

**Baker
McKenzie.**

The general (and broader) competition law effects and consequences of the three judgments

András M. Horváth LLM, PhD | 24 May 2024



Can you name this sport?



Summary

	Type of procedure	Type of practice	Legal basis	Outcome
Meca-Medina	infringement case (EC dismissed complaint)	anti-doping rules	Art. 101 / 102 TFEU	EC decision upheld
MOTOE	preliminary ruling	authorization rules (statutory)	Art. 102 TFEU	competition law precludes authorizing power without restrictions, obligations and review
ESL	preliminary ruling	authorization rules*	Art. 101 / 102 TFEU	competition law precludes prior approval scheme without substantive criteria and detailed procedural rules**
ISU	infringement case (EC prohibition decision)	authorization rules	Art. 101 TFEU	EC decision upheld***
Royal Antwerp	preliminary ruling	home-grown player rule	Art. 101 TFEU	competition law precludes requirement of minimum number of players trained within the territory (if by object or by effect)

* AG Rantos: prior approval not essential + FIFA / UEFA not public bodies

** AG Rantos: competition law does not preclude prior approval scheme (*Wouters / Meca-Medina*)

*** AG Rantos: set aside GC judgment upholding EC decision (no sufficiently reliable and robust experience)

Direct consequences

1. Decision by national courts
 - a) ESL → Commercial Court Madrid
 - b) Royal Antwerp → Brussels Court of First Instance
2. Decision by CJEU
 - a) FIFA (C-650/22) – joint and several liability of player and club if player terminates contract with former club without just cause
 - b) RRC (C-209/23) – framework conditions for players' agents to provide services (FIFA)
 - c) ROGON (C-428/23) - framework conditions for players' agents to provide services (DFB)

Long-term consequences

1. Sports governing bodies are likely to review their rules („spiraling”)
2. Athletes / clubs are likely to attempt gaining more independence from existing governance structures / ecosystems („break away”)

Club relocation → club wants to play matches outside the territory of the national association to which it belongs

+ effects outside sports?

Competition law consequences

Effects? Not much (*pun intended*)

1. Association: for Art. 102 TFEU → undertaking, for Art. 101 TFEU → association of undertakings (ESL)
 2. Economic activity: not possible to separate economic and non-economic activity → economic activity (ISU)
 3. Dominance: no other entity carrying out activity (ESL)
 4. Abuse: adverse impact on consumer welfare test abandoned?
 5. **Restriction by object: *Budapest Bank* case-law abandoned? (except AG Rantos)**
 6. HR infringements: limiting or controlling essential parameters of competition ~ players (proportion relevant)
- + *Wouters / Meca-Medina* test „relegated”

Baker McKenzie.

András M. Horváth LLM, PhD

Telephone: +36-30-491-7520

E-mail: andras.horvath@bakermckenzie.com

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