

Reykjavik District Court Ruling November 8, 2023
Case No. K-3162/2023:

Anti Defamation-League (Sigurður Kári Kristjánsson, lawyer)
against
1984 ehf. (Ólafur Örn Svansson, lawyer)

Ruling

This case, which was taken for a ruling on October 11, 2023, was received by the district court with a claim dated May 10 of the same year, which was received the same day, for the resolution by a district judge on the decision of the Commissioner of Police regarding the denial of an injunction.

The claimant, hereinafter referred to as the plaintiff, is an organization called Anti Defamation-League, 605 Third Avenue, New York, NY 10158-3560, United States.

The respondent, hereinafter referred to as the defendant, is 1984 ehf., Fálkagata 8, Reykjavik.

The plaintiff requests that the decision of the Commissioner of Police in the capital area, dated May 3, 2023, to reject the plaintiff's request from April 26, 2023, for an injunction against the defendant according to injunction request no. 2023-260291, be annulled, and that the Commissioner of Police be ordered to impose an injunction against the defendant's hosting of the website <https://mapliberation.org>, whether or not www. is in front of the website name, as well as data, content, and information published on the website. Furthermore, that the Commissioner of Police be ordered to impose an injunction against the defendant providing access to the website <https://mapliberation.org>, whether or not www. is in front of the website name, and distributing data, content, and information that are published on it. Legal costs are also claimed.

The defendant requests that the aforementioned decision of the Commissioner of Police in the capital area be confirmed. Legal costs are also claimed.

I Case Background

The plaintiff claims to be a free and non-profit organization founded in 1913. The organization operates numerous offices in the United States and Europe but is domiciled in the United States. The plaintiff states that the purpose of the organization has always been to fight defamation against Jews and to ensure justice and fair treatment of all. Today, the organization has the declared policy of fighting against anti-Semitism and all kinds of racial hatred and hate speech wherever it appears.

The defendant, a company that provides web hosting services, has been hosting the website www.mapliberation.org since June 2022. The website discusses "The mapping project" or "Kortlagningarætlunin[a]," as it is translated in the translation provided by the plaintiff. It is not clear who is behind the website, but it states that those behind the project are "a multiracial group of activists and organizers in the Massachusetts, Pawtucket, Naumkeag, and other tribal areas (Boston, Cambridge, and vicinity), who want to create a deeper understanding and support in the district for colonial Palestine [...]". Among other things, it is

stated that an interactive map on the site shows "how institutional support for the colonial policy of Palestine is organizationally linked to law enforcement and systemic white male dominance in the area where we live and to American imperial projects in other countries". It is revealed that the interactive map allows examination of 497 entities and that there are 1,367 links. The website also says, in the Icelandic translation:

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"Our goal with this comprehensive mapping was to highlight the destructive societies and associations to enable us to eradicate them. Every society has an address - it is possible to eradicate all associations." It is correct to also present the text in the original language as the translation of the last part of the paragraph does not seem as accurate as it should be: "Our goal in pursuing this collective mapping was to reveal the local entities and networks that enact devastation, so we can dismantle them. Every entity has an address, every network can be disrupted."

Further down on the website, the plaintiff is discussed under the heading "Dismantle the ADL: Counteractions against racist uprising and espionage" ("Dismantle the ADL: The Anti-Defamation League's record of racist counterinsurgency and espionage"). It states, in the Icelandic translation: "ADL associates disguise themselves under the umbrella of 'civil rights', but in reality, the ADL is a spy organization that aims to protect the mutual interests of American and Israeli governments, and destroy unity among oppressed people, especially regarding Palestine. The ADL spies on and criminalizes activists (exploiting connections with government, police, schools, and business corporations) while undermining their work by promoting its own conditional propaganda of 'support Israel'. While the ADL pretends to support Jews and that it fights against 'anti-Semitism' on their behalf, the organization has supported violence against Jews and Nazis. It is not possible to reform the ADL, but rather the organization must be eradicated and every penny from their pockets used to repair the damage they have caused."

The plaintiff is also discussed on a subpage of the website titled "Zionism, Policing and Empire: A Dispatch from the Mapping Project." The plaintiff has had one paragraph translated at the bottom of this page under the heading: "Disrupting the Network": "We have shown real addresses, names of representatives and leaders, and mapped connections. These entities actually exist and can be disrupted. We hope that people will use our map to see how they can respond effectively."

On the subpage of the website, there is an interactive map where, among other things, the plaintiff's connections to police authorities, universities, and interest groups that are neither profit-driven nor under government influence ("NGOs") can be examined.

With an injunction request directed to the Commissioner of Police in the capital area dated April 26, 2023, the plaintiff demanded that an injunction be placed against the defendant's hosting of the said website, as well as the data, content, and information published on the website, and against the defendant providing access to the website and distributing the data, content, and information published on it, all in accordance with the plaintiff's claims as previously described. The case was taken up by the Commissioner of Police on May 3rd of that year, where the defendant contested the request. After both parties had the opportunity to express their views, the Commissioner of Police decided on the same day to deny the request, with reference to the fact that the plaintiff had not made it probable that the conditions of Article 24 of the Act No. 31/1990 on sequestration, injunctions, etc., were fulfilled. The Commissioner referred to the fact that the content of the website in question seemed to be

"within the bounds of freedom of expression" and that legal rules on punishment or damages sufficiently protected the interests of the plaintiff.

