

[FR] Audiovisual Communication Act Applies to Offences Committed on the Internet against Legislation concerning the Press

IRIS 2003-9:1/26

*Clélia Zérah
Légipresse*

The criminal section of the Court de cassation (the highest court of appeal) delivered a much remarked-upon decision on 6 May 2003, in which it stated that the Audiovisual Communication Act of 29 July 1982 applies to offences committed on the Internet against legislation concerning the press. This was the first time the Court had spoken out on the subject of knock-on criminal liability as applied to the Internet.

The case involved the broadcasting of defamatory statements on an Internet site. The Court of Appeal in Versailles, applying Article 42 of the Press Act of 29 July 1881, had maintained that the defendant could not be considered the principal author as he was not the owner of the site in question. However, as author of the statements in question, he should be declared liable as an accomplice on the basis of Article 43 of the same Act. The Court de cassation held on the contrary that "the provisions (...) of the Act of 29 July 1982 alone are applicable", thereby dismissing the application of common law in the determination of persons responsible for offences committed on the Internet against legislation concerning the press, in favour of the provisions applicable to audio-visual communication.

Although in the case at issue it makes no difference to the defendant whether his complicity as the author of the statements is established on the basis of one or the other of the texts, this is an important decision since it means that, according to the Court de cassation, an Internet site constitutes a means of audio-visual communication. Quite apart from the matter of liability in respect of offences committed against legislation concerning the press, the point raised concerns the qualification of public communications on the Internet, and hence the method of regulation that should be applied to them in the future. The matter is all the more topical in that voting is imminent on legislation expressing confidence in the digital economy.

