had not been accepted for harm caused by an infringement of competition law. Indeed, the referring court considered that, under German law, the assignments made by the victims to the claimant must be regarded as invalid. However, the referring court was also concerned whether such an interpretation of German law was compatible with EU law.

The question referred to the Court of Justice for a preliminary ruling was therefore, in essence, whether EU law precludes national law from preventing victims of an infringement of competition law to assign their right to damages to a provider of legal services.

The Court of Justice noted that EU law recognizes the possibility of group actions for the collection of such compensation but does not require for Member States to establish a mechanism for such group actions.[9] The Court of Justice then proceeded to examine the question referred under the EU law principle of effectiveness, as the national court had framed its question in relation to that principle. As I will elaborate below, this is a reason to read *ASG 2* with some caution. Leaving this aside for the moment, the main effectiveness issues in the case were, firstly, whether German law provided any effective collective action mechanism that could serve as an alternative to a group action for collection, and, secondly, whether the conditions for bringing an individual action made it impossible or excessively difficult to exercise the right to compensation.[10] The Court recognized that the grouping together of individual claims may facilitate the complex factual and economic analyses required in actions for damages, especially in stand-alone actions. However, the Court continued, these difficulties did not in themselves mean that it was contrary to the principle of effectiveness if victims had to pursue their claims individually.

In sum, the Court of Justice ruled that EU law precluded an interpretation of national legislation which had the effect of preventing victims of an infringement of competition law from assigning their rights to compensation to a provider of legal services, that would bring a stand-alone action, only if (i) national law did not provide for any other possibility of grouping together the individual claims of victims that would ensure the effective exercise of those rights to compensation, and (ii) the bringing of an individual action for damages was impossible or excessively difficult.

The Court of Justice had not previously been asked whether EU law requires that collective redress, in some form, be available in the Member States. *ASG 2* is therefore an important case. The Court took a lenient approach to the issue, allowing the Member States a rather wide margin of discretion. The baseline option of allowing only individual claims seemed to satisfy the Court, as long as there were no special conditions in national law that would hinder such claims for damages.

There are, however, certain hints in the judgment that signal a need for the reader to proceed with caution. First, the Court of Justice very clearly emphasized that the national court did not ask it to interpret any other general principle of EU law than the principle of effectiveness. While the Court took the opportunity to also include the right to effective judicial protection (now enshrined in Article 47(1) of the Charter) in its considerations, it did not touch upon the principle of equivalence. If the national court had included the principle of equivalence in its reference, it is plausible that it would have been offered different answers. Indeed, the Court of Justice took care to point out that group actions for the collection of damages are rather common and accepted under German law, and that it seemed they could be available in follow-on actions.[11] Under the principle of equivalence, the conditions governing actions based on EU law must not be less favourable than those governing similar actions under national law. By 'similar actions', the Court of Justice has intended

[5] Case C-253/23 *ASG 2 Ausgleichsgesellschaft für die Sägeindustrie Nordrhein-Westfalen GmbH v Land Nordrhein-Westfalen*, EU:C:2025:40.

[6] Opinion of AG Szpunar in Case C-253/23 *ASG 2 Ausgleichsgesellschaft für die Sägeindustrie Nordrhein-Westfalen GmbH v Land Nordrhein-Westfalen*, EU:C:2024:767, para 1.

[7] Daniel Beard and Alison Jones, 'Co-contractors, Damages and Article 81: The ECJ Finally Speaks' (2002) 23 *European Competition Law Review* 246, 255.

[8] Recommended further reading: Csongor István Nagy, 'Collective Redress and Aggregation of Claims' in Barry J Rodger, Miguel Sousa Ferro and Francisco Marcos (eds), Research Handbook on Private Enforcement of Competition Law in the EU (Edward Elgar Publishing 2023).

[9] *ASG 2* (n 5) paras 67–69.

[10] ibid para 84.

[11] ibid paras 25–26.

actions with a similar purpose and essential characteristics.[12] While the final assessment must be made in individual cases, it would seem rather clear that the principle of equivalence will require for group actions for the collection of damages to be available in stand-alone actions if they are available in follow-on actions for damages by reason of an infringement of competition law. The principle of equivalence might also lead to the same consequence if group actions for the collection of damages are available for other actions under German law, provided that the actions have a similar purpose and essential characteristics.

3. Limitation periods in national law

Since the adoption of the 2014 Competition Damages Directive, there have been several cases in which the Court of Justice has been called upon to address the compatibility of national limitation periods with the rules of the Directive as well as with Article 101 or 102 TFEU and general principles of EU law. In several cases, the core issue has been at what point in time the rules in the Directive are temporally applicable, or, in other words, how to bridge the transition from EU law before the 2014 Competition Damages Directive to EU law under that Directive. This has been an especially thorny issue in relation to Article 10 of the Directive, which comprises its rules on limitation of damages claims. Other issues in the case law have been the *dies a quo*, that is, on which date the applicable national limitation period can begin to run, and under what circumstances limitation periods should be interrupted or suspended.

A new case, *Heureka*,[13] contributes to this development of the case law. This Grand Chamber judgment arose from one of many cases concerning Google's alleged abuse of its dominant position in the supply of online searches.[14] There is also a recent Opinion by Advocate General Medina in *Nissan*,[15] concerning the exchange of commercially sensitive information in violation of Article 101 TFEU. The Court of Justice has not yet delivered its ruling in the latter case. In this section, the legal issues involved will be covered in turn.

A. *The dies a quo for limitation of damages actions*

One of the most important previous cases on limitation periods in competition damages actions is *Cogeco*,[16] in which the Court of Justice ruled that Article 102 TFEU and the principle of effectiveness preclude a three-year limitation period that, firstly, starts to run even if the injured party was still unaware of the identity of the person liable, and, secondly, does not include any possibility of suspending or interrupting that period during proceedings before the national competition authority. As we will see below, the situation and findings were quite similar in *Heureka*.