The parties to the case fundamentally disagree on whether the content of the website constitutes hate speech and violation of the privacy or whether it is permissible expression protected by the constitution and provisions of the European Convention on Human Rights. The plaintiff says the content of the website causes significant concern, not only to the organization and its directors but also to others who are listed on the website and indeed to the entire Jewish community in the Boston area.

In the defendant's statement, the content of the website is discussed in detail as a whole, and the defendant claims that it is necessary for the sake of context, although there is no reason to recount it all here. In summary, the defendant states that the website seems primarily intended to explain how work is organized against certain groups to control the discussion and to protect the interests of certain states at the expense of others. The service recipient seems to believe they need to explain who these parties are and how they are connected. This information is necessary to the public.

At the main hearing of the case, Dr. Sharon Nazarian, a board member of the plaintiff's national board, testified, stating she had the mandate to represent the organization in the case. It will therefore be regarded as if she has given a party statement as a representative of the plaintiff.

II Plaintiff's Arguments

In the plaintiff's statement of claim, the description of other events is interwoven with the description of the reasons for the case, but the main arguments and legal grounds are as follows:

The plaintiff asserts that all the conditions of paragraph 1 of Article 24 of Law No. 31/1990 on sequestration, injunctions, etc., are met for imposing the requested injunction. It is clear that the content of the website does not fall within the limits of freedom of expression as claimed by the commissioner of police. It is obvious that the content of the website <https://mapliberation.org> is characterized by hate speech, racial and anti-Semitic hatred. The purpose of it is clearly to marginalize a defined group of people and to encourage actions against them based on their race, religious beliefs, and origin, where racial and anti-Semitic hatred is fostered and incited. The content of the website cannot be interpreted in any other way than as direct threats or incitement to commit acts against the rights of others, which the plaintiff interprets as incitement to punishable behavior, such as violence and/or vandalism, against those who belong to the Jewish community in the city and its vicinity. Otherwise, the names and addresses of those mentioned on the site would not be specifically listed there and the supposed connections mapped in an organized manner. With such publication of names and information about addresses and workplaces, the plaintiff, like others specified on the site, is clearly made a direct target of the actions encouraged on the website.

For these reasons, it is evident that the content of the website cannot be considered a contribution to any general political or national discourse or within the limits that the plaintiff must tolerate in public discussion in a democratic society, as the defendant claims. The plaintiff maintains that the content of the website has nothing to do with such a discussion. The plaintiff categorically denies the defendant's assertions that the plaintiff's demand for an injunction constitutes an attempt at silencing.

The plaintiff contends that although freedom of expression is protected under Article 73 of the Constitution No. 33/1944 and Article 10 of the European Convention on Human Rights, as referred to in Law No. 62/1994, this protection is not unlimited. It is restricted by the protection of privacy afforded to the plaintiff and others named on the website, according to Article 71 of the same Constitution and Article 8 of the European Convention on Human Rights. According to the aforementioned provisions on freedom of expression, it is permissible to impose restrictions on freedom of expression, for example, for the sake of public order, to prevent disorder or crime, to protect the health or morals, or the reputation or rights of others, as provided for in the aforementioned freedom of expression provisions. All conditions for applying such restrictions as demanded by the plaintiff in this case have been met.

The provisions on freedom of expression in the Constitution and the European Convention on Human Rights are not intended to ensure the right of persons, who in this case have not been identified, to publicly threaten or encourage crimes against the rights of others, including punishable actions against groups of people or communities defined by their race, religious beliefs, or origin, as is clearly done on the aforementioned website. It does not matter whether such incitements or threats are expressed directly or indirectly.

Nor are the same provisions on freedom of expression intended to protect the rights of people to host, distribute, or provide access to such content in the manner that the defendant does. On the contrary, such expression, its hosting, and distribution directly violate the rights of those against whom the expression is directed, and these rights are also protected under the aforementioned constitutional and human rights provisions.

The content of the website is not only threatening to the plaintiff, but it also attacks their honor and that of the staff of the organization. In addition, it features gross misrepresentations about the plaintiff and its activities, deliberately aiming to marginalize them and to incite the readers of the site against the plaintiff and to take action against him. The lowest motives are appealed to for this purpose.

The plaintiff argues that the content of the website bears all the hallmarks of hate speech, as it is fundamentally based on racial and anti-Semitic hatred. Such discourse does not enjoy protection under Article 73 of the Constitution or Article 10 of the European Convention on Human Rights and therefore does not fall within the limits of freedom of expression that these legal rules are intended to protect. The plaintiff maintains that the content of the website grossly violates the privacy of themselves and others targeted by the site, as protected under Article 71 of the Constitution and Article 8 of the European Convention on Human Rights.

