



FLASH NEWS

2/25

FOLLOW-UP DECISIONS OVERVIEW FOR FEBRUARY - MARCH 2025



Greece – Court of Auditors

[ACHILLEION ([C-313/22](#))]

Structural Funds - Regulation (EC) No 1260/1999 - Co-financed investment operations

The full bench of the Court of Auditors upheld the appeal brought by the company Achilleion Anonymi Xenodocheiaki Etaireia against the decision handed down at first instance in relation to structural funds by the same court sitting in chamber. The latter had dismissed the action seeking annulment of a measure of the Secretary of State for the Economy, Competitiveness and Maritime Affairs imposing a financial correction and the recovery of aid paid to the applicant company, on the grounds that the latter had not complied with the obligation, laid down in the joint Greek ministerial decree, not to dispose of fixed assets for a period of five years from the date of the decision on the completion of the investment. The contested decision was based on Article 30(4) of Regulation (EC) No 1260/1999, which provides that the contribution from the Funds remains available for a co-financed investment operation only if that operation has not undergone a substantial modification within five years of the adoption of the decision of the competent national authority on the completion of the investment. In adopting the reasoning of the Court of Justice in its judgment in Case [C-313/22](#), according to which Article 30(4) of that regulation precludes national legislation such as the joint ministerial decree, the full bench of the high court ruled that the decision to impose a financial correction had no legal basis, insofar as the transfer of the hotel establishment concerned constituted automatic grounds for recovery of the aid paid, without it being necessary to verify whether the investment operation in question had actually undergone a substantial change. Consequently, the court annulled the contested decision on the grounds of misinterpretation and misapplication of Article 30(4) of Regulation (EC) No 1260/1999 and upheld the appellant's appeal.

Elegktiko Synedrio (Meizon Olomeleia), [judgment of 8/1/2025, No 18/2025 \(EL\)](#)



Bulgaria – Administrative Court of Haskovo

[Ekostroy, [C-61/23](#)]

Road transport - Penalties for failure to pay road taxes - Requirement of proportionality

Following the judgment of the Court of Justice in Case [C-61/23](#), the Administrativen sad – Haskovo (Administrative Court of Haskovo, Bulgaria), acting as the court of last instance, annulled the lump-sum penalty of 2 500 Bulgarian leva (BGN) imposed by the Agentsia 'Patna infrastruktura' (Road Infrastructure Agency, Bulgaria) on 'Ekostroy' EOOD, a Bulgarian company that owns a heavy goods vehicle, for driving the vehicle on a section of motorway without paying the required toll. The national court considered that this financial penalty, as provided for by national law on road traffic, set at a fixed amount, did not allow for the specific circumstances surrounding the commission of the offence to be taken into account and, consequently, the degree of intent or negligence involved in the offence committed. The court therefore considered that such a penalty did not meet the requirement of proportionality. Finally, it specified that this conclusion could not be called into question in view of the circumstance provided for in national legislation whereby it is possible to be exempted from administrative liability by paying a lower 'compensatory fee'.

Административен съд Хасково (Administrativen sad – Haskovo), [judgment of 31/1/2025, No 729 \(BG\)](#)

COURT OF JUSTICE
OF THE EUROPEAN UNION



Netherlands – Council of State

[RTL Nederland and RTL Nieuws, [C-451/22](#)]

Air transport - Confidentiality of information relating to occurrences that jeopardise aviation safety

Based on the judgment in Case [C-451/22](#), the Council of State ruled that the Minister for Infrastructure and Water Management had rightly rejected requests from media companies for information relating to the destruction of an aircraft flying over eastern Ukraine and air traffic safety at Schiphol Airport. According to the high court, Dutch legislation, which does not provide for public access, in any form whatsoever, to information concerning reports on specific incidents in the field of civil aviation, is not contrary to Article 15 of Regulation (EU) No 376/2014. This provision fulfils the task assigned by the EU legislature to take appropriate measures to ensure the confidentiality of information relating to such events.

