COURT OF JUSTICE OF THE EUROPEAN UNION
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FLASH NEWS

1/26

NATIONAL DECISIONS OF INTEREST TO THE EU

OVERVIEW OF THE MONTHS OF DECEMBER 2025 AND JANUARY

Ireland – High Court

Environment - Directive 92/43/EEC - Judicial review

The applicants had lodged an appeal against a decision by the Aquaculture Licences Appeals Board refusing to renew their licence to farm mussels. They had applied for a stay of execution of that refusal. The High Court concluded that the losses suffered by the applicants whilst awaiting a judgment on the merits would be substantial and that compensation would be insufficient. It highlighted the lack of evidence of a gradually increasing risk to the integrity of the European sites in question as a result of mussel farming, whilst taking into account the obligations under European Union law, the public interest and respect for the rule of law. Accordingly, the High Court upheld the applicants' claim.

*The High Court, judgment of 4.12.2025 TL Mussels Ltd v. The Aquaculture Licences Appeals Board [2025] IEHC 670 (**EN**)*

Portugal – Supreme Court

Extradition – European arrest warrant – EU–UK Trade and Cooperation Agreement

In this judgment, the Supreme Court rejects the applicant's argument that the European Union lacks competence to establish rules on judicial cooperation in criminal matters with third countries concerning the extradition or surrender of nationals of a Member State, within the framework of the Trade and Cooperation Agreement between the European Union and the United Kingdom. The high court points out that this agreement was concluded pursuant to Article 217 TFEU, the binding nature of which on the Portuguese State follows from Article 216(2) TFEU. However, that court highlights the differences between the extradition regime provided for in that agreement and surrender under the European arrest warrant. It refers to the exception on grounds of nationality and points out that, in accordance with Article 603(2) of the said agreement, the conditions notified by the Union on behalf of Portugal to the specialised committee responsible for cooperation between law enforcement and judicial authorities apply.

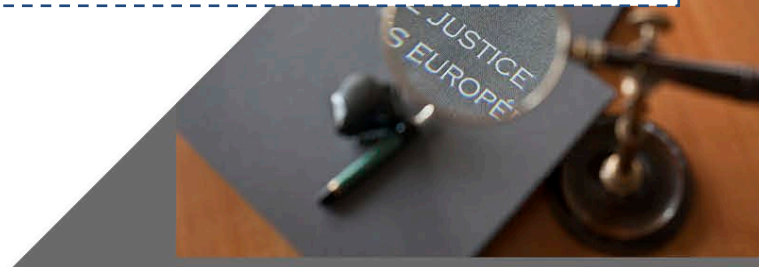
*Supremo Tribunal de Justiça, judgment of 16.12.2025, No 219/25.1YRPRT.S1 (**PT**)*

Latvia – Supreme Court

Competition – Actions for damages arising from infringements of competition rules – Substantive and procedural provisions

In proceedings for compensation for damage caused by an agreement restricting competition, the Supreme Court held that the provision establishing two rebuttable presumptions in cartel cases – namely, the presumption of harm and that concerning a 10% increase in prices – constitutes a rule of substantive law. This provision therefore does not apply to offences committed before it came into force. By contrast, the legal rule providing that, where it is practically impossible or excessively difficult to determine precisely the amount of the loss caused by the breach of competition law, the court shall determine the amount of the loss on the basis of the evidence available in the case file, is a rule of procedural law. It therefore applies to offences committed before it came into force, but in respect of which proceedings were brought after it came into force.

*Latvijas Republikas Senāta Civillietu departaments, judgment of 17.12.2025, SKC-16/2025, ECLI:LV:AT:2025:1217.C75015022.8.S (**LV**)*



Denmark – Supreme Court

Data Protection - Regulation (EU) 2016/679 - Non-material damage - Evidence

In its judgment, the Supreme Court clarified the conditions for compensation under Article 82 of Regulation (EU) 2016/679 (GDPR), following the theft of a laptop containing data relating to approximately 20,000 residents of a local authority. Referring to the case-law of the Court of Justice, the Supreme Court reiterated that the right to compensation requires proof of a breach of the regulations, of damage – whether material or non-material – and of a causal link. Whilst emotions, such as fear, may constitute non-pecuniary damage, they must actually be established and be objectively substantiated. In this case, there is no evidence to show that the data were accessed or used by third parties, nor that the applicants suffered any proven adverse consequences. The Supreme Court therefore ruled that the conditions of Article 82 had not been met and upheld the local authority's acquittal.