Although there is no formal definition of "hate speech" in international law or the domestic law of states that enjoy international recognition, various legal provisions and international legal instruments provide definitions and substantive content of the concept.

In this context, the plaintiff believes it is appropriate to look at Article 233.a of the General Penal Code No. 19/1940, pointing out that jurisprudence indicates that individual statements falling under this provision are considered sufficient for the provision to apply.

International legal instruments also provide indications of what are considered the main elements in the content of the concept on an international scale and according to Icelandic law.

For example, Article 20(2) of the International Covenant on Civil and Political Rights of December 16, 1966, refers to hate based on nationality, race, or religion, as well as expression that entails incitement to discrimination, hostility, or violence.

Article 4 of the United Nations Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965, refers to propaganda based on ideas or theories about the superiority of certain races or groups of people of a certain color or ethnic origin, or attempts to justify or promote racial hatred and discrimination in any form.

The Council of Europe's Committee of Ministers' Resolution of 1997 refers to expression that spreads, incites, promotes, or justifies racial hatred, xenophobia, anti-Semitism, or other forms of hatred based on intolerance, including ruthless nationalism, discrimination, and hostility towards minority groups, migrant workers, and people of foreign origin.

The plaintiff also refers to the Council of Europe's Convention on Cybercrime of November 23, 2001, and its Additional Protocol of January 28, 2003. The Additional Protocol refers to the presentation of ideas and theories that advocate, promote, or incite hatred, discrimination, or violence against any individual or group of individuals based on race, color, descent, or national or ethnic origin, and religion.

The Media Act No. 38/2011 also contains important principles in this area of law. For instance, under Article 27 of the Act, it is prohibited to intentionally fuel hatred based on race, sex, sexual orientation, religious beliefs, nationality, or cultural, economic, social, or other status in society. In explanations to the article, the concept is defined as speech, text, expression, behavior, and/or demeanor that manifests in text, sound, and/or image where there is incitement to violence, prejudice, and/or prejudicial behavior against an individual or group of people and/or involves demeaning, belittling, frightening, and/or threatening the individual or group.

For further clarification, the plaintiff points out that the concept of hate speech has been roughly broken down into four different levels in the international arena, using what has been referred to as "The Hate Speech Pyramid."

The plaintiff argues that according to the benchmarks laid out, it is clear that the content of the mentioned website is considered hate speech, as in the context of Article 233.a of the General Penal Code and other legal sources referred to above. In light of all the above, the plaintiff argues that they have proven, or at least made it plausible under Article 24(1) of Law No. 31/1990, that the content of the website <https://mapliberation.org> is hate speech in the aforementioned sense, as the website is directly based on anti-Semitism, at best prejudice and animosity towards Jews. Its content obviously violates the rights of the plaintiff and others who are named on it, including their privacy. Thus, the content of the website does not fit in any way within the limits of freedom of expression protected by Article 73 of the Constitution and Article 10 of the European Convention on Human Rights.

For the aforementioned reasons, the sheriff's decision to deny the plaintiff's request for an injunction is wrong. It should be invalidated, and the sheriff should be instructed to impose the injunction that the plaintiff has claimed.

The plaintiff notes that they have sought assistance from authorities both in the United States and in Iceland to shut down the website for the aforementioned reasons, but those attempts have so far not been successful. In those communications, it has been indicated that the police in Iceland believe they need a court decision to be able to take action against the defendant.

It is undisputed that the defendant hosts the mentioned website, and therefore the Icelandic courts have jurisdiction in the case. It is irrelevant even though the content of the website is directed at individuals, institutions, and companies outside Icelandic jurisdiction, i.e., in the United States.

The plaintiff is one of the parties specifically mentioned on the website, and the content and its publication are directed against them. In fact, all 25 board members of the plaintiff's national board are named on the site along with dozens of individuals who work for the plaintiff in the United States. Throughout the website, there is particularly charged, false, and untrue coverage of the plaintiff's activities. For example, it is stated that the plaintiff is engaged in espionage activities, such as against certain activists, and in addition, the plaintiff, which claims to protect the rights of Jews and other marginalized groups, has supported violence against them and even shielded Nazis. The purpose of this coverage is clearly to foster hatred or ill-will towards the plaintiff and to encourage the website's readers to take action, even violence, against the plaintiff, the individuals associated with or working for the plaintiff, or against the Jewish community in Boston and the vicinity and those individuals, institutions, and companies named on the website and linked in the manner shown there. For this reason, it is clear that the plaintiff has a legally protected interest in their claim in this case under Article 24 of Law No. 31/1990 and according to the principles of procedural law, as the website, its hosting, and the distribution of the content on it clearly violate the plaintiff's legally protected rights, such as in the sense of Article 71 of the Constitution No. 33/1944 and Article 8 of the European Convention on Human Rights, as per Law No. 62/1994. Furthermore, the content of the website is considered hate speech and anti-Semitism in the aforementioned sense. As such, its content is in opposition to the provision of Article 233.a of the General Penal Code No. 19/1940, and its distribution is also punishable according to the provision.

