

# COMPLAINT

against

Meta Platforms Ireland Limited,  
Twitter International Unlimited Company,  
Google Ireland Limited,  
LinkedIn Ireland Unlimited Company,  
and TikTok Technology Limited

regarding

infringements of Art. 86(2) 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/ Society for Civil Rights

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## A. General remarks

### 1. Introduction

The Gesellschaft für Freiheitsrechte (Society for Civil Rights, GFF) is a Berlin-based strategic litigation non-profit organisation. One of our focus areas is the defence of fundamental rights in the digital age. To strengthen and enforce fundamental rights online, GFF has established the Center for User Rights, which aims to enforce user rights under the Digital Services Act (Regulation (EU) 2022/2065, DSA). In accordance with its mission, GFF aims to use the means provided by the DSA to support users and enforce their rights. One key provision of the DSA in this regard is Art. 86, which allows organisations to represent users, including in the context of online platforms' internal complaint management systems. Thus, the Center for User Rights approached various very large online platforms (Meta, X, LinkedIn, TikTok, YouTube) to inquire about the specific procedures for the representation of users under Art. 86 and the process to register as a qualified organisation. It became apparent that Art. 86(2) DSA had either not been implemented or had only been implemented insufficiently by the five providers we approached. During our inquiry process, we also gained insights into the points of contact provided to users (implementing Art. 12 DSA). Our analysis indicates significant deficiencies in this regard as well.

### 2. Applicable Legal Provisions

#### a) Art. 86(2) DSA

Art. 86(2) DSA requires platforms to take the necessary technical and organisational measures to ensure that complaints submitted by qualified bodies, organisations, or associations under Art. 86(1) DSA on behalf of users through the mechanisms mentioned in Article 20(1) DSA are processed and decided upon with priority and without undue delay.

It is not specified what such technical and organisational measures should consist of. However, for an organisation representing users under Art. 86 DSA to be able to access a platform's internal complaint mechanism, we assume that registration as a qualified organisation is required. Since it will not always be obvious whether an organisation fulfils the requirements set out in Art. 86(1) DSA, particularly Art. 86(1)(c) DSA, we expect platforms to thoroughly assess any organisation wishing to represent users. The corresponding review of an organisation's statute may take time, contradicting the obligation under Art. 86(2) DSA to process such complaints without undue delay. This contradiction can only be resolved if organisations can approach platforms in advance of a complaint to be assessed and remove any such uncertainties. Technical and organisational measures must therefore require more than just providing an email address through which organisations can reach out to platform providers; otherwise, the obligation would be moot.

#### b) Art. 12 DSA

Art. 12(1) DSA requires providers of intermediary services to designate a single point of contact that enables user-friendly, rapid, and direct communication, especially through easily accessible means (Art. 12(1) DSA and Recital 43). This implies that there should be no long waiting times in direct communication, and that communication should be responded to within a reasonable time. "Reasonable time" means within a period compatible with the needs or legitimate expectations of

users<sup>1</sup>. Sufficient personnel and financial resources must also be provided (see recital 43, sentence 4). The contact point information must be easily accessible and up-to-date (Art. 12(2) DSA). The information must be easily found by average users without having to click through multiple websites<sup>2</sup>. This is also required by the obligation to provide user-friendly communication<sup>3</sup>.

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<sup>1</sup> Raue, in: Hofmann/Raue, DSA, Art. 12 para. 24 with reference to ECJ, judgment of 16. 10. 2008 – C-298/07 Bundesverband der Verbraucherzentralen und Verbraucherverbände – Verbraucherzentrale Bundesverband e.V./deutsche internet versicherung AG.

<sup>2</sup> Raue, in: Hofmann/Raue, DSA, Art. 12 para. 33 with further references.

<sup>3</sup> Cf. Raue, in: Hofmann/Raue, DSA, Art. 12 para. 26.

## B. Meta Platforms Ireland Limited

### 1. Implementation

Meta has created a portal for organisations that seek to represent users under Art. 86 DSA. This can be accessed at <https://officialrequests.meta.com/8621-4/login/> and allows organisations to register and get verified to represent users.

The Center for User Rights has registered as a qualified organisation through the portal. The review of our statutes took 14 days.

#### Evidence:

1. Email dated February 26, 2024, submitted as:
  - Exhibit Meta01
2. Email dated March 12, 2024, submitted as:
  - Exhibit Meta02

On April 26, 2024, the Center for User Rights submitted two complaints regarding two suspended Instagram accounts.

