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FOD Economie, K.M.O., Middenstand en Energie

Dynamic blocking injunctions in Belgium

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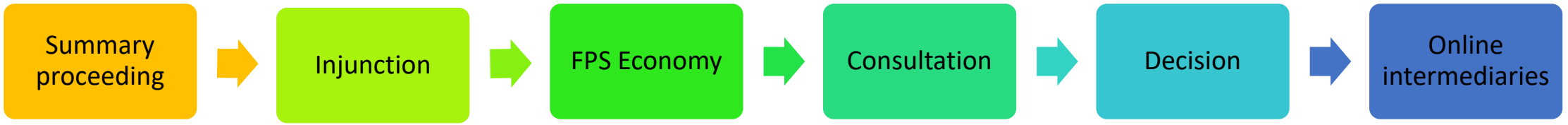
I. The Belgian procedure to obtain a dynamic blocking injunction

A hybrid procedure



Civil proceedings (art. XVII. 34/1 Code of Economic Law)

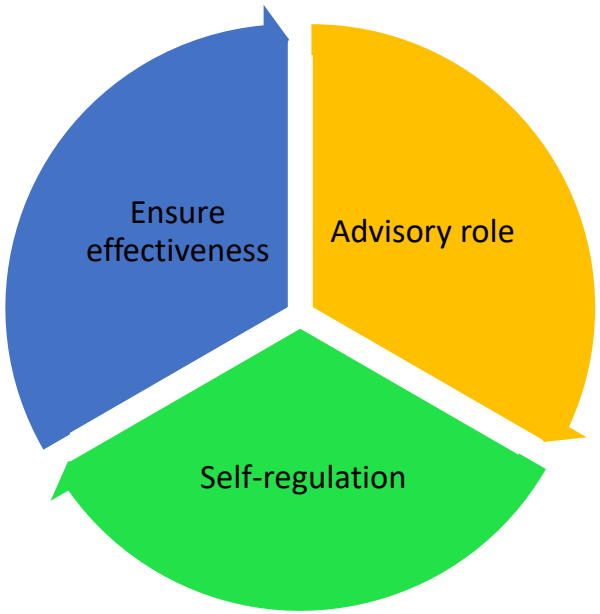
- Procedure before the President of the Business Court of Brussels
- By subpoena or unilateral petition (presumption of urgency or necessity)
- 3 conditions to obtain blocking order:
  - Appearance of rights
  - Clear and substantial infringement of copyright
  - Justified balance of interests
- Order within max. 8 working days (unless exceptional circumstances)
- The measures have a provisional character
- Right holders can request the judge to mandate administrative authority

Administrative proceedings (art. XVII. 34/3 Code of Economic Law)

- Judge can grant the administrative authority the power to:
  - Set modalities of temporary measures to stop infringement
  - Identify replica of infringing content (e.g. mirror site, ads, apps,…)
  - Identify new address providing access (redirect) to infringing content
  - Monitor effectiveness of temporary measures (Impact assessment)

- Procedure to reach decision:
  - Consultation of parties (optional)
  - Taking fundamental rights and freedoms into account
  - Timeline: between 3 and 9 workdays

Mission of the administrative authority



- Ensure dynamic character and effectiveness of the injunctions
- Provide recommendations when the injunction is challenged
- Encourage a protocol, code of conduct, agreement to fight online piracy

Mission of the administrative authority

II. Outcome of the injunctions

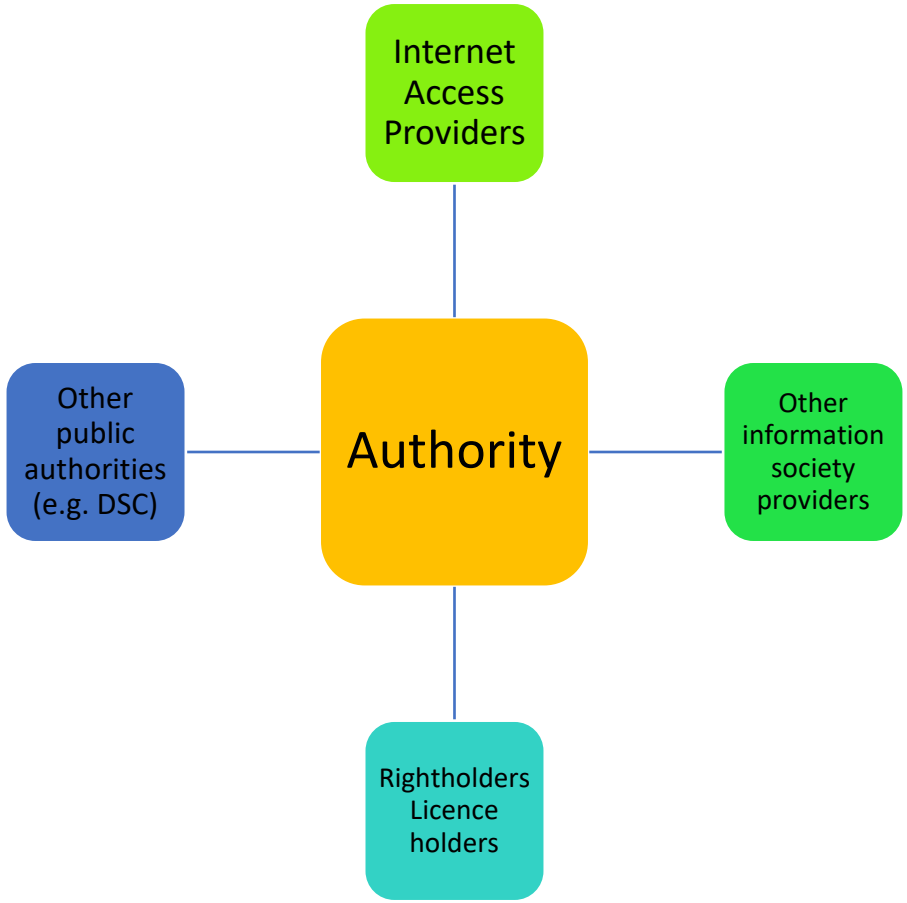
Between 2024-2026

- 15 injunctions (4 concerning copyright and related rights)
  - 14 decisions by the Belgian administrative authority
  - 1 consultation of the Belgian administrative authority
  - 4 dynamic injunctions introduced by right holders
- Combat against different forms of digital piracy:
  - illegal dissemination of (live) sports events
  - illegal dissemination of books (digital libraries)
  - illegal iptv services (VOD, streaming, cinema releases)
- + 850 domain names blocked by (different) intermediaries since 01/04/2025

Categories of online intermediaries subject to injunctions

- Internet search engines
- Belgian access providers
- Hosting providers
- Domain name providers
- Content delivery network providers
- Alternative DNS providers
- Social media platforms
- Application stores
- Registries
- Registrars
- Providers of cloud services
- Etc

An automated secured platform to combat online piracy



III. Conclusion

Challenges

- From legal point of view:
  - 3 Injunctions and decisions are currently challenged before court
  - Opposition by online intermediaries based on:
    - Unilateral character of the Belgian procedure
    - Principle of subsidiarity
    - Unsuitability of geo-blocking measures
  - Imminent infringements are not covered yet (law proposal)

- From technical/practical point of view:
  - Difficult to get in touch with certain online intermediaries for consultation
  - Burdensome forms/procedures/level of information to obtain blocking
  - Volatile character of piracy online (piracy as a service, impact of AI….)

- Cross-border collaboration

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