



When a film is unlawfully uploaded onto an online platform, such as YouTube, the rightholder may, under the directive on the enforcement of intellectual property rights, require the operator to provide only the postal address of the user concerned, but not his or her email, IP address or telephone number

In the judgment in Constantin Film Verleih (C-264/19), delivered on 9 July 2020, the Court ruled that, where a film is uploaded onto an online video platform without the copyright holder's consent, Directive 2004/48¹ does not oblige the judicial authorities to order the operator of the video platform to provide the email address, IP address or telephone number of the user who uploaded the film concerned. The directive, which provides for disclosure of the 'addresses' of persons who have infringed an intellectual property right, covers only the postal address.

In 2013 and 2014, the films Parker and Scary Movie 5 were uploaded onto the video platform YouTube without the consent of Constantin Film Verleih, the holder of the exclusive exploitation rights in respect of those works in Germany. Those films have been viewed tens of thousands of times. Constantin Film Verleih then demanded that YouTube and Google, the latter being the parent company of the former, with which users must first register by means of a user account, provide it with a set of information relating to each of the users who had uploaded those films. The two companies refused to provide Constantin Film Verleih with information about those users, in particular their email addresses and telephone numbers, as well as the IP addresses used by them, both at the time when the files concerned were uploaded and when they last accessed their Google/YouTube account.

The dispute in the main proceedings hinged on whether such information is covered by the term 'addresses' within the meaning of Directive 2004/48. That directive provides that judicial authorities may order disclosure of information on the origin and distribution networks of the goods or services which infringe an intellectual property right. That information includes, inter alia, the 'addresses' of producers, distributors and suppliers of the infringing goods or services.

The Court found, in the first place, that, as regards the usual meaning of the term 'address', it refers only to the postal address, that is to say, the place of a given person's permanent address or habitual residence. It follows that that term, when it is used without any further clarification, as in Directive 2004/48, does not refer to the email address, telephone number or IP address. In the second place, the *travaux préparatoires*² that led to the adoption of Directive 2004/48 contain nothing to suggest that the term 'address' should be understood as referring not only to the postal address but also to the email address, telephone number or IP address of the persons concerned. In the third place, an examination of other EU legal acts referring to email addresses or IP addresses reveals that none of them uses the term 'address', without further details, to designate the telephone number, IP address or email address.

¹ Article 8(2)(a) of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45, and corrigendum OJ 2004 L 195, p. 16).

² Proposal for a Directive of the European Parliament and of the Council on measures and procedures to ensure the enforcement of intellectual property rights of 30 January 2003 (COM(2003) 46 final), Opinion of the European Economic and Social Committee of 29 October 2003 (OJ 2004 C 32, p. 15) and Report of 5 December 2003 by the European Parliament (A5 0468/2003) on that proposal.

That interpretation is, according to the Court, consistent with the purpose of the provision of Directive 2004/48 on the right to information. In view of the minimum harmonisation concerning the enforcement of intellectual property rights in general, such harmonisation is limited, according to that provision, to narrowly defined information. Furthermore, the aim of that provision is to reconcile compliance with various rights, inter alia the right of holders to information and the right of users to protection of personal data.

In those circumstances, the Court concluded that the term ‘addresses’ contained in Directive 2004/48 does not cover, in respect of a user who has uploaded files which infringe an intellectual property right, his or her email address, telephone number and IP address used to upload those files or the IP address used when the user’s account was last accessed.

The Court nevertheless stated that the Member States have the option to grant holders of intellectual property rights the right to receive fuller information, provided, however, that a fair balance is struck between the various fundamental rights involved and compliance with the other general principles of EU law, such as the principle of proportionality.

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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