



## FLASH NEWS

5/25

## NATIONAL DECISIONS OF INTEREST TO THE EU

### OVERVIEW FOR JUNE – SEPTEMBER 2025 (Part II)



#### Bulgaria – Supreme Court of Cassation

##### *Citizenship - Conditions for acquisition*

The Supreme Court of Cassation upheld the decision of the Sofia City Court rejecting a Turkish citizen's application for recognition of his Bulgarian nationality on the grounds that he had failed to prove his kinship with a Bulgarian ancestor. National law does not require applicants for citizenship to have a sense of belonging to the Bulgarian nation. However, it does require proof of kinship with a Bulgarian ancestor up to the fourth degree. The Supreme Court relied in particular on the judgment in *Udlændinge- og Integrationsministeriet (Perte de la nationalité danoise)*, [C-689/21](#), to emphasise that a Member State determines itself the conditions for acquiring and losing its nationality, with Union citizenship complementing but not replacing national citizenship.

Върховен касационен съд, [judgment of 12.8.2025, No 495, No 3192/2024 \(BG\)](#)



#### Sweden – Supreme Court

##### *Consumer protection - Unfair terms - Directive 93/13/EEC - Concept of 'professional'*

The Gothenburg Athletics Federation had introduced clauses in contracts concluded with consumers relating to participation in running events such as the Gothenburg Half Marathon (Göteborgsvarvet) stipulating that no registration fees would be refunded in the event that a race was cancelled. The Supreme Court considered, with reference to Directive 93/13/EEC, that these terms were unfair and ordered that they should not be applied. In its ruling, the high court referred in particular to the case-law of the Court of Justice (Karel de Grote, [C-147/16](#) and Pouvin and Dijoux, [C-590/17](#)), according to which the concept of 'professional' within the meaning of Article 2(c) of the said directive applies to both profit-making and non-profit-making organisations, without excluding entities pursuing a mission of general interest. Accordingly, the Supreme Court ruled that the Gothenburg Athletics Federation, despite being a non-profit-making organisation, should be considered a 'professional'.

Högsta domstolen, [judgment of 14.8.2025, PMT 4286-24 \(SV\)](#)



#### Bulgaria – Supreme Administrative Court

##### *Rule of law - Independence of judges - Functions of the Inspectorate of the High Council for the Judiciary - Expiry of term of office*

By order of 12 May 2025, a three-judge panel of the Supreme Administrative Court had ruled, on the basis of the judgment of the Court of Justice of 30 April 2025 in Joined Cases [C-313/23, C-316/23 and C-332/23](#), that the Inspectorate of the High Council of the Judiciary ('the Inspectorate') had lost its legitimacy due to the expiry of its mandate. However, on 19 August 2025, a panel of five judges from this high court overturned that order. It considered that, notwithstanding the aforementioned judgment of the Court of Justice, the Inspectorate was competent to continue to perform certain of its functions. According to the Supreme Administrative Court, this judgment of the Court of Justice concerned only those functions of the members of the Inspectorate that could threaten the independence of judges. This high court therefore ruled that the said judgment applied only to functions relating to the supervision of the activities of magistrates, their integrity and the absence of conflicts of interest, as well as to those relating to disciplinary proceedings, and not to all the powers legally conferred on the Inspectorate.

Върховен административен съд (Varhoven administrativen sad), [order of 19.8.2025, No 8513 \(BG\)](#)



## Ireland – High Court

### **Free movement of workers - Directive 2004/38/EC - Allowance for caring for a disabled person**

A Romanian national who had come to Ireland to care for her two autistic grandchildren challenged the rejection of her application for disability allowance on the grounds that she did not meet the criterion of being a ‘worker’ within the meaning of Article 7 of Directive 2004/38/EC. The High Court dismissed her appeal and ruled, in essence, that the applicant was caring for her grandchildren on an entirely voluntary basis and that there was therefore no employment relationship between her and her daughter. Consequently, the applicant could not be regarded as a ‘worker’ within the meaning of the said directive.

*The High Court, [judgment of 22.8.2025, \[IEHC\] 479 \(EN\)](#)*



## Greece – Council of State

### **Taxation - Value added tax - Directive 2006/112/EC - Request for reimbursement of excess VAT - Enforceability of an audit report during a provisional audit in the absence of other administrative decisions**

The Council of State upheld the appeal lodged by a company against the judgment of the administrative court of appeal, in which the latter had dismissed as inadmissible its appeal against an audit report carried out during a provisional check on a request for reimbursement of excess VAT provided for in Article 183 of Directive 2006/112/EC, on the grounds that the latter was not enforceable. The high administrative court considered that, during this audit and in the absence of other administrative decisions, the rejection of the request for reimbursement of the excess VAT by the tax authorities was manifested solely by the adoption and notification of an audit report. Consequently, the Council of State ruled that such an audit report was enforceable, thereby rendering the complaint and, subsequently, the appeal lodged against it admissible. It specified that a contrary interpretation, according to which the request for reimbursement would remain pending until an ordinary audit was carried out, as long as no explicit and independent act of rejection was issued, would have the effect of excessively hindering taxpayers in exercising their right to effective judicial protection. In this regard, the Council of State ensured that the right to effective judicial protection and the principles of equivalence, effectiveness and neutrality of VAT, as provided for by EU law and interpreted by the Court of Justice in tax matters, were respected in this case.