The plaintiff points out that Icelandic courts have ruled in their judgments that access to websites should be hindered if their content or function violates legally protected rights of people, referring in this context to judgments of the Supreme Court in cases No. 214/2009, No. 25/2017, and No. 33/2017.

Violations against the legally protected interests and rights of the plaintiff have been ongoing for some time. It is not foreseeable that there will be any cessation of these violations without change. The conduct began when the website's proprietors negotiated with the defendant for hosting it on June 18, 2022, and the website subsequently went live. The defendant still hosts it and thus contributes to providing readers access to the content published there. The plaintiff maintains that there is an action underway, as stipulated by Article 24(1) of Law No. 31/1990. It is irrelevant that the hosting has been ongoing for a significant period; it is not concluded but ongoing and will persist if not addressed.

The plaintiff contests that their claim is excessively intrusive or goes too far; on the contrary, it cannot be any less. This arises from the nature of the site, its design, content, and the intended purpose behind it, that an injunction cannot be applied to the hosting of or access to just part of it. In this regard, it should be noted that the website contains, as its name implies, a mapping of individuals and legal entities that the site's proponents are opposed to and seek to act against. Their names are published, their addresses listed, and their connections outlined as perceived by the site's proponents. It follows by the nature of the case that such online mapping, for the purposes described above, must be either banned or not.

Similarly, it is essential for the plaintiff to demand an injunction against the hosting of the website to prevent access to the content that the defendant hosts. In this context, the hosting of the website and the provision of access to the hosted content can be considered equivalent in the sense that readers would not have access to the website if it were not hosted by a hosting provider, in this case, the defendant.

For these reasons, it is clear that the plaintiff would not be able to secure their rights except by the means they have pursued with their claim. They could not secure these rights by merely requesting an injunction against specific statements on the site.

The plaintiff argues that they have already suffered damage due to the defendant, as the defendant hosts a website that violates the plaintiff's legally protected rights, as described above. Furthermore, the hosting of the website may lead to further damage to the plaintiff and others it mentions in the future, given the content, incitements, and challenges that appear on it if nothing is done. There is no indication that the defendant will change their behavior if left unchanged. It is also impossible to determine how much damage may potentially result from unrestricted access to the website in the future, as per Article 24(1) of Law No. 31/1990.

The plaintiff asserts that the damage to the claimant and the disruption of their interests and rights will not be compensated according to the rules of tort law or criminal law. It is not clear who the website's proprietors are. The defendant refuses to disclose this information. Therefore, it is unclear against whom such claims should be directed. It is also uncertain how much damage will be incurred or may be incurred from unrestricted access to the website, as per Article 24(3)(1) of Law No. 31/1990. No information is available about the ability or capacity of the website's proprietors to compensate the plaintiff for the damage that has or may arise from the operation of the website and the content published there, as it is not known for sure who they are. Furthermore, the defendant has renounced all responsibility for the content they host according to the aforementioned terms of service. The limitations of liability in Law No. 30/2002 on electronic commerce and other electronic services, such as the provisions of Chapter V of the law, mean that the rules of tort law and criminal law do not protect the plaintiff's rights against the defendant.

The plaintiff asserts that their interest in having an injunction placed against the hosting of the website far outweighs any interest the defendant may have in continuing to host it and providing unrestricted access to its content, according to Article 24(3)(2) of Law No. 31/1990. The hosting only provides the website's operators with the necessary means to violate the plaintiff's legally protected rights and does not serve any other behavior, as the site's content is intended to facilitate illegal actions for its readers and users and to encourage such actions. For this reason, the defendant's interests in continuing to host the site must be disregarded, as the purpose of keeping the site operational is unlawful, just like its content, as detailed above.

The plaintiff also argues that the interests of the website's operators or the author of its content have no bearing on the case's substance, as it has not been disclosed who they are.

Finally, the plaintiff contends that the provisions of Law No. 30/2002 on electronic commerce and other electronic services regarding the limitations of liability for service providers like the defendant do not preclude the injunction sought. On the contrary, it is explicitly stated in the comments accompanying the bill that these provisions do not affect the right to an injunction.

Taking all the above into account, the plaintiff maintains that all the conditions of Article 24 of Law No. 31/1990 are met to warrant an injunction against the defendant's behavior. The claim for legal costs is based on the provisions of Article 130 of the Act on the Procedure in Civil Cases No. 91/1991, cf. Article 35 of Law No. 31/1990 and Article 91(1) of the Execution Act No. 90/1989.

III

The Defendant's Arguments

The defendant argues that the freedom of expression of its service users outweighs the plaintiff's alleged interests. The defendant challenges the claim that the website's content constitutes "hate speech" or "anti-Semitism." The plaintiff reported alleged violations of Article 233(a) of the General Penal Code to the police, but both the Icelandic police and the authorities in the United States see no reason for action. The defendant refutes the plaintiff's assertion that the police are waiting for a court ruling to take action against the company hosting the website.

