



## **Dissemination of allegedly disparaging remarks on the internet: compensation for the resulting damage in a Member State may be sought before the courts of that Member State**

*That jurisdiction is subject only to the condition that the harmful content is or has been accessible in that Member State*

Gtflix Tv ('the applicant') is a company established in the Czech Republic which produces and distributes adult audiovisual content. DR, who is domiciled in Hungary, is another professional in that field.

The applicant, which alleges that DR made disparaging comments about it on a number of websites, brought proceedings against him before the French courts, seeking, first, the removal of those comments and the rectification of the published information and, secondly, compensation for the damage suffered as a result of those comments. Both at first instance and on appeal, those courts declared that they had no jurisdiction to rule on those claims.

Before the Cour de cassation (Court of Cassation, France), the applicant challenged the judgment delivered by the cour d'appel (Court of Appeal, France), which, according to the applicant, disregarded the rule of special jurisdiction laid down in Article 7(2) of Regulation No 1215/2012<sup>1</sup> in favour of the courts 'for the place where the harmful event occurred or may occur', by excluding the jurisdiction of the court seised on the ground that it is not sufficient that the comments deemed to be disparaging which were published on the internet are accessible within the jurisdiction of that court, but that those comments must also be liable to cause damage there.

The referring court, considering, inter alia, that the applicant's centre of interests was established in the Czech Republic and that DR is domiciled in Hungary, held that the French courts had no jurisdiction to hear the application for the removal of the allegedly disparaging comments and the rectification of the published information. It nevertheless decided to ask the Court of Justice whether the French courts have jurisdiction to rule on the claim for compensation in respect of the damage allegedly caused to the applicant in the Member State of those courts, even though those courts do not have jurisdiction to rule on the application for rectification and removal.

In its judgment, the Court, sitting as the Grand Chamber, provides clarification as regards the determination of **the courts having jurisdiction to rule on an action for compensation concerning damage which materialised on the internet**.

### **Findings of the Court**

The Court holds that a person who, considering that his or her rights have been infringed by the dissemination of disparaging comments concerning him or her on the internet, seeks not only the rectification of information and the removal of the content placed online concerning him or her but also compensation for the damage resulting from that placement **may claim**, before the **courts of**

<sup>1</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012, L 351, p. 1). More specifically, under Article 7(2) of that Regulation: 'A person domiciled in a Member State may be sued in another Member State ... in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur'.

**each Member State in which those comments are or were accessible, compensation for the damage** suffered in the Member State of the court seised, even though those courts **do not have jurisdiction** to rule on the application for **rectification and removal**.

In reaching that conclusion, the Court notes that, according to its case-law, the rule of special jurisdiction laid down in Article 7(2) of Regulation No 1215/2012 in favour of the courts 'for the place where the harmful event occurred or may occur' is intended to cover both the **place where the damage occurred** and the **place of the event giving rise to it**, since each of them could, depending on the circumstances, be **particularly helpful** in relation to the **evidence** and the **conduct** of the proceedings.

As regards allegations of infringement of personality rights by means of content placed on a website, the Court also notes that a person who considers that his or her rights have been infringed has the option of bringing an action for liability, in respect of all the damage caused, either before the **courts of the Member State in which the publisher of that content is established** or before the **courts of the Member State in which the centre of his or her interests is based**. That person may also, instead of an action for liability seeking compensation in respect of all the damage caused, bring an action before the courts of each Member State in which content placed online is or has been accessible. However, those courts have **jurisdiction only in respect of the damage caused in the territory of the Member State of the court seised**.

Consequently, in accordance with Article 7(2) of Regulation No 1215/2012, as interpreted by the previous case-law, a person who considers that he or she has been harmed by the placing of information on a website may, for the purposes of rectifying that information and removing the content placed online, bring proceedings before the courts with jurisdiction to rule on the entirety of an application for compensation for the damage suffered - namely either the court of the place of establishment of the publisher of that content or the court within whose jurisdiction the centre of interests of that person is situated - on the basis of the place where the damage occurred.

In that regard, the Court specifies that an application for rectification of information and removal of content placed online cannot be brought before a court other than the court with jurisdiction to rule on the entirety of an application for compensation for damage, because it constitutes a **single and indivisible** application.

By contrast, an application for **compensation** may seek either full or partial compensation. Accordingly, it is not justified to exclude, on that same ground, the possibility for the applicant to claim partial compensation before any other court within whose jurisdiction he or she considers that he or she has suffered damage.

Nor, moreover, does the sound administration of justice require the exclusion of that possibility, since a court which has jurisdiction to rule solely on the damage at issue in its own Member State appears **perfectly capable of assessing**, in the context of proceedings conducted in that Member State and in the light of the evidence gathered there, **the existence and the extent of the alleged damage**.

Lastly, the attribution to the courts concerned of jurisdiction to rule solely on the damage caused in their own Member State is subject **to the sole condition that the harmful content must be accessible or have been accessible in that Member State**, since Article 7(2) of Regulation No 1215/2012 does not impose any additional condition in that regard. The addition of further conditions could, in practice, lead to the exclusion of the option, for the person concerned, to bring an action for partial compensation before the courts of the place where that person considers that he or she suffered damage.

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**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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