

Social Media and Personality rights: an analysis of the liability of the content provider in the case law of the Superior Court of Justice³⁸

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I. Introduction

The concept of freedom of expression can be understood as a way of externalizing thoughts and knowledge of intellectual, artistic, scientific and communication production (Silva, 2009). Effectively, it can be said that freedom of expression includes all opinion, belief, comment, evaluation or judgment on any matter or on any person, involving issues of public interest, or not; of importance and value, or not (Mendes; Branco, 2012). In this sense, the thought is legally irrelevant, what is the balancing of how it can be manifested.

While in Brazil is prevalent the term “freedom of expression”, it is preferable to use “right to the media” which includes the right to communicate, the right to seek and the right to receive information. The right to media has as attributes: freedom of speech, freedom of the press and media, access and availability of public and private information, diversity, plurality and access to content, effective participation by the whole society, the equal availability of information and practical measures to this end, among others (Canotilho; Machado, 2003). The legal conception of the right to media that prevails is the one that refers to the integration of the individual in the process of acquiring knowledge/information

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and also that structure the projection and the pursuit of information (Cunha e Cruz, 2009).

In this line of thought, Maria da Gloria Carvalho Rebelo (1998) argues that three elements are included in the freedom of expression in a broad sense: a) freedom to express opinion, diffusion of ideas or thoughts, the product of a combination of the substrate and the ideological interpretation of fact that it conforms also in the right not to be prevented from expressing; b) freedom of expression and the right of access to the means of expression / information, that would be the right to obtain information and appreciation of what is usually meant by public opinion on a specific question; c) freedom of thought or thought, which is prior to the other freedoms and constitutes the substantial core from which derives the possibility of forming their own ideas and thoughts of the individual or social groups.

In fact, freedom of expression is shown as the route for the externalization of thought, enabling both the political and social criticism, as the free development of personality. This link between freedom of expression and political criticism became most evident in the early texts of the French revolutionaries, who called this the undeniable freedom before the inquisitorial and oppressive situation of the *Ancien Régime* (Machado, 2002). Freedom of expression, from this liberal perspective, is included in those faculties or attributes of the person and based on the rights of resistance or opposition to the state (Bonavides, 2009).

Along with this first individualistic aspect, freedom of expression today saw its contents to become a sine qua non of democracy. This is because freedom of speech is born before the expression itself, as if to externalize something, it takes something that already exists: this freedom is essential for the development, training and subsequent expression of thought (Cunha e Cruz, 2010). It assumes, of course, a central place in the process of constitutionalising of the fundamental rights, given its instrumental function of affirmation of individual freedom of thought and opinion, ending up well in ensuring democratic self-determination of political society (Machado, 2002). It can not be reduced further in view of requirement / individual condition / subjective, but comprises an objective dimension emanating from society's aspirations for a democratic state (Salvador Coderch, 2002).

In this context, in addition to protecting individual interests, freedom of expression flourishes as constitutional guarantee of the formation and existence of a free public opinion. Freedom of expression becomes a necessary precondition for the exercise of other rights inherent in the functioning of the democratic system, becoming one of the pillars of a free and developed society. It expands the concept of freedom of expression to serve as a parameter for measuring the degree of democracy of a political system, establishing a relationship directly proportional: the more you respect the freedom of expression; there will be more freedom in society (ADPF 130, Judge Ayres Britto, judged on 30-4-2009, Plenum, DJE of 6-11-2009). It is in this sense that this essential freedom was included in the declarations and international treaties for the Protection of Human Rights.

