



FLASH NEWS

5/25

FOLLOW-UP DECISIONS OVERVIEW OF THE MONTHS FROM SEPTEMBER TO NOVEMBER 2025



Greece – Council of State

[Elliniki Ornithologiki Etaireia and Others, [C-66/23](#)]

Environment - Conservation of wild birds - Directives 2009/147/EC and 92/43/EEC - Special Protection Areas (SPAs)

Based on the Court of Justice's judgment in Case [C-66/23](#), the Council of State partially upheld the two appeals for annulment that had been brought before it against a ministerial order for the conservation of wild birds and their habitats. The protection of species covered by the decree only applied to those species that justified the classification of the area and habitats concerned. As a reminder, the Court of Justice had ruled that, in accordance with Article 4(1) and (2) of Directive 2009/147/EC and Article 6(2) to (4) of Directive 92/43/EEC, Member States must adopt measures for the conservation of all species of birds listed in Annex I to Directive 2009/147/EC and of migratory species not listed in that annex which visit regularly, as well as their habitats. Endorsing the reasoning of the Court of Justice, the high administrative court overturned the failure of the competent ministers to adopt the necessary measures. It ruled that the ministerial decree should remain in force but referred the matter back to the relevant ministers so that they could adopt conservation measures for all bird species present in the Special Protection Areas.

Symvoulío tis Epikrateias, judgment of 29.8.2025, No 1533/2025 (EL) (available on request)



Netherlands – District Court of The Hague

[Adrar, [C-313/25 PPU](#)]

Immigration policy - Detention for the purpose of removing an illegally staying third-country national - Obligation of the national court to review compliance with the principle of non-refoulement and the other interests referred to in Article 5 of Directive 2008/115/EC

Based on the judgment in Case [C-313/25 PPU](#) (Adrar), the District Court of The Hague, in the context of proceedings to review the legality of the detention of an illegally staying third-country national, examined of its own motion whether the principles of non-refoulement, the best interests of the child and family life precluded the enforcement of a final return decision on the basis of which the national had been detained. Until the judgment by the Court of Justice, it was prohibited for a detention judge in the Netherlands to exceed the limits of the dispute by examining the legality of a decision other than the one on which the appeal was based. However, in the aforementioned judgment, the Court of Justice considered that a national rule or practice under which a full examination of the principle of non-refoulement could only be carried out in the context of an international protection procedure was contrary to Articles 5 and 15 of Directive 2008/115/EC, read in conjunction with Article 19(2) of the Charter. In this case, the District Court of The Hague ruled that the interests of the national's child, as well as his family and private life, precluded his removal to Algeria. Given that these interests prevented the enforcement of the return decision, the court found that there was no longer a reasonable prospect of removal and therefore ruled that the detention measure was unlawful.

Rechtbank Den Haag, [decision of 10.9.2025, NL25.17803 and NL25.31094 \(NL\)](#).

COURT OF JUSTICE
OF THE EUROPEAN UNION



Romania – Bucharest Court of Appeal

[C.J., [C-305/22](#)]

Judicial cooperation in criminal matters - Framework decision on the European arrest warrant - Grounds for optional non-execution

The Bucharest Court of Appeal had issued a European arrest warrant against C.J. for the enforcement of a prison sentence. The Italian authorities had informed the issuing judicial authority of the arrest of this person and of their refusal to surrender him, and had subsequently ordered the sentence to be served in Italy, with a view to increasing the chances of C.J. being successfully reintegrated into society. The Romanian authorities had subsequently been informed of the adoption by the Italian authorities of an enforcement order in the form of house arrest with a concurrent suspended sentence. However, the issuing authority considered that, until it was informed of the commencement of C.J.'s prison sentence, it would retain the right to enforce the conviction. Based on the judgment of the Court of Justice in Case [C-305/22](#), the Bucharest Court of Appeal found that there was no obstacle to the enforcement of the prison sentence, given that the European arrest warrant had not been executed by the Italian authorities and continued to have effect. Thus, insofar as it appeared from the evidence provided that the sentence imposed had not been served in full, the Bucharest Court of Appeal dismissed C.J.'s appeal against the enforcement of the final judgment handed down by the Romanian Supreme Court.

Curtea de Apel București, decision of 19.9.2025, No 113 (RO) (not yet available)



Germany – Federal Constitutional Court

[Egenberger, [C-414/16](#)]

Social policy - Equal treatment in employment and occupation - Directive 2000/78/EC - Prohibition of discrimination on grounds of religion or belief - Rejection of a job application by a church or other organisation on such grounds

The Federal Constitutional Court overturned the ruling of the Federal Labour Court following the ruling of the Court of Justice in the Egenberger case ([C-414/16](#)). In this decision, the Federal Labour Court awarded compensation for discrimination on the basis of religion to a candidate who had not been selected for a job at a church institution. The high constitutional court adopted the interpretation given by the Court of Justice, while confirming its own case-law on the principle of the primacy of EU law over national law, even constitutional law. Nevertheless, it considered that the Federal Labour Court had failed to take into account, to the detriment of the ecclesiastical institution in question, the room for manoeuvre that this judgment, delivered under the preliminary ruling procedure, leaves Member States. It therefore overturned the contested decision and referred the case back to the labour court.

*Bundesverfassungsgericht, [order of 29.9.2025, 2 BvR 934/19 \(DE\)](#)
[Press release \(DE\)/\(EN\)](#)*



Sweden – Supreme Administrative Court

[Palmstråle, [C-125/24](#)]

Taxation - Value added tax - Directive 2006/12/EC - Exemption - Reimportation of goods - Regulation (EU) No 952/2013 - Failure to comply with a formal obligation laid down by customs legislation

In a case concerning the re-importation of horses into the European Union, the Supreme Administrative Court ruled, following the judgment in Case [C-125/24](#) delivered by the Court of Justice, that failure to comply with formal obligations, namely the presentation of goods to customs as provided for in Article 139(1)(a) of Regulation (EU) No 952/2013, and the declaration for release for free circulation provided for in Article 203 of the same regulation, does not preclude the benefit of the VAT exemption provided for in Article 143(1)(e) of Directive 2006/12/EC. The high court concluded that, since the importation in question was not an attempt to circumvent the law, it should be exempt from VAT.

Högsta förvaltningsdomstolen, [judgment of 31.10.2025, No 1878-22 \(SV\)](#)



Bulgaria – Administrative Court of Veliko Tarnovo

[Svilosa, [C-535/24](#)]

Taxation - Value added tax - Services provided for consideration - Legal services provided by law firms established in the United States

The commercial company Svilosa, established in Bulgaria, had deducted input VAT for services relating to legal services provided by law firms established in the United States. These services were intended to recover sums paid in connection with a loan granted by Svilosa to a foundation responsible for organising a concert to support children affected by war. As the concert did not ultimately go ahead, Svilosa called on law firms to take legal action against those who had failed to honour their commitments. In a tax reassessment notice, Svilosa was ordered to pay additional VAT of approximately EUR 260 000, plus interest. The tax authorities considered that Svilosa had paid the law firms' fees without receiving any remuneration from the foundation. The Administrative Court of Veliko Tarnovo then asked the Court of Justice to determine whether Svilosa's engagement of lawyers could be considered a supply of services for consideration within the meaning of Article 26(1)(b) of the VAT Directive and thus be subject to that tax. Following the judgment of the Court of Justice in Case [C-535/24](#), the Bulgarian court considered that the conditions laid down in that provision were not met in the present case and that the disputed reassessment notice should therefore be annulled.

Административен съд Велико Търново, judgment of 24.11.2025, No 3756 (BG), (not yet available)