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FLASH NEWS

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FOLLOW-UP DECISIONS
OVERVIEW FOR JUNE - OCTOBER 2025

Bulgaria – Supreme Court of Cassation

[Kachev, C-135/25 PPU]

Area of freedom, security and justice – Judicial cooperation in criminal matters – Directive (EU) 2016/343 – Right to be present at one's trial – Trial in absentia – Right to a retrial – Failure to make every effort to inform the person concerned of the date and place of his or her trial

Based on the judgment of the Court of Justice in the Kachev case (C-135/25 PPU), the Supreme Court of Cassation ruled on the reopening of criminal proceedings conducted in absentia against the convicted person in the main proceedings. In this judgment, the Court of Justice established the conditions under which a person convicted in absentia must be granted the right to a retrial, in accordance with Articles 8 and 9 of Directive (EU) 2016/343, including in cases where that person has absconded after breaching a security measure imposed on them, despite having received a preliminary indictment. Following the guidance provided by the Court in the above-mentioned judgment, the Bulgarian high court found that, in the criminal proceedings leading to the conviction in absentia of the person concerned, the competent authorities had not used all reasonable means at their disposal to establish that person's place of residence prior to the trial, even though there were indications that he was residing abroad. Furthermore, the high court noted that the failure to report the person to the Schengen Information System (SIS) constituted in itself an independent basis for initiating new proceedings, as this system could have been used to search for that person within the meaning of the grounds for the judgment of the Court of Justice.

*Върховен касационен съд (Varhoven kasatsionen sad), judgment No 265 of 5.6.2025, No 1107/2024 (**BG**)*

Finland – Supreme Administrative Court

[Judgment of 22 June 2023 in Pankki S, C-579/21]

Protection of personal data - GDPR - Scope of the right of access to information - Log data

Following the judgment of the Court of Justice in Case C-579/21, the Supreme Administrative Court ruled on whether, under the GDPR, a data subject had the right to obtain specific information, automatically generated by a processing system (log data), relating to the exact date and time at which their data had been accessed.
According to the high court, it cannot be inferred from the judgment of the Court of Justice, delivered following a preliminary ruling requested by an administrative court, that a person has the right, on the basis of Article 15 of the GDPR, to be informed of the time at which their personal data had been processed, even if that information was contained in the log files generated by the processing system in question. In this case, in addition to the information already provided, it was sufficient to communicate the date of consultation.

*Korkein hallinto-oikeus, decision of 12.6.2025, ECLI:FI:KHO:2025:51 (**FI**)/(**SV**)*

Spain - Supreme Court

[Caixabank and Others, C-450/22]

Unfair terms in consumer contracts - Class action for cessation and restitution - Concept of 'average consumer who is reasonably well informed and reasonably observant and circumspect'

Endorsing the arguments of the Court of Justice in its judgment in Case C-450/22, the Spanish Supreme Court emphasised that a national court hearing a collective action which carries out an abstract review of the transparency of a clause included in a mortgage loan agreement must carry out that review from the perspective of the average consumer. This concept refers to a consumer who is reasonably well informed and reasonably observant and circumspect, thus referring to a person who, on the one hand, has specific qualities – in particular, insight – and, on the other hand, an attitude or way of acting – being observant and informed. Although this concept is unique for all possible categories of contract recipients, it may evolve over time, following the occurrence of an objective event or a well-known fact. Directive 93/13/EEC does not preclude such a circumstance, provided that the referring court bases its decision on concrete and objective evidence demonstrating the existence of such a change, which cannot be presumed merely on the basis of the passage of time. Finally, the high court reaffirmed the possibility of combining, in the same collective proceedings, the action for a declaratory judgment of nullity and the action for restitution, even if the latter was only brought by certain consumers.

*Tribunal Supremo, Sala de lo Civil, judgment of 16.6.2025 (ECLI:ES:TS:2025:2620) (**ES**)*

Netherlands – Council of State

[Bundesrepublik Deutschland, C-753/22]

Right to asylum - Application for international protection lodged by persons already enjoying refugee status in another Member State - No obligation to automatically recognise the decision to grant international protection

In its ruling, the Council of State clarified how the Minister for Asylum and Migration must handle asylum applications from persons recognised as refugees by Greece who are unable to return to that country. Based on the judgment of the Court of Justice in Case C-753/22, the high court ruled that there is no obligation for the Minister to reinstate the refugee status granted by Greece. However, before making a decision, it is required to contact the Greek authorities in order to verify on what basis they granted refugee status and must take full account of that information. In addition, the Minister is required to inform these authorities of the outcome of his or her examination of the asylum application. It is then up to the Greek authorities to decide whether or not to revoke the refugee status granted.