*Symvoulío tis Epikrateias, judgment of 25.8.2025, No 1486/2025, (EL) (decision available on request)*



## Czech Republic – Supreme Court

### **Money laundering and financing of terrorism - Register of beneficial owners - Publication of data**

The Supreme Court overturned the contested decisions of the lower courts and dismissed proceedings relating to an irregularity in the register of beneficial owners concerning money laundering and the financing of terrorism. The irregularity stemmed from a failure to comply with the obligation, under national regulations transposing Directive (EU) 2015/849 (‘AML’), to enter data in this register. The high court found that, following the judgment of the Court of Justice in Joined Cases [C-37/20](#) and [C-601/20](#), the national regulations were no longer in conformity with EU law, in that they provided for the automatic publication of the data entered in that register and the possibility for the public to access it. It also noted that, in the absence of any action by the Czech legislator to comply with that judgment, and for as long as that absence persists, Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, which have direct effect, preclude the obligation to register data provided for in the national regulations from being applied to legal persons and trusts.

*Nejvyšší soud, [order of 25.8.2025, 27 Cdo 1368/2024 \(CS\)](#), [Press release \(CS\)](#)*



## France – Court of Cassation

### **European Public Prosecutor’s Office - Powers of the Deputy European Public Prosecutor - Respect for the principles of independence, impartiality and equality**

In a ruling handed down on 2 September 2025, the Court of Cassation reiterated that the powers of the European Delegated Prosecutor comply with the principles of independence, impartiality and equality.

The European Delegated Prosecutor does not combine the functions of prosecution and judgment. Furthermore, when conducting investigations, the European Delegated Prosecutor may only take certain actions specified by the legislator, which are subject to appeal, and may not decide to implement those actions that are most detrimental to individual freedoms. Finally, the difference in circumstances between individuals charged in proceedings conducted by the European Delegated Prosecutor and individuals charged in national proceedings justifies a difference in treatment. The high court nevertheless notes in this regard that the persons under investigation in these two proceedings enjoy comparable guarantees, insofar as the activities of the European Public Prosecutor’s Office are carried out in accordance with the rights of suspects and accused persons enshrined in the Charter of Fundamental Rights of the European Union.

*Cour de cassation, [judgment of 2.9.2025, appeal No 25-90.017 \(FR\)](#)*



## Denmark – Supreme Court

### **Nationality - Acquisition - Withdrawal of Danish citizenship - Principle of administrative legality - Legitimate interference - Proportionality**

A man had obtained Danish nationality under a 1979 law, on condition that he renounce his Egyptian nationality before a specified date. On that basis, a certificate was issued to him, and his son, born in 1989, was registered as a Danish citizen. However, in 2017, the authorities found that the individual had never renounced his Egyptian nationality and concluded that he and his son had never acquired Danish nationality. The Supreme Court ruled that the condition imposed by the 1979 law had not been met and that, consequently, the administration could consider the naturalisation to be non-existent. It pointed out that an unlawful decision may be withdrawn, unless this would clearly undermine legal certainty or the principle of proportionality, which was not the case here, as the parties concerned could not invoke any legitimate expectations. It specified that, although the conditions for acquiring nationality are a matter for each Member State, the withdrawal of nationality potentially leading to the loss of Union citizenship must comply with the principle of proportionality. Given the circumstances and the fact that the father was aware of this condition, no protection based on EU law was justified.

*Højesteret, [judgment of 3.9.2025, BS-29672/2024-HJR \(DA\)](#)*



## Poland – Supreme Court

### **Consumer protection - Unfair terms - Mortgage loan indexed to a foreign currency - 'Two claims' theory**

The Supreme Court rejected the application of the 'balance' theory to a claim for reimbursement of principal and interest payments made under a foreign currency-indexed mortgage loan agreement that was declared invalid. The high court, however, accepted the 'two claims' theory, stating that if, in the context of the performance of a credit agreement that has been cancelled due to the unlawful nature of its terms, the bank has paid the consumer all or part of the credit amount and the consumer has made repayments, independent rights to restitution of the undue payment arise in favour of each of the parties. It stated that the judgment of the Court of Justice in Case [C-396/24](#), in which the Court upheld the validity of applying the 'balance' theory in a situation where a bank requests reimbursement of a service performed on the basis of an invalid credit agreement, was irrelevant. The grounds cited by the Court of Justice for rejecting the 'two claims' theory in the case of a claim for reimbursement of an undue payment by a bank lead to the conclusion that, where a contract is found to be unfair, the court must ensure that its decision will deter the trader from including unfair terms in other contracts offered to consumers. It also follows from this judgment that if the contract cannot be maintained after the removal of the said terms, the court must take the necessary measures to protect the consumer from particularly harmful consequences. According to the Supreme Court, the application of the judgment of the Court of Justice to the facts of the main proceedings, in which it is the consumer who is seeking reimbursement for a service, must lead to the conclusion that the adoption of the 'two claims' theory is the correct solution, insofar as it produces the desired preventive effect and better protects the interests of the consumer.

