Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

12 May 2026*

(Reference for a preliminary ruling – Intellectual property – Copyright and related rights – Directive (EU) 2019/790 – Article 15 – Protection of press publications concerning online uses – National legislation providing for the publishers of those publications to be entitled to 'fair compensation' – Obligations imposed on information society service providers – Powers conferred on an independent administrative authority – Charter of Fundamental Rights of the European Union – Article 16 – Freedom to conduct a business – Limitation on the exercise of that freedom – Article 52(1) – Justification – Weighing of that freedom against other fundamental rights – Article 11(2) – Freedom and pluralism of the media – Article 17(2) – Protection of intellectual property)

In Case C-797/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), made by decision of 12 December 2023, received at the Court on 21 December 2023, in the proceedings

Meta Platforms Ireland Ltd

v

Autorità per le Garanzie nelle Comunicazioni,

intervening parties:

Federazione Italiana Editori Giornali (FIEG),

Società italiana degli Autori ed Editori (SIAE),

Gedi Gruppo Editoriale SpA,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, F. Biltgen, K. Jürimäe, C. Lycourgos, I. Ziemele (Rapporteur) and F. Schalin, Presidents of Chambers, S. Rodin, E. Regan, A. Kumin, M. Gavalec, N. Fenger and R. Frendo, Judges,

Advocate General: M. Szpunar,

* Language of the case: Italian.

Registrar: C. Di Bella, Administrator,

having regard to the written procedure and further to the hearing on 10 February 2025,

after considering the observations submitted on behalf of:

– Meta Platforms Ireland Ltd, by F. Angeloni, F. Banterle, A. Bellan, M. Berliri and E. Cocco, avvocati,

– Federazione Italiana Editori Giornali (FIEG), by M. Annecchino, avvocato,

– Società Italiana degli Autori ed Editori (SIAE), by I. Perego, G.M. Roberti and M. Serpone, avvocati,

– Gedi Gruppo Editoriale SpA, by S. Fienga and F. Grasso, avvocati,

– the Italian Government, by S. Fiorentino and G. Palmieri, acting as Agents, and by M. Cherubini and F. Varrone, avvocati dello Stato,

– the Belgian Government, by S. Baeyens and P. Cottin, acting as Agents, and by J. Bocken and P. Callens, advocaten,

– the Danish Government, by D. Elkan, M. Jespersen and C.A.-S. Maertens, acting as Agents,

– the French Government, by R. Bénard, B. Dourthe and E. Timmermans, acting as Agents,

– the Polish Government, by B. Majczyna and E. Buczkowska, acting as Agents,

– the European Commission, by G. Conte, A. de Gregorio Merino and J. Samnadda, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 10 July 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 15 of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ 2019 L 130, p. 92), of Article 109 TFEU, and of Articles 16 and 52 of the Charter of Fundamental Rights of the European Union ('the Charter').

2 The request has been made in proceedings between Meta Platforms Ireland Ltd ('Meta') and the Autorità per le Garanzie nelle Comunicazioni (Communications Regulatory Authority, Italy) (AGCOM) concerning the lawfulness of a decision adopted by AGCOM defining the criteria to be used to determine fair compensation for the online use of press publications.

Legal context

European Union law

The Charter

3 Article 11 of the Charter, entitled 'Freedom of expression and information', provides, in paragraph 2:

'The freedom and pluralism of the media shall be respected.'

4 Article 16 of the Charter, entitled 'Freedom to conduct a business', provides:

'The freedom to conduct a business in accordance with Union law and national laws and practices is recognised.'

5 Article 17 of the Charter, entitled 'Right to property', is worded as follows, in paragraph 2:

'Intellectual property shall be protected.'

6 Article 51 of the Charter, entitled 'Field of application', provides, in paragraph 1:

'The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the [European] Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.'

7 Article 52 of the Charter, entitled 'Scope and interpretation of rights and principles', provides, in paragraph 1:

'Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.'

Directive 2001/29/EC

8 Article 2 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10), entitled 'Reproduction right', provides:

'Member States shall provide for the exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part:

(a) for authors, of their works;

(b) for performers, of fixations of their performances;

(c) for phonogram producers, of their phonograms;

(d) for the producers of the first fixations of films, in respect of the original and copies of their films;

(e) for broadcasting organisations, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite.'

9 Article 3 of the directive, under the heading 'Right of communication to the public of works and right of making available to the public other subject matter', provides, in paragraph 2:

'Member States shall provide for the exclusive right to authorise or prohibit the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them:

(a) for performers, of fixations of their performances;

(b) for phonogram producers, of their phonograms;

(c) for the producers of the first fixations of films, of the original and copies of their films;

(d) for broadcasting organisations, of fixations of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite.'

Directive 2019/790

10 Recitals 1, 2, 3, 54, 55, 57, 82 and 84 of Directive 2019/790 state:

'(1) The [EU Treaty] provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Further harmonisation of the laws of the Member States on copyright and related rights should contribute to the achievement of those objectives.

(2) The directives that have been adopted in the area of copyright and related rights contribute to the functioning of the internal market, provide for a high level of protection for rightholders, facilitate the clearance of rights, and create a framework in which the exploitation of works and other protected subject matter can take place. That harmonised legal framework contributes to the proper functioning of the internal market, and stimulates innovation, creativity, investment and production of new content, also in the digital environment, in order to avoid the fragmentation of the internal market. …

(3) Rapid technological developments continue to transform the way works and other subject matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. Relevant legislation needs to be future-proof so as not to restrict technological development. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject matter in the digital environment. As stated in the [European] Commission Communication of 9 December 2015 entitled "Towards a modern, more European copyright framework", in some areas it is necessary to adapt and supplement the existing Union

copyright framework, while keeping a high level of protection of copyright and related rights. … In order to achieve a well-functioning and fair marketplace for copyright, there should also be rules on rights in publications, …

…

(54) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. The wide availability of press publications online has given rise to the emergence of new online services, such as news aggregators or media monitoring services, for which the reuse of press publications constitutes an important part of their business models and a source of revenue. Publishers of press publications are facing problems in licensing the online use of their publications to the providers of those kinds of services, making it more difficult for them to recoup their investments. In the absence of recognition of publishers of press publications as rightholders, the licensing and enforcement of rights in press publications regarding online uses by information society service providers in the digital environment are often complex and inefficient.

(55) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry and thereby foster the availability of reliable information. It is therefore necessary to provide at Union level for harmonised legal protection for press publications in respect of online uses by information society service providers, which leaves the existing copyright rules in Union law applicable to private or non-commercial uses of press publications by individual users unaffected, including where such users share press publications online. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications of publishers established in a Member State in respect of online uses by information society service providers within the meaning of Directive (EU) 2015/1535 of the European Parliament and of the Council [of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ 2015 L 241, p. 1)]. …

…

(57) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in [Directive 2001/29], in so far as online uses by information society service providers are concerned. The rights granted to publishers of press publications should not extend to acts of hyperlinking. They should also not extend to mere facts reported in press publications. The rights granted to publishers of press publications under this Directive should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in [Directive 2001/29], including the exception in the case of quotations for purposes such as criticism or review provided for in Article 5(3)(d) of that Directive.