*Raad van State, decisions of 2.7.2025, 202203031/2/V3 and 202202776/2/V3 (**NL**)*
Press release (NL)

Poland – Supreme Court

[Order in Miasto stołeczne Warszawa and Others, C-719/24]

Independence of judges - Test of independence and impartiality - Request for recusal of a judge - Method of election of judges who are members of a judicial council

The Supreme Court had been asked to verify the independence and impartiality of a judge sitting in a court of law. This request was motivated by the appointment of this judge to a position as a judge of the Supreme Court on the recommendation of the National Council of the Judiciary ('the KRS'), as constituted after the 2017 reform. Having referred a question to the Court of Justice for a preliminary ruling concerning European rules on the appointment of judges (Case C-719/24), the high court subsequently withdrew the referral.
Subsequently, the Supreme Court rejected the request to verify the independence and impartiality of the judge concerned, noting that members of the KRS may be elected by the national parliament. In this regard, it relied on the observations of the Commission presented in Case C-719/24. In those observations, the Commission proposed to answer the questions referred for a preliminary ruling by considering that the second subparagraph of Article 19(1) TEU, read in conjunction with Article 2 TEU and Article 47 of the Charter, should be interpreted as meaning that, insofar as the procedures for appointing judges in a Member State offer sufficient guarantees to exclude any legitimate doubt as to the independence and impartiality of the judges appointed, it does not, in principle, preclude national regulations providing that judges who are members of a national body that plays a decisive role in the procedure for appointing judges, such as the KRS, are elected by the national parliament. Furthermore, the high court emphasised that the President of the Court of Justice had removed Case C-719/24 from the register, taking into account, in particular, the observations of the Commission.

*Sąd Najwyższy, order of 9.7.2025, III CB 72/23 (**PL**)*
Press release (PL)

Netherlands – Council of State

[Kaduna, C-158/23]

Right of asylum - Obligation to pass a civic integration examination, under penalty of a fine - Directive 2011/95/EU

Following the judgment of the Court of Justice in Case C-158/23, the Council of State ruled that the Dutch system requiring persons enjoying international protection to follow integration programmes and pass a civic integration examination is, in principle, in line with Directive 2011/95/EU. However, the obligation for these persons to bear the full cost of integration courses and examinations is contrary to Article 34 of that directive, despite the existence of the possibility of obtaining a loan from the public authorities to pay those costs or of having the debt written off in full. Furthermore, the systematic imposition of fines in the event of failure to pass the integration examination within the prescribed time limits and the obligation, in such cases, to repay the public authority loan are, according to the high court, also contrary to the directive.

*Raad van State, decision of 9.7.2025, 202107906/2/V6 (**NL**)*
Press release (NL)

Netherlands – District Court of The Hague

[Kaduna, C-244/24]

Right to asylum - Temporary protection following the war in Ukraine - End of this protection - Point at which a Member State may adopt a return decision

Based on the judgment of the Court of Justice in Case C-244/24, the District Court of The Hague overturned the return decision taken by the Minister for Asylum and Migration against a third-country national on the grounds that it had been taken prematurely. The contested decision had been taken several weeks before the end of the applicant's temporary protection, meaning that he was still legally residing in the Netherlands. Article 6 of Directive 2008/115/EC precludes that practice, even where it appears that the protection will cease to have effect in the near future and the effects of that decision are suspended until that date.

*Rechtbank Den Haag, zittingsplaats Amsterdam, decision of 10.7.2025, NL24.5401 (**NL**)*

Germany – Federal Court of Justice

[Sony Computer Entertainment Europe, C-159/23]

Copyright - Directive 2009/24/EC - Scope of protection of a computer program

Based on the interpretation of Article 1 of Directive 2009/24/EC adopted by the Court of Justice in the judgment in Sony Computer Entertainment Europe (C-159/23), the Federal Court of Justice ruled that the marketing of 'cheat software', which allows users to manipulate the course of a video game without modifying the object code or source code of the game software, does not infringe the copyright of the game's producer.
The high court noted that copyright protects the object code and source code of a computer progam as expressions of the author's own intellectual creation. However, other elements, such as the functionalities of the progam and the elements through which users exploit these functionalities, are not protected by copyright. It concluded that cheat software, which merely modifies the content of variables inserted by the video game into the RAM of the game console and used by the game during its execution, does not infringe upon the scope of copyright protection of the game software and does not violate the author's right of transformation.

*Bundesgerichtshof, judgment of 31.7.2025, I ZR 157/21 (**DE**)* ***Press release (DE)***

Slovenia – Constitutional Court

[AEON nepremičnine and Others, C-674/23]

Provision of property brokerage services - National regulations setting a maximum limit on the commission charged for brokerage services relating to the sale or letting of property by a natural person - Proportionality

Based on the judgment of the Court of Justice in Case C-674/23, the Constitutional Court struck down a provision of the law on property brokerage that set a maximum limit on the commission charged for property sale or rental brokerage services provided by a natural person. In this regard, after assessing it in light of the principle of proportionality, the high court ruled that capping this commission appeared capable of promoting access to adequate housing at affordable prices, particularly for vulnerable individuals.
However, with regard to the limitation of the measure in question to what is necessary to achieve the objectives pursued and the absence of other less restrictive measures to achieve the same result, it considered that the cap in question was not necessary for the promotion of access to adequate housing at affordable prices.

