



## FLASH NEWS

2/26

# NATIONAL DECISIONS OF INTEREST TO THE EU

## OVERVIEW OF THE MONTHS OF FEBRUARY AND MARCH 2026



### Bulgaria - Supreme Court of Cassation

#### ***Reference to the Court for a preliminary ruling - Criminal cases pending before national courts concerning the same issue as that referred to the Court - Possibility of staying those proceedings pending the Court's judgment - Absence***

The Court of Cassation overturned an order by a lower court to stay the ongoing criminal proceedings pending the decision of the Court of Justice in the Latranov case ([C-655/24](#)), which is the subject of a reference for a preliminary ruling made by another national court. This stay is due, in particular, to the similarity between the issues raised in that other case, concerning the confiscation of a vehicle driven by a person convicted at first instance of drink-driving, and those forming the subject of the request for a preliminary ruling in the main proceedings. The Court of Cassation considers, however, that although these cases share certain similarities, Bulgarian law does not provide for such grounds for suspension, which may be ordered only by the court that has referred the matter to the Court of Justice for a preliminary ruling. An exception to this rule may be permitted only in respect of criminal proceedings pending before the Supreme Court of Cassation, which, as the court of last instance, rules solely on points of law and whose decisions are not subject to further review in the context of a retrial, in the event of a decision being handed down that is inconsistent with a judgment of the Court of Justice.

*Върховен касационен съд (Varhoven kasatsionen sad), [judgment of 2.2.2026, No 17/2026 \(BG\)](#)*



### Czech Republic – Constitutional Court

#### ***Principle of legality in criminal law - Unlawful activity carried out for the benefit of a foreign power - Concept of 'combative democracy'***

The Constitutional Court ruled on the constitutionality of the provision in the Criminal Code introducing a criminal offence consisting of unlawful activity carried out for the benefit of a foreign power. The court first held that the contested provision was consistent with the principle of legality (*nullum crimen sine lege certa*), provided that the rules governing criminal liability were formulated in general terms and clarified by case-law, and that the acts punishable under the provision could be identified and distinguished from one another. Where the constituent elements of the offence can be interpreted in such a way as to clearly identify which acts are punishable, the constitutional requirement for criminal law to be specific is met. Secondly, the Constitutional Court emphasised the importance of the concept of 'combative democracy', noting that the introduction of this offence reflects the legislature's intention to punish conduct that cannot be effectively sanctioned under other provisions. Previous regulations only addressed certain aspects of cooperation with a foreign power that the State deemed undesirable and did not provide full protection for its interests. By criminalising this type of behaviour, the legislature had thus upheld the principle of subsidiarity in criminal law, since only acts of sufficient gravity should be punished. The court also noted that, when opponents of democracy and the values on which it is founded are prepared to launch an attack, the democratic system must be able to defend itself against such assaults. In these circumstances, the Constitutional Court dismissed the appeal and upheld the constitutionality of the contested provision.

*Ústavní soud, [judgment of 4.2.2026, No Pl. ÚS 5/25 \(CS\)](#)*

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

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





## Spain – Supreme Court - Civil Chamber

### ***International carriage of goods by sea - Applicable law - Bar period***

In a liability claim against a carrier for damage and loss suffered by goods in connection with an international maritime contract of carriage governed by a bill of lading, the Supreme Court examined the legal nature of the time limit (whether a ‘limitation period’ or a ‘bar of action’) following the entry into force of the 2014 Maritime Navigation Act. It concluded that domestic law does not govern the contract in question, thereby upholding the Court of Appeal’s decision. That contract fell under the International Convention for the Unification of Certain Rules Relating to Bills of Lading, concluded in Brussels on 25 August 1924. According to the case-law relating to Article 3.6.IV, this time limit should be regarded as a bar period, and there is no reason whatsoever not to apply this case-law in the present case.

*Tribunal Supremo, [judgment of 5.2.2026, No 173/2026 \(ES\)](#)*



## Cyprus – Supreme Constitutional Court

### ***Judicial independence - Appointment of judges on a probationary basis***

The Supreme Constitutional Court, sitting in its capacity as the Supreme Constitutional Council, was called upon to rule on the legality of a practice whereby the appointment of judges is subject to a two-year probationary period, in the absence of a specific legislative framework. In this regard, the high court ruled that this evidentiary regime is based on a long-standing, consistent, uninterrupted, uniform, clear and predictable judicial practice emanating from the supreme body of the judiciary, which is constitutionally responsible for the appointment, oversight and supervision of district judges. It therefore has a normative value rooted in custom and does not, in itself, undermine the guarantees of judicial independence, irremovability and effective judicial protection for judges.

