[FR] Request to block pornographic website: Internet access providers can be taken to court before acting against hosting providers, publishers or authors

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Two child protection organisations filed a summons against several Internet access providers, asking the court to order them to take every appropriate step to block access to various pornographic websites on French soil.

The appeal court considered the requests inadmissible on the grounds that, before Internet access providers were asked to block access, it had to be proven that effective, rapid legal action could not be taken against the host, publisher or author, and that the organisations concerned had failed to do this. In addition, since all the websites concerned were published by a company with an address within the European Union, it would have been possible to take action against the website hosts, some of which could have been identified using free “Who Hosts This?” services or “Whois”. The organisations filed an appeal with the Court of Cassation.

The Court of Cassation noted that, under Article 6-I.8 of Law no. 2004-575 of 21 June 2004 on confidence in the digital economy, in the version prior to that contained in Law no. 2021-1109 of 24 August 2021, the judicial authority could, in summary proceedings or on request, order measures against any natural or legal person who, even free of charge, for the purpose of making them available to the public through online public communication services, stored signals, written data, images, sounds or messages of any kind provided by the recipients of these services, or, failing that, any person who offered access to such services, in order to prevent or put an end to harm caused by the content of such a service.

Therefore, the admissibility of a request that Internet access providers be required to take such measures was not dependent on legal action having already been taken against the hosts, publishers or authors of the content, nor on the provision of proof that such action could not be taken. The appeal court had therefore violated the aforementioned law.

Civ. 1re, 18 octobre 2023, n°22-18.926, Associations La voix de l’enfant et e-Enfance

https://www.courdecassation.fr/en/decision/652f7686b0532083189957da

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Court of Cassation, 1st civil chamber, 18 October 2023, case no. 22-18.926, La voix de l'enfant and e-Enfance

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