

# COMPLAINT

against

Meta Platforms Ireland Limited

regarding

infringements of Article 17 and 24 (5) of  
Regulation (EU) 2022/2065 of the European Parliament  
and of the Council of 19 October 2022 on a Single Market for  
Digital Services and amending Directive 2000/31/EC  
(Digital Services Act).

Filed by the Gesellschaft für Freiheitsrechte e.V. / Society for Civil Rights

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## A. General Remarks

### 1. Introduction

The Gesellschaft für Freiheitsrechte e.V. (Society for Civil Rights, GFF) is a non-profit organization based in Berlin that has been properly constituted in accordance with the German law. According to its statutory objectives (**Exhibit 01**)<sup>1</sup> GFF aims to defend fundamental and civil rights through legal means. One of its key focus areas is digital rights in the modern age. To enhance the enforcement of online rights, GFF established the Center for User Rights, which aims to uphold user rights under the Digital Services Act (Regulation (EU) 2022/2065, DSA), among other initiatives.

Patrick Kelleher, an Irish resident and user of the online platform Facebook (**Exhibit 02**), has authorized GFF under Article 86 (1) DSA to exercise his right to lodge a complaint against Meta Platforms Ireland Limited alleging an infringement of Article 17 and Article 24 (5) DSA with the Coimisiún na Meán on his behalf (**Exhibit 03**). He is a digital rights campaigner with Uplift. He campaigns for better regulation of big tech companies and works with a base of members across Ireland to build a stronger movement for big tech accountability.

This complaint concerns the respondent's systematic failure to provide adequate statements of reasons for its content moderation decisions, as required by Article 17 DSA. Under this provision, providers of hosting services must offer sufficient justification for their moderation decisions. However, the respondents' current practice is to provide only generic explanations, typically referencing a violation of national law or the platform's terms of service in an abstract manner, without addressing the specific circumstances of each case.

As a result, affected users are often unable to effectively challenge moderation decisions. In many cases, it remains unclear why an account was suspended or why a post was deemed to violate the platform's rules. Even when users seek clarification, the respondent frequently fail to provide a more detailed explanation or responds with significant delays. This lack of transparency makes it difficult for affected individuals to effectively lodge complaints through the internal complaint-handling system of the platforms. Without sufficient information, users have little ability to argue against an erroneous moderation decision.

### 2. Applicable Legal Provisions

#### a) Article 17 DSA

According to Article 17 (1) DSA, providers of hosting services must provide all affected users a clear and specific statement of reasons for any restrictions imposed on the grounds that the content they provided is either illegal or violates the platform's terms of service.

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<sup>1</sup> § 3 (2) (a) (b), (3) (a), (4) (a) Articles of Association of Gesellschaft für Freiheitsrechte e.V.

The detailed obligations set out in Article 17 DSA primarily serve to ensure transparency and constitute an essential aspect of procedural fundamental rights protection.<sup>2</sup> These requirements safeguard users from negative consequences of moderation decisions, particularly regarding their freedom of expression (Recital 54 (1) DSA). Only when hosting services provide clear and specific statements of reasons for their moderation decisions users would be able to understand the exact justifications behind a restriction and to make an informed decision about whether to adapt their behavior or challenge the restriction.<sup>3</sup>

Beyond protecting individual rights, Article 17 DSA also aims to foster a predictable and trustworthy online environment (Recitals 2, 3, and 4 DSA) and harmonize justification obligations across EU member states, providing legal certainty for providers of hosting services in their communication with users.<sup>4</sup>

A clear and specific statement of reasons requires detailed explanations, making generic or vague justifications inadequate, such as standardized responses with only a general reference to the violation of the terms of service.<sup>5</sup> Providers of hosting services must provide information that is tailored to the specific case<sup>6</sup> and explicitly state which aspect of the content is being disputed.<sup>7</sup> The explanation must be as detailed and specific as reasonably possible under the given circumstances. The statements of reasons must also enable affected users to assess and to effectively exercise their available legal remedies (Article 17 (4) DSA). To this end, the provided explanation must be clear and easy understandable.<sup>8</sup>