*Ανώτατο Συνταγματικό Δικαστικό Συμβούλιο, [judgment of 6.2.2026, No 2/2025 \(GR\)](#)*



## Romania – Constitutional Court

### ***Retirement conditions for judges - Requirements regarding the independence of the judiciary***

The Constitutional Court ruled on the law relating to public sector pensions, and more specifically on judges’ pensions. Firstly, the Constitutional Court considered that the a priori constitutional review carried out concerned an act that had not yet entered into force and which, following that review, might never enter into force. She pointed out that referring a request for a preliminary ruling in this context would result in the Court of Justice acting merely as an advisory body in relation to the legislative process within the State. According to the Constitutional Court, that would be unacceptable. Secondly, with regard to the reduction in judges’ pensions, it emphasised that this new calculation ensures an appropriate balance between the average pensions in the general public sector and those of staff in the justice system, in line with the requirements of EU law.

*Curtea Constituțională, [decision of 18.2.2026, No 153 \(RO\)](#)*



## Bulgaria - Constitutional Court

### ***Periodic roadworthiness testing of motor vehicles - Principle of proportionality - National legislation introducing a new requirement that the vehicle owner must have no outstanding fines - Unconstitutionality***

An amendment to national road traffic legislation, which came into force in August 2025, introduced a new requirement that must be met before a vehicle can undergo a roadworthiness test, namely that the vehicle’s owner must have no outstanding fines. Following the enactment of this law, a request was submitted to the Constitutional Court to review whether the legislation was in line with the Constitution. Firstly, that Court held that, under Article 4(1) of Directive 2014/45, it is the responsibility of Member States to ensure that vehicles registered in their territory are periodically inspected in accordance with that directive. Secondly, the Constitutional Court emphasised that the new rule makes the fulfilment of this obligation, relating to road safety, subject to additional conditions designed to ensure the recovery of public debts, in particular through fines imposed on vehicle owners. It therefore concluded that the debtor’s fundamental right to property in respect of those claims was subject to a disproportionate restriction. According to the Constitutional Court, requiring the fulfilment of certain public obligations under these conditions, rather than within the framework of the rules established for the recovery of public debts, which are based on the principles of legality, good faith and the right to a fair hearing, cannot constitute a proportionate measure. Such an interpretation would undermine the rule of law.

*Конституционен съд (Konstitucionen sad), [judgment No 3 of 19.2.2026 in Case No 15/2025 \(BG\)](#)*



## Latvia – Supreme Court

### ***Restrictive measures taken in response to the situation in Ukraine - Ban on providing tourist services in Crimea and Sevastopol - Subjective element of the criminal offence***

In the context of criminal liability for breaches of restrictive measures adopted by the European Union, the Supreme Court held that a person's mistaken belief as to whether their action or inaction constitutes an element of a criminal offence does not exempt them from liability if a criminal offence has in fact been committed. In this regard, the court emphasised that ignorance of the applicable provisions, including those of the European Union, or a mistaken belief as to their legality, does not exempt a person from liability. The court therefore upheld the contested judgment, which had found the individual guilty of a criminal offence for failing to comply with the ban on providing services directly related to tourism activities in Crimea and Sevastopol.

*Latvijas Republikas Augstākās tiesas (Senāta) Krimināllietu departaments, [judgment of 24.2.2026, SKK-28/2026, LV:AT:2026:0224.11840002115.4.L \(LV\)](#)*



## Latvia – Supreme Court

### ***Common Commercial Policy - Regulation 608/2013 - Customs control - Destruction of goods suspected of infringing an intellectual property right***

The Supreme Court held that Regulation 608/2013 permits the destruction of goods on the basis of mere suspicion only if the parties concerned (the addressee of the decision and the declarant or the holder of the goods) agree to this. However, where customs authorities initiate proceedings to determine whether there has been an infringement of intellectual property rights, they must, in the course of those proceedings, establish the facts objectively and draw their own conclusions. The court emphasised that there was no provision which, in such circumstances, would allow a party's statement, views, evidence or explanations to be regarded as a sufficient and comprehensive basis for reaching a definitive conclusion as to whether an infringement of intellectual property rights had occurred. It pointed out that such opinions and evidence were, strictly speaking, no more persuasive than other opinions and evidence.

