

On 9 August, the Act of 31 July 2023 aimed at making justice more humane, faster and stricter (IV) was published in the Belgian Official Gazette. As part of this wide-ranging reform of the judicial system, the legislator decided to amend paragraphs 5 and 6 of article 584 of the Judicial Code on the jurisdiction of the President of the Court of First Instance in order to optimise the procedure set out in paragraph 5, 7°¹.

Since 1 July 2020, victims of non-consensual dissemination of images or recordings of a sexual nature have already been able to use summary proceedings or unilateral request (ex parte) before the President of the Court of First Instance to compel the disseminator or any intermediary service provider to use all appropriate means to remove the images or recordings immediately or to make them inaccessible². The disseminator or the intermediary service provider must then act within six hours of service of the order³.

These requests to remove images of a sexual nature are made by unilateral request, without the need to prove absolute necessity, as there is a statutory presumption in this sense. In accordance with article 584, paragraph 6, the 'non-consensual' nature of the dissemination of such images is also presumed, until proven otherwise.

While, in theory, this legal action seemed to respond to the urgency of the situations in which the victims find themselves, in practice the reality proved different. According to the preparatory parliamentary proceedings for the Act of 31 July 2023, practice showed that Court's orders were often not specific enough to allow the intermediary service provider to remove the disputed images or recordings.

Article 6 of the Act of 31 July 2023 therefore aims to improve these proceedings. Since 19 August 2023, subject to nullity, the application submitted to the President of the Court has to contain the data required to identify the images or recordings, and the President must then also include this information in his order. The preparatory parliamentary proceedings specify that these data may be of different kinds. For example, it may include URL links to sexual content, hash codes for the images or the images themselves.

However, if the applicant is unable to provide these data, he or she has to justify why. Where appropriate, the President will order any person in possession of such data to produce them in accordance with articles 871 and 877 to 882 of the Judicial Code.

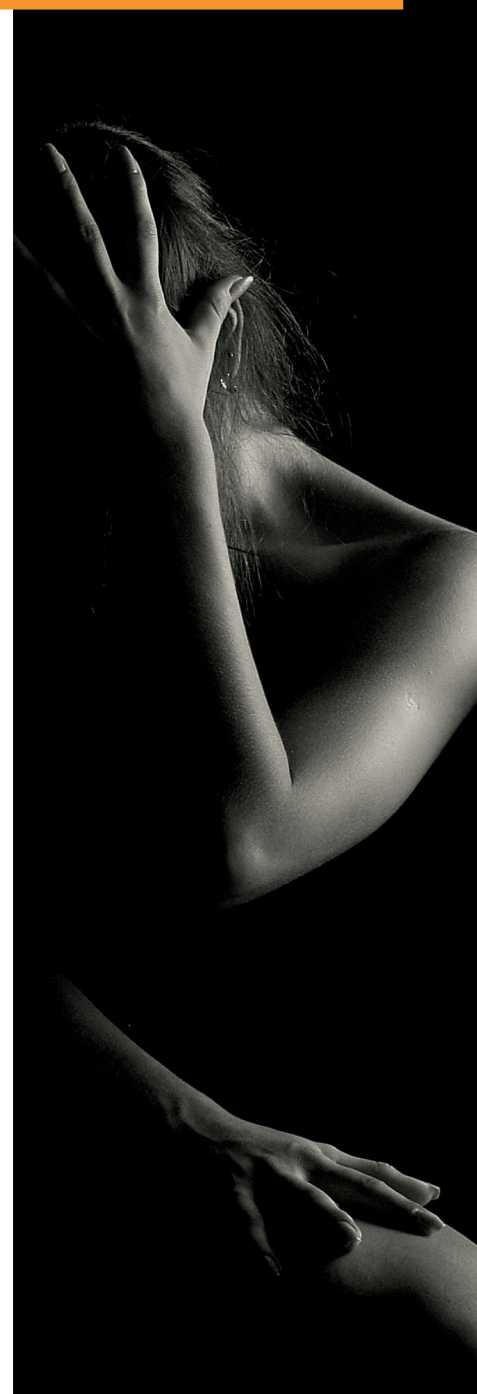
1. By the Act of 31 July 2023 (article 6).

2. Article 584, para. 5, 7° of the Judicial Code.

3. Article 584, para. 5, 7° of the Judicial Code.

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JUDICIAL OPTIMISATION AGAINST NON- CONSENSUAL SHARING OF SEXUAL CONTENT



In addition, on the basis of the initial information available to him, the President may issue an initial order.

Once the order has been issued, the victim of non-consensual dissemination has to serve the order on the disseminator and/or the intermediary service provider. The latter must then act within six hours of service to remove the disputed images or recordings identified in the order..

**For any questions or assistance, please reach out to our
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