…

(82) Nothing in this Directive should be interpreted as preventing holders of exclusive rights under Union copyright law from authorising the use of their works or other subject matter for free, including through non-exclusive free licences for the benefit of any users.

…

(84) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter. Accordingly, this Directive should be interpreted and applied in accordance with those rights and principles.'

11 Article 1 of Directive 2019/790, entitled 'Subject matter and scope', provides, in paragraph 1:

'This Directive lays down rules which aim to harmonise further Union law applicable to copyright and related rights in the framework of the internal market, taking into account, in particular, digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations to copyright and related rights, on the facilitation of licences, as well as rules which aim to ensure a well-functioning marketplace for the exploitation of works and other subject matter.'

12 Article 15 of that directive, entitled 'Protection of press publications concerning online uses', is worded as follows:

'1. Member States shall provide publishers of press publications established in a Member State with the rights provided for in Article 2 and Article 3(2) of [Directive 2001/29] for the online use of their press publications by information society service providers.

The rights provided for in the first subparagraph shall not apply to private or non-commercial uses of press publications by individual users.

The protection granted under the first subparagraph shall not apply to acts of hyperlinking.

The rights provided for in the first subparagraph shall not apply in respect of the use of individual words or very short extracts of a press publication.

2. The rights provided for in paragraph 1 shall leave intact and shall in no way affect any rights provided for in Union law to authors and other rightholders, in respect of the works and other subject matter incorporated in a press publication. The rights provided for in paragraph 1 shall not be invoked against those authors and other rightholders and, in particular, shall not deprive them of their right to exploit their works and other subject matter independently from the press publication in which they are incorporated.

When a work or other subject matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights provided for in paragraph 1 shall not be invoked to prohibit the use by other authorised users. The rights provided for in paragraph 1 shall not be invoked to prohibit the use of works or other subject matter for which protection has expired.

3. Articles 5 to 8 of [Directive 2001/29], Directive 2012/28/EU [of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ 2012 L 299, p. 5)] and Directive (EU) 2017/1564 of the European Parliament and of the Council [of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation

of certain aspects of copyright and related rights in the information society (OJ 2017 L 242, p. 6)] shall apply *mutatis mutandis* in respect of the rights provided for in paragraph 1 of this Article.

4. The rights provided for in paragraph 1 shall expire two years after the press publication is published. That term shall be calculated from 1 January of the year following the date on which that press publication is published.

Paragraph 1 shall not apply to press publications first published before 6 June 2019.

5. Member States shall provide that authors of works incorporated in a press publication receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers.'

Italian law

Law No 633/1941

13 According to Article 43-bis of legge n. 633 – Protezione del diritto d'autore e di altri diritti connessi al suo esercizio (Law No 633 for the protection of copyright and other rights relating to its exercise) of 22 April 1941 (GURI No 166 of 16 July 1941), in the version applicable to the dispute in the main proceedings ('Law No 633/1941'):

'1. Publishers of press publications, whether they are individuals or members of an association or consortium, shall have, in respect of the online use of their press publications by the information society service providers …, including media monitoring and press review undertakings, the exclusive rights of reproduction and communication referred to in Articles 13 and 16.

…

3. "Publishers of press publications" means persons who, whether they are individuals or members of an association or consortium, publish the publications referred to in paragraph 2 in the course of an economic activity, even if they are established in another Member State.

…

6. The rights provided for in paragraph 1 shall not apply to the private or non-commercial use of press publications by individual users, to acts of hyperlinking or to the use of individual words or very short extracts from a press publication.

…

8. For the online use of press publications, information society service providers shall pay fair compensation to the persons referred to in paragraph 1. Within 60 days of the date of entry into force of this provision, [AGCOM] shall adopt a regulation identifying the benchmark criteria for determining the fair compensation referred to in the first sentence, taking into account, inter alia, the number of online consultations of the article, the years of activity and the market share of the publishers referred to in paragraph 3, and the number of journalists employed, as well as the costs incurred by both parties in respect of investment in technologies and infrastructure, and the

economic benefits accruing to both parties from publication in terms of visibility and advertising revenue.

9. Negotiations, with a view to the conclusion of a contract for the use of the rights referred to in paragraph 1, between information society service providers – including media monitoring and press review undertakings – and the publishers referred to in paragraph 3 shall also take into account the criteria laid down in the regulation referred to in paragraph 8. During the negotiations, information society service providers shall not restrict the visibility of the publishers' content in search results. The unjustified limitation of that content at the negotiation stage may be assessed in the context of the verification of compliance with the obligation of good faith laid down in Article 1337 of [the codice civile (Civil Code)].

10. Without prejudice to the right to bring an action before the ordinary courts referred to in paragraph 11, if no agreement on the amount of compensation is reached within 30 days of the request to open negotiations by one of the parties concerned, either party may apply to [AGCOM] and ask that authority to determine fair compensation, setting out its financial proposal in its request. Within 60 days of the request of the party concerned, including where a party, although duly summoned, has not appeared, [AGCOM] shall indicate, on the basis of the criteria laid down in the regulation referred to in paragraph 8, which of the financial proposals made comply with those criteria or, where it considers none of the proposals to be compliant, it shall set out the amount of fair compensation of its own motion.

11. Where, following the determination of fair compensation by [AGCOM], the parties do not conclude a contract, either party may bring the matter before the chamber of the ordinary court specialising in business matters, … including in order to bring the action referred to in Article 9 of [legge n. 192 – Disciplina della subfornitura nelle attività produttive (Law No 192 governing subcontracting in production activities) of 18 June 1998 (GURI No 143 of 22 June 1998)].

12. Information society service providers, including media monitoring and press review undertakings, are required to make available, at the request of the party concerned, including through collective management organisations or independent management entities …, if mandated, or at the request of [AGCOM], the data necessary for the determination of the amount of fair compensation. Compliance with the obligation referred to in the first sentence shall not exempt the publishers referred to in paragraph 3 from the obligation to respect the confidentiality of commercial, industrial and financial information of which they have become aware. Compliance with the obligation imposed on service providers to provide information shall be monitored by [AGCOM]. In the event of failure to provide such data within 30 days of a request made pursuant to the first sentence, [AGCOM] shall impose an administrative fine on the non-compliant entity of up to 1% of turnover in the last financial year ending prior to the notification of the challenge. …

…

14. The rights referred to in this Article shall expire two years after the press work is published. …

…'