Brazilian Federal Constitution of 1988 (CF88) predicted different measures offering guaranties of freedom of expression. CF stipulates: the free expression of thought; anonymity is forbidden (art. 5, IV), the inviolability of freedom of conscience and belief, being guaranteed the free exercise of religious cults and guaranteed under the law, the protection of places of worship and their rites (art. 5, VI), not deprivation of rights on the grounds of religious belief or philosophical or political belief unless invoked to evade the legal obligation imposed upon everyone and refuse to perform an alternative obligation established by law; the freedom of expression of intellectual, artistic, scientific and communication, independently of censorship or license (art. 5, IX); ensuring access to information and to protect the secrets of the source, when necessary to its professional activities (art. 5, XIV); the right to receive public information of particular interest, or collective or general interest, except those whose secrecy is essential to the security of society and the State (art. 5 °, XXXIII); ensuring the publicity of judicial and administrative acts (art. 5, LX, art. 37, caput, art. 93, IX); sealing to the Union, the States, the Federal District and Municipalities the imposition of taxes on books, newspapers, periodicals and paper for their printing (art. 150, VI, “d”); predicting the freedom to learn, teach, research and express thoughts, art and knowledge, as a principle of the education in the Federative Republic of Brazil (art. 206, II); the inclusion of all forms of expression as constitutive of the Brazilian cultural heritage (art. 216, I); an unrestricted expression of thought, creation, expression and information, in any form, process or medium; it is prohibited censorship of any political, ideological and artistic, besides the prohibition of any law containing device that can be a hindrance to full freedom of press in any medium of social communication, observed the provisions of art. 5, IV, V, X, XIII and XIV (art.220, § 1, § 2).

Despite the ubiquity of the Brazilian Constitution, freedom of expression can not be exercised in an absolute manner, without infringing other rights equally guaranteed in the Constitution (Meyer-Pflug, 2012). This was the opinion of the majority of the Judges of the Supreme Court (STF) in the most emblematic trials that discussed this freedom (HC 82 424, Rel p / ac. Judge President Mauricio Correa, judged on 09.17.2003, Plenum, DJ from 03.19.2004; ADPF 130, Judge Ayres Britto, trial 30-4-2009, Plenum, DJE of 6-11-2009). The jurisprudence of the Supreme Court rules that, despite its importance, freedom of expression can not object to the basic principle of fundamental rights: the dignity of the human person (Cunha e Cruz, 2010; Reale Jr., 2011).

Indeed, if freedom of expression is understood as absolute would be weakened the idea of a plural and democratic state, as citizens must answer for their actions in society (Oliveira; Rocha, 2011). There is legal restrictions, immediate and qualified for freedom of expression: the rights of personality (honor, intimacy, privacy, image), which are backed by the magnum principle of the dignity of the human person (Nobre Junior, 2009), and are considered, by consensus, as the rights that must be understood as typical of the person considered in itself (Bittar, 2004).

The conceptual evolution of personal rights and freedom of expression should be proposed to be revised, therefore, with the language of the information society: the Internet. That's because, to paraphrase Pierre Lévy (2008) no serious reflection on the contemporary law can ignore the huge impact of electronic media and information technology. It is in this sense that the High Commissioner for Human Rights of the UN in June 29th, 2012, at the 20th session of the Human Rights Council adopted resolution A/HRC/20/L.13 in which, among other recommendations, says that people's rights must also be protected on the Internet, in particular freedom of expression, which is applicable regardless of frontiers and for any procedure, according to Article 19 of the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). Indeed, from the Aristotelian claim (Kury, 1997) that is the language that distinguishes humans from other animals and the completion of Jorge Larrosa (2012) that we are worldly beings and that is the language that gives us itself the world, personality rights and freedom of expression are to be reread to be better theorized and understood. Rather, the language in which we studied personality rights and freedom of expression was guided in the traditional media, which was based on territoriality, nationality, unilateralism and no interaction, which expanded verticality and passivity of the receiver, with Internet information that tangent individuality / personality are not only at the mercy of the transmitter (Veloso, 2009).

The Internet is undeniably heterogeneous. There is not only one way or model of interaction between individuals (Sêga, 2011), although this interaction may be weak and transient: net (Bauman, 2001). On the Internet, besides being confused with each other and accumulate roles, receiver and transmitter fit into a larger network of communication. In this network, for example, one tends to lose control over the content placed by it or on the continuity of the message. People change roles quickly and also change instantly interlocutor, even though based on the same original content. This is an indisputable distinction between the Internet and traditional media. You can not isolate one communicating agent from the larger context of the network (Santaella, 1996).

A network / social community is another node on the Internet, though a greater flow of communication or connected to more people. Its contents can be passed on, criticized, confronted, disclosed or commented in the internet - in real time. The power of its content is diluted within a new architecture of actors, today offered by the function of directing of research tools or their own social networks.

Its functionality is far from exhausted by the reception of the content itself and allows its own amendment and subsequent dissemination. All content is the basis for new content. Every receiver is a link of passage. All information is internationally visible and can be confronted (Castells, 2007). This feature may be the approach to the concept of the network rhizome proposed by Deleuze and Felix Guattari (1997).

