**LIDC 2025**

**QUESTION B – SPAIN**

**RESPONSIBILITY AND OBLIGATIONS OF ONLINE PLATFORMS REGARDING IP AND UNFAIR COMPETITION INFRINGEMENTS IN SPAIN**

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1. **Introduction**

The evolving legal landscape surrounding the liability and obligations of online platforms in Spain sits at the intersection of European Union legislation and distinct national legal traditions. The Spanish framework integrates principles from landmark directives, such as the E-Commerce Directive, the Digital Services Act, and the Copyright in the Digital Single Market (CDSM) Directive, with specific provisions under national statutes like the Law on Information Society Services (LSSI) and the General Audiovisual Communication Law (GACL).

The increasing complexity of digital content distribution, algorithmic moderation, and automated content sharing accentuates the need for specialized agents capable of navigating legal, technical, and market-driven challenges in the online environment. Accordingly, the active engagement of entities such as Spain's collective management organizations, the **National Commission on Markets and Competition** (Spanish Competition Authority), **AUTOCONTROL – Digital Advertising Self-Regulation Organisation**[[1]](#footnote-1) and the **Intellectual Property Commission[[2]](#footnote-2)** provides an indispensable foundation for both the protection of intellectual property and the enforcement of fair competition rules. Against this backdrop, this Chapter explores in depth the Spanish approach to platform liability, remedies, regulatory obligations, and the crucial balance between proprietary rights and fundamental freedoms in a digitally transforming society.

1. **Liability and responsibility of platforms under Spanish jurisdiction** 
   1. **Definitions and types of platforms**

In contemporary Spanish law, the definition and classification of digital platforms are deeply intertwined with recent legislative adaptations, especially surrounding copyright and intermediary liability. Traditionally, digital platforms have been understood as providers of information society services: entities that, through electronic means, facilitate the storage, transmission, and access to content or services on users’ behalf. This general category encompasses a wide array of actors, including marketplaces, content-sharing services, search engines, and more, all regulated primarily under the Law on Information Society Services and Electronic Commerce (LSSI) and more recently the Digital Services Act (DSA).

Crucially, the legal regime shifted with the **transposition of Article 17 of the CDSM Directive** through Spain’s Royal Decree-law 24/2021 (article 73), which introduced a distinct category: **online content-sharing service providers**. These platforms are characterized as those whose principal purpose is to store and give the public access to a significant amount of copyrighted content uploaded by users, or which attract a large Spanish audience, and that organize and promote such content for profit—whether directly or indirectly[[3]](#footnote-3). There arises a new type of liability and responsibility: they are required to negotiate in good faith a license agreement for the copyrighted content that may be reasonably shared by the users and only where or if the negotiation fails a second-degree exemption regime activates[[4]](#footnote-4).

For providers falling outside this category, general hosting rules continue to apply, where liability for user-uploaded content hinges on the absence of actual knowledge of illegality and the provider’s diligence upon notification—principles enshrined in the E-Commerce Directive, the LSSI, and now the DSA.

These so-called “hosting safe harbours” shelter providers from liability unless they are aware of illegal activity or fail to act expeditiously to remove it once notified. The Spanish approach, in line with EU law, also underscores a “neutrality” threshold: only services acting in a purely technical, passive, and automatic capacity can enjoy these exemptions.

Beyond **content-sharing and general hosting platforms**, Spanish law and case law occasionally distinguish between other types, such as **transactional or marketplace platforms, search engines or search-based platforms, and entertainment platforms** (those whose revenue model is based on access to and sharing of protected content). Some legislation (for example, articles 26 and 27 of the Spanish Unfair Competition Law) uses such distinctions to tailor certain obligations to the unique functions of search engines and marketplaces.

Complementing this framework is Law 13/2022, of 7 July, on General Audiovisual Communication (**GACL**). This law introduces provisions on the liability of **video-sharing service providers**, which are enacted without prejudice to Article 73 of Royal Decree-Law 24/2021 and the Law on Information Society Services (LSSI). Under the GACL, video-sharing service providers are relieved of editorial responsibility even when they actively organize content—including through algorithms for presentation, tagging, or sequencing of user-generated content (UGC). Nevertheless, as entities within the audiovisual sector, these providers are bound by fundamental principles enshrined in the law, including respect for human dignity (Article 5), pluralism (Article 6), gender equality (Article 7), informational reliability (Article 9), media literacy (Article 10), self- and co-regulation (Articles 12 and 14), respect for intellectual property rights (Article 13), and accommodation of the rights of persons with disabilities (Article 7.1).

This allows us to identify up to four main types of platforms, with partly different regimes applying to them:

1. Online content-sharing service providers, in which video-sharing service providers would be integrated.
2. Transacting platforms, understood as platforms that operate as marketplaces favouring and enabling the transaction of parties.
3. Search Engines and Search Engine-Based platforms/services, the model of which is based on the creation and curation of search result-lists.
4. Other general hosting platforms, subject under all and any liability regimes.

Nevertheless, the prevailing doctrinal and judicial trend in Spain resists rigid typologies, favouring a functional, “horizontal” approach. Duties and liabilities are generally determined not by the nominal classification of the platform but by the specific activities, roles, and operative designs with respect to user content and the market in which they operate. This principle is evident in Supreme Court case law (such as the Uber case[[5]](#footnote-5)), which affirms that platform classification serves a practical purpose only when required by specific obligations under EU or Spanish law, such as those in the DSA or the special regime for content-sharing providers.

Summing up, Spanish law recognizes several functional types of digital platforms—content-sharing, transactional, entertainment, and search-based—yet for most regulatory and liability purposes, the law applies obligations “horizontally” to all providers that fit the definition of hosting services. Special liability regimes, such as those for content-sharing platforms under the CDSM Directive, do carve out unique requirements, but for most platforms, it is their actual operations and their relationship to user-uploaded content, rather than their formal classification, that determine the legal regime and obligations they must meet.

* 1. **Digital platforms and legal liability regarding intellectual property infringements: civil, criminal and administrative dimensions in Spanish law**

The regulatory landscape governing digital platforms and their liability in Spain reflects a sophisticated interplay of civil, criminal, and administrative legal frameworks. These frameworks regulate unauthorized distribution of protected content, addressing the challenges of evolving digital technologies, user-generated content, intermediary services, and cross-border enforcement. Spanish Intellectual Property Law[[6]](#footnote-6), alongside procedural and constitutional safeguards, seek to strike a balance between effective rights enforcement and protection of fundamental freedoms.

In Spanish law, digital platforms’ legal liability encompasses a detailed and evolving framework covering both civil and criminal dimensions, regulated by a combination of statutory provisions, administrative rules, and judicial interpretation. The key legislative texts governing this liability include the Spanish Intellectual Property Law, the Spanish Criminal Code, especially after reforms introduced by Organic Law 7/2015, and sector-specific rules such as the Law 34/2002 on Information Society Services and Electronic Commerce (LSSI-CE), as well as more recent transpositions of European Union directives, notably the Digital Single Market Directive 2019/790 (DMD) and its implementation under Spanish law through Decree Law 24/2021 and related administrative regulations.

* + 1. **Civil law dimension**

From a civil liability perspective, platforms are subject to direct or indirect responsibility depending on their role in facilitating access to copyrighted materials without authorization. The Intellectual Property Law articulates exclusive rights for authors and creators, specifically the right of reproduction and communication to the public (Articles 17 and 20). Digital platforms that host, store, or disseminate copyrighted works without rights holders’ consent infringe these rights if they act with knowledge and economic benefit. This constitutes direct liability when the platform itself is responsible for the infringing act, such as uploading or distributing protected content, or acting non-neutrally in curating or selecting infringing content.

For instance, regarding illegal online distribution services that host and make available protected works for direct downloading or streaming without authorization, Spanish courts have consistently classified both downloading and streaming as acts of public communication requiring rights holders’ consent. For example, the Court of Appeal of Barcelona, in its 2011 ruling in the case of “elrincondejesus.com”[[7]](#footnote-7), recognized such acts as unauthorized public communications.

Peer-to-peer (P2P) networks present another significant modality of digital piracy, where users simultaneously upload and download files containing protected content. Early rulings, such as the 2010 judgment by Commercial Court of Barcelona regarding the “elrincondejesus” case, characterized P2P programs as neutral technologies not directly infringing intellectual property rights. Likewise, the Madrid courts in 2011 and 2014 (including Court of Appeal of Madrid, No. 103/2014, involving “Pablo Soto”) dismissed liability of P2P software developers. However, following the transformative ruling of the Court of Justice of the European Union (CJEU) in “The Pirate Bay” case (C-610/15, 2017), the Spanish Audiencia Provincial of Madrid in 2017 (Court of Appeal of Madrid, No. 550/2017, “sharemula.com”) aligned its jurisprudence to hold operators of P2P platforms liable as active facilitators of unauthorized communication to the public.

Furthermore. linking websites or “web-linking” platforms, which do not store infringing content but provide organized hyperlinks to illicit works hosted elsewhere, have been the subject of fluctuating judicial interpretations in Spain. Earlier Spanish provincial court rulings ranged from dismissing their legal relevance (e.g., Court of Appeal of Barcelona, Secc. 7ª, 2005, “todocaratulas”) to recognizing them as acts of unauthorized communication or even criminal conduct, as demonstrated in rulings such as Court of Appeal of Murcia (Secc. 5ª, 2009, “elitedivx”) and Court of Appeal of Madrid (Secc. 2ª, 2010, “zonaemule”).

