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HOF VAN JUSTITIE VAN DE EUROPESE UNIE
TRYBUNAŁ SPRAWIEDLIWOŚCI UNII EUROPEJSKIEJ
TRIBUNAL DE JUSTIÇA DA UNIÃO EUROPEIA
CURTEA DE JUSTIȚIE A UNIUNII EUROPENE
SÚDNY DVOR EURÓPSKEJ ÚNIE
SODIŠČE EVROPSKE UNIJE
EUROOPAN UNIONIN TUOMIOISTUIN
EUROPEISKA UNIONENS DOMSTOL

JUDGMENT OF THE COURT (First Chamber)

30 April 2026 *

(Reference for a preliminary ruling – Consumer protection – Unfair business-to-consumer commercial practices – Directive 2005/29/EC – Scope – Relationship between the provisions of that directive and other EU rules regulating specific aspects of unfair commercial practices – Article 3(4) – Unfair food information practices – Regulation (EU) No 1169/2011 – Whether there is a conflict – Complementary nature of systems of protection)

In Case C-301/25,

REQUEST for a preliminary ruling under Article 267 TFEU from the Consiglio di Stato (Council of State, Italy), made by decision of 22 April 2025, received at the Court on 24 April 2025, in the proceedings

Lidl Italia Srl

v

Autorità Garante della Concorrenza e del Mercato (AGCM),

interested parties:

Wiise Srl,

Associazione per la Difesa e l'Orientamento dei Consumatori (ADOC Aps),

THE COURT (First Chamber),

composed of F. Biltgen, President of the Chamber, I. Ziemele, A. Kumin, S. Gervasoni and M. Bošnjak (Rapporteur), Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

* Language of the case: Italian.

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Lidl Italia Srl, by F. Capelli, U. Corea and M. Valcada, avvocati,
- the Italian Government, by S. Fiorentino, acting as Agent, and by I. Fresu and E. Manzo, avvocati dello Stato,
- the Polish Government, by B. Majczynya and D. Lutostańska, acting as Agents,
- the European Commission, by P. Kienapfel, D. Recchia and B. Rous Demiri, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of:
 - Article 7 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ 2011 L 304, p. 18); and of
 - Article 6 et seq. and Article 13 of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).
- 2 The request has been made in proceedings between Lidl Italia Srl and the Autorità Garante della Concorrenza e del Mercato (AGCM) (Competition and Market Authority, Italy; 'the AGCM') concerning an administrative fine imposed by that authority on Lidl Italia for an unfair commercial practice when marketing certain ranges of durum wheat semolina pasta.

Legal context

European Union law

Directive 2005/29

3 Recitals 7, 8, 11, 13 and 14 of Directive 2005/29 are worded as follows:

‘(7) This Directive addresses commercial practices directly related to influencing consumers’ transactional decisions in relation to products. ...

(8) This Directive directly protects consumer economic interests from unfair business-to-consumer commercial practices. Thereby, it also indirectly protects legitimate businesses from their competitors who do not play by the rules in this Directive and thus guarantees fair competition in fields coordinated by it. ...

...

(11) The high level of convergence achieved by the approximation of national provisions through this Directive creates a high common level of consumer protection. This Directive establishes a single general prohibition of those unfair commercial practices distorting consumers’ economic behaviour. ...

...

(13) In order to achieve the Community’s objectives through the removal of internal market barriers, it is necessary to replace Member States’ existing, divergent general clauses and legal principles. The single, common general prohibition established by this Directive therefore covers unfair commercial practices distorting consumers’ economic behaviour. In order to support consumer confidence the general prohibition should apply equally to unfair commercial practices which occur outside any contractual relationship between a trader and a consumer or following the conclusion of a contract and during its execution. The general prohibition is elaborated by rules on the two types of commercial practices which are by far the most common, namely misleading commercial practices and aggressive commercial practices.

(14) It is desirable that misleading commercial practices cover those practices, including misleading advertising, which by deceiving the consumer prevent him from making an informed and thus efficient choice. ...’

