



## FLASH NEWS

4/25

# NATIONAL DECISIONS OF INTEREST TO THE EU OVERVIEW FOR JUNE – SEPTEMBER 2025 (Part I)



### Portugal – Supreme Court

#### ***European arrest warrant - Framework Decision 2002/584/JAI - Principle of mutual recognition - Prohibition of torture and inhuman or degrading treatment or punishment***

The Supreme Court dismissed the appeal lodged by the wanted person, who requested that the Portuguese State refuse to execute a European arrest warrant (EAW) issued by the Italian Republic in respect of her. In this case, the court in Cuneo (Italy) had issued an EAW against a Portuguese citizen residing in Portugal. The latter was accused of theft, kidnapping and possession of a firearm. The Supreme Court first pointed out that the European arrest warrant is based on mutual recognition and trust between Member States. Based on reports from the European Committee for the Prevention of Torture and the Italian association Antigone, it found that certain Italian prisons had shortcomings and reiterated that the prohibition of inhuman treatment limits the execution of the EAW (judgment of the Court of Justice, [C-128/18](#)). However, the Supreme Court emphasised that the Italian facility in which the applicant was detained during the investigation proceedings was not affected by these critical conditions. Italy had also provided assurances that the applicant would be transferred to Portugal to serve her sentence there. The Supreme Court then noted that the facts at issue in the dispute are listed in Article 2 of Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States, which means that the executing State is not required to verify double criminality. Thus, the executing Member State must only verify the identity of the wanted person and whether the formal requirements of the request have been met.

*Supremo Tribunal de justiça, [judgment of 4.6.2025, No 120/25.9YRPRT.S1 \(PT\)](#)*



### Estonia – Supreme Court

#### ***Protection of personal data - Regulation (EU) 2016/679 - Limitation period***

The Supreme Court found that the two-year limitation period applicable to offences relating to breaches of personal data processing requirements under Estonian law is not contrary to EU law. The GDPR does not provide for a limitation period for data protection infringements, nor has the EU legislator harmonised the limitation rules applicable in other EU legislation in this area. The high court therefore concluded that the power to establish rules on limitation periods lies with the Member States. In its ruling, the Supreme Court terminated the proceedings, finding that the statute of limitations constituted an absolute obstacle to criminal proceedings and thus prevented the case from continuing.

*Riigikohus, [judgment of 4.6.2025, No 4-24-2034 \(ET\)](#)*



### Sweden – Supreme Administrative Court

#### ***Value added tax - Directive 2006/12/EC - Exemptions - Illegal activities***

A person was convicted of aiding and abetting false statements for providing, in exchange for payment, the correct answers to the national university entrance examination. One of the issues in the dispute was whether criminal activities should be subject to VAT. The Supreme Administrative Court noted that neither Directive 2006/112/EC nor Swedish law provided for tax exemption for illegal activities. Referring to the judgments of the Court of Justice in *The Rank Group* ([C-259/10](#) and [C-260/10](#)) and *Salumets and Others* ([C-455/98](#)), the high court found that the principle of fiscal neutrality precludes a generalised differentiation between illegal and legal transactions and that an exception to taxation is only necessary in specific situations given the particular characteristics of certain goods or services. Finding that the activities in question did not possess such characteristics, the Supreme Administrative Court concluded that they were not exempt from VAT.

*Högsta förvaltningsdomstolen, [judgment of 11.6.2025, HFD 2025 ref. 34 \(SV\)](#)*



### Belgium – Constitutional Court

#### **State aid - Exemption from payroll tax - Fruit and vegetable growing - Casual workers**

The Constitutional Court has annulled the provisions of national law making permanent the exemption from paying payroll tax for casual workers in the fruit- and vegetable-growing sectors. The high court noted that this exemption granted a selective advantage to employers falling under the joint committee for horticultural companies, to the exclusion of temporary employment agencies that also placed casual workers in these sectors. The high court ruled that this measure constituted state aid and should have been notified to the European Commission in advance. By omitting to provide this notification, the legislator violated the principle of equality and non-discrimination guaranteed by the Constitution, read in conjunction with EU law.

