

CASE LAW / Reporte

URUGUAY

CASE: PRECAUTIONARY MEASURE LOCKED ACCESS TO WEB SITES THAT REPRODUCED TV SIGNALS WITHOUT PAYING

Client	FOX INTERNATIONAL CHANNELS
Case	ROJADIRECTA
Pertinent judge	Judge Specialized in Organized Crime of 1st Shift, Dr. Dolores Sánchez De León

Background

ROJADIRECTA is the illegal website of “streaming” sports events more known around the world, and which makes available to users the retransmission of matches from all the world leagues.

It achieves this through a “library” of links ordered by sporting events, which redirect the user to sites that retransmit the events, without prior authorization from the holders of the rights themselves.

FOX INTERNATIONAL CHANNELS is the holder of the transmission rights in the exclusive form of the *Copa Libertadores de América*, *Copa Sudamericana* and *Recopa Sudamericana*, events that ROJADIRECTA retransmits illegally and without its prior authorization.



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## Judicial actions

**Submission of Criminal Complaint before the Criminal Justice Organized System for violation of the copyright of FOX INTERNATIONAL CHANNELS.**

**Request for precautionary blocking measure of all websites called ROJADIRECTA by all Internet providers in Uruguay.**

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### 1 > Submission of criminal complaint and legal basis

On May 5, 2017, it was filed before the Criminal Court of First Instance Specialized in Organized Crime of the 2nd shift, criminal complaint for violation of the Copyright of FOX INTERNATIONAL CHANNELS, against the administrator and representative of the company **PUERTO 80 PROJECTS SLU**, owner of the website called ROJADIRECTA (www.rojadirecta.me), and against Mr. Igor Seoane.

The legal basis of this complaint was based on article 46 Lit. A of Law No. 9,739 (in the wording given by Law No. 17,616), which punishes with three months' imprisonment to three years of penitentiary, to whom it makes available to the public for gaining some profits or to cause unjustified damages, an emission without the written authorization of the owner.

Applying such regulations to the situation, **ROJADIRECTA** does not broadcast illegal content on its own page, but instead makes available to the public those links that redirect the user to the sites that effectively broadcast sports events without FOX's consent.

### 2 > Provisional measure: elements and legal basis

Also, as an interim measure under the provisions of Article 47 of Law No. 9.739 (in the wording given by Law No. 17.616), and Article 81 of the Criminal Procedure Code, it was **requested the blocking of access to all web sites called "ROJADIRECTA"**, being provided to Uruguayan Internet providers that the Communications Services Regulatory Unit (URSEC) will indicate.

### 3 > PROSECUTOR REQUESTS BLOCKING ROJA DIRECTA'S WEB SITES BY INTERNET SUPPLIERS

In compliance with what was requested by the investigating authority designated for this case, it informed the Communications Services Regulatory Unit (URSEC) to communicate who are the Internet providers authorized in Uruguay.

URSEC communicated the twelve (12) names of suppliers and subsequently the proceedings went before the Public Prosecutor's Office in order to continue with the request of INTERPOL.

On March 12, 2018, Mr. Prosecutor of Organized Crime of the 2nd shift, Dr. Luis Pacheco Carve, in resolution No. 215/2018 considered that ***"... the denounced conduct fits in criminal figures provided in article 46 paragraph A) of Law No. 9.739, in the wording given by Law No. 17.616, in that it makes available to the public an emission, for profit or may cause unjustified harm, without the corresponding authorization of its owner; and in articles 1 and 2 of Law No. 17,520, in that signals are received and are intended to be received exclusively in the subscriber regime, without being so; or the manipulations or activities necessary to obtain the illicit are carried out."***

Regarding the precautionary blocking measure of all the **ROJADIRECTA** websites, the Prosecutor considered that: ***"...it is admissible under the provisions of article 47 of Law No. 9.739 and article 81 of the Criminal Procedure Code, because the needed requirements have been met to be considered as the ownership of the rights and it is also a matter of avoiding that the criminal conducts denounced continue to be committed, even if the precise identification or location of those responsible for such behavior has not been achieved"***.