Decision No 3/23/CONS

14 On 19 January 2023, AGCOM adopted delibera n. 3/23/CONS (Decision No 3/23/CONS), Annex A to which contains the regolamento in materia di individuazione dei criteri di riferimento per la determinazione dell'equo compenso per l'utilizzo online di pubblicazioni di carattere giornalistico di cui all'articolo 43-bis della Legge 22 aprile 1941, n. 633 (Regulation on the identification of benchmark criteria for determining fair compensation for the online use of press publications, as provided for in Article 43-bis of Law No 633/1941), which:

– identifies, in Article 4, the criteria for determining the amount of fair compensation, which include the definition of a calculation basis using the advertising revenue of information society service providers resulting from the online use of the publisher's press publications, after deduction of the publisher's revenue from redirecting traffic on its website;

– sets a rate of up to 70% to be applied to the basic amount for the determination of the amount of fair compensation, on the basis of a number of additional criteria laid down in Article 4(2);

– lists, in Article 5, the obligations to make the data available, defines AGCOM's inspection powers and provides for the imposition of an administrative fine on non-compliant entities of up to 1% of turnover on the national market in the last financial year ending prior to the notification of the challenge;

– governs, in Articles 8 to 12, the procedure for asking AGCOM to determine the amount of fair compensation and the provisions relating thereto, including the possibility for AGCOM to set that amount unilaterally.

The dispute in the main proceedings and the questions referred for a preliminary ruling

15 Meta is a company established in Ireland which provides information society services, inter alia as the operator of the online social network Facebook.

16 On 19 January 2023, AGCOM, on the basis of the reference in paragraph 8 et seq. of Article 43-bis of Law No 633/1941, transposing Article 15 of Directive 2019/790, adopted Decision No 3/23/CONS. That decision lays down the benchmark criteria for determining fair compensation for the online use of press publication by information society service providers.

17 By application lodged before the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy), which is the referring court, Meta brought an action for annulment of Decision No 3/23/CONS and its annexes.

18 In support of its action, Meta submitted, inter alia, that Article 43-bis of Law No 633/1941 and Decision No 3/23/CONS are contrary to Article 15 of Directive 2019/790, which establishes exclusive rights and not a remuneration right. Moreover, it argued that because of the obligations imposed on information society service providers, the significant limitations on the economic operators' freedom of contract, and the role and powers conferred on AGCOM, that legislation is also contrary to the freedom to conduct a business, guaranteed in Article 16 of the Charter and, in particular, the principle of free competition. Meta also claimed that the measures adopted by the

Italian legislature and AGCOM, which hinder or, at least, render significantly less attractive the provision of services in Italy by companies established in other Member States, were disproportionate and inadequate.

19 The referring court has doubts as to whether those measures are compatible with EU law. It notes, in that regard, that Article 43-bis of Law No 633/1941 transposes, into Italian law, Article 15 of Directive 2019/790. According to that court, that transposing law and Decision No 3/23/CONS adopted on the basis thereof broaden the EU legal framework, by adding to it an economic dimension not covered by Article 15 of Directive 2019/790, obligations on information society service providers as well as powers in favour of AGCOM.

20 The referring court also observes that, in introducing the presence of a third party with regulatory, decision-making, inspection and sanctioning powers, in an area which should be governed by the freedom of negotiation, the mechanism for the determination of fair compensation by AGCOM, while its outcome may be subject to the judicial authority's assessment, is liable to undermine not only the freedom of contract but also the freedom to conduct a business, under Articles 16 and 52 of the Charter.

21 It notes, moreover, that in the light of the principles identified by the Court in particular in its judgment of 26 April 2022, *Poland* v *Parliament and Council* (C-401/19, EU:C:2022:297), the introduction of fair compensation which must be paid by information society service providers to publishers may prove disproportionate not only in view of the protection of the right to communication and/or to information, but above all on account of the homogenisation of press publications and content. In its view, that disproportionate nature is also apparent in respect of the powers of intervention granted to AGCOM.

22 In those circumstances, the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) May Article 15 of [Directive 2019/790] be interpreted as precluding the introduction of provisions of national legislation, such as those laid down in Article 43-bis of [Law No 633/1941] and those laid down in [Decision No 3/23/CONS of AGCOM], in so far as:

(a) for the benefit of publishers and in addition to the exclusive rights referred to in Article 15 of [Directive 2019/790], remuneration (fair compensation) obligations are imposed on [information society service providers];

(b) those [information society service providers] are required:

– to enter into negotiations with publishers,

– to provide those publishers and [AGCOM] with the information necessary to determine fair compensation, and

– not to restrict the visibility of the publisher's content in search results pending completion of negotiations;

(c) [AGCOM] is given:

– supervisory and sanctioning powers,

– the power to identify the benchmark criteria for determining fair compensation,

– the power to determine, in the absence of agreement between the parties, the exact amount of fair compensation[?]

(2) Does Article 15 of [Directive 2019/790] preclude provisions of national legislation, such as those referred to in Question 1 above, that impose an obligation on [information society service providers] to disclose data, an obligation that is monitored by [AGCOM] and non-compliance with which leads to administrative penalties becoming applicable?

(3) Do the principles of freedom to conduct a business, referred to in Articles 16 and 52 of the [Charter], of free competition, referred to in Article 109 TFEU, and of proportionality, referred to in Article 52 of the [Charter], preclude provisions of national legislation, such as those referred to above, which:
(a) introduce rights to remuneration in addition to the exclusive rights referred to in Article 15 of [Directive 2019/790], the implementation of which is accompanied by the imposition, referred to above, of an obligation on [information society service providers] to enter into negotiations with publishers, an obligation to provide publishers and/or [AGCOM] with the information necessary to determine fair compensation, and an obligation not to restrict the visibility of the publisher's content in search results pending such negotiations;
(b) confer on [AGCOM]:

– supervisory and sanctioning powers,

– the power to identify the benchmark criteria for determining fair compensation,

– the power to determine, in the absence of agreement between the parties, the exact amount of fair compensation?'

The request for the reopening of the oral part of the procedure

23 By document lodged at the Registry of the Court of Justice on 22 July 2025, Meta requested the reopening of the oral part of the procedure, pursuant to Article 83 of the Rules of Procedure of the Court of Justice.

24 In support of that request, it submits, in essence, that it disagrees with some of the assessments set out in the Advocate General's Opinion. More specifically, Meta contends that the Opinion is based on incorrect factual premises regarding market dynamics, the manner in which press publications appear on Facebook and the binding nature of the measures fixing remuneration adopted by AGCOM. Furthermore, it submits that new information has come to light, in particular regarding the implementation of the powers conferred on AGCOM, which demonstrates the regulatory impact of those measures.

25 In that regard, it should be pointed out, first, that the Statute of the Court of Justice of the European Union and the Rules of Procedure make no provision for the parties to submit observations in response to the Advocate General's Opinion. Second, under the second paragraph of Article 252 TFEU, it is the duty of the Advocate General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his or her involvement. The Court is not bound either by the Advocate General's Opinion or by the

reasoning which led thereto. As a consequence, the fact that a party disagrees with the Advocate General's Opinion, irrespective of the questions examined in the Opinion, cannot in itself constitute grounds justifying the reopening of the oral part of the procedure (judgment of 30 October 2025, *Qassioun*, C-790/23, EU:C:2025:838, paragraph 34 and the case-law cited).

