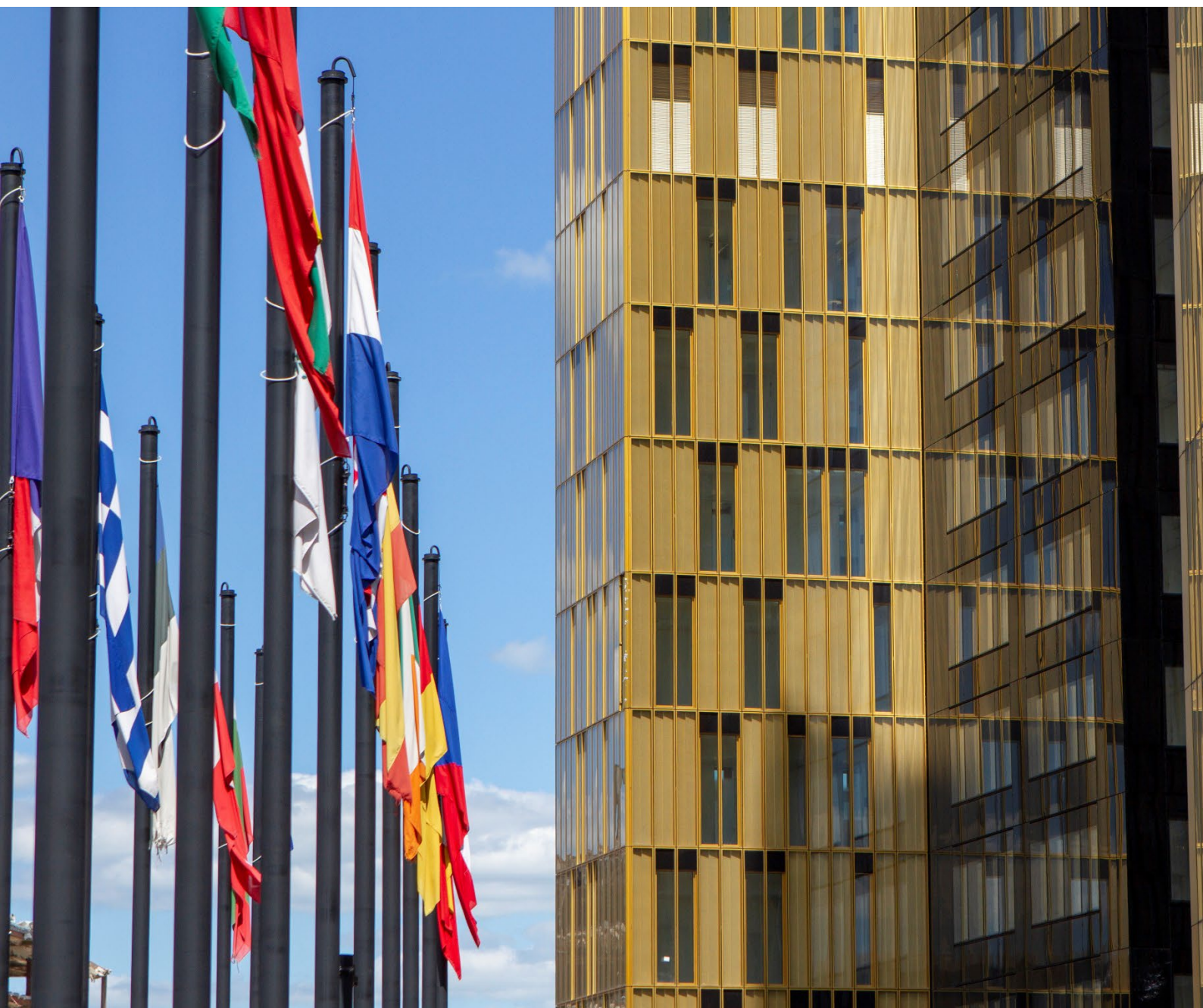




Flash News - 3/26

Follow-up decisions

Overview of the months of April and May 2026

Table of Contents

I. Free movement of goods3

II. Transport3

III. Competition - State aid4

IV. Harmonisation of legislation.....4

V. Social policy5

 1. Equal treatment in employment.....5

 2. Protection of the safety and health of workers6

VI. Environment.....6

VII. Previous decision: border controls, asylum and immigration7

I. Free movement of goods



France – Council of State

[Amazon EU, [C-366/24](#)]