Nevertheless, the 2014 reform of the Spanish Intellectual Property Law introduced significant provisions aimed at strengthening the enforcement mechanisms against infringing platforms and intermediaries. A key innovation is found in Article 138.II of the Spanish Intellectual Property Law, which explicitly regulates the indirect liability of intermediaries. This provision stipulates that not only the direct infringers but also parties who “facilitate” or “contribute” to the infringement may be held liable if they engage in active and non-neutral conduct, including curating, organizing, or systematically providing listings or links to infringing content. In other words, this reform extend the status of infringer to (i) those who knowingly induce the infringing conduct; (ii) those who, knowing or having reason to know about the infringing conduct, cooperate with it; and (ii) those who, with a direct economic interest in the outcome of the infringement have the capacity to control the infringer’s conduct.

The application of this indirect liability regime was notably demonstrated in the landmark case against “Roja Directa”. In this case, the Court of Appeals of A Coruña[[8]](#footnote-8), held directly liable the company owning the RojaDirecta website (Puerto 80 Projects, SLU), but found not liable the natural person who owned that company. This was subsequently appealed before the Supreme Court[[9]](#footnote-9), which reversed in this point the court of appeals’ ruling and held that the concerned individual – who was the sole owner of the company, a company with not a single employee – had a direct economic interest in the outcome of the infringement and did have the capacity to control the company’s infringing conduct. Therefore, he was held vicariously liable under article 138 of the Spanish Intellectual Property Law, as amended in 2014.

This civil regime is complemented by administrative enforcement powers granted to the Comisión de Propiedad Intelectual (Intellectual Property Commission), established by Law 21/2014. This body is competent to impose sanctions, order content removal, or mandate website blocking for platforms infringing intellectual property rights online. These administrative measures, as we will discuss further below, serve as a rapid response mechanism complementing judicial proceedings, as will be examined further below.

* + 1. **Criminal law dimension**

On the criminal law side, the reform of the Spanish Criminal Code by Organic Law 7/2015 brought forward a crucial expansion of criminal liability concerning digital platforms. Specifically, Article 270.2 of the Criminal Code now criminalizes, beyond the direct act of copyright infringement, the active and non-neutral facilitation of access to infringing works through organized listings or repositories of links, even if these links originate from third-party users. This means that operators of digital services who provide aggregated lists of infringing content, classify or sort such content, or otherwise contribute actively to making unauthorized works publicly accessible can be prosecuted criminally.

This criminal provision has manifested in several high-profile prosecutions against operators of websites functioning as hyperlink aggregators or share-hosting platforms predominantly used for illicit content distribution (such as, Simonfilms.tv[[10]](#footnote-10), a criminal case against a Spanish website offering unauthorized streaming for a fee, in which the manager pleaded guilty or Youkioske, which dealt with the streaming of news publications and magazines and in which two of the accused persons were found guilty of criminal copyright infringement and of the offense of building a criminal organization[[11]](#footnote-11)). Spanish courts have interpreted this inclusion as removing the safe harbour protections for intermediaries that fail to maintain a neutral position and act diligently to prevent or remove infringing content. Importantly, the criminal norm recognizes that liability is not confined to those who upload infringing files but extends to those who knowingly facilitate or monetize infringing access.

* + 1. **Administrative enforcement dimension**

Since 2011, Spanish law provides for a specific administrative procedure before a government body, the Second Section of the Intellectual Property Commission (here-in-after, **S2CPI**), to fight against illegal streaming and other online copyright infringements[[12]](#footnote-12). This system seeks to ‘restore the legality’ and is directed against information society services providers who infringe copyright – not against mere users. A particular target of this procedure are information society service providers that actively provide organized lists of links to copyright protected content, which is available online apparently without authorization, regardless of whether the links are uploaded by users. The system also expressly targets providers of television over the internet (IPTV) that infringe copyright, as well as service providers that actively allow access to those streams.

The procedure is initiated by the S2CPI following a complaint by the owner of the rights allegedly infringed, or by a person entrusted with their exercise, including collective management organizations. The complainant must provide reasonable proof of a previous unsuccessful attempt to obtain the removal of the content[[13]](#footnote-13).

Two procedural tracks operate within the S2CPI: an ordinary procedure, where the infringing service provider can be identified, and a special procedure applicable when the responsible party remains anonymous or unidentified. The special procedure facilitates a faster resolution process by automatically converting the resolution to commence proceedings into a binding resolution proposal if the infringer fails to remove content or respond, subject to judicial authorization.

The S2CPI may order the infringing provider to suspend the provision of the service that infringes copyright, or the removal of the infringing content, provided that the service provider has caused or may cause economic harm. The order may include technical measures and specific duties to ensure that the infringement is put to an end and does not resume in the future. The suspension or removal may encompass additional works or protected subject matter likewise infringing. Before issuing the order, the service provider will be required to either voluntarily remove the content or argue that it has an authorization, or that a copyright exception applies. The failure to remove non-authorized content is considered a serious infringement punishable with fines ranging from 150.000 to 600.000 euros.[[14]](#footnote-14) As of the date of the elaboration of this chapter, there have been two resolutions in sanctioning proceedings initiated against this very serious administrative infringement: Resolution of 15th June 2018, which imposed a fine of EUR 375,000 on the owner of the website www.x-caleta.com, along with ancillary measures of publicising and blocking and Resolution 7th October 2019, which resolved the administrative sanctioning procedure against the owner of the website [www.exvagos.com](http://www.exvagos.com) establishing a fine of EUR 400,000, the cessation of the website's activity for one year and the publication of the sanctioning resolution in the Official Gazette.

To ensure the effectiveness of the order, the S2CPI may request the cooperation of providers of intermediary services, electronic payment services, and advertising services, ordering them to suspend the service they provide to the infringer. This may include a blocking injunction against access providers. The failure to fulfil those requests may be sanctioned as an infringement of the LSSI-CE. These cooperation measures, however, must be authorized by a court regarding its compatibility with rights to freedom of expression and information and other related rights under Art. 20 of the Spanish Constitution.[[15]](#footnote-15) If the infringing provider fails to comply with the order, it may be sanctioned with fines, and be ordered to suspend its services for up to a year. To ensure the effectiveness of this measure, intermediaries may again be requested to cooperate, by the Commission, though in that case a court’s authorization will not be necessary. The orders issued by the Commission end the administrative proceedings and may be appealed before the National High Court (Audiencia Nacional) and subsequently to the Supreme Court.[[16]](#footnote-16)

This special administrative procedure has not been free from controversy. Firstly, regarding the constitutionality of the functions entrusted to the Commission, as encroaching upon the powers attributed to courts. However, this claim was dismissed by the Spanish Supreme Court, noting that the S2CPI does not exercise a judiciary function, and that it is legally commissioned to safeguard copyright with a procedure that comports with the celerity needed to protect those rights. Secondly, there has been controversy regarding the proportionality of the measures and their interference with freedom of expression and information. The Supreme Court also dismissed this claim, holding that the constitutional and legal guarantees of those rights are respected, with the required judicial authorization for the injunctions directed to intermediaries.[[17]](#footnote-17)

Since its inception in 2012 up to March 2025, the S2CPI has processed 1,024 applications alleging online IPR infringements. Of these, 903 (88.18%) have been resolved, with 375 initially incomplete applications corrected following requests. The Commission has ordered the blocking or removal of infringing content from over 350 websites and additionally influenced the blocking of more than 1,255 internet domains through collaborative efforts with key stakeholders. The procedural reforms introduced by Law 14/2021 have expedited case processing and expanded application scope to include Internet Protocol Television (IPTV) services and online platforms enabling circumvention of protection measures.[[18]](#footnote-18)

In addition, in the fight against infringement, a ‘Protocol for the Strengthening of the Protection of Intellectual Property Rights’ was signed by Internet access providers and content industry on 8 April 2021. The protocol aims at creating inter sectoral self-regulation, in collaboration with the government, to promote legal online supply of cultural content, as well as at improving the effectiveness of judicial and administrative decisions against infringing websites and their replicas or ‘mirror websites’. In this regard, a technical committee is appointed, to which Internet access providers must inform about the actual implementation of the blocking measures within 24 hours after being notified of a blocking order. Until 31 March 2025, the Technical Committee representing the parties to the Protocol has submitted 178 inquiries (generally on a weekly basis) which, following responses from the Directorate-General for Cultural Rights, have impacted more than 1,255 Internet domains that were further deployed across over 5,805 subdomains. All these have been blocked to prevent access from Spanish territory, through the application of the Protocol by Internet service providers, who have implemented the most appropriate technical measures at each time to effectively and significantly prevent or reduce access to these infringing websites. This has entailed the impossibility of accessing millions of works (books, musical works, video games, audiovisual works, etc.) protected by intellectual property rights, which were made available illegally on these infringing websites[[19]](#footnote-19).

International cooperation is also emphasized. Spain participates in the WIPO ALERT platform, allowing the Ministry of Culture to share updated lists of infringing domains, further amplifying enforcement efforts and fostering responsible advertising practices by discouraging ads on websites engaged in piracy. Additionally, collaboration with the Spanish National Professional Football League exemplifies public-private partnerships, where league-developed software expedites preliminary investigations into infringing websites.

Other legal and governmental initiatives for copyright protection include Spain’s participation on AGORATEKA (a pan-European online portal developed under the auspices of the European Union Intellectual Property Office (EUIPO) and the European Observatory on Infringements of Intellectual Property Rights). Spain’s participation commenced following a pilot phase, with integration of the audiovisual sector portal “Me siento de Cine” and subsequent oversight by the Ministry of Culture’s Directorate General for Cultural Rights, Intellectual Property and Cooperation. As of March 2025, 48 Spanish digital content aggregators with a total of 864 websites are included in AGORATEKA, covering diverse content types and payment models.