The defendant draws attention to the fact that the domain is registered with GoDaddy, a significant player in this market, which concluded that the website's content does not violate the company's policies or laws. Thus, the plaintiff's claims appear to have been unsuccessful wherever directed. The defendant believes the injunction request is overreaching and that the plaintiff's case may reflect the accusations made about the plaintiff on the website.

The defendant emphasizes that the authors of the website's content enjoy freedom of expression under international treaties and Article 73 of the Constitution. Case law makes it clear that any restrictions on this freedom must be narrowly construed, and recent case law suggests a trend towards greater protection of freedom of expression. The website's content is said to be meticulously researched, including the plaintiff's practices. The fact that the discussion is uncomfortable for the plaintiff does not mean it can be shut down with an injunction. It is essential to consider that the plaintiff is an organization that has been active for decades against individuals, organizations, states, and public opinions and has sought to control the discourse, including by training police and influencing school curricula. An organization working in such a way must withstand severe criticism and cannot quash such criticism by waving the hate speech card without reason.

Furthermore, it should be considered that the website's content is merely a compilation of information from the plaintiff itself, court cases, news articles, and other writings. There are no claims on the website that are not supported by sources or other writings. It is clear that a ban on hosting or accessing would go too far, given the vast amount of information on the website.

The defendant further argues that the plaintiff's demands are excessively intrusive and clearly infringe on freedom of expression. The request for an injunction to prohibit the defendant from "distributing data, content, and information as published on [the website]" effectively means that no website hosted by the defendant may publish any content currently on the said website, whether it concerns the plaintiff or others. Such a demand reveals that the real purpose of the injunction is to suppress discussion about the plaintiff. The defendant points out that the plaintiff is not merely seeking an injunction against specific statements, which is common practice at least as a secondary measure, but instead the closure of the website. The defendant had specifically requested a detailed account of the statements the plaintiff considered to be "hate speech," and clarification on the alleged criminal activity they claim the website encourages. This request has not been answered, making it impossible to inform service users about the supposed statements that constitute hate speech.

The defendant contends that the conditions of Article 24(1) of Law No. 31/1990 are not met. The website's content cannot be considered an action that disrupts the plaintiff's legally protected rights to an extent that justifies an injunction. Additionally, the plaintiff has not demonstrated that their interests will be irreparably harmed without a preliminary injunction. Since the website has been hosted by the defendant since June 18, 2022, for over a year, the plaintiff has not shown that their alleged interests justify the provisional measure an injunction implies.

The defendant also rejects the claim that it has limited interests to defend and highlights that it hosts thousands of foreign websites. If an injunction could be obtained based on allegations of hate speech content, without any authority deeming it necessary to act, it could lead to numerous customers deciding to take their business elsewhere, away from Iceland, despite local legislation intended to ensure a broad right to freedom of expression online. Thus, the defendant is protecting both its own interests and those of its customers, including the service user in this case.

The defendant reiterates that the writings in question do not intrude upon the plaintiff's or anyone else's private life beyond what they must endure in public discourse in a democratic society, which the plaintiff has not contended. It is apparent that the service user criticizes the plaintiff severely and believes the organization covertly and overtly acts against the interests of, among others, Palestine and even Jewish interests. From the content referred to on the website, it can be inferred that the plaintiff is engaged in suppression tactics, and it is suggested that for decades the organization has conducted espionage and used the tactic of falsely accusing activists of being criminal organizations if they are not favorable to the plaintiff or their cause. The website also states that the plaintiff utilizes connections with various parties, who are also named on the website.

The defendant argues that it is unreasonable to assume that the requirements of Article 24, Paragraph 3 of Law No. 31/1990 have been met. When assessing this, particularly under the second clause, it is necessary to consider the interests of the authors of the content and/or the service users rather than the defendant itself. It would be unacceptable to the defendant to consider only its interests in the injunction without considering the website's owner or authors of the content. Otherwise, it would disregard the interests of the service provider's clients.

The defendant also points out that there is no discussion about the nature of the alleged damage to the plaintiff and how the website has caused it. Merely being better informed

cannot be an argument for an injunction. The website is not the only place where the plaintiff is critically discussed. The defendant refers to several other websites that need not be mentioned here. It has not been proven that any damage to the plaintiff comes from the discussion on the referred website and not from other websites, including those mentioned by the defendant. Reference is made to some possible future damage that the website may cause, without explanation. It is also unclear which legally protected rights the plaintiff refers to in paragraph 93 of their statement, considering that the plaintiff only represents its own interests and not those of others. For the defendant, it is essentially impossible to understand what the damage is supposed to entail.

Furthermore, the defendant emphasizes that a significant portion of the content on the website is not directed at the plaintiff. The defendant reiterates the purpose of the website as previously described. Comments may be uncomfortable, ambiguous, and can go far. This does not mean that there are grounds for imposing an injunction against hosting or publishing the site, as this would be clear censorship. An injunction against hosting the website would also be directly contrary to comments in the general remarks accompanying the bill to amend the laws on electronic commerce and other electronic services, No. 30/2002 (149th legislative session 2018-2019, document 810-494. case) where it is stated verbatim: "The bill aims at expanding freedom of expression, achieved by reducing the responsibility of hosting providers and their duty to remove data, as such responsibility and duty may have a chilling effect on freedom of expression."

