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Abstract:

Injunctions addressed to intermediaries are a subject of regulation of articles 11 of the directive 2004/48 and 8 sec. 3 of the directive 2001/29. Provisions of both of the articles allow copyright as well as other intellectual property rights holders to apply for an injunction against intermediaries whose services are used by a third party to infringe an intellectual property right. While introducing proper protective measures, Member States shall ensure that the measures comply with EU law, in particular they remain in accordance with proportionality rule. Instead of clarifying the doubts, the recent ruling of the CJEU in the *UPC Telekabel Wien GmbH v Constantin Film Verleih GmbH* case on the proportionality of blocking measures such as Austrian Erfolgsverbot has raised even more questions. The Author of the paper addresses, and aims at answering, two significant questions: about proportionality of the ruling and its impact on national legislation of Member States.