

# Recent Rulings from the CJEU and the ECtHR Impacting Audiovisual Media Services and the Media

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Annual Conference on European Media Law  
07-08 May 2026, ERA/EMR Hybrid Conference, Trier/Online

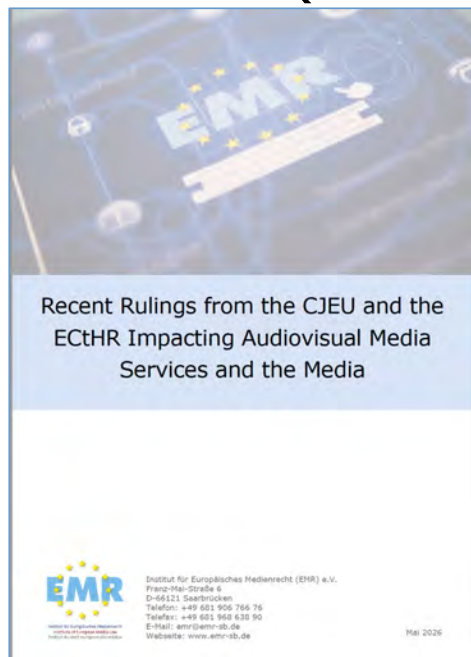


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# CJEU and ECtHR – The overview as a separate overview

- Additionally, to the cases presented, we have prepared an overview of the (most relevant) cases 2025-26



Footnote: The present case summaries have been compiled by the EMR on the basis of press releases, opinion by the Advocate Generals, and judgments issued by the CJEU. Summaries relating to the case law of the ECtHR are primarily based on the bullet points prepared by the Court's Registry accompanying the respective judgments. The timeframe covered by this case overview extends from mid-June 2025 to April 2026.

CASE NO	DATE	TYPE	CONTENT
<b>CJEU</b>			
<b>MEDIA LAW</b>			
<a href="#">C-550/23 and C-550/23 - Mafelero, Zengla v ESR</a>	26.6.25	Judgment	Two Greek internet news portals fined by the national AVMS authority for broadcasts that violate human dignity. Greek national law failed to transpose the AVMSD correctly, namely to include obligations on internet broadcasters not to violate human dignity. Art. 6(1) AVMSD precludes national legislation which, on pain of a penalty, requires all media service providers, with the exception of internet broadcasters, to respect the value of human dignity and to refrain from broadcasting content undermining that value. (If requirement does not apply to all media services providers, national legislation would not only disregard the scope <i>ratione personae</i> of the AVMSD and, in particular, of Art 6(1) thereof, but would also compromise the achievement of the objective of creating an internal market for AVMS pursued by the AVMSD and the objective of protecting human dignity in all audiovisual media services, referred to in Art 6(1)). The principle that offences and penalties must be defined by law (Art. 49(1) CFR) precludes national legislation that, on pain of a penalty, requires all media service providers, with the exception of internet broadcasters, to respect the value of human dignity and to refrain from broadcasting content undermining that value from being given, pursuant to the principle that national law must be interpreted in conformity with EU law, a broad interpretation so as to include within its scope that latter category of media service providers.
<a href="#">Case C-366/24 - Amazon EU (Minimum charges for the delivery of books)</a>	18.12.25	Judgment	CJEU rules that, in so far as the contrasted measure obligation on retailers to invoice a minimum of €3 for the delivery of books of any order below €30 is intended to preserve cultural diversity, its compatibility with EU law cannot be examined in the light of either of the two directives at issue (ECD and Services Directive), only assessment with EU primary law (here: free movement of goods).

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			national measure at issue cannot be regarded as relating to a 'selling arrangement' which would not be classified as a measure having equivalent effect; imposition of charges is more likely to affect traders from other Member States and is liable to further impede access to the market for books from other Member States and therefore constitutes a measure having equivalent effect.
<a href="#">C-520/23 European Commission v Hungary (Klubridio)</a>	26.2.26	Judgment	Refusal to renew commercial radio station Klubridio's broadcasting contract for a frequency due to its failure to comply with obligations to communicate data on broadcasting quotas. In a new call for tenders, Klubridio's application was considered invalid for procedural reasons, such as a discrepancy of five minutes in the indication of the duration of one programme. Commission initiated infringement proceedings for failure to fulfil obligations under regulatory framework for electronic communications networks and services, general principles of proportionality, non-discrimination, good administration, Art. 11 CFR and Art. 45 EEC.