Heureka, the claimant, argued that Google had abused its dominant position by favouring its own comparison shopping search services to the detriment of competing comparison shopping search services such as Heureka's. This abuse by Google had allegedly reduced the number of visits to Heureka's price comparison portal from February 2013 to 27 June 2017. The abuse had begun before the entry into force of the 2014 Competition Damages Directive on 25 December 2014, and ceased after the expiry of the time limit for the transposition of the rules of the Directive into national law on 27 December 2016. Google counter argued, inter alia, that Heureka's claim was barred under the applicable limitation rules of the Czech Republic, at least with regard to the period from February 2013 to 25 June 2016. The Czech limitation period was three years, and would start to run from the moment when the injured party knew or could have known of the harm and the identity of the party required to pay compensation. By contrast, Article 10 of the Directive includes a mandatory minimum limitation period of five years. The referring court, the Městský soud v Praze (Prague City Court), therefore essentially asked the Court of Justice whether EU law, and in particular Article 10 of the Directive and the principle of effectiveness, preclude a national three-year limitation period applicable to actions for damages for an infringement of competition law, which starts to run when the injured party knows, or could reasonably be expected to have known, that it had suffered harm and the identity of the party liable to pay compensation for the harm, and which is not suspended during public enforcement investigations.[17]

Since it was not prima facie evident whether the 2014 Competition Damages Directive would be applicable in the main proceedings, the Court of Justice first assessed the *dies a quo* issue as a matter of the full effectiveness of Articles 101 and 102 TFEU.[18] In that regard, the Court held that the exercise of the right to compensation for harm caused by an infringement of competition law would be rendered practically impossible or excessively difficult if the limitation periods applicable to such actions 'began to run before the infringement came to an end and the injured party did not know, or could not reasonably have been expected to know, the information necessary for bringing its action for damages'.[19] The Court therefore indicated an effectiveness test, comprising two distinct conditions, to guide the final assessment by the national court.

The first condition of the effectiveness test was that a limitation period must not begin to run before the infringement has come to an end. The Court of Justice held that such a condition was necessary in order to make it possible for the claimant to meet its burden of proof in relation to the existence of an infringement, the suffering of harm, and the causal link between the two. These issues, the Court observed, are complex and there is an information asymmetry to the detriment of the injured party.[20] The Court moreover agreed with Advocate General Kokott, who argued in her Opinion that the condition that a limitation period must not begin to run before the infringement has come to an end gives infringers an incentive to end their infringements.[21]

The second condition of the effectiveness test was that limitation periods cannot begin to run before the injured party knows, or could reasonably be expected to know, the information necessary for bringing its action for damages. The information at issue, the Court of Justice held, included 'the existence of an infringement of competition law, the existence of harm, the causal link between that harm and that infringement, and the identity of the infringer'.[22] In principle, the Court continued, such knowledge would presumably coincide with the publication of a summary

12 Case C-118/08 *Transportes Urbanos* EU:C:2010:39 para 35.
13 Case C-605/21 *Heureka Group a.s. v Google LLC*, EU:C:2024:324.
14 The main proceedings on the alleged abuse are pending before the Court of Justice as Case C-48/22 P *Google and Alphabet v Commission*.
15 Case C-21/24 *CP v Nissan Iberia, S.A.*
16 Case C-637/17 *Cogeco Communications Inc v Sport TV Portugal SA and Others* EU:C:2019:263.
17 The referring court initially also asked questions overlapping with those in Case 267/20 *Volvo and DAF Trucks* EU:C:2022:494, but withdrew those questions when they had been answered in the other reference.
18 *Heureka* (n 13) para 52.
19 ibid para 55.
20 ibid paras 56–60.
21 ibid paras 61–63. Cf. Opinion of AG Kokott in Case C-605/21 *Heureka Group a.s. v Google LLC*, EU:C:2023:695 para 118.
22 *Heureka* (n 13) para 64.

Commission decision concerning the infringement at issue in the EU *Official Journal*,[23] even if the Commission decision was under appeal. This was because such a decision has binding effect as long as it has not been annulled, and claimants can rely on the decision to support their action for damages from the infringer.[24] However, the Court also held, it is possible in some instances that claimants gain the necessary knowledge at an earlier date. In such instances, it would be for the defendant in the damages proceedings to demonstrate that the claimant had the necessary knowledge at an earlier date.[25]

In her Opinion in the pending case *Nissan*,[26] AG Medina succinctly summarized these holdings as meaning that limitation periods in actions for competition damages cannot begin to run until 'two cumulative conditions must be met, namely (i) the cessation of the infringement of competition law (the objective element) and (ii) knowledge of the information necessary for bringing an action for damages (the subjective element)'.[27] These conditions coincide quite perfectly with the conditions for the *dies a quo* in Article 10(2) of the 2014 Competition Damages Directive. As a result of these findings in *Heureka*, there is very close similarity between the pre-Directive and post-Directive regimes for damages actions by reason of an infringement of EU competition law, at least insofar as damages actions following a Commission decision are concerned. Indeed, it is striking that where the Directive is not applicable, or it is uncertain whether it is applicable, the Court of Justice is interpreting primary law in a manner which very closely reflects the rules in the Directive. Arguably, the Court is elevating the essence of the rules in the Directive to primary law status. This is not done without slight variations, but it is nonetheless striking. The benefit of the Court's approach is that it brings consistency and legal certainty. Any differences between the pre- and post-Directive situations are minimized, thereby avoiding what would seem to be arbitrary but far-reaching consequences for litigants. At the same time, the Court must walk a tightrope in order not to come across as violating the rules and principles of temporal applicability for Directive rules that are stipulated by the EU legislature.