*Cour constitutionnelle, [judgment of 12.6.2025, No 86/2025 \(FR\)/\(NL\)](#)*



### Italy – Court of Cassation

#### **Private international law - Conflict of jurisdictions - Habitual residence of the minor - Best interests of the child**

In its judgment of 13 June 2025, the Court of Cassation confirmed that the Italian courts did not have jurisdiction to rule on a case concerning a Greek citizen prosecuted in Italy. The proceedings concerned the abduction and retention abroad of a minor who was born and had always lived in Greece and had no concrete ties with Italy. In this context, based on Regulation (EC) No 2201/2003 and the judgment of the Court in Case [C-111/17 PPU](#), the high court recalled that, in such a case, jurisdiction lies with the courts of the State in which the minor was habitually resident at the time the court was seised, the parents' intention to return to Italy not being sufficient to establish that residence. This judgment underscores the importance of protecting the best interests of the child and his or her residential stability.

*Corte Suprema di cassazione, [judgment of 13.6.2025, No 30183 \(IT\)](#)*



### Ireland – High Court

#### **Environment - Directives 2014/52/EU and 92/43/EEC - Impact assessment**

The Court ruled that the environmental impact assessment (EIA) concerning the construction of a wind farm at issue in the main proceedings was invalid, insofar as the notices communicated to the public made no reference to the connection to the grid or its location. Thus, they did not meet the requirements of the relevant EU regulations, which stipulate that, in such cases, an environmental impact assessment report must be made available to the public.

*The High Court, [judgment of 16.6.2025 \[IEHC\] 367 \(EN\)](#)*



### Belgium – Court of Cassation

#### **Anti-dumping duties - Determination of the country of consignment - Solar panels**

The Court of Cassation dismissed the appeal brought by Hanover Solar BV (Netherlands) against the Belgian State in a case concerning the circumvention of anti-dumping and countervailing duties on imported solar panels. The company had declared modules assembled in Indonesia as originating from that country, when in fact they had been manufactured from cells sourced from China and Malaysia. The Court ruled that, under EU law and, in particular, Regulations (EU) 2016/184 and (EU) 2016/185, interpreted in the light of the Court's case-law, solar panels must be considered as 'consigned from' the State in which the solar cells were manufactured, in this case Malaysia, even if they were subsequently assembled in Indonesia. Consequently, the anti-dumping duties remained payable and the appeal was dismissed.

*Hof van Cassatie, [judgment of 17.6.2025, P.24.1697.N \(NL\)](#)*



### Sweden – Supreme Administrative Court

#### **Protection of personal data - Regulation (EU) 2016/679 - Non-public documents**

The Administrative Court of Appeal in Jönköping had refused a citizen access to his personal data on the grounds that the requests he had submitted concerned data contained in documents that were not public.

The Supreme Administrative Court held that the fact that personal data appear in non-public documents does not constitute a circumstance that would render Article 15 of Regulation (EU) 2016/679, establishing the right of individuals to access their personal data, inapplicable. Consequently, the high administrative court overturned the decision of the lower court and referred the case back to that court.

*Högsta förvaltningsdomstolen, [judgment of 18.6.2025, HFD 2025 not. 30 \(SV\)](#)*



## **Austria – Constitutional Court**

### ***Consumer protection - Indexation clauses - Application to rental agreements***

The Constitutional Court dismissed as unfounded the applications of two property companies seeking to annul a provision of the Law on consumer protection, given its application to indexation clauses in rental agreements. In accordance with this provision, indexation clauses under which the contractor is entitled to remuneration higher than that initially agreed for the service to be provided within two months of the conclusion of the contract are void, unless the contractor proves that this clause was expressly negotiated. Basing itself on recent Supreme Court case-law, the high court ruled that this provision also applies to rental agreements, meaning that a rent indexation clause that applies from the start of the agreement and has not been explicitly agreed upon is entirely void. The Constitutional Court found that, although this provision infringes upon the lessor's right to property, it is not unconstitutional, given that it serves, in a proportionate manner, legitimate objectives of public interest aimed at protecting consumers. It considered that the legal consequence of the total invalidity of the clause corresponded to the deterrent effect sought in relation to contractors, justified by the weaker position of the consumer, based on the case-law of the Court relating to unfair terms.