Free movement of goods – Minimum pricing for book delivery services – Promotion of pluralism and cultural diversity – Admissibility

Citing the judgment in Case C-366/24, the Council of State dismissed Amazon EU's appeal seeking the annulment of an order dated 4 April 2023 setting a minimum delivery charge for new printed books, and ruled that this order does not infringe the free movement of goods. The Council of State notes that this measure serves a purpose in the public interest. This pricing system is therefore designed to maintain a balance between the various book distribution channels in France. This balance safeguards pluralism and cultural diversity, given that bookshops play a central role in promoting and disseminating literary works by offering readers a wide and varied selection of books, and contribute to cultural life throughout the country. The Council of State further considers that the measure is appropriate and proportionate for achieving this objective, as it forms part of a long-term public policy to support books and bookshops.

Conseil d'État, [judgment of 13.5.2026 No 474398 \(FR\)](#)

II. Transport



Austria – Supreme Court

[Austrian Airlines, [C-408/24](#)]

Air transport – Provision of air navigation services – Regulation (EC) No 549/2004 – Regulation (EC) No 550/2004 – Protection of airspace users in the event of financial loss

Following the Court of Justice's judgment in the Austrian Airlines case (C-408/24), the Supreme Court ruled that the European rules on air traffic management and the provision of air navigation services are also intended to protect airspace users against purely economic losses resulting from a culpable breach by the provider of those services.

In its judgment, the Court of Justice had clarified that Regulations (EC) No 549/2004 and No 550/2004 are concerned not only with aviation safety, but also with the efficiency and continuity of air navigation services in the interests of air carriers.

In accordance with this interpretation, the Supreme Court held that the losses claimed by an airline following an interruption to air traffic control services fall within the scope of protection afforded by the relevant provisions. It therefore confirmed that the State's liability could not be ruled out solely on the grounds that the damage claimed was exclusively financial in nature.

Oberster Gerichtshof, [judgment of 8.4.2026 No 1 Ob 29/26k \(DE\)](#)

III. Competition - State aid



Portugal – Supreme Administrative Court

[Meliá Hotels International, [C-286/24](#)]

Competition – Actions for damages arising from infringements of competition rules – Plausibility of the claim for damages

Following a decision by the Commission, addressed to Meliá Hotels International, finding anti-competitive practices, a consumer rights organisation brought special declaratory proceedings to obtain the production of documents held by Meliá Hotels International, with a view to preparing a collective action for damages on behalf of consumers residing in Portugal and affected by these practices.

The court of first instance had granted this application, and the Court of Appeal had upheld that ruling. Meliá Hotels then lodged an exceptional application for review of that decision with the Supreme Court, which decided to refer a question for a preliminary ruling to the Court of Justice.

Following the Court of Justice's judgment in Case C-286/24, which interpreted Article 5(1) of Directive 2014/104, the Supreme Court quashed the contested decision. Referring to the case-law of the Court, which rejected the argument that the mere existence of a Commission decision finding an infringement of competition law would be sufficient to satisfy the requirement of plausibility laid down in Article 5(1) of Directive 2014/104, the Supreme Court held that it is, in fact, necessary to demonstrate not only the plausibility of the infringement, as established by such a decision, but also the plausibility of the damage and that of a causal link between that damage and the infringement.

The Supreme Court therefore concluded that the consumer rights organisation had failed to establish the plausibility of the damage, which is an essential condition for granting the request for access to the evidence.

Supremo Tribunal Administrativo, [judgment of 16.4.2026 No 6/21.6YQSTR.LI.S1 \(PT\)](#)

IV. Harmonisation of legislation



Finland – Supreme Court

[Lunapark Scandinavia, [C-452/24](#)]

Trade marks – Directive (EU) 2015/2436 – Exclusive rights of the proprietor of a registered trade mark to oppose the use by a third party of a sign identical or similar to that trade mark – Estoppel by acquiescence – Inapplicability of a general principle of national law providing for the estoppel of the right to prohibit the use of a sign

In the context of an infringement claim, the Supreme Court examined the scope of trade mark rights where a national trade mark proprietor accuses an acquirer of prior conduct amounting to an infringement of their exclusive rights. In this case, company A was granted registration of the trade mark 'DRACULA' in August 2009. Company X and its predecessors, whose business was taken over by company B in October 2019, had been importing and selling sweets in Finland under the 'Dracula' sign since the 1980s.