Irrespective of this possible tension between the legislative and judicial powers, the case law is also adding new and very useful interpretations that will apply under the 2014 Competition Damages Directive even though they have been based on a discussion of primary law. For instance, *Heureka* offers a rule of thumb on when a potential claimant can be presumed to 'know', within the meaning of Article 10 of the Directive, that a certain behaviour constitutes an infringement of competition law: When a Commission decision on the matter is published, potential claimants will have such knowledge. This is, as the Court pointed out, without prejudice to the possibility for the defendant to demonstrate that the claimant had such knowledge at an earlier time.

The pending *Nissan* case concerns the same issue, but (as in *Cogeco*), the action has been brought following national public enforcement of competition law. In her Opinion in *Nissan*, AG Medina has observed that the core matter of the case is at what point a claimant will have knowledge of the necessary information which enables that party to bring an action for damages.[28] AG Medina opined that, for the purposes of follow-on actions, the claim arises when the claimant can rely on a decision that is capable of producing specific legal effects. In the circumstances of the *Nissan* case, the *dies a quo* should therefore, she argued, be placed on the date when the national decision has become final.[29] By contrast, we saw above that in *Heureka* the Commission decision did not need to be final. AG Medina opined that it serves the principle of legal certainty and the effectiveness of follow-on actions, in the best interest of all litigants, to require for the national decision to be final.[30] In my own view, this is contrary to the gist of the Court's reasoning in *Heureka*, as the crux of the matter was not whether the decision was final but whether it would bring the (alleged) infringement to the attention of potential claimants. The legal certainty sought by the Advocate General might be better served by allowing rules on the interruption or suspension of limitation periods in damages actions during public enforcement proceedings. This brings us to the next legal issue.

B. *The interruption or suspension of limitation periods in damages actions*

In *Heureka*, the Court of Justice also addressed whether Article 102 TFEU and the principle of effectiveness require for the limitation period to be interrupted or suspended during Commission investigations. In this regard, the Court held that the interruption or suspension of limitation periods for the duration of Commission investigations were, in principle, necessary to enable potential claimants to bring their actions for compensation. However, the Court also held, it was not necessary to continue to interrupt or suspend limitation periods during an appeal of the Commission decision, since the decision reached by the Commission could be relied upon by the claimant even if it were not final.[31]

These findings of the Court provide an example of a slight difference to the rule in Article 10(4) of the 2014 Competition Damages Directive. Under that provision, the 'suspension shall end at the earliest one year after the infringement decision has become final' or is 'otherwise terminated', without any distinction between Commission or national infringement decisions. By contrast, under the pre-Directive regime, 'Article 102 TFEU and the principle of effectiveness **do not** require the limitation period to continue to be suspended until the moment the Commission's decision becomes final'.[32]

In this context, I would return to the Opinion of AG Medina in *Nissan*, where she argued that national decisions should be final as a condition for the *dies a quo*. As indicated above, I would respectfully disagree. However, for the purposes of the pre-Directive regime, I would concede that the reasons offered by the Advocate General should form a basis for suspending the national limitation period until the national decision has become final.

C. *The temporal applicability of Article 10 of the 2014 Competition Damages Directive*

The temporal applicability of rules in the 2014 Competition Damages Directive turns on the classification of its rules as either 'substantive' or 'other' within the meaning of its Article 22. Under Article 22(1), substantive provisions of the Directive must not apply retroactively, that is, must not apply to infringements that have come to an end before the national rules transposing substantive Directive provisions enter into force. Under Article 22(2), 'other' rules must not apply to damages claims 'of which a

[23] *Heureka* (n 13) paras 66–67.
[24] ibid paras 72–78.
[25] ibid paras 68–71.
[26] Opinion of AG Medina in Case C-21/24 *CP v Nissan Iberia, S.A.*, EU:C:2025:248.
[27] Opinion of AG Medina in *Nissan* (n) para 41.
[28] ibid para 42.
[29] ibid paras 60–67.
[30] ibid paras 68–84.
[31] *Heureka* (n 13) paras 79–80.
[32] ibid para 80. Emphasis added.

national court was seized prior to 26 December 2014'. In other words, the temporal applicability of substantive rules hinges on when the infringement has occurred and on when the national rules entered into force, while the temporal applicability of other rules hinges on when proceedings were initiated.

In *Volvo and DAF Trucks*,[33] the Court ruled that Article 10 constituted a substantive provision and therefore could not be applied with retroactive effect, but also that an action for damages which is brought after the entry into force of the national provisions transposing it into national law could nonetheless fall within the temporal scope of Article 10 if the national limitation period had not elapsed before the expiry of the time limit for transposition of the Directive.

The consequences of this were elaborated further in *Heureka*. In essence, the Court of Justice extended the national limitation period by holding that the national court must disregard the elements of Czech rules on limitation periods, that would otherwise have barred the action, as the national court made its final assessment concerning possible limitations of the claim brought by Heureka. With this said, and provided that the infringement had not ceased on 27 December 2016, the Court further stated that it followed from its findings that the limitation period could not even have begun to run on that date.[34] As a consequence, Article 10 of the 2014 Competition Damages Directive was in fact temporally applicable to *Heureka*'s action and had to be considered. In that regard, the Court observed that it was for the national court to consider the rule in accordance to the Court of Justice's case law on the effects of rules in directives.[35] Consequently, the Court's extension of the limitation period, through the principle of effectiveness, led to the temporal applicability of the rule in Article 10.

I would finally like to add that it is a relief, in my view, to read the clear and convincing judgment of the Grand Chamber in *Heureka*, which should minimize the demand for strained arguments on the temporal applicability of Article 10. By contrast, this author has struggled with the Court's reasoning on Article 10 in *Volvo and DAF Trucks*.[36] Hopefully, *Heureka* will set the standard going forward.