#### Evidence:

1. Email dated April 26, 2024, submitted as:
  - Exhibit Meta03
2. Email dated April 26, 2024, submitted as:
  - Exhibit Meta04

The first account, @grünejugend\_bonn of the Green Youth Bonn, has been reactivated since May 16, 2024. We do not assume that our complaint led to the reactivation of the account, as there was direct contact between a third party and Meta staff regarding this specific suspension.

The second account, for which the Center for User Rights filed a complaint on behalf of the affected user, is the account of the organisation Fridays for Future Frankfurt am Main (@fridaysforfutureffm). This account was reactivated at the end of May. Since there was no notification of the reactivation, we cannot specify the exact date.

In both cases, we received a response on May 31, 2024 – over one month after submitting the respective complaint – asking for further information. This indicates that the accounts were reactivated independently of our complaint.

#### Evidence:

1. Email dated May 31, 2024, submitted as:
  - Exhibit Meta05
2. Email dated May 31, 2024, submitted as:
  - Exhibit Meta06

### 2. Assessment

Meta's formal implementation of its obligations under Art. 86 DSA through a portal to facilitate the registration of qualified organizations to represent users seems satisfactory. However, submitted complaints were only answered after more than one month. It is to be assumed that these complaints were neither processed nor decided upon promptly, contrary to Art. 86(2) DSA. The fact that this affected both cases suggests that – also contrary to Art. 86(2) DSA – there is a lack of sufficient organisational (and possibly technical) measures to ensure the prompt processing of complaints.

## C. X (Twitter International Unlimited Company)

### 1. Implementation

The Center for User Rights was asked by the owners of the account @RAZverein to file a complaint via X's internal complaint system against the apparently unjustified suspension of the account. No information could be found on X's website on how to file a complaint under Art. 86(2) DSA or whether there is an option to register as an organisation representing users under Art. 86(1) DSA.

Subsequently, the Center for User Rights attempted to contact the single point of contact, provided for under Art. 12 DSA. X's help page for users in the European Union (<https://help.x.com/en/rules-and-policies/european-union>) refers to an information resource provided by the European Commission on the Digital Services Act (<https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package>). Additionally, it refers to X's guidelines, the Help Center, and an overview of how users may file complaints against policy violations on X. Only if these are not helpful, users can contact [EU-Questions@X.com](mailto:EU-Questions@X.com).

#### Evidence:

Screenshot "Help Center European Union", submitted as:

- Exhibit X01

The guidelines referred to are X's terms of service, which contain no information on the implementation of Art. 86 DSA.

#### Evidence:

Screenshot "The X Rules", submitted as:

- Exhibit X02

Users can submit complaints about policy violations via the Help Center. However, this is designed for users to submit complaints on their own behalf. The account name must also be provided. There is at least no explicit provision for third parties to submit a complaint.

#### Evidence:

Screenshot "Digital Services Act", submitted as:

- Exhibit X03

We tried to submit a complaint via this form anyway. However, we received an error message that the case number was entered incorrectly. The case number provided by us corresponded to the blocked account @RAZverein.

#### Evidence:

Screenshot "Objection", submitted as:

- Exhibit X04

Screenshot "Error I", submitted as:

- Exhibit X05

Screenshot "Error II", submitted as:

- Exhibit X06

We then contacted X, first via the German support address [de-support@twitter.com](mailto:de-support@twitter.com) and then via the address [EU-Questions@X.com](mailto:EU-Questions@X.com), which we assume to be the contact point provided in compliance with Art. 12 DSA.

Evidence:

Email dated 27 February 2024, submitted as:

- Exhibit X07

Email dated 11 March 2024, submitted as:

- Exhibit X08

Through the German support e-mail address, we were referred to a help center without our query being answered or more precise instructions being given as to where the relevant information could be found.

Evidence:

Email dated 5 April 2024, submitted as:

- Exhibit X09

It was not possible to reply to the emails from the German support email address, as the respective process was closed immediately after responding to our message. It was therefore not possible to respond with more detailed information regarding our request.

Evidence:

Email dated 5 April 2024, submitted as:

- Exhibit X10

Our email to the contact point was answered with an automated confirmation of receipt, according to which X would look into the matter and get back to us in "selected cases". We have not received a response to our request to date.

Evidence:

Email dated 30 April 2024, submitted as:

- Exhibit X11

The account @RAZverein is still suspended.