The defendant also contests that the comments on the website constitute encouragement of violence and reiterates that it has challenged the plaintiff to specify exactly which comments it believes are unlawful. In paragraph 20 of the plaintiff's statement and in the injunction request to the magistrate under paragraph 19, it is mentioned that the website encourages actions against certain individuals, specifically referring to the words "dismantled" and "disturbed." It may be assumed that these are the words the plaintiff believes justify the imposition of an injunction against hosting the website and thus shutting it down to the public. The plaintiff chooses to translate the word "dismantled" as "uproot." The defendant believes this to be an incorrect translation as the word refers to taking apart, such as dissolving a company. The plaintiff's chosen interpretation of these comments cannot be decisive. Whether the translation "uproot" or "dissolve" is used, in no way does it constitute encouragement of violence or hate speech.

The defendant maintains that the word "disturbed" simply means that the operation is disrupted. Neither action constitutes a violation of the penal code. Under paragraph 25 of the plaintiff's statement, other comments that the organization believes justify an injunction are listed, translated by the plaintiff as:

"We have shown real addresses, names of representatives and leaders, and mapped connections. These entities do exist and can be disrupted. We hope that people will use our map to see how they can respond effectively."

The plaintiff interprets the above words as "incitement or a call for action against Jews." It states that the presentation implies that "it is left up to readers to decide for themselves what such actions should consist of." The plaintiff is essentially admitting that there is no encouragement of violence. It seems to be based on the idea that readers might interpret the correct response as violence. The defendant disputes this interpretation. The same

interpretation could be used against a plethora of comments in various articles and books, including the Bible.

It is completely irrelevant to refer to violent incidents in recent years that are not related to the discussed website or to the alleged concerns of Jews in the Boston area due to the website. The website contains critical discussion that is uncomfortable for many and is not specifically directed at Jews, if at all. For example, the site discusses many institutions and police departments that have no connection to Jews. However, the criticism of them is that they have received training and education from the plaintiff. Moreover, officials have traveled with expenses paid by the plaintiff. The site also criticizes educational institutions that have allowed the plaintiff to influence the curriculum. The plaintiff is not above such criticism, nor are those who have accepted such training, including educational institutions and authorities. The fact that addresses of companies or institutions are specified has no meaning as they are accessible to everyone.

Thus, it is both incorrect and imprudent to assert that the discussion is directed at Jews and constitutes anti-Semitism. It appears that the plaintiff is using the same methodology that the organization is criticized for using on the website.

Regarding claims that the website contains anti-Semitism, the defendant points out that the plaintiff is criticized on the website for fighting against the interests of Jews. It is impossible to conclude that the service user is inciting violence or engaging in "hate speech." Such a conclusion would devalue the term. The defendant emphasizes the importance of considering the context in which comments are made and the plaintiff's practices since the mid-20th century.

The defendant also notes that it is well-known for individuals or companies to be encouraged to react to various entities. For example, Amnesty International regularly employs methods where individuals are encouraged to take action against certain entities or states. Unions have urged members not to patronize certain companies, which are listed along with their locations. Israelis have been pressured in Iceland with encouragement to boycott Israeli products, and animal rights groups have campaigned for companies that engage in whaling to be boycotted. Such actions do not constitute hate speech.

The essence of the case is that the content of the website neither constitutes hate speech nor anti-Semitism, as the plaintiff's cause has not received support anywhere, including in the United States where claims have been presented.

The defendant rejects the notion that Supreme Court decisions cited by the plaintiff as supporting their claims have any precedential value or relevance in this case, as those cases concerned the distribution of copyright-protected content, which is not at issue here.

The defendant also points out that in the plaintiff's statement, it is argued that the website's content constitutes a breach of privacy and defamation of the plaintiff and its employees, as discussed under paragraphs 52-53. These arguments were not presented in the injunction application, which was limited to the claim that certain comments constituted hate speech. Therefore, these arguments are not considered, and they are deemed irrelevant. Furthermore, the defendant contends that no comments on the website violate the privacy or defame the honor of the plaintiff or unnamed employees who are not parties to the case. The defendant also argues that truthful comments cannot constitute a breach, and that freedom of speech

gives their service user the right to draw conclusions from data, noting that the website invariably refers to sources, including documents leaked from the plaintiff. The plaintiff has not referred to specific comments that allegedly violated privacy or defamed the plaintiff or its employees, which is why the injunction should be denied. If the plaintiff's case had initially been based on these grounds, it would have been appropriate to list the specific comments in the injunction application to the magistrate and seek an injunction against their publication.

It is also contended that these issues cannot be resolved in an injunction case. If the plaintiff truly believed that the website contained defamatory comments, it should have filed a defamation lawsuit, which they have not done.