Furthermore, the Spanish Ministry of Culture launched the Awareness Campaign by in October 2024 aiming to promote respect for intellectual property rights and encourage legal and secure access to protected content. The campaign targets the general Spanish population, emphasizing the societal, cultural, economic, and labor importance of intellectual property, with particular focus on works such as literature, cinema, music, and live sports, which have been notably impacted by piracy. Messaging employs slogans such as “Access content legally and securely” alongside behavioral appeals like “I like it, I don’t pirate” and “I’m a fan, I don’t pirate.” The campaign utilizes a variety of graphic materials disseminated across social media, digital press, and other advertising media, with creative development credited to the ‘Tres Tipos Gráficos’ design studio in collaboration with the Ministry’s Intellectual Property Directorate. These initiatives are part of a broader strategy to combat piracy and support cultural industries by raising public awareness of both the availability of legal content and the consequences of infringement.

* 1. **Platform obligations and liability protections for intellectual property infringements: monitoring duties and the “good Samaritan” principle**

The current legal framework in Spain governing platform obligations and liability protections for intellectual property infringements embodies a nuanced balance anchored in both national law and European Union directives. Central to this regime is the establishment of clear monitoring duties for platform operators, modulated by the application of the so-called “good Samaritan” principle, which protects platforms from overarching liability when acting in good faith to remove or disable access to infringing content.

Under Spanish law, particularly Royal Decree-Law 24/2021, which transposed the EU Digital Single Market Directive (Directive (EU) 2019/790), platforms classified as “online content-sharing service providers” are obligated to exercise due diligence in deterring copyright infringement. This manifests primarily through implementing robust notice-and-takedown mechanisms that allow rights holders to notify platforms of infringing content, obliging them to act expeditiously to remove or disable access to such content to maintain safe harbour protections under Article 16 of the Law on Information Society Services (LSSI-CE). Failure to do so results in the forfeiture of liability exemptions and exposes platforms to civil and potentially criminal sanctions.

This regulatory structure reflects the “good Samaritan” principle, which shields platforms from liability for user-generated content as long as they act promptly and responsibly upon notification of infringement, without imposing an affirmative general obligation to monitor all user content. This principle is enshrined both in Spanish law and in EU directives, notably articulated in Article 15 of the E-Commerce Directive (2000/31/EC) and reaffirmed in Article 8 of the Digital Services Act (DSA), which forbid general monitoring obligations but encourage voluntary, targeted content moderation measures.

Spanish jurisprudence consistently confirms this balance. For instance, the Spanish Supreme Court’s rulings in the “Rojadirecta” case (2016 and subsequent appeals) held that platform operators could be liable where they knowingly facilitated infringement and failed to take adequate preventive or remedial action, extending liability to secondary infringers controlling the services. However, courts clearly distinguish between active participation in infringing conduct and passive hosting, upholding that platforms acting in good faith and responding diligently to rightful takedown requests remain protected under the safe harbour regime.

Moreover, ongoing judicial decisions emphasize that injunctions mandating content removal or blocking must be objective, proportionate, and non-discriminatory, reflecting the need to protect platforms and users’ fundamental rights, such as freedom of expression and data privacy, safeguarded under the Spanish Constitution (Articles 18 and 20), the EU Charter of Fundamental Rights (Articles 7, 8, 11, and 17), and the General Data Protection Regulation (GDPR) as transposed into Spanish law by Organic Law 3/2018.

Platforms are required not only to comply with notice-and-takedown obligations but also to implement transparent and user-friendly complaint and counter-notice procedures, as encouraged by regulatory developments such as the Digital Services Act’s procedural minimum requirements. However, empirical studies reveal some frictions in the effectiveness and transparency of these procedures, exacerbated in Spain by recent legislative instability, including the repeal of Royal Decree-Law 9/2024, which delayed full implementation of the DSA’s due diligence obligations and the establishment of trusted flaggers, an essential element for efficient notice-and-action enforcement.

* + 1. **Regulatory limits on algorithmic content monitoring and platform control over user experience**

While Spanish law does not explicitly delineate the extent to which digital platforms must refrain from algorithmic content monitoring, existing regulatory instruments governing user experience provide relevant constraints. These regulations primarily fall within the domain of unfair competition law, encompassing the Spanish Audiovisual Sector Regulatory Law, the Unfair Competition Law (UCL), and the General Advertising Law.

Under the General Advertising Law, advertising is prohibited if it undermines human dignity, targets children directly and specifically, employs subliminal techniques, or is misleading, unfair, or aggressive. Moreover, advertising must comply with restrictions related to the nature of promoted products, such as tobacco, alcohol, or pharmaceuticals (Article 3). Subliminal advertising is defined to include any method producing stimuli at the threshold of human perception that can influence recipients without their conscious awareness (Article 4). Interpretively, provisions on misleading, unfair, and aggressive advertising are to be considered in conjunction with the UCL, given that advertising may constitute a vehicle for such unlawful commercial practices. Thus, the General Advertising Law establishes a comprehensive legal framework regulating the impact of advertising on user experience in online environments.

Video-sharing service providers are required to register in a national registry (Article 87) and must implement protective measures for both minors and adults against harmful content—such as violence, sexually explicit or degrading material, and content infringing upon human dignity (Articles 88). They must establish transparent and user-friendly mechanisms enabling users to report unlawful content (Articles 89.1.b and 89.1.c), as well as systems for age verification and appropriate content adaptation, including parental control tools (Articles 89.1.e and 89.1.f). Providers are also obligated to implement transparent, efficient procedures for handling and resolving user complaints (Article 89.1.g). Specifically regarding advertising content, platforms must permit content creators to flag commercial content within their videos (Article 91.2.b) and ensure clear disclosure of any embedded commercial material to viewers (Article 91.3).

The regulatory regime also imposes obligations on “users of paramount relevance”—commonly known as influencers—operating on video-sharing services through these platforms. Such users are subject to the same principles binding platforms (Articles 94.1 in fine referencing Article 86) and must employ the flagging mechanisms established by the platforms. They are likewise required to register in the national database alongside providers (Article 94.4). Identification of such users is contingent on cumulative criteria including: economic activity generating significant income; responsibility for published content; provision of services directed at a substantial portion of the public potentially influencing them; the nature of the service as informative, entertainment, or educational; and provision via electronic communications networks.

Enforcement of these rules falls within the jurisdiction of the Spanish National Markets and Competition Commission (CNMC) (Article 92.5), with potential administrative sanctions including fines pursuant to Articles 160 et seq.

Self- and co-regulatory functions are exercised by AUTOCONTROL, an organization composed of advertisers, advertising agencies, and media entities. AUTOCONTROL develops codes of conduct and best practices and administers alternative dispute resolution procedures with the power to impose sanctions and resolutions relating particularly to native advertising and influencer marketing.

Finally, the Unfair Competition Law (UCL) supplements the foregoing by prohibiting practices and behaviors that are misleading (Article 5), likely to cause confusion as to commercial origin (Article 6), that omit relevant information deceptively (Article 7), that involve harassment or undue influence restricting consumer freedom (Article 8), or that involve denigration of competitors (Article 9) or exploitation of their reputation (Article 12). These provisions apply regardless of the medium through which such conduct occurs, thereby encompassing algorithmic decisions selecting or presenting content that misleads, confuses, or unduly influences users.

Therefore, despite the absence of specific statutory provisions governing algorithmic content moderation per se, the combined corpus of unfair competition law and audiovisual communication regulations offers a robust and adaptable legal framework capable of enforcing proportional safeguards against algorithmic manipulation affecting user experience.

* + 1. **Platform liability privileges for intellectual property, unfair competition, and other infringements**

In Spain, platform liability privileges concerning intellectual property (IP) infringement, unfair competition, and other related infringements are primarily shaped by a complex legal landscape that integrates national legislation with recent European Union directives, notably the Digital Single Market Directive and the E-Commerce Directive. The evolving regulatory framework seeks to balance rights holders’ protection with fostering innovation and preserving fundamental freedoms for digital platforms.

Historically, platforms providing online content-sharing services (such as YouTube and Facebook) benefited from a liability exemption regime that sheltered them from responsibility for user-uploaded content lacking prior authorization from rights holders. However, this paradigm has shifted significantly following the transposition of the EU Digital Single Market Directive into Spanish law through Royal Decree-Law 24/2021. This legislation—particularly Book IV of the amended Intellectual Property Law—imposes a new liability regime whereby online content-sharing service providers are held accountable for acts of communication to the public made via their platforms, unless they demonstrate that they have:

* Made best efforts to obtain authorization from rights holders;
* Made best efforts to ensure the unavailability of protected works previously flagged as infringing;
* Acted expeditiously to remove or disable access to infringing content upon receiving sufficiently substantiated notifications from rights holders.

These requirements mark a paradigmatic shift towards a responsibility model based on proactive monitoring and cooperation with rights holders, aiming to reduce unauthorized dissemination of copyrighted material online

The liability regime applies horizontally across civil, criminal, intellectual property, and unfair competition domains, meaning that a platform may be exempt from liability only by fulfilling the statutory conditions, irrespective of the type of infringement alleged. Additionally, the regime is complemented by obligations to cooperate with public Spanish authorities concerning prevention and cessation of infringements when fundamental public interests—such as public order, health, human dignity, and intellectual property—are at stake.