Indeed, the conflict between freedom of expression and cited “personal rights” was pointedly marked with the Internet. Freedom of expression was enhanced with this technology, since it enabled the approach and interaction between society with the opportunity - at any time - of existing communication, file transferring, exchanging of information and opinions among people who are connected to the network, in a quick way. And for this reason, the likelihood of abuse among netizens increase for this very interactive facility (Oliveira; Rocha, 2011).

Faced with this new reality, the definition of boundaries and responsibilities for information providers liable to cause harm to others becomes more complex, and one should measure the real possibility of control / supervision over the information and opinions published. Given the absence of specific regulation that governs the interaction between personality rights, freedom of expression and the Internet (Veloso, 2009), case law has been invoked to resolve these conflicts, which can cause conflicting court decisions on cases quite similar (Souza; Maciel; Francisco, 2011). These court cases, judged in by the Superior Court of Justice (STJ), a tribunal just below the Supreme Court (STF – *Supremo Tribunal Federal*), are the object of this study.

The text is, therefore, the inflections between judicial personality rights, freedom of expression and the Internet. The object of this article focuses on the analysis of the liability of the content provider in the jurisprudence of the Superior Court of Justice. It begins with the analysis of REsp1.193.764, the leading case which opened the discussion in court about the relationship between personality rights, freedom of expression, and the liability of Internet content providers. The purpose of this writing is descriptive, it analyzes whether there is repetition of the theses judged by the Superior Court of Justice. For better development and fluidity of the text, there will be a segmented analysis of each of these decisions. They are included in the article as evidence of validity and reliability of the method chosen. After this step, we present the concluding remarks.

II. Case Law of Superior Court on Liability of the Content Provider

Nothing more appropriate to begin this analysis than with REsp1.193.764, the leading case which introduced the discussion in court about the relationship between personality rights, freedom of expression, and the liability of Internet content providers. At first instance, the claim was filed concurrently with the obligation to make compensation for damages into the detriment of the provider Google, rigged with a request for preliminary injunction, in order that there might be removing offensive content posted on the Orkut social network, in addition to the sentence for moral damages for damage to his reputation. There was a preliminary injunction so that the offending content was removed completely, fulfilling Google such determination.

In the sentence there was no condemnation to the provider for moral damages. The TJSP dismissed the appeal, in which it said that Google can not inspect previously, the content of messages that are disseminated, since Google does not exercise the role of editor. Being a provider of web hosting service, it can not be required to seek and identify the personality offensive content among thousands of information that are constantly published. Moreover, this practice would lead to restriction of free expression of thought laid down in Article 220 of the CF88. If there is some sort of abuse and identified the authors, one can invoke art. 5, section V, the CF88.

The Special Appeal (REsp1.193.764) discussed whether or not Google would have strict liability for the content of the information published on its website, as defined by Article 14 of Law 8.078/90 (CDC), and art. 927, sole paragraph, of Law 10.406/02 (CC).

Even considering the applicable CDC, the Superior Court excluded the strict liability of the defendant, as identified Google as a content provider (and not as a backbone provider, or of access to, or of hosting, nor of information), to declare that Google: (i) does not respond objectively for the insertion - at the site by third parties - of illegal information, (ii) cannot be compelled to exercise prior control of the content of the information posted on the site by its users, (iii) so aware of unequivocal existence of illegal data on the site, removed them immediately, (iv) maintain a minimally effective system to identify its users, and (v) adopted measures that permitted the identification of the responsible for the inclusion of offensive data in Orkut against the appellant. The analogy and theorizing about the relationship between freedom of expression, rights of personality, social networking and the Internet are the major highlights of this trial, whose repetition of theses was noted in similar cases that followed.