4. Jurisdiction and procedure

The private enforcement of competition law in Europe includes issues of jurisdiction and procedure that can be quite thorny. In particular, the case law of the Court of Justice on joint and several liability within a group of companies constituting a single economic unit has opened for claimants to bring their actions, regarding the same infringement, in various jurisdictions. The Court has arguably chosen a claimant-friendly approach in its main case law, but in the cases reported below they also set some boundaries to how claimants should pursue their actions. An Opinion from Advocate General Kokott, in a case where the Court has not yet delivered its preliminary ruling, is also reported.

The issues at stake in these cases were how to interpret the concept of the 'place where the harmful event occurred' within the meaning of Article 7(2) of the Brussels I bis Regulation[37] in relation to the competition law concept of a single economic unit, how to interpret the rule on jurisdiction under Article 8(1) of the Brussels I bis Regulation in relation to the concept of a 'single economic unit', and how to validly serve judicial documents to a defendant within a single economic unit. These issues will be covered in turn.

A. *Jurisdiction under Article 7(2) of the Brussels I bis Regulation and the single economic unit*

For damages claims, Article 7(2) of the Brussels I bis Regulation[38] offers jurisdiction to 'the courts for the place where the harmful event occurred or may occur'. In *MOL*,[39] a Hungarian group of companies had bought or leased a total of 71 trucks from the defendant, the Mercedes-Benz Group. The claimant, who was the parent company in the former group, argued that the prices the group companies paid had been inflated by the trucks cartel, with reference to the Commission decision in *Trucks*[40] where the defendant was among the cartelists. The referring court was the Kúria (the Supreme Court of Hungary) and the relevant legal issue in its reference concerned jurisdiction. The claimant parent company relied on Article 7(2) of the Brussels I bis Regulation and submitted that, since it and its subsidiaries were a single economic unit, its registered office should be covered by the concept of the 'place where the harmful event occurred' within the meaning of Article 7(2), regarding harm suffered by all companies within that single economic unit. However, only its subsidiaries established in other Member States than Hungary had in fact purported to have suffered harm and the claimant itself did not purport to have suffered any harm. The claim thus relied on a 'mirror (or reverse) image' of the single economic unit doctrine.[41]

In its judgment, the Court of Justice recalled that in *Tibor-Trans*[42] it had held that Article 7(2) of the Brussels I bis Regulation gives jurisdiction to Member States on the basis of whether the market affected by an infringement of competition law is in that Member State, while clarifying that not 'any place where adverse consequences (. . .) can be felt' will be included and that indirect consequences of harm suffered would not, therefore, establish jurisdiction.[43] Citing the Opinion submitted by Advocate General Emiliou,[44] the Court of Justice held that there was no support in its case law for the version of the single economic unit doctrine adopted by the claimant. The Court further held that the view of the claimant was at odds with the principles underlying Article 7(2) of the Brussels I bis Regulation.[45] Through an analysis of the objectives of proximity and predictability of the rules governing jurisdiction, and noting that victims of an infringement of competition law had other forum options, the Court concluded that the concept of a single economic unit could not be applied to establish jurisdiction in the manner attempted by the claimant.[46]

[33] *Volvo and DAF Trucks* (n 17) para 79.
[34] *Heureka* (n 13) paras 82–87.
[35] ibid paras 88–93. The case law alluded to includes Case 152/84 *Marshall* EU:C:1986:84; Case C-91/92 *Faccini Dori* EU:C:1994:292; Joined cases C-397/01 to C-403/01 *Pfeiffer and others* EU:C:2004:584; Case C-122/17 *Smith* EU:C:2018:631; and Case C-167/17 *Klohn* EU:C:2018:833.
[36] Other aspects of the judgment in *Volvo and DAF Trucks* (n 17), in particular the Court's reasoning on Art 17 of the Directive (n 5) are, by contrast, quite clear.
[37] Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [2012] OJ L 351/1.
[38] ibid.
[39] Case C-425/22 *MOL Magyar Olaj- és Gázipari Nyrt. v Mercedes-Benz Group AG*, EU:C:2024:578.
[40] n 1.
[41] *MOL* (n 39) paras 30–35.
[42] Case C-451/18 *Tibor-Trans Fuvarozó és Kereskedelmi Kft. v DAF Trucks N.V.*, EU:C:2019:635.
[43] *MOL* (n 39) paras 27–29, citing *Tibor-Trans* (n 42) paras 28–33.
[44] Opinion of AG Emiliou in Case C-425/22 *MOL Magyar Olaj- és Gázipari Nyrt. v Mercedes-Benz Group AG*, EU:C:2024:131.
[45] *MOL* (n 39) para 37.
[46] ibid paras 38–44.

The *MOL* judgment illustrates that while the Court of Justice may have been claimant-friendly in its extension of the single economic unit doctrine to private enforcement of competition law, it is not willing to accept any such constructions. There will be limits, and the attempt by the claimant in this case was arguably a longshot. There are obviously benefits to joining the claims within a group of victims, and this can be done in various ways, but at the end of the day the main rule is that jurisdiction is at the domicile or seat of the defendant. Alternative jurisdiction is available, under the rules of the Brussels I bis Regulation and relevant case law, but such alternative jurisdiction is not unlimited. In essence, it may be fair to say that *MOL* is a confirmation of *Tibor-Trans*, albeit stressing the limits of the latter case.[47]

B. *Jurisdiction under Article 8(1) of the Brussels I bis Regulation and the single economic unit*

When an action is brought against several defendants, Article 8(1) of the Brussels I bis Regulation[48] offers jurisdiction to 'the courts for the place where any one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings'. This provision is useful in any damages claim involving several jointly and severally liable defendants, such as where the defendant is a number of cartelists or a group of companies that form a single economic unit within the meaning of competition law.

