[FR] Liability of Hosts - Application of the Act of 1 August 2000

IRIS 2001-4:1/29

Amélie Blocman
Légipresse

An order in an urgent matter at the regional court in Paris on 6 February has shed more light on the application of the Act of 1 August 2000 on rendering hosts liable. A company and its manager who had been the subject of defamatory and slanderous messages on an Internet site that was also unlawfully using the company's name as its domain name, had applied to the courts for an urgent order requiring the site's host to make such dissemination impossible. They also wanted the host to communicate to them the information and computer data in its possession so that the creators of the disputed site could be identified.

Examining the first application, the judge sitting in urgent matters recalled that under Article 43-8 of the Act of 30 September 1986, introduced by the Act of 1 August 2000, hosts "are not liable in criminal or civil terms for the content" of the on-line communication services they host "unless, having been notified by a judicial authority, they have not taken prompt action to prevent access to such content". In the present case, the judge acknowledged that the host, without waiting to be ordered to do so by the courts, had on its own initiative shut down the disputed site.

On the second application, the judge recalled that the Act of 1 August 2000 instituted a system excluding the anonymity of non-professional editors of on-line services which, although it did not require certain details of identification referred to in Article 43-10-I of the 1986 Act (as amended) to be made available to the public, did require these to be communicated to hosts. The latter for their part are required to have and keep this personal identification data, and the courts may demand its disclosure. In the present case, the host company had given the judge the elements of identification in its possession at the hearing. The judge had then ordered disclosure to the plaintiff company, which then had the possibility of taking the editor of the site to court on the merits of the case to penalise his unlawful behaviour. The judge also took care to point out that, as the proceedings had been instigated in the sole interest of the applicants, the defendant host could not be ordered to pay costs and lawyers' fees.

As this decision shows, the Act of 1 August 2000 has set up a two-stage procedure; it is only once the judge has ordered the host to disclose to the applicant the details permitting identification of the editor of the disputed site that the unlawful behaviour of the latter may be penalised.

© European Audiovisual Observatory (Council of Europe) 2026

TGI Paris (ord. réf.), 7 février 2001 - SA Ciriel c/ SA Free

Regional Court of Paris (order in an urgent matter), 7 February 2001 SA Ciriel v. SA Free

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026