4 According to Article 1 of that directive, entitled ‘Purpose’:

‘The purpose of this Directive is to contribute to the proper functioning of the internal market and achieve a high level of consumer protection by approximating

the laws, regulations and administrative provisions of the Member States on unfair commercial practices harming consumers' economic interests.'

5 Article 2 of that directive, entitled 'Definitions', provides:

'For the purposes of this Directive:

...

(d) "business-to-consumer commercial practices" (hereinafter also referred to as commercial practices) means any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers;

...'

6 Article 3 of that directive, entitled 'Scope', provides, in paragraphs 1, 3 and 4 thereof:

'1. This Directive shall apply to unfair business-to-consumer commercial practices, as laid down in Article 5, before, during and after a commercial transaction in relation to a product.

...

3. This directive is without prejudice to [EU] or national rules relating to the health and safety aspects of products.

4. In the case of conflict between the provisions of this Directive and other [EU] rules regulating specific aspects of unfair commercial practices, the latter shall prevail and apply to those specific aspects.'

7 Article 5 of Directive 2005/29, entitled 'Prohibition of unfair commercial practices', provides:

'1. Unfair commercial practices shall be prohibited.

...

4. In particular, commercial practices shall be unfair which:

(a) are misleading as set out in Articles 6 and 7,

...'

8 Article 6 of that directive, entitled 'Misleading actions', provides:

‘1. A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:

...

(b) the main characteristics of the product, such as its ... composition, ... geographical or commercial origin ...;

...’

9 As set out in Article 13 of that directive, entitled ‘Penalties’:

‘Member States shall lay down penalties for infringements of national provisions adopted in application of this Directive and shall take all necessary measures to ensure that these are enforced. These penalties must be effective, proportionate and dissuasive.’

Regulation No 1169/2011

10 Recitals 5 and 20 of Regulation No 1169/2011 read as follows:

‘(5) Directive [2005/29] covers certain aspects of the provision of information to consumers specifically to prevent misleading actions and omissions of information. The general principles on unfair commercial practices should be complemented by specific rules concerning the provision of food information to consumers.

...

(20) Food information law should prohibit the use of information that would mislead the consumer in particular as to the characteristics of the food, food effects or properties, or attribute medicinal properties to foods. To be effective, that prohibition should also apply to the advertising and presentation of foods.’

11 Article 1 of that regulation, entitled ‘Subject matter and scope’, provides:

‘1. This Regulation provides the basis for the assurance of a high level of consumer protection in relation to food information, taking into account the differences in the perception of consumers and their information needs whilst ensuring the smooth functioning of the internal market.

2. This Regulation establishes the general principles, requirements and responsibilities governing food information, and in particular food labelling. It

lays down the means to guarantee the right of consumers to information and procedures for the provision of food information, taking into account the need to provide sufficient flexibility to respond to future developments and new information requirements.

3. This Regulation shall apply to food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers. It shall apply to all foods intended for the final consumer, including foods delivered by mass caterers, and foods intended for supply to mass caterers.

...’

- 12 Article 3 of that regulation, entitled ‘General objectives’, provides in paragraph 1 thereof:

‘The provision of food information shall pursue a high level of protection of consumers’ health and interests by providing a basis for final consumers to make informed choices and to make safe use of food, with particular regard to health, economic, environmental, social and ethical considerations.’

- 13 Article 7 of that regulation, entitled ‘Fair information practices’, provides:

‘1. Food information shall not be misleading, particularly:

- (a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production;

...

2. Food information shall be accurate, clear and easy to understand for the consumer.

...

4. Paragraphs 1, 2 and 3 shall also apply to:

...

- (b) the presentation of foods, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed.’

Italian law

The Consumer Code

14 Decreto legislativo n. 206 – Codice del consumo (Legislative Decree No 206 establishing the Consumer Code) of 6 September 2005 (GURI No 235 of 8 October 2005, ordinary supplement No 162), in the version applicable to the dispute in the main proceedings (‘the Consumer Code’), transposes, inter alia, Directive 2005/29 into Italian law.