26 It is true that the Court may at any time, after hearing the Advocate General, order the reopening of the oral part of the procedure, in accordance with Article 83 of the Rules of Procedure, in particular if it considers that it lacks sufficient information or where a party has, after the close of that part of the procedure, submitted a new fact which is of such a nature as to be a decisive factor for the decision of the Court.

27 In this instance, the Court considers, however, after hearing the Advocate General, that, at the close of the written part of the procedure and the hearing before it, it has all the material necessary for it to give judgment in the present case. In any event, Meta's request that the oral part of the procedure be reopened, which relates mainly to questions already debated in the context of the written part and at the hearing, does not reveal any new fact of such a nature as to be a decisive factor for the decision which it is called upon to give in that case.

28 So far as concerns, more specifically, the factual information referred to in paragraph 24 of the present judgment, it should be borne in mind that, in preliminary ruling proceedings, the Court does not have the task of establishing the alleged facts but solely that of interpreting the relevant provisions of EU law. Questions on the interpretation of EU law are referred by a national court in the factual and legislative context which that court is responsible for defining, the accuracy of which is not a matter for the Court to determine (see judgments of 16 March 1978, *Oehlschläger*, 104/77, EU:C:1978:69, paragraph 4, and of 4 October 2024, *Bezirkshauptmannschaft Landeck (Attempt to access personal data stored on a mobile telephone)*, C-548/21, EU:C:2024:830, paragraph 41 and the case-law cited).

29 In those circumstances, it is not necessary to order the reopening of the oral part of the procedure.

Consideration of the questions referred

Admissibility

30 The Danish Government questions the admissibility of the third question, alleging that the requirements laid down in Article 94(c) of the Rules of Procedure are not met. It submits, first, that Article 109 TFEU, to which that question refers, does not enshrine the principle of free competition mentioned by the referring court. Second, as regards Articles 16 and 52 of the Charter, to which that question also refers, it claims that the referring court does not sufficiently explain how the national legislation at issue in the main proceedings constitutes a disproportionate interference with the exercise of the freedom to conduct a business.

31 Thus, according to that government, it is not possible to identify in the request for a preliminary ruling the reasons why the referring court has doubts as to the compatibility of the national legislation at issue in the main proceedings with those provisions of EU law.

32 For its part, also as regards the third question, the Belgian Government, without formally raising a plea of inadmissibility, questions the applicability of Articles 16 and 52 of the Charter in the present case, in so far as the national measures at issue in the main proceedings fall, at least in

part, outside the scope of Directive 2019/790 and, consequently, do not constitute the implementation of EU law, within the meaning of the case-law relating to Article 51 of the Charter.

33 In that regard, it must be borne in mind that, according to settled case-law, in the context of the cooperation between the Court and the national courts provided for in Article 267 TFEU, it is solely for the national court, before which the dispute has been brought and which must assume responsibility for the subsequent judicial decision, to determine, in the light of the particular circumstances of the case, both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where questions submitted concern the interpretation of EU law, the Court is, in principle, bound to give a ruling (see judgments of 29 November 1978, *Redmond*, 83/78, EU:C:1978:214, paragraph 25; of 21 April 1988, *Pardini*, 338/85, EU:C:1988:194, paragraph 8; and of 21 March 2024, *LEA*, C-10/22, EU:C:2024:254, paragraph 36).

34 It follows that questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its object, where the problem is hypothetical, or where the Court does not have before it the factual and legal material necessary to give a useful answer to the questions submitted to it (see judgments of 15 December 1995, *Bosman*, C-415/93, EU:C:1995:463, paragraph 61; of 13 July 2000, *Idéal tourisme*, C-36/99, EU:C:2000:405, paragraph 20; and of 21 March 2024, *LEA*, C-10/22, EU:C:2024:254, paragraph 37).

35 In order to enable the Court to provide the referring court with an interpretation of EU law which will be of use to it, Article 94(c) of the Rules of Procedure provides, inter alia, that the request for a preliminary ruling itself must contain a statement of the reasons which prompted the referring court or tribunal to inquire about the interpretation or validity of certain provisions of EU law, and the relationship between those provisions and the national legislation applicable to the main proceedings.

36 In the present case, as regards, in the first place, Article 109 TFEU, it should be noted that that article governs the powers of the EU institutions to adopt rules for the application of Articles 107 and 108 TFEU, relating to State aid. In those circumstances, it must be held that the interpretation of Article 109 that is sought bears no relation to the object of the dispute in the main proceedings, within the meaning of the case-law referred to in paragraph 34 of the present judgment.

37 Moreover, even if the reference to Article 109 in the third question is the result of a clerical error and, as appears to be the case from the grounds of the request for a preliminary ruling, that question is to be understood as referring to Article 119 TFEU, it should be noted that Article 119 introduces Title VIII of the FEU Treaty, entitled ‘Economic and monetary policy’, and lays down the guiding principles governing the activities of the Member States in the adoption of that policy. Although Article 119 refers, in paragraphs 1 and 2 thereof, to the ‘principle of an open market economy with free competition’, the fact remains that it is quite obvious that the dispute in the main proceedings falls outside the scope of that provision.

38 It follows that the third question is inadmissible in so far as it concerns the interpretation of Article 109 TFEU or, as the case may be, that of Article 119 TFEU.

39 By contrast, as regards, in the second place, the interpretation that is sought of Articles 16 and 52 of the Charter, it is apparent from paragraphs 19 to 21 of the present judgment that the request for a preliminary ruling sets out succinctly but clearly the reasons which led the referring court to inquire about the interpretation of those provisions of EU law. Furthermore, it is apparent from that request that Article 43-bis of Law No 633/1941, the compatibility of which with EU law is called into question, is the result of an amendment of the Italian legislation by a legislative decree adopted with the express aim of implementing Directive 2019/790 into Italian law. In that regard, the referring court states that Article 43-bis transposes Article 15 of that directive into Italian law.

40 As the Court has already held, the transposition of a directive by the Member States is covered, in any event, by the situation, referred to in Article 51 of the Charter, in which the Member States are implementing EU law (see, to that effect, judgment of 29 July 2019, *Spiegel Online*, C-516/17, EU:C:2019:625, paragraph 20), such that that transposition must be consistent with the fundamental rights guaranteed by the Charter. It follows that the provisions of the Charter are applicable to the dispute in the main proceedings.

41 Consequently, the third question is admissible in so far as it concerns the interpretation of Articles 16 and 52 of the Charter.

