



Judicial Branch of the Nation

FEDERAL CRIMINAL AND CORRECTIONAL CHAMBER - ROOM 1

CFP 8553/2015/4 / CA3

CCCF - Room I

CPF 8553/2015/4 / CA3

"C., E. s / precautionary measure" Court n

° 1 - Secretariat n ° 1

////////// nos Aires, June 16, 2020.

AND SEEN AND CONSIDERING:

I. These proceedings reach this Court

By virtue of the appeal filed by Dr. Arnaldo Cisilino - Google LCC attorney -, together with Drs. Carlos Caride Fitte and Mariano Grondona - sponsoring lawyers -, against the decision through which the magistrate did not accept the request of the party, aimed at annulling the extension of the precautionary measure provided to the detriment of her client.

The appellant considered the resolution inappropriate referred to then, as stated, it should have been directed to the news portals responsible for the publication whose falsehood it alleges. He emphasized that only in this way could the propagation of similar content on other URLs be prevented.

It also stated that the controversial measure intends to extend its scope with respect to domains outside the jurisdiction of the Argentine courts (www.google.com ; _____ www.google.com.es Y www.google.mx). That extreme, he affirmed, is inadmissible because the blocking or elimination of the pages of those countries can only be carried out in accordance with the corresponding local laws.

On that same path, through the evocation of general principles of state sovereignty, international courtesy and resolutions issued at the international level, expressed the impossibility of intervention of a State in the territory of another State, without its consent. He added that if Google executed the questioned decision, it would affect the domain or services subject to foreign law, in addition to breaching the legal framework in force in the countries

Signed date: 06/16/2020

Signed by: LEOPOLDO OSCAR BRUGLIA, CHAMBER JUDGE Signed by: MARIANO LLORENS, CHAMBER JUDGE Signed by: PABLO DANIEL BERTUZZI, CHAMBER JUDGE

Signed by: MARIA VICTORIA TALARICO, SECRETARY OF THE CHAMBER



34649449 # 260473037 # 20200616120654200

affected by that measure. He pointed out that removing those contents from Google.com would imply deleting them from all global servers, so that an Argentine magistrate would have the power to decide on the contents that could be read and / or found worldwide through the internet. This circumstance would imply legitimizing, in turn, the possibility that other States also intervene in the exclusion of certain content in accordance with their own national laws, with the serious consequences that such a situation could entail. It warned that the proliferation and validation of orders such as the one criticized here, would generate a serious and serious obstacle to freedom of expression and the right to seek, receive and impart information freely,

In short, it considered that the expansion of the The controversial measure should be annulled in order to avoid illegitimate interference in jurisdictions outside the territorial jurisdiction of the intervening magistrate.

II. Thus set the framework of action for this Appeal, The analysis of the appellant's claim leads the undersigned to formulate a succinct review regarding the factual edges involved in the case under study.

On March 14, 2019, the judge of the grade issued a order for Google to remove as search results of its web browser, those URLs that made reference to the arrest, in Mexico, of ES (son of EC). In that same notification, the URLs that should be de-indexed were detailed.

As a consequence, Google called Arbitrary and incorrect provision of that command to the detriment of the search engine, since, as he mentioned, it should have been directed to the news portals responsible for the publication whose falsehood is alleged. Around this, he expressed that internet search engines are





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mere intermediaries between users and the sites that exist on the Internet, but they do not create the information available in it, but only take care of its indexing through the use of technology based on computer programs.

After the appeal was filed

pertinent through which the intervention of this Hon. Chamber, this Court, after analyzing the doctrinal, jurisprudential and constitutional scope of the compromised rights, that is, freedom of expression, on the one hand; and honor, on the other hand, approved the original measure provided in the previous instance, except for those URLs that were inactive, in addition to entrusting the deepening of the investigation to other search engines that also reproduced the false news object of this file (CFP 8553/2015/1 / CA1, rta .: 27/8/19).

Notwithstanding that all URLs linked to

that false news had already been de-indexed in accordance with the precautionary measure originally ordered, on February 14, 2020 Google was notified of an extension of the mandate through which it was required to comply with that measure, under the warning of considering it incurred in the crime provided in article 239 of the CP. After detailing the URLs related to false information in that piece, the need for search engine de-indexing was emphasized. www.google.com- what is generic and

plus used worldwide-, www.google.com.mx Y
www.google.com.es of all those URLs that made reference to or redirected to the “fake news” related to the arrest in Mexico of ES, among them, those that emerged specifically from the links detailed in that extension of measure.

Days later, after the appellant

If he responded to that injunction requesting that it be annulled, the judge of grade rejected the arguments presented by the party, and ratified the extension of the measure in dispute here.

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MARIANO LLORENS, CHAMBER JUDGE Signed by: PABLO DANIEL

BERTUZZI, CHAMBER JUDGE

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When the time comes to resolve, we understand that, such

As the appellant maintains, the grounds of the magistrate in point to the extremes committed in the case are wrong, which is why we anticipate that the decision in question will have to be revoked.

Indeed, beyond the classification of the content published as "political news", "false news" or any other cataloging that could be attributed to it, the truth is that the search for a solution to the question raised cannot avoid that these categorizations are exclusive to the intervening court, in accordance with the laws corresponding nationals.

However, these classifications in no way

They can be extended to territories outside our country, without the risk of incurring in contradictions and / or breaches of normative frameworks in force in the recipient state of this kind of measure. Eventually, the validation of a local order in foreign territory could be achieved through the use of judicial cooperation mechanisms provided that, as indicated, these possibilities do not conflict with the law of the nation to which that provision is directed. It is that, clearly, the central nucleus of this controversy is related to the principle of territoriality of the law that prevents the possibility of assuming the prerogative of prohibiting the global propagation of certain contents published by the press, whose dissemination would be in conflict with the local regulatory framework,

In short, the claim to extend the

extension of a precautionary measure regarding domains or services subject to foreign law, would imply not only validating a breach of the legal framework in force in the countries where that order was issued, but also an implicit acceptance of granting a magistrate - in this case Argentinian- the power to decide





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the contents that can be found and read on the internet by people around the world. The proliferation of these kinds of orders would thus create intolerable interference with freedom of expression and the right to seek, receive and impart information freely, because each State could exercise control over the content that citizens of other countries can find, with the serious consequences that such an extreme would entail, to the detriment of the adequate balance and existence of freedom of the press as one of the essential constitutional rights in the nucleus of the configuration of a state of law.

For all these reasons it is that the decision maker questioned must be revoked, and the extension of the precautionary measure provided to the detriment of Google LCC must be annulled, without prejudice to the relevant channels that may be enabled in the corresponding jurisdictional and territorial scope. Then, if it is considered appropriate, the magistrate may issue the corresponding international judicial assistance requirements, so that the pertinent authorities of such jurisdictions examine the viability of the precautionary measures in question.

III. By virtue of the provisions of the Agreed 18/20 and ccds. of the Supreme Court of Justice of the Nation and in Agreements 8/20 and ccds. of this House, this is signed in electronic form.

IV. By virtue of the above Agreement, the Court **RESOLVES:**

REVOKE the decision in crisis in everything resolves and out of appeal.

Sign up, get notified, let yourself know and come back to the previous instance.

Dr. Pablo Bertuzzi

Dr. Mariano Llorens

Dr. Leopoldo Bruglia

In front of me:

Maria Victoria Talarico

Chamber Secretary