The key question was whether, under European Union law and national law, the proprietor of the sign could lose the right to take action against the new acquirer as a result of a prolonged period of inactivity. In this regard, the Supreme Court first confirmed that, under national law, the use of a sign that is identical or similar to a registered trade mark in relation to identical or similar goods is prohibited, pursuant to Article 5(1) and (2) of the Finnish Trade Marks Act, which also follows from Articles 9, 10 and 18 of Directive 2015/2436. It nevertheless pointed out that Article 15(1) of the Act transposing Article 18(1) of that Directive applies only where a later sign has been registered or has become ‘vakiintunut’ (established) – which is not the case in the present dispute, as the sign used by company B is neither registered nor established.

The Supreme Court then analysed the general principles of civil law relating to the reasonable time limit for exercising a right, drawing on the case-law of the Court of Justice (Case C-452/24). It concluded that, although the proprietor's inaction during the period in which Company X was using the sign ‘Dracula’ was protracted, that period could not, under the Directive, result in the loss of the right to prohibit the use of the same sign by the acquirer B, as the Directive does not provide for any restriction on the exclusive right beyond the case of a subsequently registered sign.

The Supreme Court therefore held that the proprietor of the DRACULA trade mark had not forfeited its right to prevent company B from using the sign ‘Dracula’ on the grounds of its inactivity, even though that inactivity had been prolonged. Similarly, it held that the provisions of Directive 2015/2436 apply without leaving any scope for a national interpretation that would limit the right to object to unregistered use.

Korkein oikeus, [decision of 14.4.2026, FI:KKO:2026:30 \(FI\)](#)

V. Social policy

1. Equal treatment in employment



Germany – Federal Labour Court

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

Social policy – Discrimination on grounds of religion – Requirement to belong to a religious group

The Federal Labour Court, in accordance with both the preliminary ruling of the Court of Justice and the order of the Constitutional Court annulling the first follow-up decision (see [Quick Information No 3/2025](#)), ruled that the condition relating to religious affiliation contained in the disputed job advertisement was justified, having regard, in particular, to the fact that the post involved representing the ecclesiastical institution in question.

It held that such a difference in treatment may be permitted under the national law on equal treatment, interpreted in accordance with Article 4(2) of Directive 2000/78, as well as under the German Basic Law.

Bundesarbeitsgericht, judgment of 21.5.2026 No 8 AZR 194/25 (F) [*the link to the text of the decision is not available*]

[Press release \(DE\)](#)

2. Protection of the safety and health of workers



Estonia – Supreme Court

[Tallinna linn, [C-219/24](#)]

Protection of the safety and health of workers – Directives 89/391/EEC and 2000/54/EC – National regulations allowing an employer to impose a vaccination requirement on a worker exposed to a biological risk – SARS-CoV-2 virus

The city of Tallinn had amended the professional regulations applicable to paramedics by making vaccination against certain dangerous communicable diseases a condition of practising the profession. In the absence of proof of such vaccination, the employment contracts of the paramedics concerned had been terminated on exceptional grounds.

Following the judgment of the Court of Justice in the Tallinna linn case (C-219/24), the Supreme Court, sitting in plenary session, set aside the decision of the court of appeal which had upheld the employees' appeal. The high court ruled that the law on health and safety at work allows employers to impose stricter professional requirements on paramedics than those laid down in general legislation – such as a requirement to be vaccinated – where this is necessary to protect their health and safety at work. It therefore held that, where such an obligation is imposed in a justified and proportionate manner during the course of the employment relationship, an employee's refusal to comply may then justify the extraordinary termination of their contract on the grounds of professional unsuitability, unless the employee can establish the existence of specific circumstances, such as immunity acquired following a previous infection or a medical contraindication to vaccination.

Riigikohus, [judgment of 24.4.2026 No 2-21-12706 \(ET\)](#)

VI. Environment



Bulgaria – Supreme Administrative Court

[Sdruzenie „Za Zemyata – dostap do pravosadie“ and Others, [C-375/21](#)]

Environment – Air quality plans – Emission limit values for pollutants applicable to a facility – Derogation from emission standards granted by a national authority – Consideration of relevant scientific data

The Supreme Administrative Court, hearing an appeal concerning the validity of an update to the operating licence for a large combustion plant intended for electricity generation, ruled on the question of whether the national environmental authority could grant a derogation from the requirements of the Industrial Emissions Directive (2010/75/EU) and the Air Quality Directive (2008/50/EU), even though the projected emissions exceeded the limits set by the air quality plan for the area in question.