Raad van State, [decisions of 12/2/2025, 201909080/2/A3, 202200517/1/A3 and 202200517/4/A3 \(NL\)](#)
[Press release \(NL\)](#)



Finland – Supreme Court

[Finnair (Vice de conception du réservoir) [C-385/23](#)]

Air transport – Air passenger rights – Regulation (EC) No 261/2004 – Compensation – Extraordinary circumstances

A flight was cancelled due to a technical fault with the aircraft just before take-off. Following further investigations by the aircraft manufacturer, it was found that the failure was due to a hidden design flaw affecting all aircraft of the same type. The Supreme Court, adopting the interpretation of the Court of Justice in Case [C-385/23](#), therefore ruled that the cancellation of the flight was due to extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. The passenger who lodged the complaint was therefore not entitled to compensation for the cancellation of his flight. With regard to the reimbursement of costs, however, the high court found that the case was legally unclear and that the passenger did therefore have a valid reason for bringing the action, particularly in view of the conflicting conclusions of the lower courts and the need for a preliminary ruling.

Korkein oikeus, [decision of 20/2/2025, ECLI:FI:KHO:2025:25 \(FI\)](#)
[\(SV\)](#)



Spain – Supreme Court

[Volvo, [C-632/22](#)]

Procedure - Service of judicial documents - Action for damages caused by a practice prohibited by Article 101 TFEU - Document instituting proceedings served at the registered office of a subsidiary of the defendant

Adopting the case-law of the Court of Justice in the judgment in Case [C-632/22](#), the Supreme Court held that the service of a document on a parent company against which an action for damages for harm caused by an infringement of competition law has been brought is not properly effected where that document is served at the address of a subsidiary whose registered office is located in the Member State of the court seised. According to the Supreme Court, since the judgment that ended the main proceedings did not take into account the fraudulent strategy pursued by the applicant, it had to be annulled.

Tribunal Supremo, [judgment of 12/2/2025 No 239/2025 \(ES\)](#)



Germany – Federal Administrative Court

[Bundesrepublik Deutschland (Effet d'une décision d'octroi du statut de réfugié), [C-753/22](#)]

Right to asylum - Granting of refugee status by another Member State - Risk of inhuman or degrading treatment - Consequences for the national asylum procedure

In accordance with the judgment in Bundesrepublik Deutschland (Effet d'une décision d'octroi du statut de réfugié) ([C-753/22](#)), the Federal Administrative Court clarified that, where a third-country national has been granted refugee status in another Member State of the Union and cannot return to that Member State due to the risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, the administrative courts must, in the context of the national asylum procedure, take full account of the decision of that other Member State and the reasons on which it is based. Administrative courts must carry out such an examination if it has not already been performed as part of the asylum procedure conducted by the Bundesamt für Migration und Flüchtlinge (Federal Office for Migration and Refugees). Furthermore, if, during the legal proceedings, it proves necessary to obtain additional information, for example from the authorities of the other Member State, the federal authority is required to cooperate in this regard.

Bundesverwaltungsgericht, [judgment of 24/3/2025, 1 C 26.21 \(not published\)](#)
[Press release \(DE\)](#)



Germany – Federal Court of Justice

[Lindenapotheke, [C-21/23](#)]

Protection of personal data - GDPR - Right of competitors to take legal action

Following the judgment in Lindenapotheke ([C-21/23](#)), the Federal Court of Justice ruled that a pharmacist who sells medicines on an online sales platform and who, without the explicit consent of customers, collects data relating to their order (name, delivery address and information about the medicine), infringes Article 9(2)(a) of the GDPR and that such an infringement can be relied upon by any other pharmacist before the civil courts. Firstly, the high court found that when a customer orders prescription medicines from a pharmacist's seller account on the 'Amazon Marketplace' platform, health data are collected and processed. Secondly, it considered that the processing of order data without explicit consent constitutes a breach of a rule of conduct on the market, for which the pharmacist is liable under competition law and against which a competitor may bring an action under the prohibition of unfair commercial practices.