*Højesteret, judgment of 19.12.2025, joined cases BS-14485/2025-HJR, BS-14653/2025-HJR, BS-15152/2025-HJR and BS-16195/2025-HJR (**DA**)*

Spain – Supreme Court

Equal treatment in employment and occupation – Prohibition of discrimination on grounds of disability – Termination of the employment contract

The Supreme Court, relying on the judgment of 8 January 2024, Ca Na Negreta (C-631/22, EU:C:2024:53), analysed the scope and burden of proof regarding the obligation to rehabilitate and redeploy, prior to dismissal, a person declared 'unfit' by the occupational health service. In its judgment, the High Court emphasised that, where the occupational health service determines that an employee is unfit to continue performing their duties due to a newly acquired disability, the employer may terminate their employment contract, provided that the service's report contains a detailed explanation of the specific limitations identified – rather than the illnesses themselves – or their impact on the duties performed by the employee, and provided that the company has, beforehand, made reasonable adjustments to their workstation to enable them to continue in their role, or has offered them another post suited to their situation. In any event, the employer is entitled to refrain from adapting or altering the employee's workstation if such measures would place an excessive burden on the employer.

*Tribunal Supremo, judgment of 22.12.2025, No 1284/2025 (**ES**)*

France – Council of State

Data protection – Real-time monitoring of employee activity

Following an appeal by Amazon France Logistique, the Council of State partially overturned a decision by the French Data Protection Authority (CNIL), which had fined the appellant EUR 32,000,000 for several breaches of the General Data Protection Regulation (GDPR). The Council of State considers that the indicators used by Amazon to measure the sequence of work tasks in the warehouse and employees' downtime comply with Article 6 of the GDPR, insofar as they do not exceed what is necessary for the purposes of the company's legitimate interests and do not unduly infringe upon employees' rights to privacy or to working conditions that respect their health and safety. However, Amazon breached the principle of data minimisation set out in Article 5 of the GDPR by retaining these metrics indiscriminately for a period of 31 days for a variety of purposes. Consequently, the Council of State reduced the fine to EUR 15,000,000.

*Conseil d'État, judgment of 23.12.2025, No 492830 (**FR**)*

Sweden – Supreme Court

Asylum policy – Expulsion of a refugee – Conviction for a particularly serious crime – Threat to society – Serious offence relating to weapons – Inclusion

The Supreme Court ruled that a declaration of refugee status did not prevent deportation to Somalia in the case of a serious offence involving weapons. Referring to the Veiligheid judgment (C-402/22) and to the penalty applicable for this type of offence, the Supreme Court held that it constituted a particularly serious offence. Furthermore, referring to the judgment in Commissaire général aux réfugiés et aux apatrides (Refugee who has committed a serious crime) (C-8/22) and to the fact that access to weapons often facilitates the commission of other serious violent crimes, it considered that this crime poses a threat to society. Furthermore, the individual's connection with Sweden was not regarded as an obstacle to deportation.

*Högsta domstolen, judgment of 29.12.2025, B-1865-25 (**SV**)*

Portugal – Supreme Court

European arrest warrant – Requirements as to content and form – Framework Decision 2002/584/JHA

In this judgment, the Supreme Court dismissed the applicant's appeal and ordered the execution of the European arrest warrant issued by Poland. In essence, the applicant argued that the requirements regarding content and form for an EAW had not been met. The high court rejected this argument, beginning by setting out the principles underlying this system. It emphasised that the EAW must comply with certain requirements regarding content and form and, in particular, that it must identify the person concerned, the nature and classification of the offence, and provide a description of the circumstances in which the offence was committed, such as the place, time and severity of the offence. Nevertheless, the court noted that the description of the facts must be as concise as possible and contain the information essential for the executing judicial authority to understand the EAW, without it being expected to provide an exhaustive and detailed account of the facts. The Supreme Court further clarifies that the EAW is an instrument of judicial cooperation which is not intended to provide an opportunity to challenge the charges against the defendant, but solely to enable the defendant's surrender for the purposes of an investigation in the executing State.

*Supremo Tribunal de Justiça, judgment of 5.1.2026, No 240/25.0YREVR.S1 (**PT**)*

Estonia – Supreme Court

Administrative litigation – Legal aid – Refusal to grant legal aid

In administrative proceedings seeking compensation from Tervisekassa (the Estonian Health Insurance Fund) for harm suffered following a vaccination, the claimant applied for legal aid. The Supreme Court rejected the lower court's argument that the applicant was capable of representing himself. In this case, the applicant was a qualified doctor who had previously worked in the medical sector. In this regard, the Supreme Court ruled that, in a novel and legally complex case where case-law has not yet been established, the inquisitorial principle applicable in administrative litigation does not always guarantee sufficient protection of the applicant's rights.

