

The Court of Justice of the European Union clarifies the conditions under which a text published on a social media platform is protected

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The case began on 8 September 2021, when a Romanian teacher posted a message on Facebook entitled "A short guide for parents as the new school year begins". In this post, she informed parents that she did not wish to receive any gifts from them. A few days later, the teacher discovered that her text had been reproduced, without her permission, by a journalist in an article entitled "A teacher's unpublished message to parents of pupils who had intended to give her gifts at the start of the school year".

The teacher then brought an action against this press article, claiming an infringement of her copyright. She also sought compensation for the financial and non-pecuniary damage she believed she had suffered as a result of this use.

The teacher's case was dismissed on two occasions. She then lodged an appeal with the Romanian High Court of Cassation and Justice. The latter decided to refer the matter to the Court of Justice of the European Union (CJEU) for a preliminary ruling in order to determine, firstly, whether a text published on a social media platform and expressing an opinion may constitute a "work" within the meaning of Article 2(a) of Directive 2001/29 and, secondly, to what extent the exception relating to the use of works in the context of reporting on current events, provided for in Article 5(3)(c), may apply.

The CJEU points out that the classification as a "work" constitutes an autonomous concept under EU law. To be classified as a work, the subject matter must, in particular, constitute an intellectual creation specific to its author and be expressed in a sufficiently precise and objective manner. The Court specifies that a text published on a social media platform expressing an opinion may constitute a "work". It must, however, be an intellectual creation specific to its author and reflect the author's personality.

Furthermore, the Court considers that information relating to the functioning of the education system may be of interest to the public. The reproduction of the text may therefore fall within the exception allowing the public to be informed about current events. It is then for the national court to determine whether the conditions are indeed met.

Finally, the CJEU specifies that member states may limit this exception to the reproduction of short extracts. Such a limitation must be necessary and proportionate to the information objective pursued. However, member states may not refuse to apply the exception solely on the ground that the reproduction confers an economic or commercial advantage, whether direct or indirect.

Cour de Justice de l'Union Européenne, C-598/24, 3 septembre 2026

<https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX%3A62024CJ0598>

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