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The role of the trusted flaggers in tackling illegal content on online platforms

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The fight against illegal content on Internet platforms is a current and urgent topic that national and European legislation is trying to address. So far, the basic regulation of online platforms and their responsibility for illegal content published on them within the European Union has been the Electronic Commerce Directive and in the Polish legal system, the Act on Provision of Electronic Services. Since the adoption of these acts, the role of online platforms, especially social platforms, has evolved significantly. The EU legislator, but also the legislators of the EU member states, have noticed that the existing regulations are not in line with the changes that have taken place in the digital environment. Hence, work was undertaken to update the legal framework covering online platforms and the illegal content distributed through their functions. This resulted in the adoption of a regulation, the Digital Services Act (DSA), which has been fully applicable in the EU since 17.02.2024. Article 22 of the DSA regulates trusted flaggers, who are experts in detecting and reporting a particular type of illegal content online. Due to their professionalism and experience, they are expected to report to the platforms under Article 16 of the DSA more accurately than the average user or third party. Hence, submissions from trusted flaggers are to be dealt with by the platforms as a priority. This institution is not a complete novelty, as it has already been mentioned in previous non-binding acts as well as in the platforms' internal programmes. On the other hand, the institution of trusted flaggers in the DSA has raised a number of questions and concerns, if only about their definitions, their role, their responsibility, the conditions and scope of their cooperation with online platforms, the possible risks involved in setting up this institution and its impact on the fight against illegal content. In addition, the subject of the very content that trusted flaggers should monitor and then report to platforms was raised, i.e. whether it should be only illegal content or also harmful content and content that does not comply with the platforms' terms of service. The topic of the hierarchy itself in terms of types of illegal content and, similarly, reports from trusted flaggers was also addressed. In addition, the dissertation leans into the procedure and criteria for granting trusted flaggers status under the DSA. The regulations of selected Member States in this respect were also analysed, with the aim of developing a form for Polish entities interested in obtaining the status in question.

The conducted research made it possible to address the main research question: whether the Trusted Flagger mechanism will contribute to a reduction in the amount of illegal content on online platforms while simultaneously ensuring the protection of legally published content. The study adopted a primarily dogmatic-legal, as well as comparative and historical-legal method as the research methodology.

SŁOWA KLUCZOWE W JĘZYKU ANGIELSKIM

Digital Services Act; trusted flaggers; online platforms; illegal content; Internet

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