*Riigikohus, order of 8.1.2026, No 3-22-2269/80 (**ET**)*

Czech Republic – Supreme Court

Data protection – Privacy and electronic communications – Retention of traffic and location data

The Supreme Court dismissed the appeal in cassation lodged by the State in a dispute between the State and an individual who had brought legal proceedings seeking redress (in the form of a written apology) for harm that they claimed to have suffered as a result of the adoption of Czech legislation allegedly inconsistent with EU law. The high court upheld the obligation on the State to apologise to the applicant for having infringed their rights to privacy and data protection. The court first reiterated its established case-law that the State is liable for damage caused by the incorrect transposition of a directive. It found that Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, on the one hand, and Articles 5 and 6 of Directive 2002/58/EC, on the other, confer a specific right on individuals, thereby enabling them to seek compensation for harm caused by a breach of EU law. The high court then concluded that the national regulations on the retention of traffic and location data relating to electronic communications were contrary to that right, firstly because of their general and indiscriminate nature, and, on the other hand, the permanent and preventive retention of data relating to virtually all users, such that they allowed concrete conclusions to be drawn about individuals' private lives. Finally, the Supreme Court, relying on the case-law of the Court of Justice, found that, in this case, its obligation to refer the matter to the Court for a preliminary ruling under Article 267 TFEU did not apply.

*Nejvyšší soud, judgment of 30.12.2025, 30 Cdo 2256/2025 (**CS**)*
Press release (CS)

Cyprus – Supreme Court

National Parliament – Waiver of parliamentary immunity – Conditions

The Supreme Court lifted the immunity of a Member of Parliament who was accused of assaulting his partner. In this context, the high court relied on the trend in case-law observed at European level, according to which parliamentary immunity is lifted even where the acts in question bear no connection to the exercise of parliamentary duties and there is, consequently, no link between the criminal case and the MP's parliamentary activities. The maintenance of parliamentary immunity is justified only in exceptional circumstances, where there is a suspicion that proceedings are being brought against a Member of Parliament on genuine, serious and manifest political or partisan grounds which are likely to impede the proper and effective performance of their parliamentary duties.

*Ανώτατο Δικαστήριο Κύπρου, judgment of 15.1.2026, No 1/2026 (**GR**)*

Italy – Constitutional Court

Schengen Information System (SIS) – Regularisation of employment – Requirement for an individual assessment

In its judgment No 6/2026, the Constitutional Court ruled that part of the national legislation automatically excluding foreign nationals listed in the Schengen Information System (SIS) from regularisation of their employment was unconstitutional. The disputed rule ran counter to the purpose of regularisation and infringed Article 3 of the Constitution. Citing Regulation (EU) 2018/1861, the high court also points out that EU law requires an individual assessment of the threat to public order and the level of danger posed.

*Corte Costituzionale, judgment of 22.1.2026, No 6 **(IT)***

Previous decisions

Greece – Council of State

Data protection – Processing for the purposes of electoral communication – Principle of lawfulness of processing

The plenary session of the Council of State dismissed the appeal lodged by a former Member of the European Parliament against the decision of the Hellenic Data Protection Authority imposing a fine of EUR 40,000 on her for the unlawful processing of personal data of voters residing abroad for the purposes of electoral communication. The High Administrative Court ruled that, whilst the Ministry of the Interior was legally entitled to provide the electoral rolls to the Member of Parliament, the applicant could not base their processing on the public interest within the meaning of Article 6(1)(e) of the GDPR, as she does not constitute a body pursuing a public interest within the meaning of that provision, neither in her capacity as a Member of the European Parliament nor as a candidate in the European elections. The Council of State also held that the processing of the personal data in question could not be based on the legal ground of the legitimate interests of the data controller within the meaning of Article 6(1)(f) of the same Regulation, as the right of expatriate voters to the protection of their personal data clearly outweighed the legitimate interest of the applicant, as a Member of the European Parliament, in communicating with them individually in order to present her political actions and ideas. The Council of State thus ensured that, in this case, the principle of lawfulness in the processing of personal data, as laid down in EU law and interpreted by the Court of Justice, was respected.