Rightly pointed out that Google is an Internet service provider such as “content”, which has no responsibility for inclusion on the site - by third parties - of illegal information. Marcel Leonardi (2005: 19) reveals that an Internet service provider “is a person or company that provides services related to the operation of the Internet, or through it.” Internet provider service is the genus with five species: a) backbone provider: provides support to the intense flow of data that travels over the Internet, providing a more robust, making bridges into the long distance system, redistributing access to other agents (Parentoni, 2009). The backbone providers comprise therefore a network “backbone” in which Internet traffic is channeled (Kurbalija; Gelbstein, 2005: 20), capable of carrying large volumes of information, consisting mainly of routers interconnected traffic for high-speed circuits; b) ISP: corporate services provider that enables consumers to access Internet. Usually has a connection to a backbone or operate their own infrastructure for direct connection (Leonardi, 2005). It’s important to say that the legal relationship between the customer and ISP is the business, since the ISP offers a service; c) hosting provider: its function is to provide the user or content provider space equipment in storage or server for dissemination of information these users or providers want to

see displayed on their websites. The service, however, does not keep any relationship with the typical contract of hosting because it is, in fact, assignment of hard disk space for remote access; d) webmail provider: enables the exchange of electronic messages, e-mails, as well as its storage and restricted access to the system through a user name and password (Araújo; Reis, 2011). It depends on the existence of prior Internet access. It provides therefore a limited space on the hard disk on a remote server for storage of such messages. The user, when he wishes, can choose to download messages on the computer itself, removing them or not from the server, or just access them directly on the server without downloading them (Leonardi, 2005). Even if the service is offered by another server, it will still be the kind of mail; e) Content Provider: provides the information content on the Internet. Thus, it is understood that the information contained in the network is produced by the content provider through its agents or other authors who have allowed access by the provider. It is noteworthy, then, that there are two types of information published by the content provider: those produced by him and those created by others. The first pass through a prior editorial process, ie, can be analyzed and modified, with the publication done when it is interesting to do so. On the other hand, this does not occur with those done by its users, mainly because usually are done automatically and immediately... this is what commonly occurs in blogs, forums and social networks (Araújo; Reis, 2011).

This distinction leads to different consequences related to liability from infringement of personality rights. In REsp1.193.764 distinguished that Google is a content provider. When the content provider exercises editorial control, respond by its content. When content is produced by the provider, i.e., he is the author of the notes, articles and news which necessarily have to be created by representatives of the company, also acting as provider of information, the damage and the obligation to repair in accordance with the nature of illicit content, which determines the application of sanctions, varies up. In these cases, the content providers are directly responsible for the content available on the network, and so applies to liability, focusing on the legal provisions of the Civil Code (article 927, sole paragraph) and the Consumer Code (art. 14), and as in specific legislation to the particularities of each damaging act (Araújo; Reis, 2011).

On the other hand, when the contents of publications are full responsibility of the users, there is no monitoring and no editorial control that precedes the publication and neither choice about whether or not to put the message in the network. For this reason, at first, the provider is exempt from any liability, unless being notified of the existence of offensive content, it do not remove it in a reasonable time (Leonardi, 2005). Moreover, in such cases the provider gives way in the system to users who do not have their own space on the network, so that they can create and publish their own content. Orkut, Google's networking site, by 2011 had 34.4 million users (Pellegrini, 2012). It is implausible therefore occurring previously editorial control, as it would be impractical to analyze and edit messages, texts or information created / posted for each of these users before disclosure. If it happens, the provider would lose, or

at least alienate, the provider of its most attractive features: the speed in the exchange of information, the transmission of data in real time.

In REsp1.193.764, STJ noted that the fact of having or not having editorial control of published information directly affects the responsibility for them. Google was not responsible for the offensive content to the personality posted by others in their social network. This position was reinforced in REsp1.308.830 (REsp1.308.830, Rep. Min Nancy Andrighi, Third Chamber of the Superior Court of Justice, Judgment on 08/05/2012, published on 19/06/2012 DJede), It mentions that both the United States (Telecommunications Act, 47U.S.C § 230) and the European Union (art. 15, Diretiva2000/31) legislation exempt providers from the responsibility to monitor and control the content of third party information that they will transmit or store. The two aforementioned decisions of the Superior Court of Justice observed that the prior monitoring of the content of the information posted on the web for each user activity is not intrinsic to the service, so you can not deem defective - under art. 14 CDC - the site that examines and filters the data and images contained therein

Similar understanding found in the recent case of Brazilian singer “Xuxa Vs. Google Search”, the REsp1.316.921 (REsp 1316921, Rep. Min Nancy Andrighi, Third Chamber of the Superior Court of Justice, Judgment on 26/06/2012, published on 29/06/2012 DJede), deal that sought to determine the limits of responsibility of a site research for the content of their results. It was decided that the Research service is a kind of content provider, because these sites do not include hosting, organizing or otherwise managing the virtual pages indicated in the results available, merely indicating where links can be found the expressions supplied by the user. And with regard to the content filtering of the research done by each user, it is not the intrinsic activity of the service, so you cannot deem defective - under article 14 CDC - the site which does not exercise such control over the search results.