Among the minimum requirements for adequate information set out in Article 17 (3) DSA, Article 17 (3) (b) DSA is particularly noteworthy, as it requires a statement of the facts and circumstances underlying the decision. This means that the statements of reasons must include sufficient details about the factual background that led to the moderation decision, clearly identifying the specific content subject to restriction, and ensuring that users can understand the key factual basis for the decision.<sup>9</sup>

In cases where content is classified as illegal, the specific legal basis must be provided. According to Article 17 (3) (d) DSA, a reference to the legal ground relied on has to be stated and an explanation has to be given as to why the information is considered to be illegal content on that ground. This requires an explicit connection between the content in question and the content moderation decision, allowing users to determine whether they can challenge the restriction.<sup>10</sup> A clear reference to the content and

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<sup>2</sup> *Raue*, in: Hofmann/Raue, DSA, 2023, Art. 17 para. 1; Cf. *Barudi*, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 17 para. 2.

<sup>3</sup> *Ibid.*; cf. *Barudi*, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 17 para. 2; cf. Gerdemann/Spindler GRUR 2023, 3 (9).

<sup>4</sup> Cf. *Barudi*, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 17 para. 2.

<sup>5</sup> *Raue*, in: Hofmann/Raue, DSA, 2023, Art. 17 para. 48.

<sup>6</sup> *Ibid.* para. 56.

<sup>7</sup> *Ibid.* para. 48.

<sup>8</sup> *Barudi*, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 17 para. 29.

<sup>9</sup> Cf. *ibid.* para. 32.

<sup>10</sup> Cf. *ibid.* para. 35.

its classification under the relevant legal provision is necessary; generic, standardized responses are insufficient.<sup>11</sup>

When a moderation decision is based on a violation of the platform's terms of service, the provider of a hosting service must, according to Article 17 (3) (e) DSA, specify the relevant contractual provision and explain why the content is deemed non-compliant. It is important to note that the term "terms of service" is broadly defined (Article 3 (u) DSA). If the provider of a hosting service extends its terms of service across multiple documents, such as general terms of use, corresponding community standards, community guidelines, etc., the relevant provisions may derive from different policies.<sup>12</sup> Therefore, the exact contractual provision must be specified<sup>13</sup>; standardized text modules or general references to "violations of the terms of service" are not sufficient.<sup>14</sup>

#### b) Article 24 (5) DSA

According to Art. 24 (5) DSA the providers of online platforms shall, without undue delay, submit to the Commission the decisions and the statements of reasons referred to in Article 17 (1) DSA for the inclusion in a publicly accessible machine-readable database managed by the Commission.

The purpose of the disclosure obligation is to ensure transparency and enable public oversight of content moderation decisions (Recital 66 (1)).<sup>15</sup> The comprehensive and collective publication in the database enables the analysis of trends and patterns in the platforms' content removal practices. According to Recital 66 (3) the structured database should allow access to, and queries for the relevant information, in particular as regards to the exact type of alleged illegal content at stake.

The moderated content itself does not need to be disclosed (Article 24 (5) (2) DSA). However, both the decision and its statement of reasons must be fully communicated. In cases where the decision is based on alleged illegality, the legal basis and an explanation of how the content violates the law must be provided. Similarly, when the decision is based on a terms of service violation, the specific contractual provision and its application to the case must be disclosed and subsequently published. Furthermore, the transparency database must allow users to search for the specific type of violation, whether it pertains to national law or the platform's policies.<sup>16</sup> The only limitation set forth by Article 24 (5) DSA is that the disclosed information must not contain personal data.

#### c) Article 20 DSA

Art. 20 (1) DSA requires providers of online platforms to provide their users for a period of at least six months following the decision referred to in this paragraph, access to an effective internal complaint-

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<sup>11</sup> Grünwald/Hackl: Inhaftemoderation bei Online-Plattformen, MMR 2024, 532 (535); Cf. Raue, in: Hofmann/Raue, DSA, 2023, Art. 17 para. 57.

<sup>12</sup> Cf. Barudi, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 17 para. 36.