*Symvoulio tis Epikrateias, Olomeleia, judgment of 15.4.2025, No 657/2025, **(EL)** (judgment available on request)*

Germany – Federal Constitutional Court

Civil servants – Remuneration – Unconstitutionality

The Federal Constitutional Court ruled that the remuneration of civil servants in the State of Berlin between 2008 and 2020 was unconstitutional, with a few exceptions. The principle of provision set out in Article 33(5) of the Basic Law requires the State to guarantee civil servants and their families an income commensurate with their position throughout their lives. Its main objective is to safeguard the independence of civil servants in the interests of a competent, impartial administration that upholds the rule of law. The civil service thus safeguards the principle of democracy against abuse. The Constitutional Court examined in three stages whether the remuneration was manifestly inadequate: firstly, the income must reach the poverty threshold of 80% of the median equivalent income (minimum income test); secondly, the remuneration must be continuously adjusted to changes in the general economic and financial situation as well as to the general standard of living (revaluation test). Finally, once these two conditions are met, it must be determined whether the breach is exceptionally justified. In conclusion, the Constitutional Court found that, between 2008 and 2020, approximately 95% of the grades examined under Scale A were incompatible with this principle of progression and were therefore unconstitutional. Consequently, the Berlin state legislature is required to adopt the necessary provisions by 31 March 2027.

*Bundesverfassungsgericht, order of 17.9.2025, 2 BvL 20/17 and others, published on 19.11.2025 **(DE)***
Press release (DE)

Romania – High Court of Cassation and Justice

Jurisdiction – Negative conflict of jurisdiction – Concept of a consumer

In a ruling concerning a negative conflict of jurisdiction, the High Court of Cassation and Justice ruled on the definition of a consumer in order to determine which court had jurisdiction in a dispute between a company and a private individual. It referred to the Court's judgments, C-269/95 and C-110/14, to state that, with regard to the concept of a consumer, it is necessary to assess the purpose for which the contract was concluded, rather than the individual's subjective circumstances. In this regard, it noted that the relevant Romanian legislation is consistent with the Court's case-law, in that it states that the key criterion for determining whether a person is a consumer is the purpose of the contract, with personal circumstances being irrelevant. The same person may, on the one hand, be regarded as a consumer in relation to certain economic transactions and, on the other hand, as a trader in relation to other transactions. In this case, the high court held that the defendant did not meet this essential criterion and could not be regarded as a consumer, given that, in the main proceedings, she was acting as a representative of a company.

*Înalta Curte de Casație și Justiție, decision of 18.9.2025, 1526/2025 (**RO**) (link unavailable on the day this flash was published)*

Italy – Court of Bologna

International protection – Refugee status – Persecution on grounds of gender identity and ethnicity – Roma and LGBTI minorities

In its decree No 8445/2023, the Court of Bologna granted refugee status to a Hungarian Roma and transgender woman, pursuant to Protocol No 24 to the TFEU, finding that the measures in place in Hungary targeting Roma and LGBTI minorities constitute 'not only discrimination but also persecution'. The court notes that the persecution is systemic and personal, exacerbated by discriminatory laws and the State's failure to act, in breach of the fundamental rights enshrined in the Treaty on European Union and the Geneva Convention. On this basis, it recognises the applicant as a refugee, stating that her return to Hungary would expose her to a serious risk of persecution.

*Tribunale Ordinario di Bologna, decree of 10.10.2025, No 8445/2023 (**IT**)*

Germany – Federal Labour Court

Social policy – Labour law – Principle of equal pay for male and female workers

The Federal Labour Court ruled that a claim for equal pay may be based on the fact that a single person of the opposite sex performing the same or equivalent work receives a higher wage (pairwise comparison). Drawing on the case-law of the Court of Justice concerning Article 157(1) TFEU, the high court clarified that, where a female employee brings legal proceedings to obtain equal pay, her proof that her pay is lower than that of a male colleague performing the same or equivalent work gives rise to a presumption that the pay discrimination is based on gender. If the employer is unable to rebut the presumption of gender-based pay discrimination arising from such a comparison by setting out the reasons and criteria for that difference, they are required to make up the shortfall relative to the higher pay received by the person with whom the comparison is made. Consequently, the Federal Labour Court found that the requirement of a likelihood of discrimination on grounds of gender, as applied by the appeal court in equal pay cases, was incompatible with primary EU law. It therefore partially set aside the judgment handed down by that court and referred the case back to it for a fresh ruling on the matter in question.

