[FR] Applying Press Law to the Internet Raises New Doubts

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Current events connected with the posting of disputed messages on the Internet could well force Parliament to make a decision on whether the 1881 Act - and more specifically the three-month prescriptive period referred to in Article 65 of the Act - applies to the web.

The Court of Appeal in Paris set the ball rolling on 15 December 1999 by deciding that, on the Internet, the offence of defamation was continuous and that the prescriptive period referred to in Article 65 was never intended to apply to the web. On the other hand, the same court decided on 23 June 2000 that the threemonth prescriptive period for defamation began not on the day on which the offence was noted but the day on which it was first made public. This meant that the present case was out of time, since it was established that the information in question had been posted on the Internet on 22 September 1997 and that the first stage in proceedings, i.e., the making of a complaint of defamation by a private party, did not occur until 12 January 1999.

The latest decision on the matter was delivered by the Press Chamber of the Regional Court of Paris on 6 December 2000. This takes up the solution adopted by the court of appeal in the Costes case of 15 December 1999. A statement clarifying the principles involved is therefore awaited more than ever from the Court of Cassation.

In this case, the judges decided, concerning the accusation posted on an Internet site claiming that a political leader was in favour of an armed solution to an internal debate in his party, that publication (which did not in substance constitute defamation) was uninterrupted and that the offence therefore became a continuous infringement.

In justifying their position, the judges felt that the specific technical characteristics of the mode of communication via the Internet network changed the act of publication into an action over a period of time which then resulted from the repeated desire of the issuer of the message to post it on a site, to keep it there, to alter it and to withdraw it when he saw fit. The judges considered that making a message already published on another support available to the public offered immediate, constant accessibility to documents which would have gradually faded into oblivion but which technical progress kept alive in the

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memory. The Press Chamber felt that the offence was permanent since the damage it caused was permanent. The prosecuting authorities have appealed against the judgment.

TGI Paris, chambre de la presse, 6 décembre 2000, c. Lang c/ Th. Meyssan et autres

Regional Court of Paris, Press Chamber, 6 December 2000; case of Lang v. Th. Meyssan et al.

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