In light of all the above and the magistrate's reasons in case no. 2023-260291, the defendant argues that the magistrate's decision from April 26, 2023, to reject the injunction request should be upheld. Additionally, the defendant demands that the plaintiff's claim for legal costs be denied regardless of the case's outcome, but conversely, the plaintiff should be ordered to pay the defendant's legal costs. This claim for legal costs is supported by the provisions of law nr. 91/1991, in accordance with laws nr. 31/1990 and nr. 90/1989. Finally, the defendant opposes all arguments and the construction of the case presented by the plaintiff.

IV Conclusion

In this case, the dispute concerns whether the conditions of Law No. 31/1990 regarding attachment, injunctions, etc., are fulfilled to justify acceding to the plaintiff's demands for an injunction against the defendant's hosting of the website <https://mapliberation.org>, as well as the data, content, and information that are published on the website, and also in terms of the defendant providing access to the same website and distributing the data, content, and information that are published on it. There is no dispute in the case that the plaintiff, as an unregistered association, is considered to have legal standing in court practice in this country, nor that the association has a legitimate interest to guard stemming from its claim for an injunction, especially since the association and its leaders are discussed on the said website.

The decision of the Magistrate of the Capital Region to deny the plaintiff's request for an injunction was based on the provisions of paragraphs 1 and 3 of Article 24 of Law No. 31/1990. According to paragraph 1 of the article, an injunction can be imposed against an action already started or impending by an individual or the representative of an association or institution if the plaintiff proves or makes it probable that the action violates or will violate their lawful rights, that the defendant has already begun the action or will do so, and that the plaintiff's rights will be lost or suffer significant harm if they must wait for a court decision on them. According to paragraph 3 of the same article, an injunction will not be imposed if it is considered that legal rules about punishment or compensation for disruption of the plaintiff's interests provide sufficient protection, as per clause 1 of the provision, or if it appears that there is a significant discrepancy between the interests of the defendant for the action to proceed and the interests of the plaintiff to prevent it, provided that the defendant puts up security for the damage that the action may cause the plaintiff, as per clause 2 of the provision. As stated in the comments accompanying this article of the bill, an injunction is inherently an emergency measure that should not be applied in cases where general remedies are sufficient.

The condition for an injunction according to paragraph 1 of Article 24 of the law is met that it concerns an action already started or impending since it is clear that the defendant hosts the said website which is accessible at the said domain. Then, the main condition for an injunction is that the action in question violates or will violate the lawful rights of the plaintiff.

The plaintiff essentially argues that the content of the mentioned website constitutes hate speech, specifically anti-Semitism, which the organization fights against and can be considered punishable. Such expression falls outside the protection scope of the freedom of expression provision of Article 73 of the Constitution and Article 10 of the European Convention on Human Rights, and violates the rights of the plaintiff and others who are named on the website or against whom the content is directed, including their right to privacy, according to Article 71 of the Constitution and Article 8 of the Convention.

During oral argument, the plaintiff contested that the defendant could assert defenses related to freedom of expression of their customers/clients who are behind the mentioned website, on the grounds that the protection of Article 73 of the Constitution is bound to those who have an opinion or express their conviction, as such a person must account for those themselves in court. The defendant contested this, arguing that the expression appearing on the website is protected under the freedom of expression provisions of the Constitution and the European Convention on Human Rights.

It must be accepted that neither Article 73 of the Constitution nor other legal reasons prevent the defendant from putting forward any kind of arguments, including those that concern the freedom of expression of its customers.

Regarding the definition of hate speech, the plaintiff refers to various definitions of the term, including Article 233.a of the General Penal Code No. 19/1940, which states: "Anyone who publicly ridicules, slanders, defames, or threatens an individual or a group of individuals with comments or other forms of expression, such as with images or symbols, due to nationality, national origin, skin color, race, religion, disability, gender characteristics, sexual orientation, or gender identity, or spreads such, shall be subject to fines or imprisonment for up to 2 years."

This definition of hate speech in Article 233.a and other definitions referred to by the plaintiff mostly have in common that the expression in question must be directed at individuals or a group of individuals based on certain characteristics that identify them, such as nationality, race, etc. Although the plaintiff bases another strand of its case on the premise that there is a punishable offense against this provision of the General Penal Code, the case files do not show that the organization has let such a claim be tested, through a complaint and a demand for a public investigation to the appropriate authorities, whether in this country or in their home country.

The plaintiff's argument must be understood to mean that the comments that he has had translated, and which are recounted in Chapter I above regarding the facts of the case, are believed to contain hate speech and infringe on his and others' right to privacy. During oral proceedings and in the party's statement in court, emphasis was placed on the fact that the website's interactive map displays connections between the organization and other institutions, associations, and organizations.

There are published addresses of the plaintiff and several institutions and organizations, as well as the names of the board members of the plaintiff. The readers of the website are encouraged to take action by pointing out that it is possible to dismantle these organizations, associations, and institutions and disrupt their operations, as their addresses are known and published on the website. This expression must be considered within the context in which it is presented, as the website is full of false and prejudiced assertions about the plaintiff's activities. Taking all this into account, the plaintiff believes that at best, the content of the website could be seen as a threat and, at worst, as an incitement to acts of violence, making those identified there direct targets of the actions encouraged on the website. The representative of the plaintiff expressed concern that extremists could interpret these words as an incitement to commit acts of terror.