*Bundesarbeitsgericht, judgment of 23.10.2025, 8 AZR 300/24 (**DE**)*
Press release (DE)

Germany – Federal Finance Court

Energy – Regulation (EU) 2022/1854 – Emergency measures to tackle high energy prices

The Federal Finance Court found that there were serious doubts as to the legality of the European contribution to tackle the energy crisis under Regulation 2022/1854, due to a possible breach of EU law justifying its suspension. The high tax court thus expressly endorsed the doubts expressed in the preliminary rulings C-358/24, C-467/24, C-633/23, C-533/24 and C-251/24 as to whether Regulation 2022/1854 could be lawfully based on Article 122(1) TFEU and, if so, whether it infringed other provisions of EU law, in particular Articles 16, 17, 20 and 21 of the Charter of Fundamental Rights. The high tax court notes that the doubts regarding the legality of the adoption of Regulation 2022/1854 are directly linked to the formal constitutionality of the national law on the European energy crisis levy. Furthermore, certain provisions of this national law could contravene the provisions of the Charter. Consequently, in the main proceedings, these issues should also be clarified in relation to German law by means of a reference for a preliminary ruling to the Court.

*Bundesfinanzhof, order of 27.10.2025, II B 5/25 (**DE**)*

Denmark – Supreme Court

Competition – Dominant position – Retail trade

By order of 14 November 2025, the Supreme Court ruled on whether Bankernes Kontantservice A/S (BKS, now Loomis) had abused its dominant position by charging abnormally low prices. Referring to Article 102 TFEU and the established case-law of the Court of Justice, the high court reiterated that a dominant undertaking bears a particular responsibility not to undermine effective competition, and that conduct may constitute an abuse where it deviates from normal competition and is capable, in the light of all the relevant circumstances, of driving out an equally efficient competitor. With regard to prices below cost, the Supreme Court noted that the assessment is based, in particular, on a comparison between the prices charged and the dominant undertaking's average variable and total costs, as well as on an analysis of the economic and strategic context. It specified that a practice of setting prices between average variable costs and average total costs may constitute an abuse if, when assessed as a whole, it is likely to have a foreclosure effect, even in the absence of evidence of an explicit plan to eliminate competitors. In this case, the high court found that BKS had, systematically and over an extended period (2014–2016), offered eight major retail customers prices that were significantly below average total costs, in a market characterised by high barriers to entry. This strategy was capable of driving out an equally efficient competitor and therefore constituted an abuse of a dominant position for which the company was liable.

*Højesteret, order of 14.11.2025, BS-62063/2024-HJR (**DA**)*

Latvia – Supreme Court

Failure by a Member State – Action for damages – Competent court

The Supreme Court held that, since European Union law does not regulate the question of which court has jurisdiction to hear, within the Member States, claims relating to State liability in the event of a possible breach of European Union law, that question falls within the competence of each Member State, in accordance with the principle of procedural autonomy. In this regard, the high court emphasised that there is no provision in Latvian law that expressly determines which court has jurisdiction to find that the State has committed a breach without referring the matter to the Court of Justice for a preliminary ruling. However, it follows from the constitutional right to a fair trial that, unless otherwise provided, claims for compensation for damage caused by a breach committed by the State fall within the jurisdiction of the ordinary courts sitting in civil proceedings. Furthermore, the high court held that the handling of these cases by a court of general jurisdiction in civil proceedings is consistent with the principles of equivalence and effectiveness.

*Latvijas Republikas Augstākās tiesas (Senāta) Administratīvo lietu departaments, judgment of 19.11.2025, SKA-872/2025, ECLI:LV:AT:2025:1119.SKA087225.4.L (**LV**)*

Romania – High Court of Cassation and Justice

Public funds – Obligation to pay interest in the event of the annulment of an administrative act – Irregularities concerning European funds

In the context of an appeal in the public interest concerning a divergence in national case-law, the High Court of Cassation and Justice ruled on the obligation to pay tax interest on sums to be refunded following the annulment of administrative acts relating to irregularities in the area of European funds and/or national public funds. In particular, the high court relied on the judgment of the Court of Justice in Case C-701/22, according to which any natural or legal person on whom a national authority has imposed the payment of a tax, levy, duty or any other charge in breach of EU law has, by virtue of that law, the right to obtain from that authority not only the reimbursement of the sum unduly levied, but also the payment of interest intended to compensate for the unavailability of that sum. Whilst the high court held that these claims are neither tax claims nor claims treated as tax claims, and the liable authorities are not obliged to pay interest under national tax legislation, it nevertheless found that this interpretation of the national tax provisions does not preclude the possibility of bringing an action for compensation for the damage caused by the annulment of an unlawful administrative act and thereby obtaining interest on arrears.

Înalta Curte de Casație și Justiție, decision of 25.11.2025, No 24/2025 ***(RO)***