[GR] Live dynamic blocking procedure for the protection of broadcaster's related rights: an overview of recent cases on sport events in Greece

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The illegal retransmission of live sports events on the Internet is an issue of crucial importance for the protection of the legitimate interests of both broadcasters, having an exclusive transmission licence, and the State. In 2021, the number of viewers having illegal access to national or international sport events transmitted in the Greek territory exceeded 400000 people. Consequently, the estimated loss for a broadcaster offering a full package subscription at EUR 44.90 per month could reach up to EUR 215 520 000 per year.

Under Greek legislation, Article 66E of Law no 2121/1993 on copyright and related rights, provides that rights holders may file a request before the Committee on Internet Violations of Intellectual Property (EDPPI) in order to prevent infringements of their rights committed through the Internet. The Committee has the authority to examine such a request on the condition that the same case is not pending before the courts (paragraph 5 (a)(iii)), and shall notify the access provider within 10 working days from the receipt of the request. This procedure involves only the intermediaries (Internet access providers and hosting services) and the administrators or owners of the websites, while excluding end-users.

However, the above mechanism proved to be slow in tackling piracy of sport events. For that reason, Article 66E was amended, initially by Article 68 of Law no 4761/2020 and recently by Article 48 of Law no 4821/2021. Following these amendments, a new paragraph 10A has been introduced providing for a dynamic blocking procedure specifically focused on the illegal retransmission of national or international events scheduled to be transmitted at the same time as they are performed. This provision aims to facilitate the prevention of illegal broadcasting of sport events by a swift procedure of immediate blocking measures which can be also applied for clones of the original site that appear in a new IP address or URL, if it turns out that they host the same content (Article 66E, pargraph 10A, 3).

The procedure is initiated upon the request of the rights holder (usually a broadcaster), who must pay a relevant fee. The request should be submitted to

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the Committee at least 15 days prior to the scheduled transmission of an event of national or international viewership (such as Superleague, Champions' League or other national sport events).

If the Committee accepts the request, it issues a resolution by which it invites Internet providers to suspend access to the illegal content for at least 15 days, as well as to take any other measure aiming at the prevention of repeated or future violations (this provision seems to establish a "stay-down" obligation on Internet access providers), within a deadline which cannot be less than 6 hours or more than 12 hours from the transmission of the resolution (Article 66E, paragraph 10A, 2a). The Committee resolution has to be issued no later than 24 hours before the transmission of the event and may impose a fine for each day of non-compliance. Internet providers are obliged to immediately send statements of conformity with the Committee resolution to the Hellenic Telecommunications and Post Commission (HTPC), the administrative body which issues domain names in Greece.

Moreover, if after the issuance of the Committee resolution the illegal transmission is transferred to new pirate webpage, the rights holder, even during the transmission of the event and without additional fees, may submit to the HTPC (with a copy to the Committee) any information concerning the repetition of the infringement (Article 66E, paragraph 10A, 2c). If a violation is deemed probable, the HTPC shall promptly order via email the Internet providers to suspend access to the pirate webpage. Internet providers with more than 50 000 customers are obliged to suspend access to the content within the deadline set by the HTPC, which cannot be more than thirty (30) minutes after the transmission of the order. The order is valid until the issuance of a relevant supplementary resolution by the Committee, which is issued within a month at most (Article 66E, paragraph 10A, 2c). In this manner, a serious problem has been resolved, as the practice of pirates, when access to their webpage is blocked, has been to set up another with a similar title and continue their activity unperturbed. The importance of these provisions lies mainly in the fact that it allows access blocking even during the transmission of the event and requires immediate compliance with Committee’s resolution or HTPC order.

Based on this new provision, the Committee has issued its resolution no 33/7.12.2021 on evidence provided by NOVA, a Greek subscription services broadcaster, and ordered the Internet providers to block access to 49 domain names for which the risk of an illegal transmission of Nova’s live sport events was highly probable. Approximately one month later the Committee issued its supplementary resolution no 40/14.1.2022 in order to validate an order issued by HTPC for the access suspension to 69 additional domain names illegally transmitting Nova’s live sport events. Since then more than 15 relevant resolutions have been issued safeguarding the legitimate interests of the licensees (see for instance 42/2022, 48/2022, 49/2022, 54/2022, 55/2022,

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67/2022, 68/2022, 69/2022, 78/2022, 79/2022, 80/2022, 81/2022, 82/2022, 83/2022, 84/2022).

Απόφαση 33/2021

https://opi.gr/images/epitropi/apofaseis/edppi_33_2021.pdf

Resolution 33/2021

Απόφαση 40/2022

https://opi.gr/images/epitropi/apofaseis/edppi_40_2022.pdf

Resolution 40/2022

Notice-and-Takedown Procedure under Greek Intellectual Property Law 4481/2017, 9 (2018) JIPITEC 201 para 1, Charis Tsigou

https://www.jipitec.eu/issues/jipitec-9-2-2018/4729

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