*Verfassungsgerichtshof, judgment of 24.6.2025, G 170/2024 and G 37-38/2025 (DE)*  
[Press release \(DE\)](#)



## **Germany – Federal Constitutional Court**

### ***Fundamental rights - Criminal proceedings - Investigative measures - Telecommunications surveillance and online searches***

The Federal Constitutional Court declared unconstitutional the provisions of the Code of Criminal Procedure relating to investigative measures consisting of telecommunications surveillance for criminal offences punishable by a maximum sentence of three years' imprisonment and authorising online searches. On the one hand, the high court emphasised that, given the significant infringement of fundamental rights and the principle of proportionality that it entails, telecommunications surveillance must be limited to the prosecution of particularly serious offences, namely criminal offences punishable by a custodial sentence of at least five years. On the other hand, it found that online searches, insofar as they allow intervention in a computer system and the collection of data from it, are formally unconstitutional insofar as their legal basis does not explicitly state that the secrecy of telecommunications provided for by the Basic Law is limited. However, the high court specified that the legislator is not required to provide for an obligation to discontinue this investigative measure when it becomes clear that the surveillance is encroaching on privacy.

*Bundesverfassungsgericht, orders of 24.6.2025, 1 BvR 2466/19 (DE) and 1 BvR 180/23 (DE)*  
[Press releases \(DE/EN\)](#)



## **Germany – Federal Administrative Court**

### ***Fundamental rights - Freedom of expression and of the press - Dissemination of anti-constitutional statements by a magazine***

In June 2024, the Federal Ministry of the Interior ordered the banning and dissolution of COMPACT-Magazin GmbH on the grounds that its objectives and activities were contrary to the constitutional order. Following the success of the application for interim judicial protection (*see Flash News of Interest No 3/24*), the appeal lodged with the Federal Administrative Court by COMPACT against this prohibition decision was also successful. The high court lifted the ban on the grounds that the magazine's activities and statements did not reach the threshold required to justify a ban. The high administrative court found that certain statements made in COMPACT publications, particularly those against migrants, are incompatible with the guarantee of human dignity and the principle of democracy, and that the magazine, through its inflammatory rhetoric, adopted an aggressive attitude towards basic constitutional principles. However, the high court concluded that COMPACT's activities as a whole were not sufficiently characterised by unconstitutional statements. It also emphasised that, in applying the principle of proportionality, account must also be taken of freedom of expression and freedom of the press, according to which the dissemination of anti-constitutional ideas is in principle permitted, as well as politically neutral publications.

*Bundesverwaltungsgericht, judgment of 24.6.2025, 6 A 4.24 (DE)*  
[Press release \(DE\)](#)

## Ireland – High Court

### ***Asylum policy - Directive 2004/38/EC - Spouse who is a third-country national - Residence permit***

The applicant in the main proceedings, a third-country national, had obtained a permanent residence permit in Ireland through his marriage to Ms D, a Portuguese national. However, his residence permit was revoked by the Minister for Justice on the grounds that the applicant had submitted information and documents concerning his wife that he knew to be misleading. The High Court upheld the ministerial decision establishing that the marriage in question was a marriage of convenience. It should be noted that, a few days later, in a very similar case, the Irish Supreme Court referred a question to the Court of Justice for a preliminary ruling (Makran, [C-460/25](#), case pending) in which it questioned whether a host State may revoke an individual's right of residence for having provided misleading and fraudulent documents in their application for a residence permit, or whether Article 35 of the 2004 Directive requires that State to carry out an individual assessment of proportionality before taking a decision to revoke that residence permit.

The High Court, [judgment of 24.6.2025 \[IEHC\] 356 \(EN\)](#)

## Austria – Supreme Court

### ***Labour law - General protection against dismissal - Cross-border situation***

The Supreme Court ruled that, in cross-border situations, where the employment relationship is subject to Austrian law, the provisions relating to general protection against dismissal provided for by Austrian law are, in principle, applicable. However, these require the existence of an establishment located in Austria. In this case, the employee was working permanently from Austria, even though he was integrated into his employer's establishment in Germany. There was no reference to the applicable law in the employment contract and the employer did not have an establishment in Austria. The employee challenged his dismissal before the Austrian courts. Firstly, the high court considered that, in matters of conflict of laws, general protection against dismissal falls, in principle, under the law applicable to the employment contract within the meaning of Article 8 of the Rome I Regulation. Thus, in this case, the relevant Austrian provisions applied pursuant to Article 8(2) of that regulation. Secondly, the court interpreted the national provisions on general protection against dismissal as presupposing the existence of an establishment on national territory. The employee's appeal was ultimately dismissed by the Supreme Court.