As emerged during oral proceedings, it appears uncontested in the case that the addresses of various legal entities, including the headquarters of the plaintiff, can be seen by clicking on their names on the interactive map, although it cannot be seen that the plaintiff has submitted prints from the website that directly show the publication of addresses. Conversely, the case documents do not support the plaintiff's assertion in the brief that individual addresses are published on the website. Among other things, it was stated in the party's statement of the plaintiff's representative that her address was not published on the website. Therefore, it is considered unproven.

In the case law of local courts and the European Court of Human Rights, when evaluating statements in cases that relate to the intersection of freedom of expression and privacy, it has been viewed that disputed statements must be considered as they appear and in the overall context in which they are presented. It is clear that the words "dismantle" and "disrupt," which the plaintiff emphasizes, or "uproot" and "disrupt" as they have been translated, are directed at the plaintiff and other associations, organizations, or institutions, not at individuals or groups of individuals, and not because of their characteristics listed in such definitions, but rather because of their activities. Although the content of the website, as it is presented in the case, undeniably contains sharp criticism of the plaintiff's activities, as well as many others, this criticism is supported by reasons and evidence, regardless of the assessment of its legitimacy and fairness. It is also uncontested and established that the names of the board members of the plaintiff and the address of the association are published on the plaintiff's own website. To the extent that the case may revolve around the publication of names of more individuals who work for the plaintiff on the website, the case is not sufficiently developed by the plaintiff, including regarding his authorization to represent the legal interests of those individuals.

Considering all the above and the content of the website as a whole, it cannot be concluded that the expression referred to by the plaintiff constitutes hate speech, within the meaning of Article 233.a or according to other definitions referred to by the plaintiff, that falls outside the protection scope of Article 73 of the Constitution and Article 10 of the European Convention on Human Rights, see Law No. 62/1994. Therefore, the plaintiff's main argument is rejected.

If the plaintiff's request for an injunction were accepted, it would entail a limitation on the freedom of expression of the unknown parties behind the website, which the defendant can claim, as previously stated. To the extent that the plaintiff's case might contain an argument that the privacy of the associations should outweigh the freedom of expression when these rights conflict, despite not accepting that it constitutes hate speech, this argument is not sufficiently elaborated upon considering the viewpoints taken into account in the

jurisprudence of the European Court of Human Rights and local courts. Firstly, the plaintiff has not attempted to argue that associations like it can at all enjoy the privacy rights in question, see Article 71 of the Constitution and Article 8 of the European Convention on Human Rights. Nor has it been sufficiently argued on what basis the associations believe they can claim that the privacy of others besides themselves is being violated, which appears to be assumed by them.

Finally, it must be pointed out that the plaintiff, a large, well-established, and financially strong organization, must tolerate critical discussions, even harsh and irrelevant ones, as befits their activities and purpose. When it comes to significant issues that are of public interest, as in this case, the freedom of expression is less likely to be restricted. Therefore, this potential argument by the plaintiff is also rejected.

On behalf of the plaintiff, no other legal provisions have been referred to beyond those mentioned above that could justify the limitation on freedom of expression sought with the plaintiff's request for an injunction. The plaintiff's argument that the website's content violates the honor of the association, which was not specifically built upon in the injunction request, is significantly underdeveloped and unsupported by legal grounds. Therefore, it will not be further addressed.

Considering all of the above, the plaintiff has neither demonstrated nor made it sufficiently probable that the condition for an injunction according to paragraph 1 of Article 24 of Law No. 31/1990 is fulfilled, that the act of the defendant hosting the mentioned website, and thus providing access to it, violates or will violate the plaintiff's lawful rights. Moreover, the plaintiff has made little effort to demonstrate what rights of theirs would be lost or suffer significant damage if they were compelled to seek a court judgment by usual means, and it is insufficient in this respect to refer to the potential for attacks by extremists, which could have multifaceted explanations.

For the above reasons, the legal conditions are not met to grant the plaintiff's request to invalidate the decision of the District Commissioner of the Capital Region to deny their injunction request. Therefore, that request, as well as all other claims of the plaintiff in the case that directly arise from that request, must be denied. There is then no need to consider other arguments upon which the district commissioner's decision was based, see paragraph 3 of Article 24 of Law No. 31/1990, nor other arguments of the parties, including the scope and delimitation of the plaintiff's claims.

According to the outcome of the case, see paragraph 1 of Article 130 of Law No. 91/1991, paragraph 1 of Article 35 of Law No. 31/1990, and paragraph 1 of Article 91 of Law No. 90/1989 on enforcement procedures, the plaintiff is ordered to pay the defendant's legal costs, which are considered appropriately determined as stated in the verdict.

Hildur Briem, District Court Judge, pronounces this verdict.

Verdict:

All claims of the plaintiff, Anti-Defamation League, in this case, are denied.

The plaintiff shall pay the defendant, 1984 ehf., 1,300,000 Icelandic Kronur in legal costs.