

Protection of Website Owners' Rights: Proportionality of Website Blocking in Russia and Beyond

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Abstract : The article explores the issue of website owners' liability for the illicit content. Whilst various issues of secondary liability of internet access providers for the illicit content have been widely discussed in the law doctrine, the liability of website owners has attracted less attention. Meanwhile, the website blocking injunctions influence website owners' rights most, since website owners have the interest to keep their website online, rather than internet access providers. The discussion of internet access providers' liability overshadows the necessity to protect the website owners' rights to due process and proportionality of blocking injunctions. The analysis of Russian website blocking regulation and case law showed that the protection of website owners' rights depends on the kind of illicit content: some content induces automatic blocking injunctions without prior notice of website owners and any opportunity to appeal, while other content does not invoke automatic blocking and provides an opportunity for the website owner to avoid or appeal an injunction. Comparative analysis of website blocking regulations in European countries reveals different approaches to the proportionality of website blocking and website owner's rights protection. Based on the findings of the study, we conclude that the global trend to impose website blocking injunctions on wide range of illicit content without due process of law interferes with the rights of website owners.

Keywords : illicit content, liability, Russia, website blocking

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