15 Article 21 of the Consumer Code, entitled ‘Misleading actions’, provides:

‘1. A commercial practice shall be regarded as misleading if it contains information which does not correspond to the truth or if, in any way, including by its overall presentation, it deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to any or more of the following elements, and in either case it causes or is likely to cause him or her to take a transactional decision that he or she would not have taken otherwise:

...

(b) the main characteristics of the product, such as ...its composition, its geographical ... origin ...;

...’

Legislative Decree No 231/2017

16 Article 1 of Decreto legislativo n. 231 – Disciplina sanzionatoria per la violazione delle disposizioni del regolamento (UE) n. 1169/2011 (Legislative Decree No 231 laying down the rules on penalties for infringement of Regulation (EU) No 1169/2011) of 15 December 2017 (GURI No 32 of 8 February 2018), in the version applicable to the dispute in the main proceedings (‘Legislative Decree No 231/2017’), entitled ‘Scope’, states, in paragraph 1 thereof:

‘This decree lays down the rules on penalties for infringement of the provisions of Regulation [No 1169/2011], without prejudice to the rules on penalties laid down in [the Consumer Code].’

17 Article 3 of Legislative Decree No 231/2017, entitled ‘Infringement of fair information practices referred to in Article 7 of [Regulation No 1169/2011]’, provides in paragraph 1 thereof:

‘Unless the act constitutes an offence, and to the exclusion of cases specifically penalised by the other provisions of this decree, infringement of the provisions referred to in Article 7 of [Regulation No 1169/2011] on fair information practices shall give rise to the imposition on the food business operator of an administrative fine ranging from EUR 3 000 to EUR 24 000.’

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

- 18 By decision of 20 December 2019, the AGCM imposed an administrative fine of EUR 1 million on Lidl Italia for marketing certain ranges of durum wheat semolina pasta in packaging which highlighted the Italian origin of the product concerned and which indicated that the wheat was milled in Italy, even though the wheat used to make that semolina was of ‘EU and non-EU’ origin and the pasta concerned was therefore made from wheat mixtures containing a significant percentage of wheat which had not been grown in Italy.
- 19 The AGCM observed that the use of packaging clearly drawing attention to the Italian origin of the product concerned suggested or was likely to suggest to consumers that that indication also applied to the origin of the raw materials used in its production. In order to ensure that the consumer is properly informed, the fact that the product concerned was obtained from raw material of foreign origin should be equally highlighted by elements placed next to the indications evoking the Italian origin of that product. At the very least, such information should appear on the same side of the packaging as those indications.
- 20 The AGCM considered that the fact that the information provided by Lidl Italia was incomplete constituted an unfair commercial practice, for the purposes of the Consumer Code, inasmuch as that practice was likely to deceive the consumer in relation to an essential characteristic of the product concerned, in particular the origin of the durum wheat used in its production. For the purpose of setting the amount of the fine under the Consumer Code, the AGCM took into account the large number of consumers involved, given that, in 2018 alone, Lidl Italia had sold tens of millions of packets of pasta, and the duration of that practice, which had been ongoing since at least January 2017.
- 21 Lidl Italia brought an action against the AGCM’s decision of 20 December 2019, which was rejected at first instance, and that company subsequently lodged an appeal before the referring court, the Consiglio di Stato (Council of State, Italy). Before that court, Lidl Italia asserts, in particular, that Regulation No 1169/2011 alone applies to practices which fall within its scope, and that a penalty cannot be imposed on those practices pursuant to Directive 2005/29 and the Consumer Code.
- 22 In that connection, the referring court observes that Lidl Italia’s conduct – which consists in presenting information that, without being false or untrue, is likely to deceive the consumer of the product concerned as to the origin of the durum wheat used as a raw material in its production – may be categorised both as an unfair commercial practice subject to penalties pursuant to Article 6 of Directive 2005/29 and Article 21 of the Consumer Code, and as conduct prohibited under Article 7 of Regulation No 1169/2011 and subject to penalties pursuant to Legislative Decree No 231/2017.

