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Legal Alert

October 2025 | www.skslegal.pl

Blocking illegal content on the Internet: the DSA implementation bill has been submitted to the Polish parliament

On 29 September 2025, the government submitted to the parliament a draft law amending the law on the provision of electronic services and certain other laws (print no. 1757). The draft law aims to implement the EU's Digital Services Act (***DSA***) which is the main legal tool for combating illegal content on the Internet.

Which businesses are impacted by the project?

The draft, like the DSA, concerns entrepreneurs providing so-called online intermediary services, i.e. those who enable access to content posted on the Internet by other users (consumers and businesses), including:

1. e-commerce platforms,
2. social networks,
3. online services mediating in:
   - booking accommodation,
   - purchasing tourist services, and
   - renting premises,
4. app stores,
5. video sharing platforms,
6. web browsers,
7. hosting services, and
8. telecommunications entrepreneurs.

What are the obligations under the new regulations?

The above-mentioned businesses will be required to block illegal content appearing in their online services based on an order issued by the telecom regulator or the media regulator (the latter will only supervise video sharing platforms). Regulators will also be able to order the unblocking of content that has been mistakenly deemed illegal by the hosting provider and thus blocked.

Any user of a given online service, as well as prosecutors, the police, so-called trusted flaggers designated by the telecom regulator, the National Revenue Administration, and, in cases involving human trafficking, the Border Guard, will be able to apply for an order to block illegal content.

The order may be immediately enforceable, depending on the decision of the authority. An objection to the order to block illegal content may be lodged with a common court, which will examine it in non-contentious proceedings. After the ruling of the courts of first and second instance, it will be possible to lodge a cassation appeal to the Supreme Court.

An additional sanction to help combat illegal content in the above-mentioned online services may be including a given internet domain on the warning list maintained by NASK.

Illegal content

According to the draft, access blocking will apply to content whose dissemination may constitute a prohibited act, as well as content that praises or incites the commission of a prohibited act. The draft **exhaustively** lists the prohibited acts covered by the blocking procedure:

1. Offences covered by the **Penalty Code**, such as:
   - identity theft,
   - computer fraud, causing the unfavourable disposal of property by misleading the public (e.g. phishing, fraud on e-commerce platforms),
   - notification of a non-existent threat, prompting action by public institutions (e.g. sending false bomb threats via social media), and
   - human trafficking.

2. The violation of Article 116 of the Polish Copyright Law, concerning copyright infringement through the **distribution of works without the author's consent** (e.g. sharing pirated copies of films, music, or books).
3. The violation of Article 12c(5) of the Polish Act on the protection of health against the consequences of using tobacco and tobacco products, covering the **online sale of tobacco products**, electronic cigarettes and refill containers and their parts, as well as nicotine pouches.
4. The violation of Article 305 of the Polish Industrial Property Law, concerning **the trade in goods bearing counterfeit trademarks**.
5. **The illegal sale of goods or services** that may infringe the Polish **Fiscal Penal Code**.

New inspection and sanctioning powers for the Office of Competition and Consumer Protection (UOKiK), the Office of Electronic Communications (UKE), and the National Broadcasting Council (KRRiT)

The new regulations will enable the competent Polish authorities (the Presidents of UOKiK and UKE, and the Chairman of KRRiT) to verify whether the above-mentioned entrepreneurs fulfill their obligations arising directly from the DSA, including conducting inspections at the entrepreneur's premises or remotely. Any user of the above-mentioned service will be able to file a complaint in this matter.

Failure to comply with the DSA may result in a financial penalty of up to 6% of annual global turnover. **The draft provides for the obligation to pay this penalty even if an appeal is lodged with the court**. In the event of failing to cooperate with the relevant regulator, the penalty will be up to 1% of annual income or global turnover. A penalty of up to 1% of annual income will also be paid by natural persons for failing to cooperate with the authority (staff members and representatives) or legal persons (specified auditors) associated with such entrepreneur if it can reasonably be expected that they have information related to a suspected violation of the DSA. Finally, regulators will have periodic penalty payments at their disposal to compel an undertaking to comply with its obligations (up to 5% of average daily turnover for each day of delay).

SK&S' team remains at your disposal for all matters relating to the application of the DSA.

Feel free to contact us!

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