Oberster Gerichtshof, [judgment of 25.6.2025, 9 ObA 94/24z \(DE\)](#)  
[Press release \(DE\)](#)

## Latvia – Constitutional Court

### ***Criminal law - Directive 2004/80/EC - Compensation for victims of violent intentional crime - Concept of fair and appropriate compensation***

In its ruling, the Constitutional Court declared unconstitutional several national provisions transposing Directive 2004/80/EC. Those provisions stipulated that the maximum amount of compensation paid by the State to a victim of a criminal offence was equal to five times the minimum monthly wage. However, if a criminal offence was likely to result in the death of a person and if several persons were recognised as victims in criminal proceedings, the compensation paid by the State had to be divided among those persons. The high court ruled that, although the proportional distribution of compensation based on the number of victims was in line with the provisions of the directive, the compensation of EUR 620 awarded to each victim could not be considered fair and proportionate in this case. Thus, in cases where there are multiple victims, compensation cannot be purely symbolic, as this would be manifestly inadequate and contrary to human dignity.

Latvijas Republikas Satversmes tiesa, [judgment of 27.6.2025, 2024-07-01 \(LV\)](#)  
[Press release \(EN\)](#)



## Latvia – Supreme Court

### **Labour law - Directive 1999/70/EC - Fixed-term work - Employment of a person in two university positions**

The Supreme Court concluded that a person may only be employed in one academic position as a professor, associate professor, senior lecturer, lecturer, assistant, senior researcher or researcher within the same university. It stated that if an employee holds several positions simultaneously for the same employer, the judge must first determine which of these positions is the principal one in order to determine the nature of the employment relationship (including the amount of remuneration) and the applicable legal framework. Thus, if a person holds two academic positions, the academic position in the strict sense (professor, associate professor, senior lecturer, lecturer or assistant) is considered to be their main job, while the position of senior researcher or researcher is only secondary. In referring the case back to the court of appeal for reconsideration, the Supreme Court also reiterated the importance of EU law prohibiting the abuse of successive fixed-term employment contracts.

*Latvijas Republikas Senāta Civillietu departaments, [judgment of 27.6.2025, SKC-300/2025, ECLI:LV:AT:2025:0627.C771207123.19.S \(LV\)](#)*



## Portugal – Supreme Administrative Court

### **Free movement of capital - Collective investment schemes - Tax advantages**

The Supreme Administrative Court ruled on the compliance with EU law of a legislative provision limiting the application of the tax exemption regime for undertakings for collective investment (hereinafter ‘UCIs’) to those established under national law and excluding UCIs established under the law of other States. In this case, a company incorporated under Portuguese law had paid dividends to an investment fund established under US law, 15% of which had been withheld at source, whereas national law provides that dividends from companies incorporated under Portuguese law received by Portuguese investment funds are exempt from this tax. Insofar as national legislation provides for different treatment for UCIs depending on their place of incorporation, the national high court ruled that this provision was contrary to EU law in accordance with the judgment in Case [C-545/19](#) and therefore decided not to apply it.

*Supremo Tribunal Administrativo, [judgment of 2.7.2025, No 01665/20.2BELRS \(PT\)](#)*



## Netherlands – Supreme Court

### **Motor vehicle liability insurance - Directive 2009/103/EC - Misrepresentation when taking out insurance**

The Supreme Court ruled that an insured person who misleads an insurer when taking out motor vehicle liability insurance does not lose their right to compensation after claiming damages resulting from a car accident. In this regard, the high court recalled that the case-law of the Court of Justice concerning Directive 2009/103/EC emphasises the importance of protecting victims of road accidents and opposes a rule providing that the right to compensation is forfeited if the insured person intentionally misleads the insurer. In this case, there was no abuse of EU law, given that recognising the right to compensation leads to the achievement of the objective of protecting victims of road accidents, which is the aim of the directive. Furthermore, there was no apparent intention on the part of the victim to obtain an advantage resulting from this directive by artificially creating the conditions required for its attainment. In reality, the false statements were made with the aim of concluding an insurance contract and not of circumventing the legal conditions for granting the right to compensation.

*Hoge Raad, [judgment of 4.7.2025, 24/00600 \(NL\)](#)  
[Press release \(NL\)](#)*



## France – Constitutional Council

### ***Fundamental rights - Rights of the defence - Principle of adversarial proceedings - Prevention of acts of terrorism***

The Constitutional Council censured the procedure known as ‘asymmetrical adversarial proceedings’ established by the Code of Administrative Justice for disputes concerning certain administrative decisions based on grounds related to the prevention of acts of terrorism. This provision allowed the administration, when considerations relating to state security prevented the disclosure of information or evidence on which its decision was based, to submit such information or evidence to the court without opening it up to adversarial debate. The Council concluded that this provision may deprive individuals of any opportunity to know and challenge the grounds on which an administrative police measure was taken against them, and prevent them from effectively exercising their legal rights.