- 23 According to the referring court, those two pieces of legislation may be considered as complementary but pose an issue in terms of the existence of concurrent rules. In that regard, it claims that the rule on conflict in Article 3(4) of Directive 2005/29 which establishes the prevalence of other EU rules regulating specific aspects of unfair commercial practices does not apply in the present case, since both pieces of legislation aim to protect consumers from deceptive practices in relation to foodstuffs. In that context, the referring court notes that the penalty provided for in Legislative Decree No 231/2017 for infringing Article 7 of Regulation No 1169/2011 is significantly lighter than that provided for in the Consumer Code transposing Directive 2005/29.
- 24 In those circumstances, the Consiglio di Stato (Council of State) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Does the conduct envisaged in Article 7 of Regulation [No 1169/2011] constitute specific cases of improper/unfair commercial practices, which in any event fall within the scope of Article 6 et seq. of Directive [2005/29] and are subject as such also to Article 11 et seq. of that directive and to the implementing legislation; or does it constitute an autonomous system, the application of which, that is to say, its enforcement, requires reference to be made, not to the directive but, in the Italian system, solely to Legislative Decree No 231/2017?
- (2) Does the conduct envisaged in Article 7 of Regulation [No 1169/2011] provide consumers with a full and comprehensive form of protection in the purchase of foodstuffs, with the result that it is not possible to apply the general protection provided for by Directive [2005/29] or, on the contrary, does that conduct form part of consumer protection, in conjunction with the provisions of Directive [2005/29] and the national legislation implementing it?
- (3) If the conduct envisaged in Article 7 of Regulation [No 1169/2011] is to be classified as improper commercial practices and is subject to Directive [2005/29], is the penalty provided for in Article 3 of Legislative Decree No 231/2017 capable of guaranteeing a deterrent against unlawful conduct, by ensuring the protection of consumers under Article 169 TFEU, and is it in any event compatible with Article 13 of Directive [2005/29]?’

Consideration of the questions referred

The first and second questions

- 25 As a preliminary point, it should be borne in mind that, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court, it is for the latter to provide the national court with an answer which will be

of use to it and will enable the national court to determine the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it and consider provisions of EU law which the national court has not referred to in its question (judgment of 30 January 2025, *Caronte & Tourist*, C-511/23, EU:C:2025:42, paragraph 35 and the case-law cited).

- 26 In the present case, the referring court’s questions concerning the relationship between the systems of protection set out, respectively, in Directive 2005/29 and in Regulation No 1169/2011 are based on the premiss that the conduct Lidl Italia is accused of concerning the presentation, on packets of pasta, of information relating to certain product characteristics falls within the scope of both the prohibition on misleading commercial practices under Article 6(1) of that directive and the prohibition on unfair food information practices under Article 7(1) of that regulation. Article 3(4) of Directive 2005/29 expressly provides for a rule delimiting the scope of that directive which makes it possible to determine the circumstances in which the rules under that directive are superseded by other EU rules regulating specific aspects of unfair commercial practices.
- 27 In those circumstances, the first and second questions, which it is appropriate to examine together, must be understood as seeking to determine, in essence, whether Article 3(4) of Directive 2005/29 must be interpreted as meaning that it precludes the possibility that conduct constituting a misleading commercial practice, within the meaning of Article 6(1) of that directive, on the part of a trader, may be subject to penalties under the national legislation transposing that directive, where that conduct also comes within the scope of the prohibition on unfair food information practices under Article 7 of Regulation No 1169/2011 and of the national legislation implementing that regulation.
- 28 Article 3(4) of Directive 2005/29 provides that, in the event of conflict between the provisions of that directive and other EU rules regulating specific aspects of unfair commercial practices, the latter are to prevail and apply to those specific aspects. In view of the wording of that provision, specific aspects of unfair commercial practices will fall exclusively within the scope of the provisions of Regulation No 1169/2011 only when two conditions are satisfied: (i) in the context of food information, Article 7(1) of Regulation No 1169/2011 must regulate those specific aspects of unfair commercial practices; and (ii) there must be a conflict between that provision and the provisions of Directive 2005/29.
- 29 In that regard, in the first place, it should be borne in mind that pursuant to Article 3(1) thereof, Directive 2005/29 is to apply to unfair business-to-consumer commercial practices, as laid down in Article 5 of that directive, before, during and after a commercial transaction in relation to a product. Point (d) of Article 2 of that directive defines the concept of ‘commercial practice’ in particularly broad terms, the sole criterion referred to in that provision being that the trader’s practice must be directly connected with the promotion, sale or supply of a product or

service to consumers (see, to that effect, judgment of 5 December 2024, *Guldbrev*, C-379/23, EU:C:2024:1002, paragraph 31 and the case-law cited).

