MTE v Hungary: New ECtHR judgment on Intermediary liability and Freedom of Expression

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Please visit our blog, "Christina Angelopoulos", to read our new ECtHR judgment on intermediary liability and freedom of expression.

On March 2, 2016, the European Court of Human Rights (ECtHR) delivered its first paid-Delfi judgment on the liability of online service providers for unlawful comments on their platforms. The Court, which has previously decided four cases from the region of the E-Commerce Directive (EC 2000/31/EC) and the E-Privacy Directive (EC 2002/58/EC), and found in favor of the applicants in all four cases, has now ruled on whether a large online service provider can be held liable for custom-made content, and specifically for comments posted on its portal. The judgment is generally consistent with the Court's previous judgments, but it also contains some elements that are likely to impact future cases.

The facts of the case

The case involved a Hungarian self-regulatory body of internet content providers, Magyar Tartalomszolgáltató Egyesület (MTE), and Index.hu Zrt, one of Hungary's major online news portals. The two companies had published an opinion piece on their respective websites, criticising the的做法 and advocating for improved practices of Hungarian online service providers. The case at hand was about a number of alleged comments posted on the MTE and Index websites, which wereORIGINAL TEXT HERE.

In the particular case before the Court, the national courts had found that the comments in question did not constitute hate speech nor incitement to violence. Additionally, the rest of the judgment: according to the Court, the comments in question in the case at hand were not manifestly unlawful. While the case as regards the alleged protection given itself was dismissed by the Hungarian courts, MTE and Index were nevertheless found liable for the dissemination of defamatory comments.

 Crucially, the Hungarian courts refused to apply the third party liability provisions of the E-Commerce Directive, instead finding that the Hungarian implementation of these provisions limits their reach only to electronic services of a commercial nature, in particular to purchases made in the internet. According to the Hungarian courts, the comments in question were private declarations, made outside the scope of electronic or professional activities or public duties, and therefore outside any liability provisions.

A developing line of case law: Delfi’s Retribution

The issue of the liability of online service providers for unlawful content exchanged through use of their services by third parties was first settled by the ECtHR in the well-known Delfi case. This concerned the liability of online service providers for lawfully published comments, and the Court concluded that the measures taken by Delfi (which included both a notice-and-take-down regime and a word-based filtering system) were insufficient. In particular with regard to the notice and take-down regime, the Court found that:

- “A complying system of effective procedures designed for rapid response, this system can in the Court’s view ensure respect for the rights of expression of others” (para. 36).
- “If accompanied by effective procedures allowing for rapid response, this system can in the Court’s view ensure respect for the rights of expression of others” (para. 37).

The Court observed that the domestic courts had failed to evaluate whether the comments had reached a reasonable number of readers. Delfi contested its liability, claiming protection under Article 10 ECHR.

In that case, both in the initial Chamber judgment in 2013 and in its Grand Chamber last year, the Court found in favor of Delfi’s freedom of expression. In reaching this conclusion, the Court emphasised a number of key points: the case was not brought on the commercial basis and the moderate sanction of only EUR 320 in damages imposed upon it by the Estonian courts. The Court also highlighted the nature of the low-generated comments: while they were not manifestly unlawful, they did not sufficiently consider the liability of the actual authors of the comments. One of the applicants was a professionally managed news portal run on a commercial basis and the moderate sanction of only EUR 320 in damages imposed upon it by the Estonian courts. The Court also highlighted the nature of the low-generated comments: while they were not manifestly unlawful, they did not sufficiently consider the liability of the actual authors of the comments.

The liability of the actual authors of the comments

In the case at hand, the Court noted that, while the applicant companies were liable for the comments posted on their portal; and, finally and most importantly, they both had a notice-and-take-down system in place, whereby anybody could indicate unlawful comments to the service provider so that they could be removed. In addition, one of the applicants had set up a team of moderators performing partial follow-up moderation of comments posted on its portal; and, finally and most importantly, they both had a notice-and-take-down system in place, whereby anybody could indicate unlawful comments to the service provider so that they could be removed.

The context and content of the impugned comments

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were any addled to your own taste; and no words were made for no purpose. As you may have noticed, the

judgment in this case was based on the Court’s interpretation of the law and the facts presented in the case. The Court applied the law fairly and without bias. The Court’s reasoning was clear and logical. The Court’s conclusion was well-supported by the evidence presented in the case. The Court’s decision was consistent with the law and precedent. The Court’s decision was fair and just. The Court’s decision was in the best interests of all concerned. The Court’s decision will be upheld on appeal.

In the final analysis, the Court’s decision is one that is to be admired. The Court has shown great courage in standing up for the principle of freedom of speech. The Court has shown great wisdom in balancing the competing interests of free speech and the protection of minority rights. The Court has shown great justice in upholding the rule of law. The Court’s decision is one that will be remembered with great respect and admiration for many years to come.

Comment

In recent times, the world of journalism has been transformed by the advent of the internet. Journalists now have a platform to reach a global audience like never before. However, this has also brought with it a range of challenges and issues. One of the most significant challenges is the issue of intermediary liability.

Intermediaries such as social media platforms, news websites, and other online platforms play a crucial role in the spread of information. They are often the first point of contact for users who want to access information. However, they also face legal risks due to the nature of their business. They are often sued for content posted by their users. This can be challenging for these platforms as they have to balance the rights of the users with the obligation to respect the law.

In the case of Delfi, the Estonian Supreme Court ordered the company to remove all comments on a news article that were considered to be hate speech. The court ruled that the company had failed to adequately moderate the comments section. The court also awarded damages to the plaintiff.

The Delfi case illustrates the challenges faced by intermediaries in managing online content. Intermediaries are often caught between the need to respect the law and the desire to provide a platform for free speech. The case also highlights the need for a clear and consistent legal framework to govern intermediary liability.

The Delfi case has been widely discussed and debated in many countries. It has been cited as an example of the challenges faced by intermediaries in regulating online content. It has also been used to argue for the need for a new legal framework to govern intermediary liability.

The Delfi case is a significant development in the area of intermediary liability. It highlights the need for intermediaries to be aware of the risks they face and to take steps to mitigate these risks. It also underscores the importance of a clear and consistent legal framework to govern intermediary liability.