In the unfair competition arena, Spanish law provides tools to address unfair commercial behaviors that may arise in digital contexts, including practices affecting platform user experiences. The Spanish Unfair Competition Law (UCL) prohibits misleading, aggressive, or unfair commercial practices, harassment, and denigration of competitors, without limiting the medium through which these practices occur. Algorithmic content moderation or presentation that misleads or manipulates users may thus be subject to scrutiny under unfair competition provisions.

Moreover, the General Audiovisual Communication Law (GACL) introduces specific duties for video-sharing service providers—platforms that organize, present, and sequence user-generated content with the aid of algorithms—while disavowing editorial responsibility for the content itself. These duties include registration in a national registry, protecting users (especially minors) from harmful content, providing transparent and user-friendly complaint mechanisms, and ensuring proper age verification and parental controls. The regime also imposes obligations on “users of paramount relevance” (influencers), who must register and comply with the same principles as platforms, particularly concerning transparency in advertising and commercial content disclosure.

On the procedural side, Spanish law facilitates the imposition of injunctions against intermediaries—including platform providers and Internet Service Providers—that enable access to infringing content, with courts often ordering dynamic blocking measures responsive to the fast-changing nature of infringing websites. However, courts generally reject general monitoring obligations, in coherence with EU law and Spain's own provisions under the Law on Information Society Services (LSSI-CE)

The rights holders have various civil and criminal remedies, including damage claims, enforcement through administrative procedures before the Intellectual Property Commission, and criminal prosecutions for certain explicit offenses. Platforms’ safe harbour protections do not shield users themselves, who remain liable for infringement, and procedural tools exist to compel intermediaries to disclose identities of alleged infringers while safeguarding privacy rights.

1. **Mechanisms in cases of infringement**
   1. **Platform Obligations for Intellectual Property Infringement Reporting**

Platforms operating in Spain bear a set of civil, criminal, and administrative obligations regarding the reporting and handling of intellectual property (IP) infringements. These obligations are embedded in a multilayered legal framework combining Spanish national laws with European Union directives, designed to balance effective enforcement of IP rights with protection of fundamental rights and promote legal certainty for platform operators.

* + 1. **Civil obligations**

Under Spanish civil law, platforms are subject to **liability regimes and procedural duties** when their services are used for copyright or other IP infringements. The legislative framework imposes the following civil obligations:

* Notice-and-takedown compliance: Upon receiving a sufficiently substantiated infringement notification from rights holders, platforms must act expeditiously to remove or disable access to the infringing content. This obligation aligns with article 16 of the Spanish Law on Information Society Services (LSSI) and the EU E-Commerce Directive safe harbour requirements. Platforms that fail to act diligently may lose safe harbour protections and incur liability under civil law.
* Cooperation for identification of infringers: Pursuant to procedural provisions (e.g., articles 256.1.10º and 256.1.11º of the Spanish Civil Procedure Law), platforms are required to facilitate rights holders’ requests for information to identify alleged infringers when there is prima facie evidence of infringement. Such data disclosure is judicially controlled to respect privacy and data protection rights.
* Interim injunctions: Spanish courts routinely order platforms or related intermediaries (e.g., internet service providers) to block access to infringing websites or disable access to infringing material as a provisional measure. Platforms must comply with these injunctions promptly to avoid liability.
* Damage compensation and cease-and-desist orders: Platforms found liable under civil proceedings may be ordered to cease infringing activities, compensate for damages (including lost profits and moral damages), and cover costs related to enforcement and investigation.
* Good faith and diligence: Platforms must adopt adequate organizational and technical measures to prevent or mitigate infringements, complying with emerging judicial standards on platform responsibility, particularly after the 2021 Royal Decree-Law 24/2021 reform imposing proactive obligations on “online content-sharing service providers.”
  + 1. **Criminal obligations**

Criminal law imposes stringent penalties and enforcement procedures on platforms that knowingly or recklessly facilitate IP infringement.

First of all, platforms or their operators may face criminal liability, including imprisonment and fines, where they intentionally enable infringement activities such as unauthorized streaming, distribution, or reproduction of protected works. This includes administrative or operational control over infringing content or materially benefiting from infringement. As we already indicated, under Spanish criminal law, platforms or their operators may incur stringent criminal liability when they knowingly or recklessly facilitate intellectual property (IP) infringement by actively enabling unauthorized activities such as streaming, distribution, or reproduction of protected works. This liability arises from detailed statutory provisions embedded primarily in Article 270 of the Spanish Criminal Code, which criminalizes acts involving the reproduction, distribution, public communication, or making available of copyrighted content without authorization, especially when conducted with intent to obtain a direct or indirect economic benefit and causing harm to third parties. The 2015 amendment to the Criminal Code (Organic Law 1/2015) significantly broadened the scope of criminal offenses related to IP, explicitly targeting operators of piracy websites and online intermediaries who facilitate infringement by providing access or indexing infringing content. The reform clarified that not only the direct infringers but also those who engage in active facilitation — for example, by maintaining administrative or operational control over websites disseminating unauthorized content or by materially benefiting from such infringement — can be held criminally liable. Jurisprudential precedents robustly support this interpretation. In a prominent case adjudicated by the Provincial Court of Castellón[[20]](#footnote-20) involving the management of www.bajatetodo.com, the accused was convicted under Article 270 for knowingly orchestrating the availability of unauthorized copyrighted works through hyperlinks and indexing, which went beyond mere passive hosting. The court found the operator’s actions constituted an active role in facilitating infringement, especially given the economic advantage derived from advertising revenue and collaboration with third-party advertisers using the user base. The accused received an 18-month prison sentence, fines, and was barred from managing websites for three years. Another example is the Youkioske case, already cited[[21]](#footnote-21).

Furthermore, Spanish courts have the authority to impose a range of interim measures during criminal investigations into intellectual property (IP) infringement, which play a vital role in preserving evidence and preventing ongoing harm. Such measures include orders for the removal of infringing content, suspension of online services, or blocking of domain names suspected of hosting unauthorized protected works. These interventions are authorized under both the Spanish Criminal Procedure Law and sector-specific IP legislation, including the Intellectual Property Law. The Criminal Procedure Law establishes the framework for precautionary criminal measures designed to secure evidence or prevent further criminal offences during the investigative phase. Courts may grant such urgent injunctions without the need for prior notice (ex parte), particularly where delay would cause irreparable harm, consistent with Article 721 of the Civil Procedure Law and related criminal procedural provisions. The application of these measures is subject to the principles of proportionality, necessity, and the right to defence, preserving fundamental procedural guarantees.

In relation to IP infringement, the Intellectual Property Law and criminal code provisions empower courts to block websites or suspend services facilitating unauthorized reproduction, distribution, or communication of protected works. The enforcement of interim measures often follows requests from rights holders or investigative authorities, who must demonstrate prima facie evidence of infringement. In more complex digital piracy cases, judicial authorities frequently order Internet Service Providers (ISPs) to block access to infringing domains dynamically, adapting to domain changes to ensure effective enforcement.

Besides, in Spain, operators involved in repeat or serious intellectual property (IP) offenses face enhanced sanctions as prescribed in multiple statutory provisions and established jurisprudence. From the criminal law perspective, Article 22.8 of the Spanish Criminal Code considers recidivism an aggravating circumstance that can increase penalties for repeated offenses. For recidivism to apply, jurisprudence clarifies that the prior conviction must be final (i.e., no longer subject to appeal), involve a crime of the same nature and under the same title of the criminal code as the subsequent offense, and the criminal record must not be formally cancelled in accordance with Article 136 of the Criminal Code. Furthermore, aside from monetary and custodial penalties, operators with repeat or serious offenses may face disqualification from holding certain positions or engaging in activities that facilitate IP infringement. Under Article 83 of the Criminal Code, courts can impose prohibitions on profession, trade, or activity, including the management or operation of digital platforms, for up to 15 years when serious administrative or criminal violations occur, thereby protecting rights holders from further harm. Spanish courts have consistently supported these punitive measures. For example, in the landmark Youkioske case, the National High Court imposed prison sentences, significant fines, and operational bans on website operators who repeatedly facilitated mass unauthorized dissemination of copyrighted content, setting important precedent on enforcement against recidivism in the digital environment.

* + 1. **Administrative obligations**

As we already pointed out, Spanish administrative law complements civil and criminal enforcement with specialized mechanisms. First of all, platforms are subject to reporting and regulatory control by the S2CPI, which can initiate administrative proceedings on receipt of complaints about infringing activities. The Commission may order suspension or removal of infringing content or services and impose fines ranging between 150.000 euros and 600.000 euros for non-compliance.

Furthermore, under GACL, video-sharing platforms must register with national authorities and adopt measures protecting users from harmful content. Platforms must also implement transparent user complaint mechanisms and age verification systems. The Spanish National Markets and Competition Commission (CNMC) oversees compliance and may impose administrative fines in case of breaches.

* + 1. **Other regulatory requirements: focus on video sharing services and influencers**

Specific regulatory requirements in Spain for digital platforms, particularly video-sharing services and influencers, have recently undergone significant modernization and enhancement, primarily driven by Law 13/2022 on General Audiovisual Communication (GACL) and related legislative developments.

The GACL establishes that video-sharing service providers (VSSPs) must register themselves in a national registry and comply with core principles such as respect for human dignity, pluralism, gender equality, informational trustworthiness, intellectual property rights, and inclusion of people with disabilities. While these providers are not attributed editorial responsibility for user-generated content, they are responsible for the organization of that content, including using algorithms for presentation, tagging, and sequencing. This responsibility includes protecting both adult and child users from harmful content such as violence, sexual or degrading material, or any content infringing on human dignity.