- 30 Under Article 6(1)(b) of Directive 2005/29, a commercial practice is to be regarded as misleading if, first, in any way, including overall presentation, it deceives or is likely to deceive the average consumer in relation to, inter alia, the main characteristics of the product, such as its composition and its geographical or commercial origin, and, second, it causes or is likely to cause the consumer to take a transactional decision that he or she would not have taken otherwise. Such practices constitute a specific category of unfair commercial practices prohibited by Article 5(1) and (4)(a) thereof (see, to that effect, judgment of 19 December 2013, *Trento Sviluppo and Centrale Adriatica*, C-281/12, EU:C:2013:859, paragraph 27 and the case-law cited).
- 31 According to Article 1(2) of Regulation No 1169/2011, that regulation establishes the general principles, requirements and responsibilities governing food information, and in particular food labelling. Article 7(1)(a) and (2) of that regulation states that the provision of food information is to be accurate, clear and easy to understand for the consumer, so that that consumer is not misled as to the characteristics of the food concerned, inter alia as to its composition, country of origin or place of provenance or as to its method of manufacture or production. In accordance with Article 7(4) of that regulation, the abovementioned requirements apply to the presentation of food and, inter alia, to its packaging.
- 32 It is apparent from recitals 5 and 20 of Regulation No 1169/2011 that that regulation complements the general principles on unfair commercial practices laid down in Directive 2005/29 by establishing specific rules concerning the provision of food information to consumers, inter alia by prohibiting the use of information likely to mislead the consumer, in particular as to the characteristics of the food. To that end, the specific requirements governing the provision of food information in relation to the main characteristics of that food under Article 7(1)(a), (2) and (4) of Regulation No 1169/2011 makes it possible, as the title of that article indicates, to determine whether a certain food information practice is unfair, and therefore prohibited. It follows that those provisions of Regulation No 1169/2011 govern specific aspects of unfair commercial practices, within the meaning of Article 3(4) of Directive 2005/29.
- 33 In the second place, the concept of ‘conflict’ within the meaning of Article 3(4) of Directive 2005/29 refers to a relationship between the provisions in question which goes beyond a mere disparity or simple difference, showing a divergence which cannot be overcome by a unifying formula enabling both situations to exist alongside each other without their having to be distorted. Such a conflict is present only where provisions, other than those of Directive 2005/29, which regulate specific aspects of unfair business practices, impose on traders, in such a way as to leave them no margin for discretion, obligations which are incompatible with those laid down in that directive (see, to that effect, judgment of 13 September 2018, *Wind Tre and Vodafone Italia*, C-54/17 and C-55/17, EU:C:2018:710,

paragraphs 60 and 61, and order of 14 May 2019, *Acea Energia and Others*, C-406/17 to C-408/17 and C-417/17, EU:C:2019:404, paragraph 49).