Substance

42 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 15 of Directive 2019/790 and Articles 16 and 52 of the Charter must be interpreted as precluding national legislation which:

– confers on publishers of press publications the right to obtain fair remuneration in return for the authorisation to use their publications granted to information society service providers;

– imposes on those providers, which use or intend to use such publications, the obligation to enter into negotiations with those publishers, the obligation not to limit the visibility of their content in search results during the negotiations and the obligation to make available to those publishers and to a public authority the information necessary to determine the amount of such fair remuneration;

– empowers that authority to define the benchmark criteria to be used to determine that remuneration and, in the absence of agreement between the parties before it, to determine the amount of that remuneration and to monitor compliance with the obligation to provide information incumbent on those providers as well as to impose administrative fines on them in the event of failure to comply with that obligation.

Preliminary observations

43 In its written observations, Meta submits that the national legislation at issue in the main proceedings must be assessed in the light not only of Article 15 of Directive 2019/790 and Articles 16 and 52 of the Charter, but also of Articles 5 and 6 of Directive 2015/1535 and Article 3 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ 2000 L 178, p. 1). It claims, in that regard, first, that the measures introduced by that legislation were not notified to the

Commission, even though they constitute 'technical regulations' within the meaning of Directive 2015/1535, and, second, that those measures do not comply with the principle of the country of origin, enshrined in Article 3 of Directive 2000/31.

44 In that regard, it should be pointed out that, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to rule on the case before it. In that context, the Court may extract from all the information provided by the national court, in particular from the grounds of the order for reference, the legislation and the principles of EU law that require interpretation in view of the subject matter of the dispute in the main proceedings in order to reformulate the questions referred to it and to interpret all provisions of EU law which national courts require in order to decide the actions pending before them, even if those provisions are not expressly indicated in those questions (see judgments of 20 March 1986, *Tissier*, 35/85, EU:C:1986:143, paragraph 9, and of 17 October 2024, *Sony Computer Entertainment Europe*, C-159/23, EU:C:2024:887, paragraph 27 and the case-law cited).

45 However, it is for the national court alone to determine the subject matter of the questions which it wishes to refer to the Court. Thus, where the request itself does not reveal a need to reformulate those questions, the Court cannot, at the request of a party to the main proceedings, examine questions which have not been submitted to it by the national court. If, in view of developments during the proceedings, the national court were to consider it necessary to obtain further interpretations of EU law, it would be for it to make a fresh reference to the Court (see judgments of 23 October 1997, *Franzén*, C-189/95, EU:C:1997:504, paragraph 79, and of 17 October 2024, *Sony Computer Entertainment Europe*, C-159/23, EU:C:2024:887, paragraph 28 and the case-law cited).

46 In the present case, while stating that Meta relied on an infringement of Directives 2000/31 and 2015/1535 in the context of the dispute in the main proceedings, the referring court expressly ruled out, in its order for reference, the need to obtain an interpretation of those directives.

47 It follows that the request for a preliminary ruling must be analysed in the light of Article 15 of Directive 2019/790 and of the relevant provisions of the Charter.

Article 15 of Directive 2019/790

48 As its title indicates, Article 15 of Directive 2019/790 governs the 'protection of press publications concerning online uses'. To that end, the first subparagraph of Article 15(1) states that Member States are to provide publishers of press publications established in a Member State, for the online use of their press publications by information society service providers, with 'the rights provided for in Article 2 and Article 3(2) of Directive [2001/29]', namely, respectively, the exclusive right to authorise or prohibit acts of reproduction and the exclusive right to authorise or prohibit acts of making available to the public.

49 Thus, the first subparagraph of Article 15(1) of Directive 2019/790, read in conjunction with Article 2 and Article 3(2) of Directive 2001/29, unequivocally defines the exclusive rights of reproduction and making available to the public enjoyed by publishers of press publications in the European Union and constitutes a measure of full harmonisation of the corresponding substantive law (see, as regards Article 2(c) of Directive 2001/29, judgment of 29 July 2019, *Pelham and Others*, C-476/17, EU:C:2019:624, paragraphs 84 to 86).

50 Consequently, the first subparagraph of Article 15(1) of Directive 2019/790, read in conjunction with Article 2 and Article 3(2) of Directive 2001/29, requires Member States to guarantee to publishers of press publications established in the European Union, for the online use of their publications by information society service providers, the exclusive rights of reproduction of those publications and making them available to the public, without those States having any discretion to regulate the substantive law.

51 Neither Article 15 of Directive 2019/790 nor any other provision of that directive specifies the detailed rules for implementing those rights.

52 In that regard, it must be borne in mind that it follows from the third paragraph of Article 288 TFEU that, when transposing a directive, Member States must ensure that it is fully effective, while enjoying discretion as to the choice of ways and means of ensuring that a directive is implemented. That freedom does not affect the obligation, imposed on all the Member States to which the directive is addressed, to adopt all the measures necessary to ensure that the directive concerned is fully effective, in accordance with the objective which it pursues (see judgments of 10 April 1984, *von Colson and Kamann*, 14/83, EU:C:1984:153, paragraph 15, and of 1 August 2025, *Alace and Canpelli*, C-758/24 and C-759/24, EU:C:2025:591, paragraphs 61 and 62).

53 Accordingly, it must be held that Member States, when transposing the rights provided for in Article 15 of Directive 2019/790, enjoy discretion in specifying the detailed rules for implementing those rights, which must be exercised in full compliance with the limits laid down by that directive and in accordance with the objectives which it pursues. It follows that, first, in view of the harmonisation brought about by Article 15, a Member State cannot lay down such detailed implementing rules which would have the effect of altering the substantive law, in particular in terms of nature and scope. Second, those detailed rules must be fully compatible with both the general objective of that directive and the specific objective of Article 15.

54 As is apparent from Article 1(1) of Directive 2019/790, read in the light of recitals 1 to 3 thereof, the general objective of that directive is to further the harmonisation of the laws of the Member States on copyright and related rights, while keeping a high level of protection of those rights and contributing to the achievement of a well-functioning and fair marketplace for copyright.

55 As regards, more specifically, the objective pursued by Article 15 of Directive 2019/790, recitals 54 and 55 thereof state that the introduction into EU law of rights related to copyright for the reproduction and making available to the public of press publications in respect of online uses by information society service providers aims, inter alia, to address the problems that publishers of those publications face in licensing those uses and to ensure that they may recoup the investments required by the production of those publications. Those rights are thus enshrined in the directive on account of the imperative need to recognise and further encourage the organisational and financial contribution of those publishers in producing those publications, in order to ensure the sustainability of the publishing industry and thereby foster the availability of reliable information, since a free and pluralist press is essential to ensure quality journalism and citizens' access to information.

56 It is in the light of those considerations that the questions referred in relation to Article 15 of Directive 2019/790 must be examined.

– *The right of publishers of press publications to obtain fair remuneration*

57 It is apparent from the order for reference that, pursuant to Article 43-bis(1) of Law No 633/1941, publishers of press publications, for certain online uses – namely, uses other than acts of hyperlinking, and uses not limited to individual words or very short extracts – of their publications by information society service providers, are granted 'exclusive rights of reproduction and communication'.