Providers must implement transparent and accessible user complaint mechanisms which allow users to flag unlawful or infringing content and ensure expedited and effective processing of those complaints. They are also obligated to establish robust age verification systems and tools like parental controls to tailor content access appropriately. Regarding advertising, VSSPs must ensure that creators can clearly flag commercial content embedded within videos and that such promotional material is unmistakably disclosed to viewers to safeguard against misleading advertising.

Additionally, the regulatory framework introduces specific obligations for “users of paramount relevance,” colloquially termed influencers. These individuals are subject to the same fundamental principles as the platforms themselves and are required to participate in the national registry once they meet cumulative thresholds such as significant economic income from their digital activities or a large follower base (e.g., more than one million followers on a single platform). The criteria for this classification include the economic nature of the activity, responsibility for published content, reach to a broad public, service type (information, entertainment, education), and delivery via electronic communication networks. Influencers must utilize the platform’s content-flagging mechanisms and comply with transparency requirements regarding sponsorship and advertising. Failure to comply can result in fines and other penalties under administrative enforcement by authorities such as the Spanish National Markets and Competition Commission (CNMC).

Lately, a pioneering "Audiovisual Compliance Quality Seal”[[22]](#footnote-22) aimed at audiovisual platforms, aggregators, streaming services, and video-sharing platforms has been introduced in Spain. This Audiovisual Compliance quality seal is issued by Audiovisual Compliance (AVC), a specialized consultancy firm focused on the audiovisual sector. AVC provides certification services that guarantee adherence to legal, technical, and ethical standards within the audiovisual industry. The seal serves as recognition that a project or service complies with applicable regulatory frameworks and quality benchmarks relevant to audiovisual content creation, production, and distribution. AVC’s authority stems primarily from its expertise and collaboration with key industry stakeholders, regulators, and legal frameworks, positioning it as a trusted certifier within the audiovisual field. While AVC’s seal is not a public administrative or governmental certification per se, it functions as an important industry-wide standard that supports compliance with audiovisual law and best practices. This certification assists producers, distributors, and financial investors in corroborating legal conformity and enhancing the market credibility of their audiovisual projects This seal certifies compliance with audiovisual regulations, including the protection of minors, and is granted following expert audits and annual renewal.

* 1. **Remedies and compensations**

As we stressed, digital platforms are subject to a comprehensive and evolving regulatory framework that establishes specific obligations concerning the reporting and management of intellectual property (IP) infringements as well as unfair competition practices. These obligations are enshrined in an integrated system comprising civil, criminal, and administrative laws, shaped by both national legislation and the transposition of pertinent European Union directives, notably the Digital Single Market Directive and the E-Commerce Directive.

* + 1. **Civil and criminal remedies and compensations for IP infringements**

Civil obligations demand that platforms, particularly those categorized as hosting or online content-sharing service providers, act diligently upon notification of infringing content. Pursuant to Article 16 of the Spanish Law on Information Society Services (LSSI-CE) and implementing Directive 2000/31/EC, platforms must remove or disable access to unlawful content expeditiously to retain the benefit of liability exemption. Non-compliance with this notice-and-takedown procedure exposes platforms to potential civil liability for direct or indirect infringement. Moreover, Spanish civil procedural law (notably articles 256.1.10º and 256.1.11º) empowers rights holders to seek judicial orders compelling platforms and associated intermediaries such as electronic payment or advertising service providers to disclose the identities of alleged infringers, provided that sufficient prima facie evidence exists. This measure facilitates effective enforcement against infringers while ensuring protection of fundamental privacy rights under data protection laws.

Judicially, interim injunctions are frequently imposed, requiring platforms—often complemented by internet access providers—to block access to infringing sites or disable infringing materials, incorporating mechanisms such as dynamic injunctions to adapt to frequent domain changes by infringing operators. Beyond removal, courts may order compensation for damages suffered by rights holders, which follows Spanish civil law principles aiming at full restitution (restitutio in integrum), encompassing actual damages and lost profits. Thus, under the Spanish civil legal framework, a victim of intellectual property infringement may claim various forms of compensation for the damages and losses suffered. Article 138 of the Spanish Intellectual Property Act provides that the rights holder is entitled not only to the cessation of the infringing activity but also to reparations covering both material and moral damages. Furthermore, Article 140 specifies that such compensation must encompass the economic harm incurred by the rights holder as well as any unjust profits obtained by the infringer, including relevant investigative costs incurred to establish the infringement.

The calculation of damages and losses can follow two alternative bases as chosen by the injured party. First, the compensation may be determined by the actual financial detriment suffered, which covers lost profits plus unlawful gains by the infringer. Alternatively, damages may be assessed according to the hypothetical royalty or license fee that would have been payable if the use had been legitimately authorized. Additionally, moral damages may be claimed independently from economic loss and are evaluated based on the severity of the infringement, the harm caused to the claimant, and the extent of unauthorized dissemination of the protected work.

Besides monetary compensation, the injured party may seek interim relief measures to safeguard their rights pending final resolution. Pursuant to Article 142 of the Intellectual Property Law, courts may order injunctions, seizure of unlawful copies, blocking of infringing goods, and freezing of illicit profits. These provisional measures aim to halt ongoing violations and prevent further damage during the litigation process. Hence, the Spanish civil system offers comprehensive protection against intellectual property infractions by enabling both restitution of losses and effective preventive actions

From a criminal law perspective, platforms may be held liable under Articles 270 and subsequent of the Spanish Criminal Code when they knowingly facilitate copyright infringements—such as hosting, distributing, or enabling illegal streaming—either directly or by secondary liability if they induce or cooperate with infringers for economic gain. Criminal courts retain authority to impose procedural interim measures including seizure, content removal, service suspension, and domain blocking, with platforms obliged to cooperate in investigations by providing access to stored data and subscriber information, pursuant to Articles 13 and 588 ter of the Spanish Criminal procedural law.

Under Spanish criminal law, victims of intellectual property infringement may claim compensation within the framework of criminal proceedings established by the Spanish Criminal Code. Articles 270 to 272 specifically address crimes against intellectual property rights, establishing penalties that include imprisonment from six months up to four years and fines ranging from twelve to twenty-four months. Significantly, the provisions also allow the court to impose civil liability on offenders, ordering them to pay compensation for damages caused to the injured party (Art. 272 Criminal Code). This compensation aims to redress both the economic losses suffered by the rights holder and any moral damages stemming from the infringement.

The compensation calculated in the criminal context adheres to the guidelines of the Intellectual Property Law, particularly Article 140.1, which governs the quantification of damages. This includes covering negative economic consequences such as lost profits and the illicit gains obtained by the infringer, as well as moral damages proportional to the seriousness and circumstances of the violation. Importantly, the criminal court integrates both punitive and restitutive functions, whereby the offender is penalized criminally and ordered to remedy the harm caused to the victim. The civil compensation awarded in criminal proceedings is thus cumulative with the penalties imposed, ensuring comprehensive redress for the rights holder.

In addition to monetary damages, criminal procedures facilitate protective and preventive judicial measures against the infringement. Courts may order the seizure and destruction of infringing goods, suspension of activities, and public disclosure of the judgment to deter further violations (Art. 272 Criminal Code). Criminal prosecution is usually pursued ex officio by the Public Prosecutor, emphasizing the public interest in protecting intellectual property rights, though victims may also intervene as private prosecutors to enforce their claims. Therefore, the Spanish criminal justice system provides a robust mechanism for both penalizing offenders and securing compensation for victims of intellectual property violations, complementing civil remedies with criminal sanctions and measures

Moreover, as we already indicates, legislative reforms via Royal Decree-Law 24/2021 (Book IV of the Intellectual Property Law) transposed Directive (EU) 2019/790, introducing stringent requirements for online content-sharing service providers to make best efforts to obtain authorization from rights holders, ensure the swift removal or disablement of previously identified infringing content, and cooperate transparently with rights holders to prevent recurrence. The regime is horizontally applicable, covering civil, criminal, IP, and unfair competition claims. This reform reflects a shift from passive hosting to active due diligence duties.

* + 1. **Remedies and compensations regarding unfair competition platforms practices**

Regarding **unfair competition**, the Spanish Unfair Competition Law (UCL) broadly prohibits misleading, aggressive, or unfair commercial practices irrespective of communication medium, encompassing algorithmic content presentation that may distort or mislead consumers. Algorithms influencing user experience and advertising content are therefore subject to these legal standards, combined with the General Advertising Law’s prohibitions on subliminal, misleading, or offensive advertising (Law 34/1988, Articles 3–4).

As it has been already stablished, claims may be filed against platforms in equal conditions to any other competitor, both for IP infringement and for unfair behaviours. When infringement is directly caused by platforms or due to non-compliance with the LSSI-CE due diligence requirements, they can be found responsible for their misconduct and, thus, susceptible of liability.

In these latter cases, liability is stablished according to the applicable regime, i.e. the Intellectual property applicable according to the right infringed or unfair competition rules, with no striking or relevant singularities. This means that in terms of remedies, there are not specially crafted remedies, but the application of general ones already stablished in the legal regime at hand.

Focusing on the remedies that can be adopted according to the unfair competition rules, the main body of remedies is displayed by art. 32 of the Spanish UCL.

