

Case C-423/21 removed from CJEU register

IRIS 2023-4:1/3

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By decision of 22 June 2021, the *Oberster Gerichtshof* (Austrian Supreme Court) made a reference for a preliminary ruling under Article 267 TFEU. The case arose in the context of a dispute between Grand Production - a Serbian media company producing television programmes broadcast in Serbia on the channels of PRVA Srpska Televizija - and GO4YU Beograd - an operator of a streaming platform established in Serbia broadcasting Grand Production's programmes in Serbia and Montenegro and geo-blocking access to internet users located outside these two countries. The issue, however, concerned the circumvention of such geo-blocking measures through the use of virtual private networks (VPNs) and therefore called into question the liability of streaming platforms under Directive 2001/29/EC (InfoSoc Directive). Grand Production alleged that GO4YU Beograd was aware of the possibility to circumvent geo-blocking measures by using a VPN and had made Grand Production's entertainment programmes available in Austria without restriction.

On 20 October 2022, Advocate General Szpunar delivered his Opinion in case C-423/21 and stated that "the Court of Justice of the European Union (CJEU) should hold that streaming platforms which transmit television programmes online do not infringe the exclusive right of communication to the public of works if users circumvent geo-blocking measures by means of a VPN service, unless the platform deliberately applied "ineffective" geo-blocking measures." (IRIS 2023-2:1/8).

Following the opinion of the AG as well as the observations submitted by Grand Production, GO4YU GmbH and the European Commission, the *Oberster Gerichtshof* informed the CJEU on 9 January 2023 that it was withdrawing its reference for a preliminary ruling. Consequently, the President of the First Chamber ordered on 13 February 2023 that Case C-423/21 be removed from the Court's register.

Ordonnance du Président de la première chambre de la Cour, 13 février 2023

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=270946&pageIndex=0&doclang=FR&mode=req&dir=&occ=first&part=1&cid=933805>

Order of the President of the First Chamber of the Court, 13 February 2023