In addition, service providers cannot censor Internet content produced by their users. If so, it would be before a prior censorship with the need to analyze what is offensive or not and what should be censored, which may affect, decisively and forcefully, the freedom of expression. In addition to this argument, the Superior Court of Justice indicated that the prior control of content could be equivalent to the breach of confidentiality of communications prohibited by subsection XII, Article 5, the CF88.

Still, in REsp1.193.764 warned that the provider should take all steps possible to individualize each user of the site to facilitate their identification, mainly because of the possibility of anonymous profiles, something common in social networks, and that has served as a pretext for malicious practices and various types of abuse.

The provider therefore must gather all possible data from its user, such as name, address and personal documents and it must have the knowledge and store in its database server IP number assigned to the user, the telephone number used to establish the connection, if any,

and other types of information that may be necessary to inhibit and prevent anonymity.

This line of approach was reinforced in REsp1.306.066 (REsp 1306066, Rep. Judge Beneti Sydney, Third Chamber of the Superior Court of Justice, Judgment on 17/04/2012, published in the 02/05/2012 DJE) in which determined that the content provider is required to enable the identification of users, curbing anonymity (art. 5, IV, CF88), and to provide the registration number of IP, used for registration of accounts to permit the tracking of users.

Extremely important is the IP (Internet Protocol), which is the unique address of each computer on the Internet. The IP function is directly linked to the TCP (Transmission Control Protocol). To access the network, computers intercommunicate through TCP / IP. TCP is based on packet switching, networking, end-to-end and robustness. All data sent from a computer are segmented into packets that travel over the Internet and are then reassembled upon arrival at the destination computer (Kurbalija; Gelbstein, 2005). The IP adds each data packet the recipient's address, for it to reach the destination.

Each computer or router participating in the process of data transmission uses this address contained in the packet. Although the information packets do not use the same paths, all arrive at the same destination, which will be gathered (Leonardi, 2005). In summary, the "system" TCP / IP is designed as a set of rules that the terminals must follow to obtain a stable communication between them (Lucero, 2011). It is this interconnection of computers that allows one to access all kinds of information, data transfer, file sharing, making it also the Internet vehicle for interpersonal communication.

For this reason, as much as possible for the user to create fake profiles or any publication making use of anonymous option, the provider will have in its database a way to relate them to a specific individual, since such information is run by a computer with a unique IP number. This does not mean that this system and its measures are not subject to failure. The provider therefore has a duty to care to ensure safe navigation to its users, collect data, not to allow the attacker to find in its pages a way to make free and unpunished illegal activity.

Moreover, the Superior Court of Justice (REsp1.193.764) held that the content provider has responsibility for what circulates on the site, when aware of the existence of message content offensive to the personality. In cases where the provider is aware of the existence of unambiguous lawlessness on the site, it should remove them immediately, under penalty of liability for the damage related. This means that even when not responsible for illegal information published by third parties - since it cannot do these prior control - it is not impossible to control later, when you are aware of the existence of this offensive to the personality.

This position was reiterated in REsp1.186.616 (Judge Nancy Andrichi, Third Chamber of the Superior Court of Justice dismissed on 23/08/2011, published in the 31/08/2011 DJE) in AgRg in REsp1 .309.891 (Judge Beneti Sydney, the Third Chamber of the Su-

perior Court, Trial on 26/06/2012, published on 29/06/2012 DJE) in REsp1.308.830 (Judge Nancy Andrighi, Third Chamber of the Superior Court of Justice, Judgment on 08/05/2012, published on 19/06/2012 DJede) and AgRg AREsp 231 883 (Judge Beneti Sydney, Third Chamber of the Superior Court of Justice, Judgment at 11/12/2012, published on 04/02/2013 DJE). In these cases, the understanding was endorsed that the content provider does not respond objectively on the content entered by the user, because it is not inherent in his head-scratching activity. However, he is obliged to immediately withdraw the content morally offensive, otherwise it will share responsibility with the author's direct damage. Duty to timely remove all content that is perceived as violating the rights of personality.