According to said rule, two main frameworks are stablished as redress mechanisms. On the one hand, a torts or damages action may be exercise through the claim to reintegrate either the direct damage, the loss of profits or both. Yet, as it may obviously be the case, since there is no exclusive right, damages must be dully proven and properly quantified, meaning that *in re ipsa loquitur* doctrines applicable under IP regimes do not apply for unfair competition claims. Coupled with the torts, article 32 also recognises the availability of an unjust enrichment remedy which would complementarily allow to internalise situations of unduly profiting of third-party efforts or reputation. Both sets of actions are mutually compatible and non-excluding, which allows for claim accumulation.

Together with both redress mechanisms, art. 32 also allow the application of injunctive relief measures, including the prohibition to initiate a potentially infringing behaviours and also the order to cease an already ongoing conduct. This set of remedies can be extended as to include the duty to remove any lingering or lasting effects the unfair behaviour may have produced on the market.

Injunctive relief may be decided by the Court up in two different moments during the infringement procedure. They may be conceded as preliminary or interim injunctions. In this particular case the Court has to order them in agreement to arts. 721 et seq. of the Spanish Civil Procedure Law[[23]](#footnote-23), and can be requested either coupled with the main claim or presented to the court before the main claim on their own merits (art. 730). The preliminary injunctive measures may be ordered by the court even without hearing of the defending party (art. 733.2). In these cases, protective letters may be used but only limited to claims requested to Barcelona courts for both unfair competition and copyright infringement[[24]](#footnote-24). At this point criteria between both courts are contradictory: Courts in Barcelona agreed to admit the issuance of a protective letter for both matters[[25]](#footnote-25), whereas in Madrid it has been repeatedly denied that possibility[[26]](#footnote-26).

This situation is due to the fact that Spanish legal system does not recognise the general validity of the protective letter, but only recognises it regarding Patent Law, which for historical reasons retains a specific regulation of interim injunctive measures in arts. 127 et seq.[[27]](#footnote-27). While Barcelona position is to extend by analogical reasoning the protective letters to all kinds of procedure, Madrid contends that as it is only legally recognised for patents, there is no room for extending it in analogous procedures such as copyright infringements or unfair competition prosecution.

This remedies landscape is completed with reference to art. 8 of the Spanish LSSI-CE. As we mentioned earlier, art. 8 sets the possibility to adopt the necessary measures to interrupt the provision of the intermediation service or the removal of infringing data, when any of the service or the data infringes upon, among other principles, Intellectual Property Rights and or public order rules. This measures, that are to be adopted with strict respect of the proportionality principle and applying al safeguards and adequate legal procedures, must be adequately waged against fundamental rights such as right to privacy, personal data protection, freedom of speech and/or freedom of information. For this purpose, collaboration may be required from internet providers in order to interrupt access and connection to the servers in which the infringing content is being held.

When the affected provider is stablished not in Spain but in a different EU member state, the preferred course of action is to request to the competent authorities of the other member State to adopt the restrictive measures and only when for urgency grounds cooperation is not suitable or when once requested cooperation is not provided, can the Spanish authorities directly require collaboration of the internet providers as to ensure compliance of the injunctive measures ordered by a Court (art. 8.4 LSSI-CE).

In this context is particularly worth mentioning the judicial praxis stablished regarding the blocking of access to linking websites providing illegal access to the Spanish Football League and to the Champions League matches. Judgments adopted by the 9th Commercial Court of Barcelona on the 21st of September 2023[[28]](#footnote-28), of 6th Commercial Court of Barcelona delivered on the 6th of July 2020[[29]](#footnote-29) and the 7th Commercial Court of Madrid on the 11th of February 2020[[30]](#footnote-30), impose what has been deemed as a dynamic blocking order. According to these Decisions the Spanish Professional Football League and its licensees are generally authorised to weekly request to the Internet access services Providers operating in Spain to block all access to several domains at which the infringing linking websites are presumed to be allocated, thus preventing or at least making much more difficult the infringement of IP rights related to the football matches.

This mechanism has proven to be actually very useful and an agile tool in the fight against piracy, although it is only suitable there were infringers are properly identified, have already been condemned and the aim is specifically to prevent repeated and continuous infringement.

Another case pertaining to the fight against copyright infringement and relating to the disposal of functional remedies that has to be highlighted here, although for the opposite reasons is the Telegram Case. In this case the Spanish National Court[[31]](#footnote-31) had been developing a preliminary procedure against some online intermediary domiciled in the Virgin Islands for the criminal infringement of copyrights (art. 270.2 of the Spanish Criminal Code)[[32]](#footnote-32). In said procedure a cooperation request was send to national authorities as to identify said person. When the authorities refused cooperation, the Spanish court rendered a decision for preliminary injunction ordering the massive blocking of the Telegram service in Spain as to prevent any further copyright infringements. This Court order adopted on the 22nd of March 2024, was face with massive public contestation on grounds of proportionality reasons, since there was no discrimination nor any separation between infringing services or channels and ordinary users. The uproar was so potent that the very same Court revoked on its own the measure the next day, Monday 25th March of 2024[[33]](#footnote-33).

This second case illustrates the importance of art. 8 LSSI-CE and, particularly, the need to fully respect legally established procedures, properly granting the proportionality of measures and the very much needed balance of fundamental rights. The second decision revoking the interim measures settles the case making explicit reference to the Digital Services Act as the preferred tool for forcing cooperation of Telegram regarding the proper identification of the copyright infringer. There has been, however, no further updates on the case, so it is largely ignored whether Telegram finally offered cooperation at all.

1. **Balance between enforcement of the intellectual property rights and fundamental rights in Spain**

The balance between enforcement of intellectual property rights (IPR) and the protection of fundamental rights in Spain embodies a nuanced and evolving legal landscape, shaped by national law, European Union directives, and case law from both Spanish courts and the Court of Justice of the European Union (CJEU). This balancing act recognizes intellectual property as a fundamental right while simultaneously safeguarding other core rights such as privacy, freedom of expression, data protection, and due process.

In Spain, intellectual property rights enjoy constitutional protection and are further enshrined in national statutes including the Intellectual Property Law and the Law on Information Society Services (LSSI-CE), which implements the EU E-Commerce Directive. The implementation of the EU Digital Single Market Directive through Royal Decree-Law 24/2021 has also redefined platform liabilities, requiring platforms to take more proactive measures in preventing infringements, while respecting fundamental rights.

Fundamental rights, particularly those enshrined in the Spanish Constitution (notably freedom of expression and privacy under Articles 20 and 18, respectively), and the EU Charter of Fundamental Rights (Articles 7, 8, and 17), impose constitutional and legal limits on the enforcement of IP rights. Spanish courts and administrative bodies are therefore required to weigh IP enforcement actions against potential infringements of these rights on a case-by-case basis.

Key judicial developments illustrate this balance. For example, Spanish courts have upheld injunctions requiring Internet Service Providers and digital platforms to block access to websites infringing copyright, with the courts emphasizing that such measures must be objective, proportionate, and non-discriminatory. These injunctions are often dynamic, meaning they adapt to circumvent domain changes by infringing sites, while maintaining respect for user rights and avoiding overbroad censorship.

On the other hand, Spanish jurisprudence also protects fundamental rights through scrutiny of enforcement measures. The Spanish Supreme Court has mandated judicial authorization for blocking orders and requires measures to avoid general monitoring obligations prohibited under Article 15 of the LSSI-CE and reaffirmed under Article 8 of the Digital Services Act. Such provisions prevent agencies or rights holders from imposing disproportionate or indefinite surveillance duties on platforms, balancing privacy and freedom of information interests. For instance, the landmark Rojadirecta case highlights the court’s approach to secondary liability, holding not only the company operating the infringing website but also the individual behind it liable, but always under judicial scrutiny balancing public interest in IP enforcement and respect for due process and personal rights[[34]](#footnote-34).

Transparency and due process rights also inform enforcement procedures; for example, information disclosure orders to identify alleged infringers must be carefully justified, respecting data protection principles under the GDPR and Spain’s Organic Law 3/2018 on Data Protection and Digital Rights (LOPDGDD). Courts assess whether the scope of identity requests is limited to legitimate investigation needs and preserves users’ privacy and fair trial rights.

From an administrative standpoint, the S2CPI applies a procedure whereby it can order suspension or removal of infringing content or services without judicial decree, yet any suspension of intermediary services generally requires subsequent judicial authorization to safeguard freedom of expression and information rights under Article 20 of the Spanish Constitution.

European case law also guides Spanish courts. The CJEU has consistently emphasized that intellectual property rights constitute fundamental rights under Article 17 of the Charter, which must be balanced against other rights. For instance, the CJEU recognized in cases related to copyright enforcement against peer-to-peer (P2P) file sharing that injunctions or identity disclosures must respect proportionality and privacy rights, enabling courts to assess the necessity and scope of such measures.

In parallel, the Spanish Unfair Competition Law (UCL) and General Advertising Law complement IP enforcement by proscribing misleading or aggressive commercial practices, which, when enforced, must also consider social and individual rights such as dignity and freedom from manipulation.

There has been a relatively common problem regarding the use and communication to the public of photographs and images protected by copyright law when said pictures were uploaded by the user into a social networking platform. The cases do not generally involve the platform *per se* but other hosting service providers, such as digital newspapers and news websites, that directly take and reuse images without consent. The conflict is however preferably presented by the parties in a fundamental rights perspective and not as an IP infringement, since the latter experiences generally lesser protection.