58 Article 43-bis(8) of that law provides that, for those online uses by information society service providers, the latter are to pay 'fair compensation' to the publishers referred to in Article 43-bis(1).

59 In order to determine whether such provisions comply with the requirements set out in paragraphs 50 and 53 of the present judgment, it should be noted that it is apparent from the very wording of the first subparagraph of Article 15(1) of Directive 2019/790 and from recital 57 thereof that the rights granted to publishers of press publications have the same scope as the rights of reproduction and making available to the public provided for by Directive 2001/29, in so far as online uses of those publications by information society service providers are concerned.

60 Thus, first, the protection conferred by the rights enshrined in Article 15 of Directive 2019/790 is not limited to the enjoyment of those rights, but also extends to the exercise of those rights, exercise which, in practice, must be effective. Second, like the rights of reproduction and making available to the public provided for by Directive 2001/29, those rights are of a preventive nature, in that any use of the publications which they protect requires the prior consent of the rightholder (see, as regards Article 2(b) and Article 3(2)(a) of Directive 2001/29, judgments of 14 November 2019, *Spedidam*, C-484/18, EU:C:2019:970, paragraphs 37 and 38, and of 6 March 2025, *ONB and Others*, C-575/23, EU:C:2025:141, paragraphs 105 and 106).

61 It follows that, subject to the exceptions and limitations laid down, inter alia, in Article 5 of Directive 2001/29, applicable to the rights enshrined in Article 15(1) of Directive 2019/790 by virtue of the express reference made in that regard by Article 15(3), any use falling within the scope of Article 15 must be subject to prior authorisation by the holders of the rights enshrined therein.

62 Consequently, Member States cannot transpose Article 15 of Directive 2019/790 by substituting the exclusive rights of a preventive nature which it establishes with a mere right to compensation, which would allow publishers of press publications only to obtain remuneration for online uses of those publications by information society service providers, but not to prohibit those uses.

63 That said, the rights established in Article 15 imply, by their nature, that publishers of press publications may make the authorisation of those uses subject to any remuneration which they deem appropriate. In addition, it is apparent from paragraph 55 of the present judgment that Article 15 of Directive 2019/790 is intended to ensure that those publishers may recoup the investments required by the production of those publications with such a remuneration. In those circumstances, an information society service provider cannot validly argue that a national legislature fails to have regard to that directive when it establishes a system intended to ensure fair remuneration for those publishers.

64 However, it must be pointed out, first, that, as recital 82 of Directive 2019/790 expressly confirms, publishers of press publications should retain the possibility of authorising those same uses for free, including through non-exclusive free licences for the benefit of any users.

65 Second, while Article 15 of Directive 2019/790 confers on publishers of press publications exclusive rights of a preventive nature which enable them to authorise or prohibit the reproduction of those publications, or making them available to the public, by information society service providers, it in no way guarantees them remuneration where those providers do not use or intend to use those publications.

66 It follows that information society service providers must retain the freedom to decide on such use whilst seeking prior authorisation from publishers of press publications, since no payment or other obligation may be imposed on them under Article 15 of Directive 2019/790 where they do not use or intend to use publications covered by that provision.

67 In the present case, it is for the referring court, which alone has jurisdiction to interpret the national legislation at issue in the main proceedings, to assess whether that legislation meets the requirements set out in paragraphs 62 to 66 of the present judgment.

68 That would be the case if the 'fair compensation' to be paid to publishers of press publications pursuant to Article 43-bis(1) and (8) of Law No 633/1941 is understood as consideration for the authorisation granted to information society service providers to reproduce those publications or to make them available to the public, and those provisions, first, guarantee those publishers the right to refuse to grant such authorisation or to grant it free of charge and, second, do not impose on those providers any payment obligation unrelated to the use of such publications.

69 In that context, it should be recalled that, as consistently held, when national courts apply domestic law, they are bound to interpret it, so far as possible, in the light of the wording and the purpose of the directive in question in order to achieve the result sought by that directive and consequently comply with the third paragraph of Article 288 TFEU. That obligation to interpret national law in conformity with EU law is inherent in the system of the FEU Treaty, since it permits national courts, for the matters within their jurisdiction, to ensure the full effectiveness of EU law when they determine the disputes before them (see judgments of 24 January 2012, *Dominguez*, C-282/10, EU:C:2012:33, paragraph 24, and of 23 October 2025, *Gaso and Conexus Baltic Grid*, C-87/24, EU:C:2025:826, paragraph 64 and the case-law cited).

70 In addition, the principle that national law must be interpreted in conformity with EU law requires national courts to do whatever lies within their jurisdiction, taking the whole body of domestic law into consideration and applying the interpretative methods recognised by domestic law, with a view to ensuring that the directive in question is fully effective and achieving an outcome consistent with the objective pursued by it (see judgments of 4 July 2006, *Adeneler and Others*, C-212/04, EU:C:2006:443, paragraph 111, and of 23 October 2025, *Gaso and Conexus Baltic Grid*, C-87/24, EU:C:2025:826, paragraph 65 and the case-law cited).

– *Obligations imposed on information society service providers*

71 It is apparent from the order for reference that Article 43-bis(9) and (12) of Law No 633/1941 lays down a series of obligations on information society service providers, in particular the obligation to enter into negotiations with publishers of press publications with a view to concluding a contract enabling them to use those publications, the obligation to refrain from limiting the

visibility of those publications in the search results during those negotiations and the obligation to provide the data necessary for the determination of the amount of 'fair compensation' for such use.

72 In that regard, it must be recalled that, as has been pointed out in paragraph 53 of the present judgment, the national legislature enjoys discretion in specifying the detailed rules for implementing the rights enshrined in Article 15 of Directive 2019/790, subject to observance of, inter alia, the nature and scope of those rights and compliance with the objectives pursued by that directive and Article 15 thereof.

73 National legislation that imposes on information society service providers obligations such as those at issue in the main proceedings contains, in so doing, such detailed rules.

74 However, as is apparent from paragraphs 63 to 66 of the present judgment, in order for such obligations to observe the nature and scope of the rights enshrined in Article 15 of Directive 2019/790, it is necessary to ensure that those obligations apply only where information society service providers use or intend to use press publications covered by Article 15 and, accordingly, where the publishers of those publications wish to enter into such negotiations with those providers with a view to granting them, for a fee, authorisation to reproduce those publications or to make them available to the public.

75 In the present case, the information in the file before the Court does not suggest that those conditions are not satisfied. Therefore, subject to verification by the referring court, the obligations laid down in Article 43-bis(9) and (12) of Law No 633/1941, referred to in paragraph 71 of the present judgment, do not appear to disregard the nature or scope of the rights enshrined in Article 15 of Directive 2019/790.

76 As regards the compatibility of those obligations with the objectives of that directive and of Article 15 thereof, the Italian Government submits, in essence, that those obligations are intended to strengthen the negotiating position of publishers of press publications, by being conceived as expressions of the general principle of good faith in negotiations. In particular, in its view, those obligations are intended to overcome the imbalance of economic power and the information asymmetry deemed to exist between those publishers and information society service providers to the detriment of the former.

