CJEU Advocate General on information claims against YouTube

IRIS 2020-6:1/3

Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels

In his opinion of 2 April 2020 (Case C-264/19), CJEU Advocate General Henrik Saugmandsgaard Øe suggested that the right to information about users who infringe copyright on video-sharing platforms does not cover the email address, the telephone number, the IP address used to upload the files or the IP address used when the user's account was last accessed. He was referring to the concept of 'names and addresses' set out in Directive 2004/48/EC on the enforcement of intellectual property rights.

A request for a preliminary ruling had been submitted by a German court in a legal dispute between German film distributor Constantin Film Verleih GmbH and the YouTube video-sharing platform and its parent company, Google. YouTube and Google had refused to provide certain information about users who had infringed Constantin Film Verleih's exclusive exploitation rights by uploading a number of films on their platform. The films "Parker" and "Scary Movie 5", for example, had been uploaded on the platform several times and been viewed more than 50 000 times in total before they were blocked.

Ruling at first instance, the *Landgericht Frankfurt am Main* (Frankfurt am Main Regional Court) rejected Constantin Film Verleih's request for detailed information about the users concerned. On appeal, the *Oberlandesgericht Frankfurt am Main* (Frankfurt am Main Higher Regional Court) ordered YouTube and Google to provide the email addresses of the users concerned. The *Bundesgerichtshof* (Federal Court of Justice) stayed the subsequent appeal proceedings and referred questions to the CJEU concerning the interpretation of the concept of 'addresses' contained in Article 8(2)(a) of Directive 2004/48. According to the same article, member states must ensure that, in the context of proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order that information on the origin and distribution networks of the goods or services which infringe an intellectual property right be provided. This information includes "the names and addresses of the producers, manufacturers, distributors, suppliers".

In his opinion, Advocate General Saugmandsgaard Øe refers to the literal interpretation of the provision, where the word 'address' covers only a postal address, but not a telephone number. Where the EU legislature had intended for

© European Audiovisual Observatory (Council of Europe) 2026

email or IP addresses to be included, it had expressly mentioned this. In accordance with the prohibition of *contra legem* interpretation and the principle of the separation of powers, a dynamic or teleological interpretation was only possible where the text of the provision itself was open to different interpretations, which was not the case here.

Schlussanträge des Generalanwalts Henrik Saugmandsgaard Øe vom 2. April 2020 in der Rechtssache C-264/19

http://curia.europa.eu/juris/document/document.jsf?text=&docid=224899&pageIndex=0&doclang=de&mode=lst&dir=&occ=first&part=1&cid=2807779

Opinion of Advocate General Henrik Saugmandsgaard Øe of 2 April 2020 in case C-264/19

http://curia.europa.eu/juris/document/document.jsf?docid=224899&text=&dir=&doclang=EN&part=1&occ=first&mode=DOC&pageIndex=0&cid=1809529

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026