*Latvijas Republikas Augstākās tiesas (Senāta) Administratīvo lietu departaments, [judgment of 24.2.2026, SKA-73/2026, LV:AT:2026:0224.A420256122.12.S \(LV\)](#)*



## Sweden – Supreme Administrative Court

### ***Value added tax - Economic activity - Tax base***

In this case, the Supreme Administrative Court held, referring in particular to the judgments in Astra Zeneca UK ([C-40/09](#)), Paulo Nascimento Consulting ([C-692/17](#)) and Administration de l'Enregistrement, des Domaines et de la TVA ([C-846/19](#)), that a salary benefit in the form of massages at the office, for which employees bore half the cost through a deduction from their net salary, could be regarded as falling within the scope of the company's economic activity. The court also ruled that there was no need to reassess the tax base, as this should consist of the remuneration paid. It found that, in this case, the benefit in question was of minor value and intended for all staff, and could be regarded as a normal part of a company's business activities. In this context, the price reduction was to be regarded as consistent with commercial practice and beneficial to the business in question, and could not be characterised as an act of fraud or tax evasion. The remuneration was therefore in line with market conditions.

*Högsta förvaltningsdomstolen, [judgment of 25.2.2026, 4652-25 \(SV\)](#)*

 **Luxembourg – Administrative Court****Data protection - Amazon - Analysis of negligence**

The Administrative Court handed down a much-anticipated ruling in the dispute between Amazon and the National Data Protection Commission. In March 2025, the Administrative Court dismissed Amazon's appeal against the Commission's decision and upheld the EUR 746 million fine imposed on the company for breaching the General Data Protection Regulation (GDPR). In a judgment of 12 March 2026, following an appeal by Amazon, the Administrative Court first noted that the injunctions and the daily penalty had become moot, as the parties had acknowledged at the hearing that Amazon had since complied with the requirements of the GDPR. It then ruled out an independent violation of Article 21 of the GDPR, on grounds relating to the scope of the investigation and the rights of the defence. The Administrative Court confirmed, in essence, that there was no sufficient legal basis and that there had been breaches of transparency. As regards the fine, the Administrative Court set it aside on the basis of a change in the case-law of the Court of Justice, following the judgments in *Deutsche Wohnen* ([C-807/21](#)) and *Nacionalinis* ([C-683/21](#)), which were delivered after the CNPD's decision. The Administrative Court ruled that the latter must assess the imposition of a financial penalty in the light of this case-law and, more specifically, in the light of the required assessment of negligence.

*Cour administrative, judgment of 12.3.2026 (case number 52757C) (FR)*  
[Press release \(FR\)](#)

 **Bulgaria – Supreme Administrative Court****Data protection - Right of access by the data subject to their data undergoing processing - Exercise of this right by a solicitor holding a power of attorney not certified by a notary**

The Supreme Administrative Court ruled that, in its capacity as the controller of personal data, a debt collection agency had wrongly refused to provide the data subject with documents containing his personal data, a request that had been made through his lawyer. The court dismissed the application on the grounds that the power of attorney granted to the lawyer was in simple form rather than in special form, authenticated by a notary. In overturning this refusal, the court held that national legislation does not prescribe any specific form of power of attorney for a lawyer acting on behalf of the data subject to exercise the rights recognised by Regulation 2016/679 (the GDPR). Furthermore, it noted that, in accordance with Article 15(3) of the GDPR, as interpreted in the *Oesterreichische Datenschutzbehörde* case ([C-487/21](#)), the controller must provide the data subject with copies of all documents containing his or her personal data.

*Върховен административен съд (Varhoven administrativen sad), judgment of 16.3.2026, No 2862 in Case No 10851/2025 (BG)*

 **Sweden – Supreme Court****Free movement of nationals of Member States - Public policy - Deportation of a Latvian national who has been convicted of several criminal offences**

In this case, a Latvian national had been sentenced to one month in prison for shoplifting. Over the course of 10 years, he had committed similar offences on numerous occasions during his stays in Sweden. Consequently, the Supreme Court considered that the risk of reoffending was high. Referring to the *Polat* judgment ([C-349/06](#)), it held that, even though each of these offences was of a lesser degree of seriousness, the individual's conduct posed a real, present and sufficiently serious threat to a fundamental interest of society, namely the right to property. The high court therefore ruled that this Latvian national should be deported and that he would be barred from returning to Sweden for five years.

*Högsta domstolen, judgment of 20.3.2026, B-9278-24 (SV)*



## Estonia – Supreme Court

### ***Constitutional law - Right to family reunification - Directive 2003/86 - Review under European Union law***

In its ruling, the Constitutional Review Chamber of the Supreme Court declared unconstitutional and invalid a national provision that excluded from the definition of a refugee's family members a de facto partner who had cohabited with the refugee prior to his arrival in Estonia, where marriage or the registration of a partnership was legally impossible in the country of origin. The court noted that, whilst EU law, in particular Directive 2003/83, does not expressly provide for the recognition of a cohabiting partner as a family member, its recitals nevertheless allow for an interpretation that favours the establishment of more favourable conditions for family reunification for refugees than for other foreign nationals. Thus, a national provision disproportionately restricts the fundamental right to family life when it fails to recognise a refugee's de facto partner as a family member, given that, in their country of origin, the individuals concerned had no legal means of formalising their relationship and, as a result, were unable to lead a family life in Estonia.