*Sąd Najwyższy, [judgment of 5.9.2025, II CSKP 550/24 \(PL\)](#)  
[Press release of 16.9.2025 \(PL\)](#)*



## France – Court of Cassation

### **Social law - Protection of workers' health and safety - Working time arrangements - Right to paid annual leave**

In two rulings dated 10 September 2025, the Court of Cassation brought French law into line with the case-law of the Court of Justice on the right to paid annual leave. These rulings follow a formal notice issued by the European Commission to France to comply with EU law within two months from June 2025.

The high court thus ruled, in an initial judgment, that employees who are unable to work due to illness occurring during their paid annual leave are entitled to take the paid leave days coinciding with the period of sick leave at a later date. Employees must then notify their employer of their sick leave. In a second ruling, it held that, when working time is calculated on a weekly basis, employees are entitled to overtime pay even if they have taken paid leave that has resulted in them not working 35 hours.

*Cour de cassation, [judgment of 10.9.2025, appeal No 23-22.732 \(FR\)](#)  
[Press release \(FR\)](#)*

*Cour de cassation, [judgment of 10.9.2025, appeal No 23-14.455 \(FR\)](#)  
[Press release \(FR\)](#)*



## Cyprus – Supreme Constitutional Court

### ***Right to private and family life – Taking samples of genetic material for the purpose of investigating criminal offences***

The Supreme Constitutional Court found that a national provision allowing, for the purposes of investigating criminal offences, the taking of samples of genetic material from any persons in lawful detention or police custody, with their consent or, failing that, by court order, constitutes a justified interference with the right to respect for private and family life. This interference is neither widespread nor arbitrary, since the issuing of a court order for the sample to be taken, in the absence of the consent of the person concerned, is not mandatory but is at the discretion of the judge. In this context, the judge takes into account all the circumstances of the case, including the nature and seriousness of the alleged offence, and seeks to balance, on the one hand, the right to privacy and, on the other hand, the need to protect, in particular, public safety and public order.

Ανώτατο Συνταγματικό Δικαστήριο Κύπρου, [judgment of 12.9.2025, No 1/2025 \(GR\)](#)



## Cyprus – Supreme Constitutional Court

### ***Impartiality of magistrates - Request for recusal of certain members of the only body competent to examine an appeal - Doctrine of necessity***

The Supreme Constitutional Court was called upon to rule on a request for the recusal of some of its members, raised in the context of an appeal by a judge who was not confirmed in office at the end of his probationary period. Rejecting this request on the basis of the doctrine of necessity, which allows for exceptions to the principle of impartiality when no other legal court can be constituted to hear a case, the high court considered that the requested recusal would inevitably prevent the legal constitution of the only court competent to rule on the appeal and would thus lead to a denial of justice.

Ανώτατο Συνταγματικό Δικαστικό Συμβούλιο, [judgment of 12.9.2025, No 2/2025 \(EL\)](#)



## Germany – Federal Constitutional Court

### ***Fundamental rights - Professional freedom - Unconstitutionality of the legal age limit for notaries***

The Federal Constitutional Court found that the statutory age limit of 70 for lawyer-notaries was unconstitutional and declared it inapplicable from 1 July 2026. An appeal lodged by a lawyer-notary had been brought against this provision and against the ruling of the Federal Court of Justice rejecting his request to continue practising as a notary beyond this legal age limit. In Germany, there are two forms of practising as a notary: notaries appointed to practise full-time and exclusively, and notary-lawyers appointed to practise alongside their profession as lawyers. Federal law stipulates that the role of notary ends at the age of 70, regardless of the form of practice. When it was introduced, the age limit was intended in particular to ensure the proper functioning of the administration of justice and a fair distribution of professional opportunities between generations. In this regard, the high court found that, with regard to lawyer-notaries, the age limit could no longer contribute to the achievement of these objectives, given the significant shortage of candidates for the profession of lawyer-notary since 2012, which is expected to continue in the future. Furthermore, with regard to the objective of protecting the administration of justice against age-related risks, there is no generalised link between age and professional abilities in the notarial profession. The age limit therefore unduly infringed upon the professional freedom of lawyer-notaries.

Bundesverfassungsgericht, [judgment of 23.9.2025, 1 BvR 1796/23 \(DE\)](#)  
[Press release \(DE/EN\)](#)