This would be the **case stated in the Judgement nº1037/2023 issued by the Spanish Supreme Court[[35]](#footnote-35)** on 27 June 2023, regarding the use of an image uploaded by the claimant in a social networking platform being reused by “Periodista Digital” website. The images were used in relation to some news relating her and mostly her father to money laundering activities in public contracts. The Supreme Court reasons that the issue is to be addressed as a fundamental rights collision between the publicity rights, which in Spain have some moral and personal considerations on top of the strict economic aspects, and the right to freedom of information. The Court finally recognises the infringement of the right of publicity taking into consideration that: a) a digital platform cannot be equated to a public place where image is generally appropriable[[36]](#footnote-36); b) what is censurable is not the use and communication of the image *per se* but the unconsented appropriation and extraction of the photograph, which in turn make the use infringing; c) the use of the images accompanying the news is inadequate, since there is no direct nor exclusive link of the claimant to the commission of the laundering acts, since the only one involved in the procedure at that moment was the father of the claimant and not the claimant herself, thus damaging also her repute.

Same scenario was settled by **Judgment nº 220/2021 issued by the Spanish Supreme Court[[37]](#footnote-37)** on 20April 2021[[38]](#footnote-38), although in this case the economic dimension of publicity rights is more intense, since the claimant is a famous Spanish actress. In the case, famous sports and entertainment Newspaper “Marca” published in its website and smartphone App a number of photographs of said actress either naked or in lingerie, some of them were taken and licensed to a Mexican website “PMagazine”, while others were acquired from her Instagram public profile. Here the claim tone is very different, focusing on the revenue the actress could have had, provided that the images used had been actually licensed by the hosting services provider. The case is finally closed by the Court condemning the defendant to the payment of an adequate fee, taking into account the nature of the photographs, the change of the context in which they are used and her public image worth and relevance.

As we have seen the conflict is mainly established as a balancing of fundamental rights, generally the rights of publicity, honour and privacy are waged against the right to freedom of expression and freedom of information. For instance, **Judgment of the Regional Court of Valencia, Sec. 11th, nº 54/2019[[39]](#footnote-39)**, revolves around a claim posed by the Chief of Local Police Officer and two other officers against “Periódico digital” website, for publishing news where different crimes are allegedly linked to these clerks. The Court, taking into account the vast Constitutional Case Law regarding these kinds of intromissions, stated finally that taking into consideration that the information provided in the news could not be reasonably considered untruth or fake, considering also that the level of diligence applied to the investigation was aligned with constitutional requirements, and given that there are no insulting or denigratory vocabulary being in use in said articles, the right to information and free speech supersedes the right to privacy and honour of the affected clerks. In the same vein**,** the **Judgment of the Regional Court of Santa Cruz de Tenerife, Sec. 3rd, nº 322/2018**[[40]](#footnote-40) regarding fake news published on several local media, including a digital newspaper website.

There is a general trend to relief and damages not against the platform itself but against the direct offender. For instance, **recent Madrid Court of Appeals Judgment, Sec 11th, nº 51/2025**[[41]](#footnote-41), issued on the 10of February acquits an ex-member of the Jehova Witness Religious Organisation[[42]](#footnote-42) , for exposing his thoughts regarding his past participation in the organisation. Particularly what was aimed was the erasure of the video since the speaker calls the organisation a cult on several occasions. The Regional Court finally takes position in favour of the defendant, referring as the main argument that the use of the term cult is always made regarding personal and subjective impressions and not as an objective fact.

Against these arguments, some cases are directly stablished against the platform owner. In this regard, **Judgment of the Madrid Court of Appeals, Sec. 11th**, **nº 268/2021[[43]](#footnote-43)**, concerns a claim brought against Google, as the owner of YouTube, regarding the public communication of a video containing denigratory and violent material, depicting a man assaulting a woman. The video, uploaded anonymously in 2009, was challenged by the woman featured in it, who is also the claimant. She argued that Google could not reasonably disregard the illicit nature of the content, given that a previous judicial judgment had already addressed this very video[[44]](#footnote-44).

However, as the Court clarified, the obligation of the service provider to block or remove access to the video only arose once the resolution had been formally notified, which in this instance took place on 21 May 2016. The Court further held that the content could not be considered manifestly or unequivocally illegal on its face. Consequently, it was necessary for the provider (i.e., the platform) to receive formal notification of the judicial resolution recognizing the unlawful character of the material in order to enforce its removal.

From our perspective, it is noteworthy that, in this latter case, the procedure is directed strictly against the individual who uploaded the video, rather than against the platform itself. This approach seems to prioritize the removal of public access to the content (alongside a claim for financial compensation). However, from a practical standpoint, it would arguably be more straightforward to request the platform (e.g., YouTube) to remove the content directly.

This observation points to two, not mutually exclusive, hypotheses:

1. The safe harbour provisions established under the LSSI-CE effectively discourage claims against internet service providers, including platforms, even when there might be valid grounds to require their cooperation.

2. At the time the video was posted (2019), platform-based notice-and-takedown mechanisms were still subjective, opaque, and largely discretionary, prior to the adoption of the Digital Services Act (DSA).

We also identify here an interesting knowledge gap concerning the potential impact of the DSA on national case law. Nonetheless, this analysis must be postponed, as rulings issued in 2025 are still addressing cases initiated in 2019.

1. **Conclusions**

The current Spanish legal framework concerning the responsibility and liability of platform operators achieves a delicate balance by reducing, though not entirely eliminating, the liability of information society service providers. This balance is primarily structured around the effective establishment and operation of a robust notice-and-takedown system. Such a system incentivizes platforms to actively moderate content and cooperate in combating online piracy, thereby producing the desired enforcement effects against intellectual property (IP) infringements. However, critical frictions and limitations persist, particularly when rights holders lack the economic or legal capacities to sustain protracted legal actions. Challenges become more acute when infringing parties are located outside the European Union or shift operational bases frequently — common tactics that undermine enforcement and make cooperation from Internet Service Providers (ISPs) indispensable yet often unreliable or inaccessible for some rights holders with limited resources.

Regarding in-platform dispute mechanisms, scholarly and empirical studies reveal a tendency toward caution among platforms, which often prefer to remove or block content at the slightest uncertainty to mitigate risk. Such processes tend to lack transparency, operating largely without meaningful involvement of affected parties, thereby undermining procedural fairness and optimal dispute resolution outcomes. The introduction of procedural minimum requirements under the Digital Services Act (DSA) represents significant progress in this domain. Nonetheless, Spain faces a regression in implementing these measures following the repeal of Royal Decree-Law 9/2024, jeopardizing full compliance with DSA obligations by Spanish platforms. This legislative regression risks leaving Spain behind in meeting the DSA’s standards for due diligence and content moderation.

Looking forward, two principal developments merit attention. First is the anticipated legislative rehabilitation and full implementation of the amendments to the Law on Information Society Services (LSSI) under the previously repealed Royal Decree-Law 9/2024. These amendments are designed to operationalize the DSA within Spain’s national legal framework, thereby mandating comprehensive due diligence obligations. These include roles for platforms as central partners in moderating content to prevent copyright infringement, combat political manipulation, address fake news, and reduce hate speech. Despite recognition of their importance, political instability has delayed the resumption of these reforms, rendering near-term adoption unlikely.

Second, the designation of “trusted flaggers” under the DSA has yet to materialize in Spain, despite the National Commission on Markets and Competition (CNMC)’s formal role as the Digital Services Coordinator. From a regulatory perspective, the absence of trusted flaggers—a key mechanism for efficient and reliable content flagging—hinders the effective implementation of the DSA and delays improvements in notice-and-action procedures. It is expected that Spain will eventually designate trusted flaggers to comply with EU mandates and foster more accountable content moderation.

Additionally, Spain’s transposition of Directive 2161/2019 amending the Unfair Commercial Practices Directive (2005/29/EC) through Law 15/2022 has suffered from fragmented implementation. Most innovations introduced by Directive 2161/2019 were primarily incorporated into the Spanish Consumer Protection Law (Royal Decree-Law 1/2007), while only select unfair practices—such as dual-quality commercialization—found their way into the Spanish Unfair Competition Law (UCL) (Leyes 3/1991 and 15/2022). This split transposition obscures the comprehensive application of new rules on misleading and aggressive practices and complicates the legal treatment of algorithmic content moderation by platforms. Consequently, judicial interpretation must harmonize both the UCL and consumer protection statutes in line with the objectives of European directives to effectively regulate algorithmic scenarios, including content presentation and advertising, even though the UCL remains sufficiently flexible to apply to these issues.

Of particular concern is the widespread use of automated content filtering systems by platforms, which often err in removing or suppressing lawful content protected under copyright exceptions such as fair dealing for criticism, review, quotation, parody, pastiche, and caricature. Automated filters typically rely on pattern recognition algorithms lacking the subtlety required to discern lawful uses from infringement, leading to over-blocking and chilling effects on lawful expression protected by Spanish domestic law and the European copyright framework.

Recognizing these challenges, Spanish legislation has recently undertaken initiatives to regulate artificial intelligence (AI) and algorithm-driven content moderation. A pioneering law approved in early 2025 imposes stringent transparency and accountability obligations on companies deploying AI-generated content, including mandatory labelling of such content and prohibitions on subliminal and manipulative techniques targeting vulnerable groups. While this law primarily aims to address misinformation, deepfakes, and misleading AI-generated materials, it indirectly influences platforms’ automated filtering practices by promoting transparency in the AI systems they deploy.

Aligned with these legislative efforts, forthcoming policy initiatives emphasize the necessity for platforms to disclose criteria and procedural details governing their algorithmic content moderation and recommendation systems. The CNMC’s role as Spain’s digital services coordinator entails enforcement of these transparency requirements and oversight to prevent unfair manipulative practices and unjustified content removals via algorithms. These national developments correspond with the European Union’s Digital Services Act (DSA), which mandates transparency, risk mitigation, and user rights safeguards in algorithmic moderation, with specific protections for lawful content—especially content covered by exceptions like criticism, review, and parody.