*Conseil constitutionnel, [decision of 11.7.2025, No 2025-1147 OPC \(FR\)](#)  
[Press release \(FR\)](#)*



## Slovakia – Supreme Administrative Court

### ***Value added tax - VAT surplus - Tax audit - Refund - Interest***

The Supreme Administrative Court overturned the decisions of the tax authorities, which had granted interest, considered insufficient by the applicant, for the period during which the authorities had failed to refund excess VAT on the grounds that a tax audit procedure had been initiated. Basing itself on the case-law of the Court of Justice concerning Directive 2006/112/EC, the high court found that the disputed national regulations, which only provide for the right to interest when the amount of excess VAT has not been paid within six months of the last day of the normal deadline for refunding that excess following the opening of a tax audit procedure, were not compatible with EU law. Furthermore, it found that the interest rate provided for in those regulations was also not in line with EU law, due to their rigidity, which prevents the rates applied on the financial market for short-term loans granted to non-financial undertakings from being taken into account. The high court concluded that the tax authorities should not apply national law, but should comply with the requirements of EU law.

*Najvyšší správny súd Slovenskej republiky, [judgment of 21.7.2025, 2 Sžfk 42/2020 \(SK\)](#)  
[Press release \(SK\)](#)*



## Netherlands – Council of State

### ***Border controls, asylum and immigration - Determination of the Member State responsible for examining the application for international protection - Non-vulnerable, unaccompanied male asylum seekers - Risk of inhuman or degrading treatment in the event of return to Belgium***

The Council of State has reassessed the situation of non-vulnerable, unaccompanied male asylum seekers from Belgium. In its previous ruling on 13 March 2024, the high court had ruled that the Minister for Asylum and Migration could return these asylum seekers to Belgium. However, the Council of State found that the situation in Belgium had deteriorated considerably in the meantime, thereby preventing the Minister from relying on the principle of mutual trust with regard to Belgium. In fact, the shortage of reception places for this group of asylum seekers had become structural. The promised improvements had not been made and there was no prospect of an increase in reception capacity. Furthermore, it was unclear to what extent this group could be accommodated in emergency reception centres. These individuals also lack access to effective legal protection. According to the high court, the indifference of the Belgian authorities towards remedying these shortcomings in terms of reception and legal protection leads to the conclusion that, for this group of asylum seekers, there is a failure in the Belgian system which results in these people being placed in a situation of extreme material deprivation, preventing them from meeting their most basic needs.

*Raad van State, [judgment of 23.7.2025, 202404274/1/V3 \(NL\)](#)  
[Press release \(NL\)](#)*



## Ireland – Supreme Court

### ***Asylum policy - Directive 2004/83/EC - Procedural autonomy of Member States***

The International Protection Appeal Tribunal (IPAT) found that a family of asylum seekers had demonstrated a fear of persecution, but that they could benefit from protection in their country of origin.

The Supreme Court was asked whether it was possible to set aside only the second finding, which had been accepted as erroneous by all parties, or whether the decision should instead be set aside in its entirety. In its reasoning, the high court referred to the judgment of the Court of Justice in the case of International Protection Appeals Tribunal and Others (Attentat au Pakistan), in which it was held that a decision on international protection involves two distinct stages, namely the establishment of the facts and their legal assessment. While specifying that national judicial review procedures fall within the procedural autonomy of Member States, subject to compliance with the principles of equivalence and effectiveness, the Supreme Court ruled that the entire decision should be annulled.

*The Supreme Court, [judgment of 25.7.2025 \[IESC\] 38 \(EN\)](#)*



## Cyprus – Supreme Court

### ***Protection of personal data - Access to IP addresses for the purpose of combating child pornography***

Basing itself in particular on the case-law of the Court of Justice, the Supreme Court found that the use of specialised software (ICACCOPS) to identify the IP addresses of users who possess, share or exchange child pornography using file-sharing programmes (known as ‘peer-to-peer’ or ‘P2P’) does not violate the constitutional right to privacy of correspondence and communications. To this end, the high court reiterated that an IP address does not constitute personal data in itself, but only becomes so when its user is identified by the telecommunications service provider following a court order issued for the purposes of investigating or prosecuting a serious criminal offence.