## **2. Assessment**

a) Art. 86(2) DSA

X does not appear to have taken the necessary technical and organisational measures to process complaints under Art. 86 DSA promptly and without undue delay. There is no information available on a specific complaint procedure under Art. 86(2) DSA, nor a registration option for organisations wishing to represent affected users under Art. 86(1) DSA. The single point of contact under Art. 12 DSA



has also not responded to inquiries regarding these issues. Therefore, it can be concluded that X does not fulfil its obligations under Art. 86(2) DSA.

b) Art. 12 DSA

The contact point provided by X under Art. 12 DSA does not meet the requirements of user-friendly, rapid, and direct communication. The lack of response to an inquiry sent on April 30, 2024, indicates that X does not have sufficient personnel and financial resources for its contact point, contrary to recital 43 sentence 4. Additionally, the contact information was not easily found, as users are directed to multiple pages and links before they are able to access an email address<sup>4</sup>. Therefore, X does not fulfil its obligations under Art. 12 DSA.

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<sup>4</sup> Raue, in: Hofmann/Raue, DSA, Art. 12 para. 9 with reference to the English and French language versions.

## D. YouTube (Google Ireland Limited)

### 1. Implementation

We could not find any information on how organisations wishing to represent users under Art. 86 DSA can register with YouTube under Art. 86(2) DSA, nor how else a complaint can be filed on behalf of a user. The Center for User Rights then tried to send an inquiry via YouTube's help centre. However, this resulted in an error message. We then contacted Google and YouTube employees directly.

#### Evidence:

1. Screenshot "YouTube Help", submitted as
  - Exhibit YouTube01
2. Screenshot "YouTube Help II", submitted as
  - Exhibit YouTube02
3. Screenshot "YouTube Help Error", submitted as
  - Exhibit YouTube03
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At the subsequent meeting, it was admitted that there was no registration option for organisations wishing to represent users under Art. 86 DSA. At the same time, we were informed that we could submit a complaint via the contact point for users at <https://support.google.com/legal/troubleshooter/13966113?hl=en>. The website contains no reference to Art. 86 DSA, appears to be aimed at authorities and trusted flaggers, and leads to a general contact form.

#### Evidence:

1. Screenshot "DSA Point of Contact", submitted as
  - Exhibit YouTube04
2. Screenshot "DSA Form", submitted as
  - Exhibit YouTube05
3. Screenshot "DSA Form II", submitted as
  - Exhibit YouTube06

As we did not receive any complaints from users, we were unable to test whether and how quickly a submission via the form would have led to the complaint being processed.

With regard to a more general procedure to allow organisations to file complaints on behalf of users, YouTube raised concerns that such a system could be exploited by actors submitting abusive complaints. In particular, it was stated that it was unclear how organisations could demonstrate that users had actually mandated them to represent them.

### 2. Assessment

YouTube has not created an option to register to represent users under Art. 86(2) DSA. We assume that this is not a sufficient implementation of the obligation put forward in the DSA. Insofar as it is supposedly possible for an organisation to submit a complaint via the DSA contact form, it must be criticised that this form was primarily created for other cases, so that it is not sufficiently clear that it can be used to submit complaints on behalf of users under Art. 86 DSA. We are unable to judge how such a complaint would proceed.

Insofar as YouTube refers to the risk of abuse, we find such a scenario unconvincing. Firstly, Art. 86(2) DSA is linked to Art. 20(1) DSA, i.e., measures taken by the platform that are detrimental to users. It is difficult to see how an organisation could submit a complaint without or against the will of an affected user. In practice, organisations will lack the relevant information to file such a complaint in bad faith or without having been asked to do so by a user on their behalf. In addition, we assume that there will hardly be any cases in which users would not want a content moderation decision to be reviewed, as such a review comes with little to no risks for users, especially if the review is triggered by an organisation representing the user's interests.

Finally, there are straightforward options for a platform to authenticate a complaint or verify an organisation representing a user. In other, but comparable contexts, Google has already found solutions for verifying that a user has indeed mandated an organisation or individual to enforce their rights. For example, Google offers a process that allows users to have explicit or intimate personal images that have been distributed without their consent removed from Google Search (<https://support.google.com/websearch/answer/6302812?hl=en>). A simple checkbox is used to confirm that the applicant has been authorised by the data subject to submit a removal request on their behalf.

