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IP addresses and personal data: K.U. v Finland

Classifying IP addresses as personal data could have serious implications for search engines and many other electronic businesses, in particular, the personalised advertising business model of the Internet. Recent court decisions have not clarified the position, so businesses that log IP addresses should proceed with caution.



An IP address is a device's (typically a computer's) address as expressed in the numerical format specified in Internet Protocol, IPv4, (24 digits) or IPv6 (128 digits, which increased the number of IP addresses available). An IP address is allocated by an Internet Service Provider (ISP) to ensure that data requested returns to the right place. There are two different types of IP addresses, namely dynamic and static. Dynamic IP addresses can change each time a connection to the Internet is made, while static IP addresses are reserved and do not change over time. Residential Internet connections, whether broadband or dialup usually use dynamic IP addresses, while commercial leased lines and servers have static IP addresses, so they can always be reached at the same address. For instance, the IP address for www.news.bbc.co.uk is always 212.58.226.75. Typing the numbers into a browser address bar will display the same result as typing the words.

In *K.U. v Finland*, the European Court of Human Rights (ECHR) has decided to hear a potentially significant case considering whether victims of online activity may have a right to identify the internet users alleged to be responsible. In this case an unknown person placed an online solicitation for a sexual relationship under the name of a 12 year old boy, listing the boy's name, phone number, date of birth and a picture. A second person contacted the boy and was later identified and

prosecuted for it. The notice was taken down but the publisher of the notice remained unknown, except for his or her dynamic IP address at the time the notice was placed. The victim tried to identify the publisher – with the help of law enforcement – through the ISP that had issued the dynamic IP address. At that time, however, Finnish law did not give the police the authority to order the ISP to hand over the data to the police, because of the low punishment for the crime of acting under a fake identity. Finnish courts affirmed this impossibility. The complainant claims Finnish law does not give him an effective remedy under the ECHR with regard to an infringement of his private life.

The outcome of the case could have far-reaching effects on the privacy of all European Internet users, if it concludes that there was an actual infringement of the applicant's right to private life. Importantly, Article 8 ECHR places Finland under a positive obligation to ensure the respect to private life between private parties. A ruling requiring contracting states to provide for the disclosure of IP addresses by ISPs would make further inroads into the ability to remain anonymous on the internet.

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