77 In that regard, as the Advocate General observed, in essence, in points 46 and 47 of his Opinion, as regards the obligation to provide the data necessary for the determination of the amount of 'fair compensation', only information society service providers possess the information enabling the economic value of online use of press publications to be assessed, such as the revenues generated by or expected from such use, with the result that publishers of press publications are in a weaker negotiating position than those providers as regards the determination of the remuneration at issue. Furthermore, the obligation to refrain from limiting the visibility of publications in search results during negotiations between those providers and those publishers serves to prevent pressure being exerted on those publishers or the economic value of the use of their press publications being concealed.

78 Thus, in so far as the obligations in question make it possible to ensure that publishers of press publications are able to decide freely and on the basis of all relevant information whether and, if so, in return for what remuneration they wish to grant information society service providers authorisation to reproduce those publications or make them available to the public, those

obligations are capable of ensuring the fairness of the negotiations between the parties. Accordingly, obligations such as those at issue in the main proceedings contribute to the objective of protection of those publishers as holders of the rights enshrined in Article 15 of Directive 2019/790, in accordance with the intention of the EU legislature expressed in recitals 54 and 55 of that directive.

79 In those circumstances, it must be held that such obligations contribute to the attainment of the objectives referred to in paragraphs 54 and 55 of the present judgment, by strengthening the level of protection intended by that directive and, in particular, Article 15 thereof.

– *The powers conferred on AGCOM*

80 It follows from the order for reference that, under Article 43-bis(8), (10) and (12) of Law No 633/1941, AGCOM is empowered to identify the benchmark criteria for determining the remuneration that information society service providers are, as the case may be, to pay to publishers of press publications in return for the authorisation to use those publications and, in the absence of agreement between the parties, to specify the amount of that remuneration. In addition, it is for AGCOM to ensure compliance with the obligation to provide information incumbent on those providers, by having the possibility of imposing on them an administrative fine in the event of failure to comply with that obligation.

81 Public intervention measures such as those referred to in the preceding paragraph of the present judgment are fully compatible with Article 15 of Directive 2019/790. Measures governing the powers of a public authority, such as AGCOM, fall within the detailed rules for implementing the rights enshrined in Article 15. In so far as they make it possible to determine the appropriate amount of remuneration where information society service providers use or intend to use press publications, with the authorisation of the publishers of press publications, and the parties are not in a position to agree on the appropriate amount of that remuneration, those public intervention measures do not disregard the nature and scope of those rights or the objectives pursued by that directive and Article 15 thereof.

82 It should also be noted that, in the light of the information provided by the referring court, it appears that, although AGCOM is empowered to determine the benchmark criteria and, in the absence of agreement between the parties, the amount of such remuneration, the parties remain free not to conclude a contract allowing those suppliers to use those publications.

83 In addition, as is apparent from paragraphs 71 to 79 of the present judgment, subject to verification by the referring court, the obligation incumbent on information society service providers to provide the data necessary for the determination of the amount of ‘fair compensation’ appears to comply with Article 15 of Directive 2019/790. In those circumstances, in so far as it seeks to ensure the effectiveness of that obligation, the power to monitor compliance with that obligation and to impose penalties for any infringements, conferred on a public authority such as AGCOM, cannot be regarded as contrary to that article either, subject to compliance with the principle of proportionality.

Articles 16 and 52 of the Charter

84 In accordance with paragraph 40 of the present judgment, in order to assess the compatibility with EU law of national legislation which, like that at issue in the main proceedings, is intended to implement EU law, within the meaning of Article 51(1) of the Charter, account must also be taken of the requirements flowing from the protection of the fundamental rights guaranteed by the Charter.

85 As regards, in particular, the freedom to conduct a business, which is specifically the subject matter of the referring court's questions, it should be noted that Article 16 of the Charter provides that the freedom to conduct a business in accordance with EU law and national laws and practices is recognised. The protection afforded by that article covers the freedom to exercise an economic or commercial activity, the freedom of contract and free competition (see judgments of 22 January 2013, *Sky Österreich*, C-283/11, EU:C:2013:28, paragraph 42, and of 30 April 2024, *Trade Express-L and DEVNIA TSIMENT*, C-395/22 and C-428/22, EU:C:2024:374, paragraph 76).

86 In that regard, it must be borne in mind, first, that any measure liable to have a sufficiently direct and significant effect on the freedom of the operators concerned to exercise a trade or profession constitutes a limitation on the exercise of the freedom to conduct a business. Second, the protection afforded by Article 16 of the Charter also includes, by virtue of freedom of contract, the freedom to choose with whom to do business and the freedom to determine the price for a service, and the imposition of an obligation to contract constitutes a substantial limitation on the freedom of contract enjoyed, in principle, by economic operators (see, to that effect, judgments of 22 January 2013, *Sky Österreich*, C-283/11, EU:C:2013:28, paragraph 43, and of 10 July 2025, *INTERZERO and Others*, C-254/23, EU:C:2025:569, paragraphs 211 and 212).

87 Having regard to the wording of Article 16 of the Charter, which provides that the freedom to conduct a business in accordance with EU law and national laws and practices is recognised and thus differs from the wording of the provisions enshrining, in Title II of the Charter, other fundamental freedoms, yet is similar to that of certain provisions of Title IV of the Charter, that freedom may therefore be subject to a broad range of interventions on the part of public authorities which may, in the public interest, limit the exercise of economic activity. That circumstance is reflected, in particular, in the way in which EU legislation and national legislation and practices should be assessed in the light of the principle of proportionality under Article 52(1) of the Charter (see judgments of 22 January 2013, *Sky Österreich*, C-283/11, EU:C:2013:28, paragraphs 46 and 47, and of 10 July 2025, *INTERZERO and Others*, C-254/23, EU:C:2025:569, paragraph 141 and the case-law cited).

88 In accordance with Article 52(1) of the Charter, any limitation on the exercise of the rights and freedoms recognised by the Charter must be provided for by law and respect the essence of those rights and freedoms and, subject to the principle of proportionality, must be necessary and genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others.

89 In that regard, it should be noted that, in so far as it is possible to interpret the national legislation at issue in the main proceedings as meaning that the 'fair compensation' provided for therein is to be understood as being the consideration freely determined by publishers of press publications and information society service providers, that legislation cannot be regarded as containing a limitation on the exercise of those providers' freedom to conduct a business.

90 By contrast, both the obligation incumbent on information society service providers to provide certain data, failing which an administrative fine may be imposed on them, and the requirement that they must not limit the visibility of press publications in the search results during the negotiations, as well as the powers conferred on AGCOM in that regard, are liable to limit the exercise of their freedom to conduct a business, guaranteed in Article 16 of the Charter.

91 As regards the justification for such limitations, first, it is common ground that they are provided for by law, within the meaning of Article 52(1) of the Charter, in so far as they are set out in Law No 633/1941.