Evidence:

1. Screenshot "Image Removal", submitted as
  - Exhibit YouTube07
2. Screenshot "Authorisation", submitted as
  - Exhibit YouTube08

It is not clear why a similar confirmation or verification of an organisation's authorisation to represent a user should not also be sufficient in the context of Art. 86 DSA. Other options to avoid abuse could be to communicate a specific complaint or case number to the affected user that the organisation mandated to represent them could refer to, or an email notification to the relevant user that a complaint has been submitted on their behalf.

Furthermore, as mentioned above, we had problems contacting YouTube via the channels provided for this purpose. The point of contact and the form provided is aimed at government organisations and trusted flaggers, and is therefore explicitly not aimed at regular users. This form therefore does not fulfil the requirements of Art. 12 DSA. It was not possible to send an enquiry using the general help form. However, according to the DSA, service providers may only provide one single point of contact to which users may address all relevant communication to avoid users first having to find the right contact avenue of contacting the provider<sup>5</sup>.

Evidence: See exhibit YouTube04 and exhibit YouTube03

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<sup>5</sup> Raue, in: Hofmann/Raue, DSA, Art. 12 para. 9 with reference to the English and French language versions

## E. LinkedIn Ireland Unlimited Company

### 1. Implementation

As we could not find any information on how organisations wishing to represent users can register with LinkedIn for a procedure under Art. 86(2) DSA, nor how else a complaint can be filed on behalf of users, we contacted LinkedIn in April and May 2024 via the help centre. However, this was only possible after we had logged into a user account. Later on, it was also only possible to reply to messages from LinkedIn or get in touch using the email address linked to the account.

#### Evidence:

1. Screenshot "Point of Contact", submitted as
  - Exhibit LinkedIn01
2. Screenshot "Support", submitted as
  - Exhibit LinkedIn02
3. Screenshot "Request", submitted as
  - Exhibit LinkedIn03
4. Email dated 10 May 2024, submitted as
  - Exhibit LinkedIn04
5. Email dated 10 May 2024, submitted as
  - Exhibit LinkedIn05

In response to our enquiries, we were informed that there is no possibility to lodge a complaint under Art. 86(2) DSA.

#### Evidence:

1. Email dated 5 April 2024, submitted as
  - Exhibit LinkedIn06
2. Email dated 13 May 2024, submitted as
  - Exhibit LinkedIn07

In our efforts to make contact, we also contacted the contact point under Art. 11 DSA [LERAI@LinkedIn.com](mailto:LERAI@LinkedIn.com) – also on May 9, 2024.

#### Evidence:

- Email dated 9 May 2024, submitted as
- Exhibit LinkedIn08

On June 6, 2024, we received a response from LinkedIn referring to an "Article 86 Authorized Representative Appeal Process", requesting further information from us.

#### Evidence:

- Email dated June 6, 2024, submitted as
- Exhibit LinkedIn09

We have shared the requested information with LinkedIn and will report if there are any new developments. There was still no information on the website about the "Article 86 Authorized Representative Appeal Process".

## **2. Assessment**

The obligations under Art. 86(2) DSA were not met.

With regard to Art. 12 DSA, it should be emphasised that communication must take place via a user account. This requirement could become problematic if data subjects no longer have access to their accounts, for example because it has been hacked or compromised. We have not examined the extent to which contact options exist in such situations.

## F. TikTok Technology Limited

### 1. Implementation

There is no information on TikTok's website about how Art. 86 DSA has been complied with. As a result, we contacted the support team. After a brief exchange in which we explained our concerns in more detail, we have not received a further reply.

#### Evidence:

1. Email dated 15 March 2024, submitted as
  - Exhibit TikTok01
2. Email dated 15 March 2024, submitted as
  - Exhibit TikTok02
3. Email dated 15 March 2024, submitted as
  - Exhibit TikTok03

We then sent another email to the address [DSA-single-point-of-contact-users@TikTok.com](mailto:DSA-single-point-of-contact-users@TikTok.com) provided as the contact point under Art. 12 DSA.

#### Evidence:

1. Screenshot "Contact Us", submitted as
  - Exhibit TikTok04
2. Email dated 9 May 2024, submitted as
  - Exhibit TikTok05

We have also not received a reply to this email to date.

### 2. Assessment

We assume that TikTok has not implemented its obligations under Art. 86(2) DSA.

An email address does provide a simple means of contact within the meaning of Art. 12 DSA. However, the fact that our email to the relevant address provided was not answered shows that it is not possible to use the address to make effective contact that allows users to communicate directly, rapidly and effectively with the platform operator within the meaning of the DSA.