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# CJEU – Audiovisual Media

## C-555/23 and C-556/23 – Makeleio, Zougla v ESR



Two Greek internet news(paper) portals were fined for **broadcasts violating human dignity**, despite the absence of an obligation under Greek national law requiring internet broadcasters not to violate human dignity



### Main questions referred to CJEU

- Does the **AVMSD cover obligations to protect human dignity** and prevent inappropriate content, such as that broadcast in this case?
- If such obligations fall within the AVMSD's scope, may **national law** impose them on traditional broadcasters while **excluding internet-only providers**?
- Can regulators sanction internet broadcasters under national law rules that do not explicitly cover them, or would that breach the **principle of legality**?

# CJEU – Audiovisual Media

## C-555/23 and C-556/23 – Makeleio, Zougla v ESR

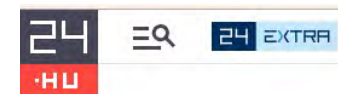


### Judgment of 26 June 2025

- Prenote: Videos within the schedule or catalogue of audiovisual content offered in the electronic version of a newspaper, constitute 'programmes' within the meaning of Article 1(1)(b) AVMSD; Makeleio and Zougla are 'media service providers'
- National legislation requiring media service providers to respect human dignity and to refrain from broadcasting content undermining that value is connected to Article 6(1) AVMSD
- Art. 6(1) AVMSD precludes national legislation that, on pain of penalty, requires all media service providers – except internet broadcasters – to respect human dignity; excluding online providers undermines both the AVMSD's personal scope and its objectives of an internal AVMS market and the universal protection of human dignity
- Limits of conforming interpretation of national law: Where such national legislation does not explicitly cover internet broadcasters, the principle of legality prohibits the imposition of penalties, even though that national legislation is contrary to Article 6(1) AVMSD

# CJEU – “The Hungary Files”

- *C-843/24 24.hu (Viktor Orbán v Editorial Board of 24.hu)*



- *C-769/22 Commission v Hungary (Law of 2021)*

2021. évi LXXIX. törvény  
a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme  
érdekében egyes törvények módosításáról \*

- *C-92/23 Commission v Hungary (Klubrádió)*



- *The “other way round”:  
C-486/24 Hungary v European Parliament and Council of the EU*

- *And another Hungary case with new developments:  
C-829/24 Commission v Hungary (Law of 2023)*

2023. évi LXXXVIII. törvény  
a nemzeti szuverenitás védelméről



# CJEU - “The Hungary Files”

## C-92/23 Commission v Hungary (Klubrádió)



Refusal to renew commercial radio station Klubrádió’s broadcasting contract for a frequency due to its failure to comply with obligations to communicate data on broadcasting quotas. In a new call for tenders, Klubrádió’s application was considered invalid for procedural reasons, such as a discrepancy of five minutes in the indication of the duration of one programme.

Commission initiated infringement proceedings for failure to fulfil obligations under regulatory framework for electronic communications networks and services, general principles of proportionality, non-discrimination, good administration, Art. 11 CFR and Art. 45 EECC

# CJEU - “The Hungary Files” C-92/23 Commission v Hungary (Klubrádió)



## Judgment of 26 February 2026

Measure	Infringement
Failure to adopt, within time limit laid down in Art. 5(3) Authorisation Directive, a decision on Klubrádió’s request to renew the contract on the concerned frequency use	Art. 5(3) Authorisation Directive principle of good administration
Imposition of disproportionate conditions, failure to predefine allocation criteria, not allowing discretion to assess errors, and disregarding the minor nature of errors in Klubrádió’s tender by Media Council	Art. 5(2) Authorisation Directive Art. 45(1) EECC
Failure to organise the allocation procedure in time before expiry of Klubrádió’s frequency rights	Arts. 8(2)(d) and 9(1) Framework Directive principle of good administration
National legislation excluding providers with repeated infringements from applying for temporary frequency rights	Art. 45(1) EECC principle of proportionality
Adoption of the relevant decisions and tender conditions affecting the use of the frequency concerned	Art. 11 CFR (limitations imposed not necessary and proportionate)

Re. Art. 11 CFR: national Law on Media Services goes beyond what is necessary in order to attain the objective of general interest (here: strengthening the national and cultural identity and ensuring competition on the media market and freedom of expression)