- 34 In that regard, the purpose of Directive 2005/29 is to achieve a high level of consumer protection and, to that end, to ensure that unfair commercial practices are effectively combated in the interests of consumers (see, to that effect, judgment of 30 January 2025, *Trenitalia*, C-510/23, EU:C:2025:41, paragraph 33 and the case-law cited). Article 6(1) of that directive is intended specifically to ensure appropriate consumer protection in relation to how information provided in the context of a commercial practice is presented.
- 35 Likewise, it is apparent from reading Article 1(1) together with Article 3(1) thereof that the objective of Regulation No 1169/2011 is to ensure a high level of consumer protection in relation to food information, taking into account the differences in perception of consumers, by providing a basis for them to make informed choices. To that effect, that regulation also seeks to prevent consumers from being misled by food information provided to them (see, to that effect, judgments of 1 October 2020, *Groupe Lactalis*, C-485/18, EU:C:2020:763, paragraph 43 and the case-law cited, and of 1 December 2022, *LSI – Germany*, C-595/21, EU:C:2022:949, paragraphs 29 and 30).
- 36 The systems of protection introduced by Article 6(1) of Directive 2005/29 and Article 7 of Regulation No 1169/2011 therefore pursue a common objective which is to ensure a high level of consumer protection against misleading information and to prevent those consumers from being deceived, in particular, in relation to certain characteristics of a product or, more specifically, of a foodstuff. Although the constituent elements of the practices prohibited under those provisions are not entirely the same, those provisions establish, as is apparent from paragraphs 29 to 31 above, broadly similar obligations in the area of consumer information.
- 37 It should also be noted that, in view of recitals 7, 11, 13 and 14 of Directive 2005/29 and because of the fact that the protection granted by Article 6(1) thereof requires that a commercial practice cause or be likely to cause the average consumer to take a transactional decision that he or she would not have taken otherwise, that provision establishes a general prohibition on unfair commercial practices that distort consumers' economic behaviour (see, to that effect, judgments of 19 December 2013, *Trento Sviluppo and Centrale Adriatica*, C-281/12, EU:C:2013:859, paragraphs 31 and 32, and of 19 September 2018, *Bankia*, C-109/17, EU:C:2018:735, paragraph 30).
- 38 As is apparent from Article 1 of Directive 2005/29, the protection thereby granted to consumers is centred on their economic interests. The provisions of that directive are therefore essentially designed with the intention of protecting the consumer as the target and potential victim of unfair commercial practices; the objective of that directive – noted in paragraph 34 above – to protect consumers in full against unfair commercial practices relies on the assumption that the consumer is in a weaker position as compared to a trader, particularly with regard

to the level of information available, in that the consumer must be considered to be economically weaker and less experienced in legal matters than the other party to the contract (see, to that effect, judgment of 16 April 2015, *UPC Magyarország*, C-388/13, EU:C:2015:225, paragraphs 52 and 53 and the case-law cited). Recital 8 of that directive indicates that that objective is itself part of the broader goal of ensuring fair competition in situations which fall within the scope of that directive.

- 39 As for Regulation No 1169/2011, Article 3(1) thereof provides that the provision of food information is to pursue a high level of protection of consumers' health and interests by providing a basis for final consumers to make informed choices and to make safe use of food, with particular regard to health, economic, environmental, social and ethical considerations. In accordance with the first subparagraph of Article 1(3) thereof, that regulation is to apply to food business operators at all stages of the food chain, where their activities concern the provision of food information to consumers.
- 40 The prohibition on unfair food information practices under Article 7 of Regulation No 1169/2011 therefore does not have the promotion of fair competition as its essential underlying rationale; instead, it aims to prevent, for reasons of health and food safety, consumers' interests – be they of an economic nature or not – from being undermined as a result of the marketing of a certain product on the internal market.
- 41 It follows that the systems of consumer protection under Article 6(1) of Directive 2005/29 and Article 7 of Regulation No 1169/2011 are complementary in that they are intended to penalise different aspects of a single behaviour contrary to EU law. That finding is, moreover, supported by the general rule set out in Article 3(3) of Directive 2005/29 pursuant to which that directive is without prejudice to EU or national rules relating to the health and safety aspects of products.
- 42 In those circumstances, the simultaneous application of the obligations which flow from those two systems of protection is not such as to give rise to a situation of divergence which cannot be overcome and, consequently, of conflict within the meaning of Article 3(4) of Directive 2005/29.
- 43 It should nevertheless be specified that, in order to guarantee both the effectiveness of Article 7 of Regulation No 1169/2011 in relation to the rules provided for in Directive 2005/29 and the consistent application of those two pieces of legislation, a food information practice which complies with all the requirements stemming from that Article 7 may not, in principle, be prohibited under Directive 2005/29.
- 44 In the light of the foregoing, the answer to the first and second questions is that Article 3(4) of Directive 2005/29 must be interpreted as not precluding the possibility that, in the field of foodstuffs, a trader's conduct constituting a

misleading commercial practice, within the meaning of Article 6(1) of that directive, may be subject to penalties under the national legislation transposing that directive, where that conduct also falls within the scope of the prohibition set out in Article 7 of Regulation No 1169/2011 and of the national legislation implementing that regulation.