In *Heineken*,[49] the core issue was whether a national court could recognize its jurisdiction, in an action for damages brought against a parent company and its subsidiary who are allegedly jointly and severally liable for an infringement of competition law, by relying on the presumption of the parent company's decisive influence and liability as developed in case law. The defendants in the main proceedings were Athenian Brewery SA (AB), established in Greece, and its parent company, Heineken NV (Heineken), established in the Netherlands. The claimant, Macedonian Thrace Brewery SA (MTB), established in Greece, was a competitor to AB on the Greek beer market. The Greek competition authority had established that AB had abused its dominant position on the Greek beer market, but did not consider it proven that Heineken had been involved in the infringement or exercised a decisive influence over AB.

Following the decision by the Greek competition authority, MTB brought an action for damages against AB and Heineken before a court in the Netherlands having jurisdiction to hear claims against Heineken. In its claim, MTB alleged that AB and Heineken were jointly and severally liable for harm caused to MTB by the infringement established by the Greek competition authority. However, there was disagreement in the main proceedings as to whether the Dutch courts had jurisdiction in respect of AB. In particular, uncertainty pertained to whether Article 8(1) of the Brussels I bis Regulation would preclude Dutch courts from relying on the presumption that, where a parent company holds directly or indirectly all or almost all of the capital of the subsidiary that infringed the competition rules, such a parent company exercises a decisive influence over the subsidiary, in order to establish their international jurisdiction vis-à-vis AB. This issue found its way to the referring court, the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), and was referred to the Court of Justice for a preliminary ruling.

For Article 8(1) to be applicable it was necessary, the Court held, to ascertain whether there was a connection of such a kind that it was expedient to determine the actions jointly, in order to avoid the risk of irreconcilable judgments resulting from separate proceedings.[50] The Court further held that the referring court must assess whether the same situation of law and fact existed with regard to the claims against the different defendants, and satisfy itself that the action had not been brought before it with an intention to artificially satisfy the conditions in Article 8(1).[51] Relying on case law such as its ruling in *Beverage Polska*,[52] the Court clarified that the assessment of whether the same situation of law and fact existed with regard to the claims against the different defendants must be regarded as satisfied where several undertakings had participated in a single and continuous infringement of competition law that had been established by the Commission.[53] Citing the Opinion submitted by Advocate General Kokott,[54] the Court held that this also applied where the defendants were a single economic unit, and consequently part of the same undertaking within the meaning of competition law and jointly and severally liable for the harm caused.[55]

However, the Court of Justice held that it was not necessary, in order to have jurisdiction under Article 8(1) of the Brussels I bis Regulation, for such joint and several liability to have been established in a Commission decision. Rather, the uncertainty regarding whether the defendants were in fact jointly and severally liable exacerbated the risk for irreconcilable judgments regarding the same situation, which was precisely why Article 8(1) was applicable.[56]

The referring court was also concerned with the criteria for establishing the presumption of a parent company's decisive influence and liability. In that regard, citing *Sumal*,[57] the Court of Justice explained that the presumption applied not only in public enforcement but also in private enforcement of competition law and that the concept of an 'undertaking' was the same in both contexts.[58] Moreover, the Court pointed out that to establish its jurisdiction under Article 8(1) of the Brussels I bis Regulation, a national court could not make a full assessment of the admissibility or substance of the claim, but must confine itself to examining the necessary 'connecting factors' for jurisdiction.[59] With regard to a situation such as that in the main proceedings, the Court held that the referring court could 'confine itself to verifying that a decisive influence by the parent company over its subsidiary cannot be excluded a priori' in order to establish its jurisdiction. The referring court could do so, the Court continued, if the applicant relied on the presumption of the parent company's decisive influence and liability, while offering an opportunity to the defendants to demonstrate 'that the parent company did not hold directly or indirectly all or almost all of the capital of its subsidiary, or that that presumption should nevertheless be rebutted'.[60]

[47] See further Toni Kalliokoski and Katri Havu, 'Single infringements of competition law: Who is liable for what?' (2024) 61 Common Market Law Review 417, 427–428.

[48] n 37.

[49] Case C 393/23 *Athenian Brewery SA, Heineken NV v Macedonian Thrace Brewery SA*, EU:C:2025:85. The Fifth Chamber usually sits with five judges.

[50] ibid para 22.

[51] ibid para 25.

[52] Case C-832/21 *Beverage City Polska*, EU:C:2023:635.

[53] *Heineken* (n 49) para 26.

[54] Opinion of AG Kokott in Case C-393/23 *Athenian Brewery SA, Heineken NV v Macedonian Thrace Brewery SA*, EU:C:2024:798 para 40.

[55] *Heineken* (n 49) paras 27–29.

[56] ibid paras 30–32, citing the Opinion of AG Kokott (n 54).

[57] Case C-882/19 *Sumal SL v Mercedes Benz Trucks España SL*, EU:C:2021:800.

[58] *Heineken* (n 49) paras 36–40.

[59] ibid para 41.

[60] *Heineken* (n 49) paras 45–46.