The Supreme Administrative Court held that the derogation should be refused on the grounds that, in accordance with the interpretation provided by the Court of Justice in Case C-375/21, the precautionary principle requires the competent authority to verify that the derogation does not risk contributing to 'significant pollution' or jeopardising compliance with the air quality standards set out in Article 13 of Directive 2008/50. It found that, in this instance, the administration had failed to include in its assessment the relevant scientific data relating to the predicted concentration of sulphur dioxide or the cumulative

effect of other sources of pollution (domestic heating, traffic), which constituted a breach of the obligation to take account of the air quality plan provided for in Article 23 of the same Directive.

On the basis of Article 168 of the APK and the national provisions on water abstraction (Article 123 of the ZOOC), the Supreme Administrative Court concluded that the first administrative appeal was vitiated by a substantive irregularity: the contested decision did not comply with the requirements of European Union law and, as a result, had to be annulled. The Court also ordered that the case be referred back to the competent administrative authority, with the requirement that it comply with the provisions of Article 173 of the APK, namely to provide precise guidance on how to apply EU law in the new licence review procedure.

Furthermore, the Supreme Administrative Court held that EU law takes precedence when national authorities adopt measures that may affect air quality, requiring a comprehensive assessment of emissions and strict compliance with air quality plans. It therefore clarified that failure to comply with these requirements constitutes grounds for the annulment of an administrative act, even if the national legislation provides for a certain degree of discretion.

Върховен административен съд на Република България, judgment of 18.5.2026 No 5324 [*the link to the text of the decision is not available*]

VII. Previous decision: border controls, asylum and immigration



Greece – Administrative Court of First Instance of Thessaloniki

[Al Nasiria, [C-610/23](#)]

Asylum policy – Directive 2013/32 – Right to an effective judicial remedy – Appeal against a decision rejecting an application for international protection – Failure to comply with the obligation to appear in person before the competent court – Presumption of an abusive appeal – Exclusion

Citing the Court of Justice’s judgment in Case C-610/23, the Administrative Court of First Instance of Thessaloniki held that Article 97(2) of Law No 4636/2019, on which the dismissal of the appeal before it was based, was contrary to Article 46 of Directive 2013/32/EU, interpreted in the light of Article 47 of the Charter of Fundamental Rights of the European Union. Owing to this incompatibility, that provision could not be applied.

In the present case, the national regulations in question provided that, where an applicant failed to comply with the procedural obligation to appear in person before the competent court when that court was due to rule on their appeal against the decision rejecting their application, a presumption of an abusive appeal could be established, and their appeal would therefore have to be dismissed as manifestly unfounded.

Referring to the Court of Justice’s interpretation in this matter, the referring court held that the Appeals Commission had unlawfully dismissed the claimant’s appeal on the basis of that provision, without examining the merits of the case, by presuming, solely on the grounds of his absence during the hearing of the appeal, that he had lodged it abusively, for the sole purpose of delaying or obstructing his return to his country of origin.

According to the referring court, this conclusion is all the more compelling in view of the specific circumstances of the case, namely that the applicant was, at the time of the events, an unaccompanied minor, that he was living in a reception centre, which was situated in Thessaloniki and not in Athens, where the Commission was based, and that a certificate relating to his accommodation had been produced. This certificate made it possible to conclude that the applicant still had a genuine interest in the outcome of his appeal and that, as an unaccompanied minor – that is to say, an applicant requiring special procedural safeguards – he should be placed under guardianship.

In the circumstances, it held that it could not be accepted that the claimant's administrative appeal was intended to delay or prevent his return, nor that he had ceased to take an interest in the progress of his application for international protection. This appeal was therefore to be examined on its merits, without applying the presumption provided for in Article 97(2) of Law No 4636/2019.

Dioikitiko Protodikeio Thessalonikis, judgment of 15.9.2025 No 334/2025 [*decision available on request*]

This edition of Flash News presents a selection of decisions handed down by national courts following a preliminary ruling by the Court of Justice of the European Union.