<sup>13</sup> Raue, in: Hofmann/Raue, DSA, 2023, Art. 17 para. 52.

<sup>14</sup> Grünwald/Hackl: Inhaftemoderation bei Online-Plattformen, MMR 2024, 532 (535); Cf. Raue, in: Hofmann/Raue, DSA, 2023, Art. 17 para. 57.

<sup>15</sup> Cf. Raue, in: Hofmann/Raue, DSA, 2023, Art. 24 para. 1.

<sup>16</sup> Cf. Barudi, in: Müller-Terpitz/Köhler, DSA, 1st edition 2024, Art. 24 para. 18.

handling system that enables them to lodge complaints, electronically and free of charge, against certain content moderation decisions taken by the provider of the online platform.

The content moderation decisions subject to complaint under Article 20 (1) DSA largely correspond to the restrictions that the hosting service provider must inform users about and justify in detail under Article 17 (1) DSA. Providing a clear and specific statement of reasons required under Article 17 DSA is primarily intended to enable the affected users to effectively exercise their right to appeal through the internal complaint management system (Article 17 (4) (2) DSA).<sup>17</sup> Users must be able to explain why the content referenced in the complaint is neither illegal nor in violation of the terms of service.<sup>18</sup>

The internal complaint management system is intended to enable affected users to challenge particularly restrictive decisions in an "easy and effective" manner (Recital 58 (1)). It allows for "quick and straightforward clarification of any misunderstandings regarding content" and for errors to be corrected.<sup>19</sup> Thus, it also serves to clarify the facts of the case. The complaint procedure plays a crucial role in protecting users' rights and preventing chilling effects on their exercise of civil liberties in the digital realm.<sup>20</sup>

### 3. Design of the DSA Transparency Database

The DSA Transparency Database is structured as follows: It features entry fields for submitting moderation decisions and their underlying statements of reasons, corresponding to the minimum information requirements outlined in Article 17 (3) DSA.

For each submitted moderation decision, one of 15 categories has to be selected to classify the type of violation (e.g. scope of platform service, illegal or harmful speech, violence etc.). For an overview of the categories, please refer to the DSA Transparency Database website: <https://transparency.dsa.ec.europa.eu/page/documentation>.

Further, among other requirements, providers of online platforms must use a text field to specify the facts and circumstances on which their decision is based. Additionally, they must provide a reference to the contractual basis and, in a separate text field, explain why the moderated content is deemed illegal or in violation of the platform's terms of service.

## B. Evaluation of Statements of Reasons

### 1. Implementation

The deficiencies in Meta's statements of reasons can be demonstrated through its content related decisions that are published in the DSA Transparency Database.

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<sup>17</sup> *Raue*, in: Hofmann/Raue, DSA, 2023, Art. 20 para. 39.

<sup>18</sup> *Ibid.* para. 24.

<sup>19</sup> Cf. BGH ruling from 29.7.2021 – III ZR 179/20, NJW 2021, 3179, para. 84 – hate speech.

<sup>20</sup> Cf. *Raue*, in: Hofmann/Raue, DSA, Art. 20 para. 1, 3.

Its statements of reasons for its content moderation decisions on Facebook provide only a general reference to a violation of the platform's terms of service. While Meta assigns its moderation decisions to one of the aforementioned categories of violations that the DSA Transparency Database provides, it consistently fails to explain the specific facts and circumstances that led to the classification as a violation in the individual case.

The data in the DSA Transparency Database reveals that Meta categorizes its statements of reasons for content moderation decisions on Facebook over the past six months into thirteen different types of rule violations according to the categories provided by the database:

- Scope of platform services
- Illegal or harmful speech
- Scams and/or fraud
- Violence
- Data protection and privacy violations
- Protection of minors
- Unsafe and/or illegal products
- Pornography or sexualized content
- Intellectual property infringements
- Negative effects on civic discourse or elections
- Non-consensual behaviour
- Risk for public security
- Self-harm

For a comprehensive overview of all statements of reasons and their categorizations please consult the [DSA Transparency Database](#).<sup>21</sup>