With these considerations, the Prosecutor required the Specialized Judge in Organized Crime of 1st shift, Dra. Dolores Sánchez De León: ***"...to decree the blocking of the access of the websites denominated "ROJADIRECTA", officiating to the suppliers of Internet listed in the reply of the URSEC ..."***.

#### **4 > The judge resolves to block all roja directa websites to uruguyan internet providers (isp)**

The following day, and considering what the Public Ministry, on March 13, 2018, the Specialized Judge in Organized Crime of 1st shift, Dra. Dolores Sánchez De León ordered by resolution No. 275/2018 as precautionary measure: ***"blocking access to all websites called "ROJADIRECTA"***.

In compliance with the ruling, on March 16, 2018, the communications were made to all Internet providers informed by the URSEC, and the same were completed on March 23, 2018.

#### **5 > Non-compliance by the internet providers (isp) of the precautionary measure**

Despite the notification to Internet providers, access to the websites called "ROJADIRECTA", -mainly to the site [www.rojadirecta.me](http://www.rojadirecta.me)- continued to function.

Faced with this situation, FOX **requested the reiteration of the communication,**

**demanding compliance with the measure within a period not exceeding 48 hours**, each Internet provider must certify compliance with the list of URLs (access routes) and DNS (names of domain) that were detailed.

These indicated access routes referred to the main web pages that, although they had different domains, once inside, the user was redirected to the mother website: [www.rojadirecta.me](http://www.rojadirecta.me).

## 6 > Sentence that reaffirms the precautionary measure of blocking

On June 15, 2018, the sentence No. 644/2018 was issued, whereby the blocking order was maintained.

### Basis:

- ▶ **The website “ROJADIRECTA” allows Uruguayan users to access the transmission of football matches without the authorization of the owner.**
- ▶ **There is a violation of the right of Intellectual Property of FOX by ROJADIRECTA by making available the illegal links that transmit the games illegally.**

By this, the reiteration of the communication to the Internet providers was resolved, in which not only the URLs and DNS to be blocked were detailed, but they were given a period of 48 hours to comply with the blockade provided and requested to be accredited within a maximum period of 72 hours from the reception of said communications.

## 7 > Compliance with the blocking order by internet service providers

On June 27, 2018, the evidence was filled and a day later it was found that the largest internet service provider in Uruguay had lowered the illegal sites of **ROJADIRECTA**.

Currently, from Uruguay it is impossible to access the famous web page, thus being able to set a precedent of utmost importance for Uruguay and the region.

## DNS y URL detailed to be blocked:

“Block at the DNS level the following domains:

- **rojadirecta.me,**
- **rojadirecta.com,**
- **rojadirecta.es,**
- **rojadirecta.eu,**
- **rojadirecta.ge,**
- **rojadirecta.live,**
- **rojadirecta.online,**
- **rojadirecta.org,**
- **rojadirecta.tv,**
- **rojadirectaonline.net,**
- **rojadirectas.me,**
- **rojadirectatv.mx,**
- **rojadirectatv.tv,**
- **tarjetarojadirecta.net y**
- **rojadiracta.me,** y cualquier otra que similar que se utilice en Uruguay”

“Block at the URL level the following domains:

- **www.rojadirecta.me,**
- **www.rojadirecta.com,**
- **www.rojadirecta.es,**
- **www.rojadirecta.eu,**
- **www.rojadirecta.ge,**
- **www.rojadirecta.live,**
- **www.rojadirecta.online,**
- **www.rojadirecta.org,**
- **www.rojadirecta.tv,**
- **www.rojadirectaonline.net,**
- **www.rojadirectas.me,**
- **www.rojadirectatv.mx,**
- **www.rojadirectatv.tv,**
- **www.tarjetarojadirecta.net y**
- **www.rojadiracta.me**

## Law N° 9.739

### Intellectual and Artistic Property

**Article 48.** “The Judge, at the request of the holder of the respective right or of its representative, or collective management entities, may order the practice of precautionary measures necessary to prevent the violation from being committed or repeated or continue with the violation made to the exclusive rights of the owner and, in particular, the following: 1) The immediate suspension of the activities of manufacture, reproduction, distribution, communication or illegal importation (...) “

## Conclusions

This case marks an important judicial precedent in Uruguay in which the Criminal Justice specialized in Organized Crime orders as a precautionary measure to prevent the prolongation of the crime, the blocking of access to a website by Internet providers, considering that it infringes the copyright protected by the Uruguayan Law of the holders of sporting events retransmitted illegally.