*Ustavno sodišče Republike Slovenije, decision of 2.9.2025, No 205/19 and 230/19 (**SI**)*

Germany – Federal Administrative Court

[Herbaria Kräuterparadies II, C-240/23]

Organic products - Regulation (EU) 2018/848 - Organic production logo

The Federal Administrative Court ruled that when vitamins and minerals of non-plant origin are added to a mixture of fruit juices and herbal extracts from organic farming, the product in question may not bear either the EU organic logo or the national organic label. Nor may it mention the organic production of certain ingredients in the list of ingredients.
This decision applies the Herbaria Kräuterparadies II judgment (C-240/23), in which the Court of Justice clarified that the conditions for using the organic production logo laid down in Regulation (EU) 2018/848 apply in the same way to products imported from third countries and to products originating in the Union. Consequently, the high administrative court found that a company whose product did not meet these conditions could not successfully claim unequal treatment compared with products from third countries, in particular American products.

Bundesverwaltungsgericht, judgment of 4.9.2025, 3 C 13/24 (not yet available)
Press release (DE)

Greece – Council of State

[Elliniko Symvoulio gia tous Prosfyges et Ypostirixi Prosfygon sto Aigaio, C-134/23]

Right to asylum - Granting and withdrawal of international protection - Directive 2013/32/EU - Individual examination of applications

Following the judgment of the Court of Justice of 4 October 2025 (C-134/23), the Council of State upheld the action seeking the annulment of a decision by the Independent Appeals Commission of the Ministry of Asylum and Immigration rejecting an application for international protection. This application was rejected as inadmissible on the basis of Article 33(2)(c) of Directive 2013/32/EU, on the grounds that Turkey was a safe third country for the applicant. As a reminder, the Court of Justice had ruled that, where it is established that the third country designated as generally safe does not, in fact, admit or readmit the applicants for international protection concerned, the Member State processing the application may not reject it as inadmissible on the grounds that it is a safe country, but must, in particular, ensure that the examination of that application is carried out on an individual basis, in accordance with Article 10(3)(a) of the same directive. Endorsing the reasoning of the Court in the preliminary ruling, the high administrative court overturned the contested decision on the grounds that it had been taken unlawfully and referred the case back to the administration so that it could conduct an individual assessment and determine whether the applicant met the conditions for granting international protection at the time in question.

Symvoulio tis Epikrateias, judgment of 6.10.2025, No 1052/2025 ECLI:EL:COS:2024: 2024:0711A1052.21E455, (EL) (available on request)

Previous decisions

Austria – Supreme Administrative Court

[Finanzamt für Großbetriebe, C-602/23]

Free movement of capital - Tax on capital income - Foreign investment funds

Following the judgment of the Court of Justice in the Finanzamt für Großbetriebe case (C-602/23), the Administrative Court ruled that the refusal to refund capital gains tax to a US-based investment fund did not constitute a violation of the free movement of capital, since the fund had not paid US federal income tax in this case. Article 188 of the Austrian Investment Funds Act 2011, at issue in the preliminary ruling, essentially provides that, for foreign investment funds, regardless of their legal form, the income received is attributed to the unit holders, so that a refund of capital gains tax is excluded.
The high administrative court found, in light of the interpretation of the Court of Justice, that in the main proceedings, the investment fund had not paid US federal income tax following the full distribution of income and that the dividends received had been allocated to the unit holders. It therefore concluded that Article 188 of the Investment Funds Act 2011 did not affect the free movement of capital and was therefore fully applicable.

*Verwaltungsgerichtshof, judgment of 28.05.2025, Ro 2022/13/0014 (**DE**)*

Netherlands – District Court of Gelderland

[Inspecteur van de Belastingdienst Utrecht, C-639/22 to C-644/22]

Management of mutual funds - Directive 2006/112/EC

Following the judgment of the Court of Justice in Joined Cases C-639/22 to C-644/22, the District Court of Gelderland ruled that several occupational pension funds cannot be regarded as investment funds within the meaning of Article 135(1)(g) of Directive 2006/112/EC. According to the court, it had not been demonstrated that the amount of pension benefits depended primarily on the results of investments made by these pension funds. Consequently, pension fund members could not be considered to bear the investment risk. According to the court, it had also not been sufficiently demonstrated that these funds were comparable from a legal and financial point of view with other pension funds classified as mutual funds.

Rechtbank Gelderland, zittingsplaats Arnhem, decisions of 30.5.2025, AWB 21/1448, AWB 20/946, ARN 19/6769, ARN 19/3285, ARN 20/451, ARN 21/1421, 21/1423, 21/1424 and 21/1425 (NL)

The Research and Documentation Directorate's intranet site lists all the analyses of follow-up decisions received and processed by the Directorate since 1 January 2000, classified by year according to the date on which the case was brought before the Court. All the analyses drawn up in the context of the follow-up to preliminary rulings are also available, in particular via the internal portal, under each preliminary ruling, under the heading 'Litigation at national level', and on Eureka, under the source 'Analyses', under the heading 'National decision'.