An analysis of all moderation decisions submitted and published on the DSA Transparency Database from October 1st to December 31st, 2024, revealed that Meta cited a general violation of platform rules as the primary reason for deleting or restricting posts on Facebook. Specifically, 92,8 % of cases were based on a general violation of platform rules, 0,7 % on fraud and manipulation, 3,1 % on intellectual property and privacy issues, 1,4 % on violence and harm, 0,6 % on hate speech and incitement, and 1,5 % on pornography and sexual content.<sup>22</sup>

Beyond the abstract identification of the violation type, none of the moderation decisions on Facebook provide further differentiation or more detailed information related to the specific circumstances of the decision. Under the facts and circumstances, Meta generically states that the content was found to violate the terms and conditions in general. As a reference to the contractual ground, Meta always

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<sup>21</sup> DSA Transparency Database, statements of reasons Instagram, available at: [https://transparency.dsa.ec.europa.eu/statement?s=&platform\\_id%5B%5D=33&platform\\_id=33=on&created\\_at\\_start=&created\\_at\\_end=](https://transparency.dsa.ec.europa.eu/statement?s=&platform_id%5B%5D=33&platform_id=33=on&created_at_start=&created_at_end=).

<sup>22</sup> Helen Bielawa, Nina Krug, Rina Wilkin, Was wir nicht sehen sollen from January 25, 2025, available at: <https://www.spiegel.de/netzwelt/netzpolitik/geloeschte-inhalte-auf-tiktok-x-instagram-youtube-was-wir-nicht-sehen-sollen-datenanalyse-a-ca0629a1-16c4-47a3-a9fa-10b7c6b44ac2>.

cites a violation of "sections 3.2" of its Terms of Service<sup>23</sup>. Also, in the following text field, where an explanation is required to clarify why the content is deemed incompatible on that ground, Meta fails to provide any additional information. It merely states that the decision was made because the content was considered incompatible with its referenced ground for decision, i.e., the terms and conditions in general. This pattern is consistent across all moderation decisions, regardless of the categorized type of violation, as demonstrated in the following evidence.

Evidence:

Screenshot "[DSA Transparency Database Facebook: Scope of platform services](#)"

- **Exhibit 04**

Screenshot "[DSA Transparency Database Facebook: Illegal or harmful speech](#)"

- **Exhibit 05**

Screenshot "[DSA Transparency Database Facebook: Scams and/or fraud](#)"

- **Exhibit 06**

Screenshot "[DSA Transparency Database Facebook: Violence](#)"

- **Exhibit 07**

Screenshot "[DSA Transparency Database Facebook: Data protection and privacy violations](#)"

- **Exhibit 08**

Screenshot "[DSA Transparency Database Facebook: Protection of minors](#)"

- **Exhibit 09**

Screenshot "[DSA Transparency Database Facebook: Unsafe and/or illegal products](#)"

- **Exhibit 10**

Screenshot "[DSA Transparency Database Facebook: Pornography or sexualized content](#)"

- **Exhibit 11**

Screenshot "[DSA Transparency Database Facebook: Intellectual property infringements](#)"

- **Exhibit 12**

Screenshot "[DSA Transparency Database Facebook: Negative effects on civic discourse or elections](#)"

- **Exhibit 13**

Screenshot "[DSA Transparency Database Facebook: Non-consensual behaviour](#)"

- **Exhibit 14**

Screenshot "[DSA Transparency Database Facebook: Risk for public security](#)"

- **Exhibit 15**

Screenshot "[DSA Transparency Database Facebook: Self-harm](#)"

- **Exhibit 16**

A mere reference to section 3.2. of its Terms of Service does not reveal which specific misconduct is being addressed, as it contains all types of possible violations, covering both illegal behavior as well as actions that only constitutes a breach of the terms of service. The prohibited conduct is described in a broad and abstract manner and entails e.g. everything that "is unlawful, misleading, discriminatory, or fraudulent (or assists someone else in using our Products in such a way)".



Additionally, the section also incorporates violations of all its other terms of service as outlined in section 5 of its Terms of Service, such as the "Community Standards", "Advertising Policies" and "Commerce Policy" each of which encompasses a wide range of different behaviors.