92 Second, in so far as national legislation such as that at issue in the main proceedings does not prevent all business activity on the part of economic operators or deprive them of the possibility of asserting their interests generally in the context of a contractual relationship, but merely limits that possibility, such legislation cannot undermine the essence of the freedom to conduct a business (see, by analogy, judgments of 21 December 2021, *Bank Melli Iran*, C-124/20, EU:C:2021:1035, paragraphs 87 and 88 and the case-law cited, and of 10 July 2025, *INTERZERO and Others*, C-254/23, EU:C:2025:569, paragraph 150).

93 Third, as regards the condition that the limitation on the freedom to conduct a business must genuinely meet objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others, it follows from what has been stated in paragraphs 78 and 79 of the present judgment that that limitation which may result from national legislation, such as that at issue in the main proceedings, also satisfies that condition, since it contributes to meeting the objectives of Directive 2019/790, recalled in paragraphs 54 and 55 of the present judgment (see, by analogy, judgment of 21 December 2021, *Bank Melli Iran*, C-124/20, EU:C:2021:1035, paragraph 89).

94 Fourth, as to the limitation of the freedom enshrined in Article 16 of the Charter being subject to the principle of proportionality, it appears, first of all, that national legislation such as that at issue in the main proceedings is appropriate for achieving the objective which it pursues.

95 Next, as to whether the measures provided for by that legislation are necessary, in the light of the considerations set out in paragraph 87 of the present judgment, it is not obvious that there are less restrictive measures capable of achieving the objectives pursued by that legislation just as effectively, in so far as publishers of press publications are in a weaker negotiating position than information society service providers as regards the determination of the remuneration at issue.

96 Lastly, as to whether that legislation is proportionate in the strict sense, it is necessary to ascertain whether the measures provided for are not disproportionate to the objectives pursued, bearing in mind that, where several fundamental rights are at hand, such as, in the present case, the freedom to conduct a business guaranteed in Article 16 of the Charter, on the one hand, and the right to intellectual property enshrined in Article 17(2) of the Charter and the right to freedom and pluralism of the media guaranteed in Article 11(2) of the Charter, on the other, that assessment must be carried out with a view to the need to reconcile the requirements of the protection of those different rights and a fair balance between them (see judgments of 29 January 2008, *Promusicae*, C-275/06, EU:C:2008:54, paragraphs 65 and 66, and of 22 January 2013, *Sky Österreich*, C-283/11, EU:C:2013:28, paragraph 60).

97 In that regard, it is necessary, first, to take account of the importance both of the right to intellectual property enshrined in Article 17(2) of the Charter and the right to freedom and pluralism of the media guaranteed in Article 11(2) of the Charter, since Article 11 of the Charter constitutes one of the essential foundations of a pluralist, democratic society and is one of the values on which, under Article 2 TEU, the European Union is founded (see, to that effect, judgments of 26 April 2022, *Poland* v *Parliament and Council*, C-401/19, EU:C:2022:297, paragraph 47, and of 26 February 2026, *Commission* v *Hungary (Right to provide media services in a radio frequency)*, C-92/23, EU:C:2026:108, paragraph 369 and the case-law cited). Second, account must be taken of the considerations set out in paragraph 87 of the present judgment, relating to the freedom to conduct a business enshrined in Article 16 of the Charter.

98 As to whether the obligation to provide certain data incumbent on information society service providers, subject to an administrative fine, is proportionate, account must be taken, inter alia, of the fact that, first, the data to be provided by those providers appear to be limited to those necessary for the determination of any remuneration payable by those providers and, in particular, the economic value of the use of press publications. Second, Article 43-bis(12) of Law No 633/1941 expressly states that publishers of press publications must respect the confidentiality of commercial, industrial and financial information of which they have become aware.

99 Furthermore, since the maximum amount of the administrative fine which may be imposed in the event of failure to comply with that obligation is set as a percentage of the turnover of the non-compliant operator, and is limited to 1%, that fine makes it possible to take account of its financial capacity and does not appear to place a manifestly unreasonable burden on it.

100 In those circumstances, subject to verification by the referring court, the imposition of such an obligation on the providers concerned appears proportionate to the objective pursued, since it is capable of striking a fair balance between the different fundamental rights and freedoms concerned.

101 The same applies to the obligation not to limit the visibility of press publications in the search results during the negotiations. There is nothing in the file before the Court to suggest that that obligation would give rise to a manifestly unreasonable burden on the economic operators on which it is placed.

102 Since the arguments put forward in the order for reference concerning the principle of free competition have no independent content in relation to the arguments concerning the principle of freedom of contract, reference should be made in that regard to the considerations set out in the preceding paragraphs of the present judgment.

103 In the light of all the foregoing considerations, the answer to the questions referred is that Article 15 of Directive 2019/790 and Articles 16 and 52 of the Charter must be interpreted as not precluding national legislation which:

– confers on publishers of press publications the right to obtain fair remuneration in return for the authorisation to use their publications granted to information society service providers;

– imposes on those providers, which use or intend to use such publications, the obligation to enter into negotiations with those publishers, the obligation not to limit the visibility of their content in search results during the negotiations and the obligation to make available to those

publishers and to a public authority the information necessary to determine the amount of such fair remuneration;

– empowers that authority to define the benchmark criteria to be used to determine that remuneration and, in the absence of agreement between the parties before it, to determine the amount of that remuneration and to monitor compliance with the obligation to provide information incumbent on those providers as well as to impose administrative fines on them in the event of failure to comply with that obligation,

provided that that legislation does not deprive publishers of press publications of the possibility of refusing to grant such authorisation or that of granting it free of charge, that it does not impose on information society service providers any payment obligation unrelated to the use of such publications, and that the obligations and any penalties imposed on those providers observe the principle of proportionality.

Costs

104 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Article 15 of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, and Articles 16 and 52 of the Charter of Fundamental Rights of the European Union,

must be interpreted as not precluding national legislation which:

– **confers on publishers of press publications the right to obtain fair remuneration in return for the authorisation to use their publications granted to information society service providers;**

– **imposes on those providers, which use or intend to use such publications, the obligation to enter into negotiations with those publishers, the obligation not to limit the visibility of their content in search results during the negotiations and the obligation to make available to those publishers and to a public authority the information necessary to determine the amount of such fair remuneration;**

– **empowers that authority to define the benchmark criteria to be used to determine that remuneration and, in the absence of agreement between the parties before it, to determine the amount of that remuneration and to monitor compliance with the obligation to provide information incumbent on those providers as well as to impose administrative fines on them in the event of failure to comply with that obligation,**

provided that that legislation does not deprive publishers of press publications of the possibility of refusing to grant such authorisation or that of granting it free of charge, that it does not impose on information society service providers any payment obligation

unrelated to the use of such publications, and that the obligations and any penalties imposed on those providers observe the principle of proportionality.

[Signatures]