*Riigikohus, [judgment of 23.3.2026, No 5-25-79/15 \(ET\)](#)*



## Portugal – Supreme Court

### ***Parental responsibility - Habitual residence - Child's centre of life***

In proceedings seeking the return of a child, the Supreme Court upheld the dismissal of the application against the parent with whom the child was living, whose residence had been provisionally determined by the Portuguese courts and who had been designated as responsible for organising the child's daily life. The court emphasised that neither Article 8(1) of the Brussels IIa Regulation nor Article 7(1) of the Brussels IIb Regulation limits their scope of application solely to disputes between courts of Member States. It pointed out that the rules on jurisdiction set out in those texts are determined in the best interests of the child, in particular in accordance with the principle of proximity. Applying the standalone criterion of habitual residence, as interpreted by the case-law of the Court of Justice, it held that the child's centre of life was in Portugal. The Portuguese courts therefore had jurisdiction to rule on the child's residence.

*Supremo Tribunal de Justiça, [decision of 24.3.2026, No 1405/23.4T8VCT-G.G1.S1 \(PT\)](#)*



## Czech Republic – Constitutional Court

### ***Neutrality of the State - Concordat with the Holy See***

The Constitutional Court ruled on the constitutionality of the draft agreement (the concordat) between the Czech Republic and the Holy See. The disputed provisions concerned, on the one hand, the protection of the Catholic Church's seal of confession and, on the other hand, access to the cultural heritage of ecclesiastical legal entities. According to the court, the provisions on the seal of confession establish a separate legal regime for the Catholic Church, which is incompatible with the principle of state neutrality and the prohibition of discrimination enshrined in the Constitution. On the one hand, the privileged and unconditional protection of the Catholic Church's seal of confession constitutes unjustified differential treatment and breaches the principle of state neutrality in comparison with the limited protection provided by national legislation for equivalent confidentiality in other churches and in comparison with the protection afforded to a secular duty of confidentiality of comparable constitutional value (solicitors' professional privilege), as it is not accompanied by exceptions comparable to those applicable to these other protected confidences. Furthermore, the ability of ecclesiastical bodies to restrict access to their cultural heritage (archives) solely on terms they themselves determine undermines the right of access to cultural heritage and the freedom of scientific research, both of which are guaranteed by the Constitution. However, the Constitutional Court clarified that the conclusion of an agreement with the Holy See is not, in itself, contrary to the Constitution and does not undermine the sovereignty of the State. The principle of state neutrality does not in itself preclude such a conclusion, as the specific terms of an agreement are decisive in assessing its constitutionality.

*Ústavní soud, [judgment of 25.3.2026, No Pl. ÚS 8/25 \(CS\)](#)*

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

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



## Cyprus – Supreme Court

### ***Non-discrimination - Differential treatment of Greek Cypriots and Turkish Cypriots in relation to vehicle roadworthiness tests***

The Supreme Court held that the difference in treatment between, on the one hand, Greek Cypriots permanently resident in the state-controlled areas, whose vehicles are subject to roadworthiness tests, and, on the other hand, Turkish Cypriots permanently residing in the occupied territories, whose vehicles are exempt from such inspections when travelling in the state-controlled areas, is both reasonable and proportionate. According to the court, the two categories of persons concerned are not in an identical situation, due in particular to their residence status and the different rules applicable to their vehicles.

*Ανώτατο Δικαστήριο Κύπρου, [judgment of 31.3.2026, Civil Appeal No 173/2016 \(GR\)](#)*

## Previous decisions



## Romania – High Court of Cassation and Justice

### ***Grounds for cassation - Procedural irregularities in the examination of the admissibility of a referral to the Court - Grounds of appeal relating to the content and effects of an act of the Union***

In a case concerning two administrative acts relating to the system for promoting and generating renewable energy, the High Court of Cassation and Justice clarified the rules governing grounds for cassation in relation to the referral of a request for a preliminary ruling to the Court. Thus, on the one hand, it held that, on appeal, the complaints concerning procedural irregularities in the examination of the admissibility of the referral to the Court constitute grounds for cassation on the basis of a breach of procedural rules, non-compliance with which renders the proceedings null and void. On the other hand, it clarified that the grounds of appeal relating to the content and effects of the EU act whose interpretation is sought constitute grounds for cassation concerning the violation or misapplication of rules of substantive law.