Evidence:

Screenshot "[Meta Terms of Service Section 3.2](#)"

- **Exhibit 17**

Screenshot "[Meta Terms of Service Section 5](#)"

- **Exhibit 18**

Screenshot "[Meta Advertising Policies](#)"

- **Exhibit 19**

Screenshot "[Meta Commerce Policy](#)"

- **Exhibit 20**

Especially Meta's Community Standards include an extensive list of types of prohibited behavior, such as coordinating harm and promoting crime, fraud, scams and deceptive practices or violence and incitement.

Evidence:

Screenshot "[Community Standards](#)"

- **Exhibit 21**

Upon clicking, each listed category in the community standards is expanded to provide a more detailed explanation and broken down into particular conduct that would be considered violations of the community standard and subject to removal by Meta. For instance, under violence and incitement, this includes among others threats of violence that could lead to death (or other forms of high-severity violence) or content that asks for, offers or admits to offering services of high-severity violence (for example, hitmen, mercenaries, assassins, female genital mutilation) or advocates for the use of these services.

Evidence:

Screenshot "[Community Standards: Violence and incitement](#)"

- **Exhibit 22**

## 2. Assessment

Meta systematically fails to meet the requirements for their statement of reasons as set out in Article 17 DSA. Contrary to Article 17 (3) (b) DSA, Meta does not provide specific facts or circumstances related to the individual case. Instead, it only offers a generic reference to a violation of its terms of use, pointing to a section that broadly lists all possible violations in a general way and also includes violations of other terms of service, each of which in turn encompasses its own extensive list of prohibited behaviors.

This issue is particularly evident in content moderation decisions categorized under "Scope of platform services," where the statements of reasons fail to provide any meaningful insight into the specific

alleged violation. Similarly, when Meta classifies its moderation decisions under one of the more specific violation categories provided by the DSA Transparency Database (e.g. harmful or illegal speech or violence), it still remains unclear why the particular behavior is categorized as such. Based on the wording and purpose of Article 17 (1), (3) DSA, a purely abstract classification of the type of violation, without a clear and specific explanation as to why a posted content is considered non-compliant, is insufficient. Especially, Art. 17 (3) (e) DSA makes it clear that simply citing the contractual provision that has been violated is not sufficient. Instead, additional information must be provided to explain why the specific post falls under the prohibited behavior outlined in the provision. This is also demonstrated by the structure of the DSA Transparency Database which entails dedicated text fields for providing such explanations. For instance, if a satirical video is flagged for allegedly containing hate speech or illegal content, Meta would have to explicitly explain which part of the video is problematic and in what way it constitutes a violation.

The categories Meta employs to classify violations are overly broad and encompass a wide range of different situations, including illegal acts as well as other breaches of its terms of use. Further, many of the prohibited actions are open to interpretation and require clarification and an evaluation from the platform to determine their applicability to a specific case, especially with regard to the permissible exercise of fundamental rights in each case, in accordance with Art. 14 (4) DSA. For instance, what constitutes vulgar speech can vary depending on the context and language used. Similarly, what may initially appear to be an insult could, in fact, constitute permissible criticism within the scope of satire. These ambiguities create even greater uncertainty for affected users.

As a result, users of Facebook systematically lack critical information about the precise reasons behind content moderation decisions. This prevents them from adjusting their behavior accordingly or effectively using the internal complaint mechanism, as guaranteed under Article 20 (1) DSA.

Finally, if the statements of reasons provided to users should differ from those submitted to the DSA Transparency Database, this would in any case constitute a violation of Article 24 (5) DSA. The provision explicitly mandates a direct transmission of all content moderation decisions and their statements of reasons, including all the information required by Article 17 (3) DSA, ensuring full transparency. Only personal data is exempt from this obligation. However, this exemption does not warrant the systematic omission of any case-specific details. For instance, it is possible to specify which part of a post is being reprimanded, identify the specific violation (e.g. an insult), and provide an explanation of why a particular post qualifies as such a violation, all without disclosing any personal information.