# CJEU - “The Hungary Files”

## C-92/23 Commission v Hungary (Klubrádió)



### Judgment of 26 February 2026

- Infringements of several provisions under telecommunication rules (now in EECC) incl. violation of proportionality and principle of good administration
- Specifically of interest reasoning regarding fundamental right of Art. 11 CFR
  - Art. 11(2) CFR (media freedom and pluralism of the media) self-standing element of the rights therein
  - audiovisual media, such as radio and television, play a key role in shaping public opinion
  - objective of promoting competition by encouraging the efficient use and ensuring the effective management of radio frequencies is a legitimate aim allowing for limitations
  - but: esp. lack of discretion awarded to authority to decide on seriousness of errors conducted by the providers leads to disproportionality as national Law goes beyond what is necessary in order to attain that objective

# CJEU – “The Hungary Files” C-769/22 – Commission v Hungary (Law of 2021)



2021. évi LXXIX. törvény  
a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme  
érdekében egyes törvények módosításáról \*

Hungary adopted **Law LXXIX of 2021 adopting stricter measures against persons convicted of paedophilia and amending certain laws for the protection of children**, which amended various national legislative acts. In essence those amendments prohibit or restrict access to content, incl. in the AV or advertising sectors, which promote or portray diverse gender identities or homosexuality

Commission initiated infringement proceedings claiming that Hungary failed to fulfil its obligations under several provisions of the AVMSD, Arts. 1, 7, 11 and 21 CFR

# CJEU – “The Hungary Files”

## C-769/22 – Commission v Hungary (Law of 2021)

### Judgment of 21 April 2026 [full court]

Legislative Amendment	Content	Infringement
Introduction of para. 6/A into Law on the Protection of Children	Prohibits making available to persons under the age of 18 content that promotes/portrays deviation from the self-identity corresponding to the sex assigned at birth/gender reassignment/homosexuality	Art. 3(2) ECD Arts. 16 and 19 Services Directive Arts. 1, 7, 11, 21 CFR
Introduction of para. 8(1a) into Law on Commercial Advertising	Lays down basic requirements and certain restrictions applicable to commercial advertising activities	Art 9(1)(c)(ii) AVMSD Arts. 16 and 19 Services Directive Arts. 1, 7, 11, 21 CFR
Introduction of para. 9(6) and 32(4a) into Law on Media Services	Requires providers of linear media services inter alia to broadcast only after 22:00 h programs displaying content in question and excluding such content from classification as a communication of public interest	Art. 6a(1) AVMSD Arts. 1, 7, 11, 21 CFR
Amending para. 179(2) Law on Media Services	Requires Media Council to request MS under whose jurisdiction the media service providers falls to take effective measures/intervene in order to put an end to identified infringements	Arts. 2 and 3(1) AVMSD
Amending para. 9(12) Law on Public Education	Prohibits activities concerning sexual health and education from having the aim of promoting such content	Arts. 16 and 19 Services Dir.; Arts. 1, 7, 11, 21 CFR

# CJEU – “The Hungary Files”

## C-769/22 – Commission v Hungary (Law of 2021)



### Judgment of 21 April 2026 [full court]

- Multiple violations of ECD, AVMSD, Services Directive, CFR and:
- By making the legislative amendments Hungary has failed to fulfil its obligations under Art. 2 TEU.
- Para. 555: ‘Such stigmatisation and marginalization [of non-cisgender and non-heterosexual persons], which is tantamount to establishing, maintaining or reinforcing the social ‘invisibility’ of some members of society, runs counter to the values of respect for human dignity, equality, and respect for human rights, including the rights of persons belonging to minorities, as referred to in Article 2 TEU’.

‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.’

# CJEU – The “Hungary Files” continued

## C-829/24 – Commission v Hungary (Law of 2023)



2023. évi LXXXVIII. törvény  
a nemzeti szuverenitás védelméről

Hungary adopted **Law No. LXXXVIII of 2023 on the Protection of National Sovereignty**. Law establishes a Sovereignty Protection Office, which is responsible for identifying organisations or persons that have activities carried out in the interest of other States and foreign actors, in particular using foreign support, which are liable to influence democratic processes and the will of voters and, therefore, to harm or jeopardise Hungary’s sovereignty.

Office enjoys broad discretion and has powers of investigation that are not subject to any judicial review. It can also request any information, incl. personal data, and forward these to the competent national authorities.