*Ανώτατο Δικαστήριο Κύπρου, [judgment of 30.7.2025, No 78/2025 \(GR\)](#)*



## Germany – Federal Constitutional Court

### ***Investment protection agreements - Arbitration clauses***

The Federal Constitutional Court dismissed two appeals against decisions of the Federal Court of Justice concerning the validity of arbitration clauses in investment protection agreements. The first appeal was against a decision declaring inadmissible intra-EU ICSID (International Centre for Settlement of Investment Disputes) arbitration proceedings brought by investors established in other EU Member States against Germany (see [Flash News of Interest No 3/23](#)). The Federal Constitutional Court confirmed that the Federal Court of Justice could rely on the Achmea judgment ([C-284/16](#)) to resolve the conflict between EU law and obligations under international law. The second appeal, lodged by the Republic of India, challenged a decision confirming the enforceability of an arbitral award on the grounds that the Achmea case-law was not applicable to a bilateral investment protection agreement concluded between a Member State of the European Union and a third country. The Federal Constitutional Court rejected the complaint relating to the failure to refer the matter to the Court of Justice in order to clarify the compatibility with EU law of the arbitration clause contained in the bilateral investment protection agreement concluded between Germany and India.

*Bundesverfassungsgericht, [orders of 31.7.2025, 2 BvR 1277/23 \(DE/EN\)](#) and [2 BvR 85/24 \(DE\)](#)  
[Press releases \(DE/EN\)](#)*

## Previous decisions



### **Cyprus – Supreme Constitutional Court**

#### ***Protection of personal data - Independent social welfare organisation - Recording and publication of donors' personal data***

Upon referral by the President of the Republic, the Supreme Constitutional Court found that an amending law providing for the registration and publication of the personal data of individuals making donations to an independent social welfare organisation was contrary to the right to privacy enshrined in the Constitution and Article 7 of the Charter, as well as to the protection of personal data guaranteed by Article 8 of the Charter and the GDPR. In its view, the same applied to the registration and publication of the names of legal persons behind such donations, insofar as they enabled individuals to be identified, either directly or indirectly. Basing itself in particular on the case-law of the Court of Justice, the high court concluded that the legislator had not demonstrated the existence of an immediate and pressing social need that would justify the restriction of the rights in question, or verified the proportionality of this restriction in relation to the objective of increasing transparency and accountability with regard to the sums paid to the organisation.

Ανώτατο Συνταγματικό Δικαστήριο Κύπρου, [opinion of 11.4. 2025, No 6/2025 \(GR\)](#)



### **Luxembourg – District Court**

#### ***Criminal law - Banking sector - Conviction for money laundering and handling stolen goods***

In a judgment by agreement, the Luxembourg District Court sentenced the Luxembourg bank Edmond de Rothschild (Europe) S.A. to a penalty of EUR 25 000 000 for the criminal offences of money laundering and concealment. This conviction comes in the context of the '1MDB' case, involving the fraudulent misappropriation of several billion US dollars from the Malaysian sovereign wealth fund 1MALAYSIA DEVELOPMENT BERHAD. This is the first time that a Luxembourg banking institution has been convicted of money laundering. This ruling concludes the first part of the case concerning the criminal liability of the bank. With regard to the second part, targeting the bank's managers and employees, and the third part, targeting the bank's customers in particular, legal proceedings are still ongoing.

Tribunal d'arrondissement, [ruling of 22.5.2025, No 1608/2025 \(not available\) \(FR\)](#)  
[Press release \(FR\)](#)



### **Spain – Supreme Court**

#### ***Convention on the Rights of Persons with Disabilities - State responsibility - Right to inclusive education***

In its ruling, the Supreme Court overturned the decision of the Central Court and awarded compensation to the parents of a disabled minor to cover the legal costs incurred in proceedings to assert the minor's right to inclusive education, based in particular on the [Finding adopted by the Committee on the Rights of Persons with Disabilities](#) under Article 5 of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, approved by [decision of the Council of the EU on 26 November 2009](#). In this Finding, it was established that the Spanish State had failed to fulfil its obligations under this Convention, in particular the adoption of the measures required to enable all pupils with disabilities to enjoy the right to inclusive education in the mainstream education system and the elimination of any segregation of pupils with disabilities in schools, both in specialised educational establishments and in specialised sections of mainstream establishments.

Tribunal Supremo, [judgment of 29.5.2025, No 657/2025 \(ES\)](#)