In sum, the Court of Justice ruled that Article 8(1) of the Brussels I bis Regulation did not preclude the competent court for the place of residence of a parent company from relying, in order to establish its international jurisdiction, on the presumption that where a parent company holds directly or indirectly all or almost all of the capital of a subsidiary that has infringed competition law, it exercises a decisive influence over that subsidiary, provided that the defendants are not deprived of the possibility of demonstrating either that that parent company did not hold directly or indirectly all or almost all of the capital of that subsidiary, or that that presumption should nevertheless be rebutted.[61]

In the view of this author, the threshold for international jurisdiction under Article 8(1) of the Brussels I bis Regulation, as interpreted by the Court of Justice in *Heineken*, is conspicuously low. The essence of its holdings is that if the applicant says the defendants are part of the same undertaking within the meaning of competition law, and the court has jurisdiction to hear actions brought against at least one of them, the criteria in Article 8(1) are satisfied. Granted, there must also be a possibility for the defendants to somehow rebut the presumption, but this requires 'firm evidence'. With this said, the possible upside to this interpretation is an increased efficiency in private enforcement in Europe, which is to the benefit of both claimants and defendants. The joining of proceedings brought against companies within the same undertaking and with regard to the same infringement is generally a good thing in the view of this author, and therefore the ruling in *Heineken* should be welcomed. In the longer perspective, and perhaps through EU legislation, mechanisms for joining various actions by different claimants across different EU jurisdictions should also be considered.

Where an action is brought against several defendants at a certain court, which would otherwise only have jurisdiction to hear actions against one of those defendants, Article 8(1) thus offers an opportunity to hear the claims against all the defendants at that one court, provided that the criteria in the Article are met. The specific defendant through which jurisdiction is established for all defendants is often referred to as the 'anchor defendant', in the sense that it provides anchorage for the proceedings before the court at issue. In two ongoing and joined cases, *Electricity & Water Authority of Bahrain*, the Court of Justice is called upon to elaborate further on Article 8(1) of the Brussels I bis Regulation, and in particular how to connect the situation as a whole to the court seized with the claims. There is no judgment in the joined cases yet, but Advocate General Kokott has submitted an Opinion on the case.[62]

The defendants in the two main proceedings are a number of companies in several different groups that have allegedly been part of cartel infringements and are both follow-on cases. The first, case C-672/23, follows a Commission Decision regarding a cartel in underground and submarine cables and related products and services. The second, case C-673/23, follows a decision by the Italian competition authority on a cartel in cardboard sheets and packaging. Both cartels covered several European jurisdictions and several different company groups who are, at least allegedly, single economic units within the meaning of competition law. In both cases only one company within the range of companies that constituted cartelist undertakings was established in Amsterdam, where the respective actions against all defendants was brought.

In her Opinion, Advocate General Kokott pointed out that, when a parent company has infringed competition law, claimants cannot automatically bring an action for damages against any of its subsidiaries. Rather, claimants who wish to rely on the joint and several liability of companies within a single economic unit have the onus of establishing that parent companies and subsidiaries do have the economic, organisational, and legal links necessary and 'that there is a specific link between the economic activity of that subsidiary company and the subject matter of the infringement by the parent company'.[63] Making the link to Article 8(1) of the Brussels I bis Regulation, the Advocate General cited *Heineken*[64] to the point that where there are several defendants, they can be jointly sued in a national court having jurisdiction for any one of them, provided that 'the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings'.[65] In that regard it would not matter, she continued, that the various defendants participated in the infringement in different places and at different times, but it would suffice that they participated in an infringement that had been established by the Commission and that the action brought was based on their participation in that infringement.[66]

The defendants in the main proceedings had argued that the national court should not have jurisdiction, as the action brought against the anchor defendant had no prospect of success. The Advocate General agreed that Article 8(1) must not be abused, and that there was no jurisdiction under that rule if there were firm evidence that the claimant only artificially fulfilled the conditions for its applicability. However, the Advocate General opined that such a conclusion could not be drawn from concerns that the action might be unfounded, but only if it were 'manifestly unfounded or contrived or (. . .) devoid of any real interest to the claimant'.[67]

As to whether the action brought was manifestly unfounded in this sense, the Advocate General examined arguments put forward by the defendants, saying (i) that harm suffered outside the EEA was not recoverable through an action relying on EU law, (ii) that the rebuttable presumption of control by a parent company which directly or indirectly holds all or almost all of the capital of a subsidiary company would not apply in cartel damages cases, and (iii) that the anchor defendant in one of the main proceedings could not have a specific link since it was only a holding company managing and holding shares.[68] On the first issue, the Advocate General agreed that the Court of Justice has not yet been given opportunity to rule on 'whether and, if so, under what conditions' the right to compensation for any harm caused by an infringement of EU competition law would extend to harm suffered in third countries, but would not accept that the action in the main proceedings would therefore be manifestly unfounded or as basis for a lack of jurisdiction under Article 8(1) of the Brussels I bis Regulation.[69] On the second issue, the Advocate General dismissed the reasoning of the defendants by reference

[61] ibid Operative part.

[62] Opinion of AG Kokott in Joined Cases C-672/23 and C-673/23 *Electricity & Water Authority of Bahrain*, EU:C:2025:243.

[63] Opinion of AG Kokott in *Electricity & Water Authority of Bahrain* (n 62) paras 29–30.

[64] n 49.

[65] Opinion of AG Kokott in *Electricity & Water Authority of Bahrain* (n 62) para 31.

[66] ibid para 32.

[67] ibid paras 37–38.

[68] Cf. *Sumal* (n 57) paras 51–52.

[69] Opinion of AG Kokott in *Electricity & Water Authority of Bahrain* (n 62) paras 52–54.

to the ruling of the Court of Justice in *Heineken*.[70,71] Regarding the third issue, Advocate General Kokott agreed that, seen in isolation, the holding and managing of shares does not amount to operating on the market in such a way as to offer goods and services. However, she continued, the role of such a holding company had to be assessed as part of the structure of the company group as a whole. In the relevant main proceedings, it seemed that the anchor defendant was a subsidiary of the main parent, which was responsible for the infringement of competition law. The anchor defendant, in turn, held shares in subsidiaries that were allegedly engaged in activities sufficient to establish a specific link to the infringer within the meaning of the *Sumal* criteria.[72] Therefore, she opined, the responsibility of a holding company such as the anchor defendant turned on whether its own subsidiary was engaged in an economic activity which had a specific link to the subject matter of the infringement for which its grandparent company (and parent company of the anchor defendant) had been held liable.[73] In sum, in the Advocate General's view, none of the arguments put forward by the defendants were such as to exclude the applicability of Article 8(1) of the Brussels I bis Regulation.

