[IT] Supreme Appeal Court Finds Google Executives Not Liable for Violent Video

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In a ruling of 17 December 2013, the Italian Supreme Court of Appeal, following a lengthy legal dispute, found Google not liable for the distribution of an insulting video on the Google Video platform. The full text of the judgment is now available.

The video, filmed on a mobile phone, showed several youngsters bullying and making fun of a mentally handicapped classmate. The young people responsible had been identified with Google's help and sentenced to community service in an earlier procedure.

Three of the four Google executives accused had received a six-month suspended prison sentence for privacy breaches in 2010 (see IRIS 2010-6/35). However, in December 2012, the Milan Appeal Court had overturned the first-instance ruling and acquitted them.

The Supreme Court of Appeal has now come to the same conclusion, taking into account the case law of the Court of Justice of the European Union. It ruled that Google Video should be classified as a hosting provider, since the platform merely provided storage space for videos uploaded by third parties and did not contribute to the content of the disputed videos. According to Article 17 of Legislative Decree no. 70, adopted in 2003 in order to transpose E-Commerce Directive 2000/31/EC, a hosting provider was not obliged to monitor the information disseminated via its service, nor actively search for rights infringements. The information obligations contained in the same provision, which applied when a provider became aware of rights infringements, were an expression of the balance between the freedom of the service provider and the protection of those whose rights may have been breached. These information obligations were designed, inter alia, to help identify people who had uploaded illegal videos.

In the court's opinion, this meant that only the person who had uploaded a video could be held liable for any rights infringements. A hosting provider was not liable as long as it deleted or blocked access to the content as soon as it became aware of its existence.

Corte di Cassazione, sez. III Penale, sentenza 17 dicembre 2013 – 3 febbraio 2014, n. 5107

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http://www.dirittoegiustizia.it/allegati/15/0000063913/Corte_di_Cassazione_sez_III_Penale_sentenza_n_5107_14_depositata_il_3_febbraio.html

Ruling of the Supreme Court of Appeal of 17 December 2013 (case no. 5107/14)

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