The third question

- 45 By its third question, the referring court asks the Court of Justice whether the penalty provided for in Article 3 of Legislative Decree No 231/2017 is compatible with Article 13 of Directive 2005/29, pursuant to which Member States are to provide for effective, proportionate and dissuasive penalties for infringements of national provisions adopted in application of that directive.
- 46 The Italian Government and the European Commission express doubts as to whether the third question referred is admissible and observe that the penalty imposed on Lidl Italia was adopted on the sole basis of the Consumer Code, which transposes Directive 2005/29 into Italian law, and not on the basis of Legislative Decree No 231/2017, with the result that the latter bears no relevance to the outcome of the dispute in the main proceedings.
- 47 In that regard, it must be borne in mind that the need to provide an interpretation of EU law which will be of use to the national court means that the national court is bound to observe scrupulously the requirements concerning the content of a request for a preliminary ruling, expressly set out in Article 94 of the Rules of Procedure of the Court of Justice, of which the national court is supposed, in the context of the cooperation instituted by Article 267 TFEU, to be aware. Moreover, those requirements are set out in points 13, 15 and 16 of the Recommendations of the Court of Justice of the European Union to national courts and tribunals in relation to the initiation of preliminary ruling proceedings (OJ C, C/2024/6008) (judgments of 6 October 2021, *Consorzio Italian Management and Catania Multiservizi*, C-561/19, EU:C:2021:799, paragraph 68 and the case-law cited, and of 11 September 2025, *Bervidi*, C-38/24, EU:C:2025:690, paragraph 82).
- 48 Thus, it is essential, as is stated in Article 94(c) of the Rules of Procedure, that the request for a preliminary ruling itself 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 (judgments of 6 October 2021, *Consorzio Italian Management and Catania Multiservizi*, C-561/19, EU:C:2021:799, paragraph 69 and the case-law cited, and of 11 September 2025, *Bervidi*, C-38/24, EU:C:2025:690, paragraph 83).
- 49 In the case at hand, the request for a preliminary ruling does not meet, in so far as the third question is concerned, the requirements noted in the preceding paragraph.

- 50 It is clear from that request that Lidl Italia was penalised only under the Consumer Code, which transposes Directive 2005/29 into Italian law. The referring court gives no indication to suggest that, in order to resolve the dispute in the main proceedings, it may be called upon to rule on the penalty provided for by Article 3 of Legislative Decree No 231/2017, which, as is unequivocally clear from its wording, applies only to infringements of Article 7 of Regulation No 1169/2011. Furthermore, the referring court does not explain why it believes that the Court of Justice should examine whether Article 3 of Legislative Decree No 231/2017 complies with Article 13 of Directive 2005/29, even though the latter provision governs only penalties for infringements of national provisions adopted in application of that directive.
- 51 In those circumstances, it must be held that the referring court has not sufficiently explained the reasons which prompted it to inquire about the interpretation of Article 13 of Directive 2005/29 or the relationship between that provision and Legislative Decree No 231/2017.
- 52 It follows that the third question is inadmissible.

Costs

- 53 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 (First Chamber) hereby rules:

Article 3(4) of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

must be interpreted as not precluding the possibility that, in the field of foodstuffs, a trader's conduct constituting a misleading commercial practice, within the meaning of Article 6(1) of Directive 2005/29, may be subject to penalties under the national legislation transposing that directive, where that conduct also falls within the scope of the prohibition set out in Article 7 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive

1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 and of the national legislation implementing Regulation No 1169/2011.

[Signatures]