Finally, Advocate General Kokott addressed whether the claims against the anchor defendants and the various co-defendants were sufficiently closely connected within the meaning of Article 8(1) of the Brussels I bis Regulation for the national court to have jurisdiction over all of them, and whether Article 8(1) governs territorial as well as international jurisdiction. She explained that where 'several companies have participated in a joint infringement of the EU prohibition of cartels, a close connection exists between the claims against those companies and those against all of the companies with which they each form an undertaking'.[74] Further, she pointed out that 'the requirement of a specific link between the economic activity of the subsidiary (...) and the subject matter of the infringement committed by the parent should be fulfilled', but that it 'is not necessary for the subsidiary (...) to have itself sold cartelised products directly to the injured parties'.[75] In sum, the Advocate General opined that 'claims are closely connected within the meaning of Article 8(1) of the Brussels I bis Regulation where there are strong indications that the companies against which they are brought are part of undertakings within the meaning of antitrust law which have jointly committed an infringement of the prohibition of cartels laid down in EU law, provided that it cannot be excluded a priori that the defendant companies belong to the undertakings concerned'.[76] She added that the principle of foreseeability could not be understood as meaning that defendants must be able to specifically foresee that they might be sued in the jurisdiction of any anchor defendant, and therefore did not preclude this interpretation of Article 8(1).[77] Regarding territorial jurisdiction, the Advocate General opined that Article 8(1) did govern territorial jurisdiction, with the consequence that 'only a defendant domiciled in the judicial district of the court seised can be an anchor defendant', but that an internal reference to another court was nonetheless possible.[78]

It remains to be seen how the Court of Justice will address the questions referred. For instance, it may ask the referring court if, in light of the ruling in *Heineken*, it wishes to withdraw its question on the rebuttable presumption of control by a parent company which directly or indirectly holds all or almost all of the capital of a subsidiary company would not apply in cartel damages cases. Further, it is plausible that the Court will not follow the structure of the questions referred as closely as the Advocate General did, but rather rearrange them in order to deliver a more concise judgment.

C. *The service of judicial documents to a single economic unit*

In the *Volvo* judgment,[79] not to be confused with the aforementioned *Volvo and DAF Trucks*,[80] the Court of Justice was asked to consider whether a summons to court could be served to any company within a single economic unit which included an infringer of competition law. The claimant in the main proceedings, Transsaqui, had bought two trucks from the defendant, Volvo, in 2008. The claimant came to believe that the price paid had been inflated by the trucks cartel, with reference to the Commission decision in *Trucks*[81] where the defendant was among the cartelists. The claimant filed an action for damages with the Juzgado de lo Mercantil n. 1 de Valencia, and specified that the summons to appear was to be served to the defendant's subsidiary in Spain. The national court sent the summons in accordance with the claimant's request, but the letter was refused with a handwritten reference to the registered address of the Volvo parent company in Sweden. The claimant argued that this was a delaying tactic in bad faith, and that the Spanish subsidiary must accept the summons as it and its parent company were part of a single economic unit within the meaning of competition law. The issue of whether the parent company could validly be served through its subsidiary found its way to the referring court, the Tribunal Supremo (Supreme Court of Spain), and therefrom to the Court of Justice.

In its judgment, the Court of Justice conceded that, under its case law and in particular its ruling in *Sumal*,[82] a single economic unit constitutes a single undertaking within the meaning of Article 101 TFEU and any legal entity within that undertaking can be held liable for an infringement, even if committed by another legal entity within it. However, the Court continued, an undertaking within the meaning of Article 101 TFEU has no legal personality of its own. Therefore, an action for damages cannot be brought against the undertaking as such, but must be brought against a specified legal entity within it.[83]

Further, the Court of Justice observed, the guarantee of actual and effective receipt of documents is a requirement under the right to effective judicial protection, as enshrined in Article 47 of the EU Charter of fundamental rights.[84] In that regard, the Court could find no support or justification in EU law for the notion that a claimant could bring an action for damages against one legal entity within an undertaking and have the summons served to another legal entity within the same undertaking. On the contrary, the Court of Justice held, the right to a fair trial guaranteed by Article 47 of the Charter protected the defendant, even if it had

70 n 49, see above.
71 Opinion of AG Kokott in *Electricity & Water Authority of Bahrain* (n 62) paras 55–58.
72 n 68.
73 ibid paras 62–66.
74 ibid para 71.
75 ibid paras 73–74.
76 ibid para 78.
77 ibid paras 79–86.
78 ibid paras 89–98.
79 Case C-632/22 *Volvo AB v Transsaqui SL*, EU:C:2024:601.
80 n 17.
81 n 1.
82 n 57.
83 *Volvo* (n 79) paras 48–49.
84 Charter of Fundamental Rights of the European Union [2016] OJ C202/389.

been found to have infringed Article 101 TFEU, and it could not be presumed that legal entities within a single economic unit were authorized to receive judicial documents on each other's behalf.[85] The Court of Justice then reviewed the content of EU legislation on jurisdiction[86] and on the service of judicial documents.[87] The Court pointed out that costs related to the service of documents must be borne by the claimant but that EU legislation offers certain facilitating mechanisms to the applicant and that costs can be recovered if the action is ultimately upheld.[88] The Court also pointed out that it would be open to claimants to bring their action against a subsidiary instead of the parent company, if the claimant wished to avoid the extra costs related to initiating proceedings in another Member State.[89]