Although Spanish jurisprudence remains in an incipient stage concerning the procedural impacts of algorithmic moderation, the prevailing legal framework manifests a clear intent to uphold fundamental rights, such as freedom of expression and the right to receive and impart information, while enabling effective IP enforcement. Platforms are expected to deploy AI filtering in a manner consistent with proportionality and fairness principles, affording users mechanisms to challenge erroneous removals and ensuring exceptions under copyright law are respected and not suppressed unduly.

In conclusion, while Spain’s platform liability regime—built on operative notice-and-takedown procedures—provides substantial incentives for content moderation and rights enforcement, it still faces enforcement gaps especially against foreign or transient infringers. The incomplete implementation of the DSA and fragmentation in unfair competition law transposition complicate the regulatory landscape. Automated content filtering poses risks to lawful expression, but recent and anticipated legislation seeks to mitigate these risks through transparency mandates, regulatory oversight, and accountability measures. Collectively, Spain's evolving legal ecosystem aims to reconcile robust intellectual property rights enforcement with protection of fundamental rights and lawful online expression in a technologically complex environment.

1. AUTOCONTROL is an Spanish independent advertising self-regulatory organisation (SRO), founded in 1995 as a non-profit association. Her members include advertisers, advertising agencies, media and professional associations, and our aim is to promote responsible advertising: truthful, legal, honest and fair. AUTOCONTROL currently have around 600 direct members and 4,000 indirect members, representing around 70% of advertising investment in Spain [↑](#footnote-ref-1)
2. <https://www.cultura.gob.es/cultura/propiedadintelectual/informacion-general/gestion-en-el-ministerio/comision-propiedad-intelectual.html> [↑](#footnote-ref-2)
3. While this definition draws from the Directive, the Spanish version notably widens its scope by including large audiences, not just large amounts of content, thus imposing specific obligations on a broader range of actors. [↑](#footnote-ref-3)
4. In this vein, CARBAJO CASCÓN F., “Las plataformas digitales ante la distribución de mercancías y el suministro de contenidos digitales ilícitos”, Revista de Derecho de la Competencia y la Distribución, Nº 30, 2022. [↑](#footnote-ref-4)
5. Supreme Court Judgement, 24.01.2018, nº 81/2018, ECLI: ES:TS:2018:117. [↑](#footnote-ref-5)
6. Royal Legislative Decree 1/1996 of 12 April, approving the consolidated text of the Intellectual Property Law, regularising, clarifying and harmonising the applicable legal provisions in force on the matter. [↑](#footnote-ref-6)
7. Court of Appeals of Barcelona, No. 83/2011. [↑](#footnote-ref-7)
8. Court of Appeals of A Coruña Judgment, 28.12.2018, nº 433/2018, ECLI:ES:APC:2018:2799. [↑](#footnote-ref-8)
9. Spanish Supreme Court, Judgment, 26.10.2022, nº 714/2022, Mediapro v. Puerto 80 Projects, ECLI:ES:TS:2022:3967. [↑](#footnote-ref-9)
10. Criminal Court of Vigo Judgment, no. 2, 26.01.2010, ECLI:ES:JP:2010:1. [↑](#footnote-ref-10)
11. Supreme Court, Criminal Chamber Judgment,12.12.2016, nº 920/2016, ECLI:ES:TS:2016:5309, and National High Court Criminal Chamber Judgment, 5.02.2016, ECLI:ES:AN:2016:117. [↑](#footnote-ref-11)
12. See Art. 195 Spanish Intellectual Property Law. [↑](#footnote-ref-12)
13. See Art. 195.3 Spanish Intellectual Property Law. [↑](#footnote-ref-13)
14. See Art. 195.7 Spanish Intellectual Property Law. [↑](#footnote-ref-14)
15. See Art. [122.bis(2),](file:///C:\Users\Sudarsan.m\OneDrive%20-%20Exeter%20Premedia%20Services%20Private%20Limited\00_Sudarsan%20M\Brill_jobs\05_December\09-12-24\01_IACL%2010\PDF\Word\122.bis2) Law 29/1998 (Ley de la Jurisdicción Contencioso-administrativa), <https://www.boe.es/eli/es/l/1998/07/13/29/con>. [↑](#footnote-ref-15)
16. A relevant case decided by the Commission relates to the [goear.com](file:///C:\Users\Sudarsan.m\OneDrive%20-%20Exeter%20Premedia%20Services%20Private%20Limited\00_Sudarsan%20M\Brill_jobs\05_December\09-12-24\01_IACL%2010\PDF\Word\goear.com) website, which provided streaming of abou 6,000 thousands of songs. The Commission ordered the removal of some infringing songs, and prohibited making them available again in the future. The website owner appealed before the National High Court but the appeals were dismissed. See Judgments of 17.11.2014, ECLI:ES:AN:2014:4987 and 14.06.2016, ECLI:ES:AN:2016:2647. A subsequent appeal before the Supreme Court was equally dismissed. See Suprme Court Judgment, 27.06.2019, nº 923/2019, ECLI:ES:TS:2019:2105. Another case refers to the linking website [multiestrenos.com](file:///C:\Users\Sudarsan.m\OneDrive%20-%20Exeter%20Premedia%20Services%20Private%20Limited\00_Sudarsan%20M\Brill_jobs\05_December\09-12-24\01_IACL%2010\PDF\Word\multiestrenos.com) which provided P2P and download links to movies. See National High Court Judgment, 26.11.2014, ECLI:ES:AN:2014:4889, dismissing the appeal brought against the Commission’s decisions. [↑](#footnote-ref-16)
17. See Supreme Court, Judgment, 31.05.2013, nº ECLI:ES:TS:2013:3181. [↑](#footnote-ref-17)
18. See Bulletin of the Second Section of the Intellectual Property Commission. Annual Report (31 March 2025), , available at https://www.cultura.gob.es/dam/jcr:36668162-58d3-44b9-9d42-e2bf6ee36b63/bolet-n-ingl-s-1q-2025.pdf. [↑](#footnote-ref-18)
19. Idem, pp. 19 and 20. [↑](#footnote-ref-19)
20. See Court of Appeals of Castellón Judgment,12.11.2014, ECLI:ES:APCS:2014:10. [↑](#footnote-ref-20)
21. See, 2.2.2. [↑](#footnote-ref-21)
22. <https://www.audiovisualcompliance.com/>. [↑](#footnote-ref-22)
23. Law 1/2000, of Civil Procedure. [↑](#footnote-ref-23)
24. See as the only example Auto of the 6th Commercial Court of Barcelona published the 06.05.2021 (No ECLI Available; extracted from MOLINA LÓPEZ F. El escrito preventivo, PhD Thesis Defended at Universidad de Barcelona, 2022) [↑](#footnote-ref-24)
25. See Court Order of the 8th Commercial Court of Barcelona, 25.02.2020, ECLI:ES:JMB:2020:4A. [↑](#footnote-ref-25)
26. See Court Order of the 8th Commercial Court of Madrid, rendered the 28th of January 2020 (No ECLI Available; extracted from MOLINA LÓPEZ F. El escrito preventivo, PhD Thesis Defended at Universidad de Barcelona, 2022); see also Auto of the 5th Madrid Commercial Court, 31.03.2023 (ECLI: ES:JMM:2023:629A). [↑](#footnote-ref-26)
27. See GARCIA VIDAL A. (2014) Protective letters in patent matters: the situation in Spanish courts, GA&P Buletin , June 2014, pp1-6. [↑](#footnote-ref-27)
28. ECLI: ES:JMB:2023:3549 [↑](#footnote-ref-28)
29. ECLI: ES:JMB:2020:8386 [↑](#footnote-ref-29)
30. ECLI: ES:JMM:2020:2. [↑](#footnote-ref-30)
31. A special sui generis Court created in the spanish judicial system with competence regarding crimes of terrorism and those other taking place outside spain but considered to be under spanish jurisdiction. [↑](#footnote-ref-31)
32. ES:AN:2024:6021A. [↑](#footnote-ref-32)
33. ES:AN:2024:6022A. [↑](#footnote-ref-33)
34. Spanish Supreme Court Judgement, 26.10.2022, nº 714/2022, ECLI:ES:TS:2022:396. [↑](#footnote-ref-34)
35. ECLI: ES:TS:2023:2894. [↑](#footnote-ref-35)
36. This Judgment cites the Judgment of the Spanish Constitutional Court num. 27/2020 (ECLI: ES:TC:2020:27), in its third legal reasoning. [↑](#footnote-ref-36)
37. ECLI: ES:TS:2021:1413 [↑](#footnote-ref-37)
38. In the same vein, see Spanish Supreme Court Judgment, 14.12.2020, nº 674/2020,. (ECLI: ES:TS:2020:4208). [↑](#footnote-ref-38)
39. ECLI: ES:APV:2019:1285. [↑](#footnote-ref-39)
40. ECLI: ES:APTF:2018:634. [↑](#footnote-ref-40)
41. ECLI: ES:APM:2025:2179 [↑](#footnote-ref-41)
42. At least that is the consideration it has in Spain, being correctly registered in the Public Religious Entity Databes, curated and authorised by the Spanish Justice Ministry, from which the matter depends. [↑](#footnote-ref-42)
43. ECLI:ES:APM:2021:9931. [↑](#footnote-ref-43)
44. Madrid Court of Appeals Judgment, 27.01.2014. [↑](#footnote-ref-44)