

Clarification of the jurisdiction of French courts to repair damage caused by the dissemination of disparaging comments on the Internet (ruling n° 475 - 18-24.850)

15/06/2022



Ruling No. 475 FS-B

Partial quashing without remand

Public hearing of 15 June 2022

Partial quashing without remand

Mr CHAUVIN, President

Ruling No. 475 FS-B

Appeal No. G 18-24.850

FRENCH REPUBLIC ON BEHALF OF THE FRENCH PEOPLE

RULING OF THE FIRST CIVIL CHAMBER OF THE *COUR DE CASSATION* (COURT OF CASSATION) OF 15 JUNE 2022

The company Gtflix Tv, whose registered office is [Address 4] (Czech Republic), brought appeal No. G 18-24.850 against the ruling of 24 July 2018 of the *Cour d'appel* (Court of Appeal, 8th Chamber) of Lyon, in the dispute between them and Mr [L] [X], domicile [Address 2]), respondent at the quashing.

The claimant bases his appeal on a single plea for quashing.

The case file has been sent to the Prosecutor General.

On the report of Ms Guihal, judge, the observations of SCP Spinosi, lawyer of Gtflix Tv, and the advisory opinion of Ms Caron-Deglise, advocate-general, after discussions in the public hearing of 20 April 2022 in which Mr Chauvin, President, Ms Guihal, judge-rapporteur, Mr Vigneau, elder judge, Messrs Hascher, Avel, Bruyère, judges, Mr Vitse, Ms Kloda, Ms Champ, Ms Robin-Raschel, judges referee, Mr Lavigne, advocate-general, and Ms Vignes, Chamber Registrar,

The First Civil Chamber of the *Cour de cassation* (Court of cassation), composed, pursuant to Article R. 431-5 of the Judicial Code, of the abovementioned president and judges, after having deliberated in accordance with the law, has delivered the present ruling.

Facts and procedure

1. According to the ruling under appeal (Lyon, 24 July 2018), the Czech company Gtflix Tv, which is active in the production and distribution of adult content, in particular via its website, presents a grievance against Mr [X], a director, producer and distributor of pornographic films marketed on their websites hosted in Hungary, where he carries on his business and where he is domiciled, for making disparaging remarks broadcast on several websites and forums. The claimant has brought proceedings against him before the President of the *Tribunal de grande instance* (Tribunal of First Instance) of Lyon so as to, first of all, have him ordered, on penalty of payment, to cease all acts of disparagement against them and against the website 'legalporno' and to publish a statement in English and in French on each of the forums concerned; and secondly, for the claimant to be authorized to post a comment on the forums in question; and, lastly, for the claimant to obtain compensation for economic and moral damages.

2. Mr [X] raised the lack of jurisdiction of the French court.

3. By ruling of 13 May 2020 (No. 275), the *Cour de cassation* (Court of cassation) dismissed the request in so far as it was directed against the grounds for the ruling that declared that the French court did not hold jurisdiction to hear the application for the removal of the disparaging comments and the correction of the information by the publication of a communiqué and submitted a request for preliminary ruling to the Court of Justice of the European Union (CJEU) on the interpretation of Article 7(2) of Regulation (EU) No. 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Brussels I bis.

4. By ruling of 21 December 2021 (C-251/20), the CJEU (Grand Chamber) replied to the request for preliminary ruling.

Reviewing plea

On the first part of the plea

Statement of plea

5. Gtflix Tv complains that the ruling has declared the French court to be lacking jurisdiction in favour of the Czech courts, even though "the courts of a Member State have jurisdiction to hear and determine the damage caused in the territory of that Member State by content posted on the Internet, provided that the content is accessible there; in ruling that, in order to exclude the jurisdiction of the French courts, it is not sufficient for the remarks deemed to be derogatory and posted on the Internet to be accessible within the jurisdiction of the court applied to, but that they should also be of any interest to Internet users residing in that jurisdiction and be liable to cause damage there, the Court of Appeal infringed Article 7(2) of Regulation (EU) No. 1215/2012 of 12 December 2012."

Court's response

Having examined Article 7(2) of Regulation (EU) No. 1215/2012 of 12 December 2012:

6. This text provides:

"A person domiciled in a Member State may be sued in another Member State:

[...]

2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur."

7. In response to the above request for preliminary ruling, the CJEU ruled:

"Article 7(2) of 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 must be interpreted as meaning 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 the 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 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."

8. In order to accept the exception on international lack of jurisdiction, the ruling notes that, for the French courts to have jurisdiction, it is not sufficient for the disparaging comments posted on the Internet to be accessible in France, but that they must also be addressed to a French public.

9. In so ruling, the Court of Appeal violated the aforementioned text, whereas, since the action sought both the cessation of the online posting of the disparaging remarks, the publication of a corrigendum and the award of damages for the harm suffered in France, the latter claim could be brought before the French court since it sought reparation only for the harm caused on the territory of that Member State and since the offending content was accessible or had been

accessible on that territory.

Scope and consequences of the quashing

10. After notice served to the parties in accordance with Article 1015 of the Civil Procedure Code, Articles L. 411-3, paragraph 2, of the Judicial Code and 627 of the Civil Procedure Code are applied.

11. The interest of the correct administration of justice justifies the *Cour de cassation* (Court of Cassation) deciding on the merits.

12. The Court of Appeal having found that the messages at issue were accessible in France, it follows that the French courts had jurisdiction to hear claims for compensation for damages caused in France.

ON THESE GROUNDS, and without having to rule on the other complaints of the plea, the Court:

QUASHES AND SETS ASIDE, but only in so far as it declares the French courts lack jurisdiction in respect of the claim for damages for harm suffered in France, the ruling delivered on 24 July 2018, between the parties, by the *Cour d'appel* (Court of Appeal) of Lyon;

DECLARES that there is no need to refer back the case;

Sets aside the interim order of the President of the *Tribunal de grande instance* (Tribunal of First Instance) of Lyon of 10 April 2017 in so far as it declares that the French courts have no jurisdiction over the claim for damages for harm suffered in France;

Finds that the French courts have jurisdiction to hear and determine this application;

Orders Gtflix Tv to pay the costs, including those incurred before the Court of Appeal;

Pursuant to Article 700 of the Civil Procedure Code, dismisses the claims;

At the request of the Prosecutor-General of the *Cour de cassation* (Court of cassation), this ruling shall be forwarded for transcription along with or further to the partially quashed ruling;

Thus decided by the first civil chamber of the *Cour de cassation* (Court of cassation) and pronounced by the president at the public hearing on the fifteenth day of the month of June of the year two thousand and twenty-two.

President : Mr Chauvin

Judge-rapporteur : Ms Guihal

Elder judge : Mr Vigneau

Advocate-General : Ms Caron-Deglise

Lawyer(s) : SCP Spinosi

[READ THE FRENCH VERSION](#)

International

Translated rulings