In sum, the Court of Justice ruled that a parent company cannot be validly served judicial documents with a summons delivered to a subsidiary, even if the two companies are part of the same economic unit.[90] The essence of *Volvo* is that while claimants are enabled, under the case law on company groups comprising a single economic unit under competition law, to make a choice of either bringing their action against a subsidiary, the seat of which is more conveniently located, or against the parent company, wherever its seat may be, this does not mean claimants can disregard judicial formalities. On the contrary, once the choice of target for the action has been made, that choice will have consequences for the service of judicial documents, and this fact cannot be overcome through any reference to the concept of a single economic unit. The Court repeatedly stressed that alleged infringers of competition law too are protected by Article 47 of the Charter and the rights and principles it enshrines, indicating that the proper translation and service of documents are an important part of the rights of defence which cannot be disregarded with reference to the concept of a single economic unit.

Arguably, like *MOL*, this case was a longshot, and the ruling illustrates that there are limits to what constructs built on the concept of a 'single economic unit' the Court will accept.

5. Interest on damages awards

Interest is an integral part of an award of damages under the 2014 Competition Damages Directive, as well as under the settled case law of the Court of Justice. The details on interest payable are nonetheless governed by a somewhat complicated combination of national law and EU law, upon which the Court is being called upon to elaborate in the newly referred *Wenzel Logistics*.[91] This reference for a preliminary ruling was received by the Court of Justice on 10 March 2025 and no Opinion is yet available. The main proceedings are pending before the Oberster Gerichtshof (Supreme Court) of Austria and it is yet another damages action in relation to the trucks cartel in which the claimant seeks compensation for alleged overcharges paid to the defendant.

The reference concerns the temporal applicability of Article 3(2) in the 2014 Competition Damages Directive, and in particular the payment of interest on the damages award. The reference also concerns how to determine on which date harm has occurred by reason of an infringement of competition law. In the lower Austrian courts, the claimant has been awarded interest (on arrears), at a rate of 4% per annum, from the date when action for damages was served to the defendant upon which, under national law, the claim fell due. The claimant argues, however, that interest should be payable from the date when harm occurred.

On the basis of answers provided, the referring court will be able to decide on the date from which interest should begin to accrue on the damages awarded in the main proceedings. It will be interesting to follow this case, as there is as yet no EU case law on these issues in the context of competition damages actions. For the purposes of an action for damages from a Member State, the Court of Justice has held that interest on an award is payable from the date when harm was incurred.[92] This was cited in *Manfredi*,[93] a competition damages case, which may indicate that the Court saw it as relevant in competition damages. Further, recital 12 of the 2014 Competition damages Directive says interest 'should be due from the time when the harm occurred until the time when compensation is paid'. However, as is apparent, this is all still rather vague and a clarification through *Wenzel Logistics* would be most welcome.

6. Conclusions and looking forward

It is very valuable to private enforcement in the EU to see case law emerging on group actions for damages. Generally speaking, private enforcement is supported by professional third parties who litigate claims. However, there can be legitimate concerns about how this market works and whether it should be regulated. Such issues are under review in the Commission, and DG Justice and Consumers recently released a comparative report mapping and discussing the market for third-party litigation funding in Europe.[94] In *ASG 2*, reported here, the Court of Justice interpreted the principle of effectiveness as allowing the Member States a rather wide margin of discretion on whether or not to allow claims for competition damages to be assigned to a third-party litigator. However, I have cautioned that the principle of equivalence, which was not discussed in the judgment, may lead to other conclusions depending on the legal situation in the Member State at issue. It will be interesting to follow the further development of EU policy in relation to third-party litigators.

Case law on the interpretation of crucial rules in the 2014 Competition Damages Directive also continue to come through. The case law has brought clarity especially on the temporal applicability of certain rules and on to what extent the substance of those rules also follows from Articles 101 and 102 TFEU and general principles of EU law. Through *Heureka*, and hopefully soon through *Nissan*, we are getting a clearer picture of limitation rules, which is to be welcomed after the rather confusing reasoning of the Court in *Volvo and DAF*. It will also be very interesting to see the first judgment on interest once we have, hopefully, a judgment on that in *Wenzel Logistics*.

It is also very valuable that we get clarifications on jurisdiction under Article 8(1) of the Brussels I bis Regulation in light of the concept of an 'undertaking' in competition law, such as in

85 *Volvo* (n 79) paras 50–54.
86 The Brussels I bis Regulation (n 37).
87 Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) [2007] OJ L324/79.
88 *Volvo* (n 79) paras 64–67.
89 ibid para 69.
90 ibid Operative part.
91 Case C-191/25 *Wenzel Logistics GmbH v Mercedes-Benz Group AG*.
92 Case C-271/91 *Marshall II*, EU:C:1993:335, para 31.
93 Joined cases C-295/04 to 298/04 *Vincenzo Manfredi v Lloyd Adriatico Assicurazioni SpA*, EU:C:2006:461, para 97.
94 European Commission DG Justice and Consumers, Mapping Third Party Litigation Funding in the European Union, 21 March 2025, available at https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/civil-justice/civil-and-commercial-law/third-party-litigation-funding-tplf_en.

Heineken. This case law further enables claimants to ease their procedural burdens, even if the Court of Justice is also making it clear, in the reported cases *MOL* and *Volvo*, that not anything goes but that formalities for the judicial protection of both parties must be observed.

As we continue to gain legal foreseeability in private enforcement of competition law, we will also increase incentives to seek compensation. This, in turn, promises further case law from the Court of Justice, making these very eventful times for anyone with an interest in the field.

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