*Înalta Curte de Casație și Justiție, [decision of 30.6.2025, No 3852, the grounds for which were published in 2/2026 \(RO\)](#)*



## Greece – Council of State

### ***Data protection - Oral communication - Regulation (EU) 679/2016***


The Council of State overturned a decision by the Data Protection Authority, in which the Authority had dismissed a complaint concerning the verbal disclosure to third parties of the complainant's personal data by an employee of a private clinic. According to that authority, the communication in question did not fall within its remit or within the scope of the legislation on the protection of personal data. In this regard, the court relied on the judgment of the Court of Justice in Endemol Shine Finland ([C-740/22](#)), according to which the concept of 'processing of personal data', as defined in Article 4(2) of the GDPR, also includes the oral communication of personal data, which, as non-automated processing, falls within the material scope of the General Data Protection Regulation where the data being processed 'are included' or 'are to be included in a filing system'. In this case, the Council of State ruled that the applicant's data being processed originated from an archiving system to which the polyclinic employee had access.

*Symvoulío tis Epikrateias, Olomeleia, Fourth Section, decision of 4.11.2025, No 1989/2025 [a link to the decision is not available]*

 **Slovakia – Constitutional Court****Fundamental rights - Transparency requirements imposed on NGOs**

The Constitutional Court ruled on the constitutionality of the law introducing transparency measures applicable to non-governmental organisations, namely the obligation to publish, above a certain threshold, information regarding their donors, and the requirement that such organisations be treated as entities subject to the law on public access to information, insofar as they receive public funding. The court held, firstly, that such publication constituted an infringement of the donors' right to privacy. It noted that the objectives of transparency and combating criminal activity could not justify the publication of data relating to these donors, particularly where less intrusive means of achieving those objectives were available, and indeed had been used under the previous regulations. Secondly, it noted that applying specific rules to those organisations was not justified, as this would result in a disproportionate administrative burden that could seriously undermine the nature of their activities. The Constitutional Court therefore ruled that the contested law was unconstitutional in its entirety on the grounds that it infringed upon the rights to privacy and the protection of personal data, as well as the freedom of association, as guaranteed by the Constitution and the European Convention on Human Rights.

Ústavný súd Slovenskej republiky, [judgment of 17.12.2025, No PL. ÚS 11/2025 \(SK\)](#)  
[Press release \(SK\)](#)

 **Spain – Supreme Court****Health and safety at work - Directive 92/85 - Protection of breastfeeding women**

The Supreme Court confirmed, in the light of the judgments delivered by the Court of Justice in the Otero Ramos ([C-531/15](#)) and González Castro ([C-41/17](#)) cases, the right of female doctors in the Madrid Health Service who are breastfeeding not to be required to be on on-call duty at the workplace during the first 12 months of their child's life and to receive, during that period, the on-call allowance calculated on the basis of the average for the year preceding the child's birth. The Supreme Court ruled that working days exceeding eight hours, which involve a stress factor or lead to fatigue simply by virtue of their length, can reduce breast milk production by inhibiting the milk ejection reflex and increasing the risk of mastitis, thereby making breastfeeding more difficult. It also considered that expressing milk every three to four hours on average requires a calm and private environment, equipped with the necessary facilities to store the milk properly, which would be incompatible with a hospital setting where medical shifts take place, as well as with fatigue and night work, as these circumstances can cause feelings of insecurity and anxiety in breastfeeding mothers and hinder breastfeeding.

Tribunal Supremo, Social Chamber, [judgment No 25/2026 of 15.1.2026 \(ES\)](#)

 **France – Court of Cassation****Citizenship of the Union - Automatic loss of nationality of a Member State and of citizenship of the European Union - Judicial review**

In a case concerning the acquisition and loss of French nationality, the Court of Cassation concluded, on the basis of the case-law of the Court of Justice, that a national authority whose legislation provides for automatic loss of nationality must carry out an individual assessment of the proportionality of the consequences of such loss in the light of the rights guaranteed by the European Union, and in particular by the Charter of Fundamental Rights of the European Union, where such loss results in the loss of Union citizenship. In this regard, it states that the obligation to apply these public policy rules derived from EU law of its own motion is, however, subject to the condition that the facts before the court justify such application, which implies that the fact that the person does not hold the nationality of another EU Member State must be taken into account.

Cour de cassation, Civil Chamber I, [judgment of 21.1.2026, 24-13.921 \(FR\)](#)