It is worth noting the special emphasis that the Prosecutor makes by requesting that said measure be carried out without prejudice to the fact that the individuals responsible for such conduct had not been identified or located precisely.

This means that, beyond ROJADIRECTA is the best known “pirate” sporting event in the world, and that both its administrator and the servers that feed it are abroad, the fact that it was a website active in Uruguay, with a perfect functioning, contributes to the spread of crime, affecting those who see their rights violated.

That is why this resolution marks the beginning of judicial awareness on the issues of online piracy, where agile measures are taken, considering the latent damage beyond those



## Legislation applied to the case

### **Article 46 - Law N° 9.739 in the redaction of Law N° 17.616**

**A)** Whoever edits, sells, reproduces or has reproduced by any means or instrument -totally or partially-, distributes, stores for distribution to the public, or makes available to the public in any form or medium, for profit or cause unjustified damage, an unpublished or published work, an interpretation, a phonogram or broadcast, without the written authorization of their respective holders or successors in any capacity, or shall be attributed to them or to a person other than the respective owner, contravening in any way provided in this law, will be punished with penalty of three months of prison to three years of penitentiary.

**B)** With the same penalty shall be punished who manufactures, imports, sells, leases or puts in any other way in circulation, devices or products, components or tools thereof or provide any service whose purpose is to prevent, circumvent, eliminate, deactivate or avoid in any way, the technical devices that the holders have arranged to protect their respective rights.

**C)** In addition to the sanctions indicated, the Court will order the confiscation and destruction, or arrange any other means of suppression of copies of works or productions and their packaging or packages in violation, as well as all articles, devices or equipment used in the manufacture of the same. In those cases in which the equipment used for the commission of the aforementioned crimes does not have this activity as its sole purpose, the Judge will substitute the destruction for the delivery of said equipment to official educational institutions.

**D)** Three months of imprisonment to three

years of penitentiary will be sanctioned with the penalty of altering or eliminating, without authorization from the owner of the rights protected by this law, the electronic information placed by the holders of copyright or related rights, to enable the management of their patrimonial and moral rights, so that these rights can be harmed. The same penalty shall apply to those who distribute, import for distribution purposes, issue or communicate to the public, without authorization, copies of works, interpretations or phonograms, knowing that the electronic information placed by the holders of copyright or related rights, has been suppressed or altered without authorization.

**E)** Whoever reproduces or has reproduced, by any means or procedure, without profit motive or to cause unjustified damage, a work, performance, phonogram or broadcast, without the written authorization of the respective owner, will be punished with a fine of 10 UR (ten readjustable units) to 1,500 UR (one thousand five hundred readjustable units).

### **Article 47 - Law N° 9.739 in the redaction of Law N° 17.616**

As a preparatory measure, the holders of the rights protected in this law may request a judicial inspection to verify the facts that prove infractions to this law.

The Judge may order the search of the place where it is reported that it is being committed the infraction, drawing up the minutes where the facts stated are described and collecting, as far as possible, what is probative.

The inspection decreed by the Judge will not require caution.

The judicial inspection is reserved and will be decreed without notifying the person against whom it is requested.

**Law N° 15.032**  
**CODE OF CRIMINAL PROCEDURE**  
**Article 81 (\*). (Precautionary capacities).**

The victim of the crime may appear in the process, by written request and promote the adoption of precautionary measures in accordance with the provisions of Article 159.

When the injured by the crime is the State, this will be overseen by the Prosecutors of the Treasury in the capital city and Departmental Attorneys in the interior of the country.

For these purposes, the intervening Court will notify the corresponding Prosecutor.

For the processing a separate piece will be formed, which will be added to the main cause.

(\*) At the time of making the complaint, the new CCP was not in force, so the basis of the measure is with reference to the old one.

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