Bundesgerichtshof, [judgment of 25/3/2025, I ZR 223/19 \(DE\)](#) [Press release \(DE\)](#)



Germany – Federal Court of Justice

[Meta Platforms Ireland, [C-319/20](#) and [C-757/22](#)]

Protection of personal data - GDPR - Right of consumer protection associations to take legal action

Following the Meta Platforms Ireland judgments (Cases [C-319/20](#) and [C-757/22](#)), the Federal Court of Justice held that a failure by the operator of a social network to inform users of that network of the scope and purpose of the collection and use of their personal data may, under competition law, give rise to an action for an injunction brought by a consumer protection association before the civil courts. In this regard, the high court stated that the breach of the information obligations laid down in the first sentence of Article 12(1), read in conjunction with Article 13(1)(c) and (e) of the GDPR, also constitutes a concealment of essential information and, therefore, a breach of the law on unfair competition. Furthermore, it specified that, given the economic importance of personal data processing in internet-based business models, through the disclosure of data, compliance with these information obligations is essential to ensure that consumers, when giving their consent to the processing of personal data, are informed as fully as possible about the scope of their consent, so that they can make an informed decision.

Bundesgerichtshof, [judgment of 25/3/2025, I ZR 186/17 \(DE\)](#) [Press release \(DE\)](#)

PREVIOUS DECISIONS



Greece – Administrative Court of First Instance of Athens

[Ethnikos Organismos Pistopoiisis Prosonton & Epangelmatikou Prosanatolismou (Eoppep) ([C-404/22](#))]

Social policy - Information and consultation of workers - Directive 2002/14/EC - Scope

Following the judgment of the Court of Justice in Case [C-404/22](#), the Administrative Court of First Instance of Athens upheld the action brought by the Ethnikos Organismos Pistopoiisis Prosonton & Epangelmatikou Prosanatolismou (Eoppep) (National Organisation for the Certification of Qualifications and Vocational Guidance) seeking annulment of a decision by the Labour Inspectorate imposing a fine on that organisation for failing to fulfil its obligation to inform and consult workers' representatives prior to the dismissal of two workers appointed to managerial positions. Such an obligation is provided for by a presidential decree transposing Directive 2002/14/EC on informing and consulting employees. In adopting the reasoning of the Court of Justice in Case [C-404/22](#), the Administrative Court of First Instance held that Article 4 of that directive does not apply in the case of a change of post involving a very limited number of workers appointed on an interim basis to managerial positions, provided that such a change does not threaten the jobs concerned within the organisation. In the absence of such evidence, the national court upheld the applicant's appeal and annulled the contested decision on the grounds that the fine had been imposed unlawfully.

Dioikitiko Protodikeio Athinon, [judgment of 29/5/2024, No 6988/2024 \(EL\)](#) (available on request)



Portugal – Supreme Administrative Court

[Autoridade Tributária e Aduaneira (Effets de l'abrogation d'un droit antidumping), [C-412/22](#)]

Dumping - Imports of certain iron or steel fasteners originating in the People's Republic of China - Repeal of anti-dumping duties imposed by Regulation (EC) No 91/2009

In order to circumvent the anti-dumping measures that came into force in 2010, a company had steel fasteners originating in the People's Republic of China shipped via Malaysia. Following an investigation, the customs administration issued a notice of payment of anti-dumping duties and related duties against the aforementioned company as part of a post-clearance recovery procedure following the repeal. The company challenged this notice of assessment, arguing that recovery could not take place after the anti-dumping duties had been repealed. For its part, the customs administration maintained that the repeal of anti-dumping duties did not prevent the collection of duties arising prior to the repeal.

Agreeing with the interpretation adopted by the Court of Justice in Case [C-412/22](#), the high court upheld the appeal lodged by the Public Treasury and overturned the judgment of the Administrative and Tax Court of Porto. It considered that the repeal of Regulation (EC) No 91/2009 by Regulation (EU) 2016/278 did not preclude the retroactive recovery of anti-dumping duties and related duties on imports of certain iron or steel fasteners originating in the People's Republic of China, made during the period in which the repealed regulation was in force. Consequently, the company concerned was ordered to pay the amount of the debt corresponding to the anti-dumping duties, VAT and compensatory interest, amounting to EUR 106 997.60.

Supremo Tribunal Administrativo, [judgment of 17/12/2024, No 0387/19.1BEPRT\(PT\)](#)