Commission claims a possible infringement by Hungary of fundamental freedoms and fundamental rights.

# CJEU – The “Hungary Files” continued

## C-829/24 – Commission v Hungary (Law of 2023)



### Opinion AG Kokott of 12 February 2026

Measures	Infringement
Restriction on free movement of capital when office is authorised to investigate organisations which carry out activities with support from abroad, etc.	Art. 63 TFEU
Requirements relating to the possibility to open and conduct investigations into recipients of services incl. those with support from abroad and a duty of cooperation imposed on persons/organisations under investigation	Arts. 14, 16 and 19 Services Directive
Law is broadly framed and extends the scope <i>ratione materiae</i> and the scope <i>ratione personae</i> to a large number of ‘activities’, including service activities. Conditions and obligations apply to providers of online services.	Art. 3 ECD
Office powers of investigation and publication and corresponding duties to cooperate on the organisations and persons concerned and inter alia the broad scope <i>ratione personae</i> that disregards legal privilege	Arts. 7, 8, 11, 12 and 47 CFR
Lack of appropriate legal basis for processing of personal data and lack of precision of the law	Arts. 5, 6, 9 and 10 GDPR

# CJEU – Data Protection

## C-492/23 – Russmedia and Inform Media Press

Russmedia published an advertisement by an unverified third party containing offensive content concerning the complainant, including photographs. Russmedia deactivated the ad as soon as it discovered a potential infringement.

### Main questions referred to CJEU

- Whether Arts. 12 to 14 ECD apply to **technical advertisement services providers** that through general terms and conditions reclaim the right to use the content for own purposes?
- **Whether user-generated advertisements have to be verified before publishing?**

Relationship between GDPR and ECD in terms of accountability of an online marketplace operator for personal data contained in an advertisement published by a third party on its platform

# CJEU – Data Protection

## C-492/23 – Russmedia and Inform Media Press



### Judgment of 2 December 2025

- Online marketplace operator qualifies as data controller (Art. 4(7) GDPR) for personal data in published ads and cannot avoid GDPR compliance by relying on Art. 14(1) ECD
- Before publishing ads, controller must, through appropriate TOMs,
  - identify ads containing sensitive data (Art 9(1) GDPR),
  - verify whether the user advertiser is the data subject, and, if not, refuse publication unless the user advertiser can demonstrate that the data subject has given his/her explicit consent (Art. 9(2)(a) GDPR) to the publication on that online marketplace, or that another exception (Art. 9(2)(b)-(j) GDPR) applies.
- Although the untrue and harmful advertisement was removed from the marketplace, its continued availability elsewhere indicates a loss of control originating in the unlawful initial publication. Under Art. 32 GDPR, online marketplace operators must implement appropriate security measures to prevent content containing sensitive data from being copied and unlawfully republished on other websites

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# CJEU – Media Law

## C-366/24 – Amazon EU (Minimum Charges for the Delivery of Books)

French national law foresees an obligation on retailers to invoice a minimum of €3 for the delivery of books of any order below €35 to preserve cultural diversity

### Main questions referred to CJEU

- Whether the Services Directive excludes national measures aimed at protecting or promoting cultural diversity from its scope, or whether cultural diversity can justify restrictions on cross-border service provision under Art. 16(1)(b)? Whether a national rule setting minimum delivery charges should be assessed under free movement of goods (Art. 34 TFEU), or under freedom to provide services (Art. 56 TFEU), particularly in the context of online sales?

### Judgment of 18 December 2025

- National measures “to promote cultural and linguistic diversity and to ensure the defence of pluralism” (Art. 1(6) ECD) fall outside of scope of Services Dir./ECD
- Therefore: compatibility cannot be examined in the light of the Directives, but assessment with EU primary law (here: free movement of goods)
- National measure at issue does not qualify as a ‘selling arrangement’ under *Keck*; imposition of charges is more likely to affect traders from other MS and their access to the market for books and therefore constitutes a measure having equivalent effect

# CJEU – Media Law

## C-188/24 and C-190/24 – WebGroup Czech et al (Orders against pornographic platforms)

French national law criminalizes the making available without adequate measures for the protection of minor measures pornographic content (here: online); stating that simple self-declaration is inadequate

### **Main questions referred to CJEU**

- Whether non-ISS-specific rules in criminal law are covered by ECD and what this means for the applicability of national law to providers established in other EU Member States (COO)

