



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-509/09 and C-161/10
eDate Advertising GmbH v X and
Olivier Martinez and Robert Martinez v MGN Limited

Victims of infringements of personality rights by means of the internet may bring actions before the courts of the Member State in which they reside in respect of all of the damage caused

However, the operator of an internet website covered by the e-commerce directive cannot be made subject, in that State, to stricter requirements than those provided for by the law of the Member State in which it is established

The Brussels Regulation¹ provides that persons domiciled in a Member State are, in principle, to be sued before the courts of that State. However, in matters relating to tort, delict or quasi-delict, a person may also be sued in another Member State before the courts for the place where the harmful event occurred or may occur. Thus, in the case of defamation by means of a written newspaper article distributed in several Member States, the victim has two options for bringing an action for compensation against the publisher. On the one hand, he may bring an action before the courts of the State in which that publisher is established, which have jurisdiction to award damages for all of the harm caused by the defamation. On the other hand, he may bring an action before the courts of each Member State in which the publication was distributed and where he claims to have suffered injury to his reputation (place in which the damage occurred). In the latter case, however, the national courts have jurisdiction only in respect of damage caused in the State in which they are located.

The Bundesgerichtshof (Federal Court of Justice, Germany) and the Tribunal de grande instance de Paris (Paris Regional Court, France) have asked the Court to clarify the extent to which those principles also apply in the case of infringements of personality rights committed by means of content placed online on an internet website.

Facts of Case C-509/09

In 1993, X, who is domiciled in Germany, was sentenced, together with his brother, by a German court to life imprisonment for the murder of a well-known actor. He was released on parole in January 2008.

The company eDate Advertising, which is established in Austria, operates an internet portal under the address 'www.rainbow.at', on which it published information about the appeals which X and his brother had lodged against their convictions. Although eDate Advertising removed the disputed information from its website, X requested the German courts to order the Austrian company to stop using his full name when reporting about him in connection with the crime committed. eDate Advertising, for its part, challenges the international jurisdiction of the German courts to dispose of the case as it argues that proceedings may be brought against it only before the Austrian courts.

Facts of Case C-161/10

On 3 February 2008 a text written in English and entitled 'Kylie Minogue is back with Olivier Martinez' appeared on the website of the British newspaper the *Sunday Mirror*, with details of the

¹ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

meeting between the Australian singer and the French actor. The latter and his father, Robert Martinez, alleged interference with their private lives and infringement of the right of Olivier Martinez to his image and brought an action, in France, against the British company MGN, which publishes the *Sunday Mirror*. MGN, like eDate Advertising, challenges the international jurisdiction of the court before which the action has been brought, arguing that there is no sufficiently close connecting factor between the placing online of the information in the United Kingdom and the alleged damage in French territory. Such a link alone, it argues, could establish the jurisdiction of the French courts to rule on the facts giving rise to damage and attributable to the placing of the material at issue online.

Judgment of the Court

In its judgment delivered today, the Court holds that the placing online of content on an internet website is to be distinguished from the regional distribution of printed matter by reason of the fact that it can be consulted instantly by an indefinite number of internet users world-wide. Thus, universal distribution, firstly, is liable to increase the seriousness of the infringements of personality rights and, secondly, makes it extremely difficult to locate the places in which the damage resulting from those infringements has occurred. In those circumstances, - given that the impact which material placed online is liable to have on an individual's personality rights might best be assessed by **the court of the place where the victim has his centre of interests** -, the Court of Justice designates that court as having jurisdiction in respect of all damage caused within the territory of the European Union. In that context, the Court states that the place where a person has the centre of his interests corresponds in general to his **habitual residence**.

The Court points out, however, that, in place of an action for liability in respect of all of the damage, **the victim may always bring an action before the courts of each Member State in the territory of which the online content is or has been accessible**. In that case, in the same way as damage caused by printed matter, those courts have jurisdiction to deal with cases only in relation to damage which occurred within the territory of the State in which they are situated. Similarly, the person whose rights have been infringed may also bring an action, in respect of all of the damage caused, before **the courts of the Member State in which the publisher of the online content is established**.

Finally, in interpreting the e-commerce directive,² the Court rules that the principle of the freedom to provide services **precludes, in principle, the provider of an electronic commerce service from being made subject, in the host Member State, to stricter requirements than those provided for by the law of the Member State in which that service provider is established**.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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² Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ 2000 L 178, p. 1).