Indeed, over the long term removal of content, the networking site Orkut, for example, offers its users a tool called a "report abuse" appropriate to notify the own social network of the occurrence of any publication in its offensive page. The problem is that even with the notification, there are cases filed at the justice questioning the delay for removal. It happened in REsp1.323.754 (Judge Nancy Andrighi, Third Chamber of the Superior Court of Justice, Judgment on 19/06/2012, published in the 28/08/2012 DJE). After identifying the existence of a fake profile that offended his personality, the victim made use of the reporting tool, but Google only ruled two months later. As a defense, the provider claimed that there are thousands of complaints that are analyzed individually, and it needed to comply first with court orders and so forth of all these factors it believes the time between the receipt of the notification and removal of the profile was reasonable. The Superior Court of Justice held that there was inertia and ordered Google to pay compensation of ten (10) thousand dollars to the victim.

REsp1.323.754 in line with what had also been exposed in REsp1.193.764 admits that the provider is responsible if it has already been notified by the personality infringing content. However, until then the Superior Court of Justice had not been spoken about the deadline to remove the content denounced. It was defined (REsp1.323.754) the provider has 24 hours to remove the messages reported, and if it does not, respond jointly to the author of the publication. The provider does not need to analyze each complaint individually in detail, because from the moment of notification he will have to remove the content provisionally and only after that the truth of what has been reported will be assessed. The justification for this position deserves a direct quote:

Although this procedure may possibly infringe those users whose pages may be improperly suppressed, even temporarily, this violation should be confronted with the harm arising from disclosure insulting and analyzed the losses involved, the protection should be offered unquestionably for the protection of the dignity and honor of those who use the network.

It should also mention the REsp1.175.675 (Judge Luis Felipe Salomão, Fourth Chamber of the Court of Justice, Judgment on 09/08/2011, published in the 20/09/2011 DJE), who repeated the arguments of REsp1.193.764 and determined that it is possible to

determine the service provider of internet, social network manager, remove defamatory information to third parties manifested by their users, regardless of the indication by the victim of the pages in which the offenses were run because:

It is not credible that a business company the size of Google does not have technical capabilities to identify the pages which contain the messages mentioned...

With the trial of REsp1.193.764, the Third Chamber of the Superior Court turned away the issue related to the liability of content providers. But it is also undeniable that the arguments brought in the leading case examined contributed so salutary for dialogue on the relationship between personality rights, freedom of expression and the Internet, for indeed these are the rights that are being discussed in all cases decided.

III. Final Considerations

The information society of the twenty-first century demands rather a specific regulation. However, the legal instruments proposed to address this theme must be weighted, not to restrict rights, freedoms and guarantees. It is inevitable that the personal rights and freedom of expression today relate intrinsically to the Internet. This little standardization of the computerized society justifies the importance of judicial decisions.

During the Internet boom in the 1990s, providers were exempt from liability for the content or possible copyright violations. It was thought that additional pressures on providers could hinder the future development of the Internet. With the growing commercial importance of the Internet and increasing security concerns, many states have begun to focus their efforts to impose responsibilities on content providers (Kurbalija; Gelbstein, 2005). The jurisprudence of the Superior Court of Justice provides an important contribution on the subject, because it is influencing the decisions of the courts subordinate to it.

The theory constructed by the Court endorses the view that the content provider does not respond objectively by the content entered by the user in a site, because it is not the risk inherent in their activities, but is forced to withdraw immediately, within 24 hours, the content which violates the rights of personality, otherwise the provider also will be charged along with the author of the direct damage.

This approach directly confronts the Brazilian project of law "How to Adjust the Internet" which provides in Article 15 that the provider may only be liable for damages arising out of content generated by third parties if it do not take measures - after specific court order - within the framework of their service and within the deadline become unavailable the material appointed as infringing content. The court order must contain, under penalty of nullity, specific identification of the infringing content, allowing the unambiguous lo-

cation of the material. In fact, providers do not need to play the role of censors of their users and should block access to illegal information only if there are doubts about its illegality or if so ordered by the competent authority (Leonardi, 2005).

It is not legitimate, therefore, to leave to the discretion or will of the provider to check which page is lawful or offensive, because it would allow censorship expressly prohibited by CF88 (art. 5, IX c / c art. 220, § 1, § 2) in addition to imply judgments endowed with subjectivism.

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