### **AG Szpunar Opinion of 18 September 2025**

- Within ECD-scope and, more specifically, “obligation to put in place technical measures to prevent minors from accessing pornographic content cannot be excluded from the coordinated field within the meaning of Article 2(h) of that directive solely on the ground that that obligation is a corollary of general and abstract provisions of criminal law which refer to certain conduct as constituting a criminal offence liable to prosecution and which apply without distinction to any natural or legal person”
- Even overarching FR dimension for protection of children does not justify to rely on anything else than individual derogation mechanism (see also AVMSD)

# CJEU – IP Law

## C-590/23 – Pelham (Concept of Pastiche)

2 decades-running dispute regarding the (2 sec-loop-)reproduction of a sample from a track of German band Kraftwerk

### Questions referred to CJEU

- Whether the pastiche exception (Art. 5(3)(k) InfoSoc Directive) functions as broad catch-all for artistic uses incl. sampling, and whether it is subject to limiting criteria such as humour, stylistic imitation, or tribute.
- Whether use “for the purpose of pastiche” requires the user’s intent, or if it suffices that the pastiche is objectively recognisable to an informed audience.

### Judgment of 18 December 2025

- Pastiche is not a catch-all; it covers works that evoke existing works while remaining noticeably different and engaging in a recognisable artistic dialogue (e.g. imitation, tribute, or humorous/critical use, incl. sampling).
- Use qualifies as ‘for the purpose’ of pastiche, if the pastiche character is objectively recognisable to a person familiar with the original work; no specific intent is required.

# CJEU (CJ and GC) – Platforms I

## ▪ Designation as VLOP or VLOSE

- [T-348/23 Zalando SE](#) ('Zalando') (Judgment, 3 September 2025):  
Active users + those exposed to third-party seller content via Partner programme  
= 83+ million Zalando users
- [T-367/23 Amazon EU](#) ('Amazon Store') (Judgment of 19 November 2025):  
Unsuccessful claim of illegality of Arts. 33(1), 38 and 39 DSA

## ▪ Intermediary liability (distinction active/passive intermediary)

- [C-421/24 AGCOM v Google Ireland Ltd.](#) (Opinion AG Szpunar, 27. November 2025):  
Storage of advertisements videos qualifies as hosting activity (Art. 14(1) ECD) provided that the precise terms of partnership agreement between host provider and commercial partners are not such as to afford the host provider knowledge or control over the content stored on its platform

# CJEU (CJ and GC) – Platforms / Big Tech II

## ▪ Abuse of dominant position

- [T-1129/23 Intel Corporation v Commission](#) (Judgment of 10 December 2025):  
GC in essence upholds the 2023 decision, but in consideration of the gravity ('modest number of computers concerned' and duration of the infringement reduces the fine imposed to **€237,105,540**
- [C-738/22P Google and Alphabet v Commission](#) (Opinion AG Kokott of 19 June 2025):  
AG Kokott proposes to uphold € 4,343bn fine imposed on Google for tying 'Play Store' licences to pre-installation of 'Google Search' and 'Chrome' browser, imposing anti-fragmentation rules on Android devices, and conditioning ad revenue sharing on exclusivity of its search service

### BACKGROUND INTEL CASE:

**2009:** Commission fined Intel **€1.06bn** for exclusivity rebates and "naked restrictions" aimed at excluding AMD from the x86 CPU market

**2014:** GC dismissed Intel's appeal

**2017:** CJEU overturned GC—exclusivity rebates are not per se abuses under Article 102 TFEU; case remitted

**2022:** GC (on remand) annulled fine in full

**2023:** Commission adopted a new narrower decision limited to practices not annulled by GC (naked restrictions); new fine of **€376m**

**2024:** CJEU dismissed Commission's appeal and upheld annulment on procedural grounds

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# CJEU – C-354/24 Elisa Eesti AS v TTJA

In 2022, Elisa Eesti AS, an Estonian telecommunications provider, applied for authorisation from the Estonian authority (Office of Consumer Protection and Technical Supervision, TTJA) to use hardware and software from Huawei for use in its 2G-4G and 5G telecommunications networks. The competent Estonian authorities considered that hardware and software to pose a risk to Estonia's national security on the basis of the 'high-risk' nature of Huawei.

## Questions referred to CJEU

- Whether national rules which require a communications company to obtain authorisation for the use of hardware and software in its communications network falls within the scope of the EECC?
- If so, whether they fall within the exclusive competence of MS and are purely national measures to which the EECC does not apply?
- If not purely national, do these rules constitute a restriction on the freedom to provide electronic communications networks and services within the meaning of Art. 12(1) EECC?
- If they are a restriction, must the rules be disapplied because the MS has failed to notify the Commission of the limitation in accordance with Art. 12(1) EECC?
- Even if justified by national security, are the rules proportionate – given that they do not require a detailed, case-specific risk assessment of the hardware, software, or manufacturer?
- If companies are forced to stop using already-installed equipment before the end of its useful life, does this amount to an unlawful deprivation of property under EU fundamental rights law?

# CJEU – C-354/24 Elisa Eesti AS v TTJA



## Opinion AG Capeta of 19 March 2026

- EECC applies to a national legislative package which, in order to ensure the security of the national electronic communications network and services, requires that operators obtain authorisations for the use of hardware and software in their communications network.
- The requirement to obtain authorization constitutes a restriction to the freedom to provide a public or publicly available electronic communication networks or services.
- Failure to notify to the Commission a limitation does not result in non-applicability of the non-notified rules.
- No blanket bans: Decisions cannot rely on general suspicion about a company; they must be based on a specific, evidence-based risk assessment of the equipment and its use.
- Property rights: Restricting the use of such equipment is seen as a limitation on property, not a deprivation.

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# ECtHR – Influence Campaigns

## 15653/22 Bradshaw v UK

Credible evidence in the UK (inter alia House of Commons Report and Report by Intelligence and Security Committee of Parliament) describing a significant and ongoing threat by Russian disinformation and ‘influence’ campaigns to the UK’s democratic processes. The applicants sought permission to challenge, by way of judicial review, the Prime Minister’s decision not to, and/or his ongoing failure to, direct an independent investigation into Russian interference with the country’s democratic processes. Failure in breach of the investigative obligation inherent in Art. 3 P. 1 to the ECHR?

### **Judgment of 22 July 2025**

- “It is not in dispute that State and non-State actors have weaponised disinformation in order to interfere in democratic elections [...] new technologies, such as social media platforms, have enabled political parties to disseminate information directly to the electorate, they have also made it possible for hostile actors to spread disinformation and manipulate information at a scale and with a speed never seen before”.
- Art. 3 P1 might require a State to adopt positive measures to protect integrity of its electoral processes in the event of a real risk that interference from a hostile State would impair the very essence of electors’ rights and deprive them of their effectiveness
- Despite difficulties in accurately assessing the impact of disinformation and “influence campaigns”, member States must not remain passive when faced with evidence of a sufficiently established and imminent threat to democracy; however, a state enjoys a wide margin of appreciation as regards its response to the threat of election interference

See also: 37027/22 Google LLC and others v Russia on violation of Art. 10 ECHR re. imposition of fines on Google for failure to comply with take-down requests concerning UGC

# ECtHR – Article 10

## 64356/19 Europa Way S.R.L. v Italy

The case concerns the suspension (by ministerial decree) and later annulment (by legislation) of a bidding process for allocating digital TV frequencies that had been set out in regulations by the competent NRA. The applicant challenged this, but in 2014 the Lazio Court dismissed the claim. On appeal, a preliminary ruling was referred to the CJEU. In *Europa Way and Persidera* (C-560/15, EU:C:2017:593), the CJEU ruled that Art. 3(3a) Framework Directive prohibits national legislature (by ministerial order) from annulling an on-going allocation procedure run by the competent NRA. In 2018, the Consiglio di Stato partly upheld the applicant's case, but refused compensation for the expenses occurred by the applicant in the original bidding process. AGCOM replaced the original bidding system with a fee-based procedure (by a Resolution), which was again challenged by the applicant.

### **Judgment of 27 November 2025**

- Violation of Art. 10
- Annulment of procedure and replacement by a substantially different one = interference with the applicant's ability to obtain use rights over digital terrestrial frequencies
- Legal ground of interference found by the national courts was held incompatible with both domestic and EU law, following the CJEU's preliminary ruling
- ECtHR emphasised important role of NRAs in upholding and promoting freedom and pluralism of the media, the interference with the exercise of the AGCOM's functions undermined its important independence
- The relevant legal framework was not foreseeable and not providing sufficient safeguards against arbitrariness, thus interference did not meet lawfulness nor "quality of law" requirements



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