



DIGITAL SERVICES ACT ENFORCEMENT IN THE NATIONAL CONTEXT – THE CASE OF SLOVAKIA*

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ABSTRACT

The enforcement of the Digital Services Act is ensured through both the European Union and different competent national authorities. In the national context, the main competences are entrusted to Digital Services Coordinators designated by individual Member States (the Council for Media Services in Slovakia). Other national authorities may also be assigned specific tasks or sectors by the Member State in this regard, e. g. courts or other public authorities may adjudicate different civil, administrative or criminal delicts that sanction the dissemination of different categories of illegal content on the Internet. In this paper, we examine the national enforcement of Digital Services Act provisions in Slovakia, focusing on the established case-law of the Council for Media Services and reflecting the limitation of its competences in the national legislation through the restriction of illegal content categories that may be investigated and sanctioned by this authority. The position of the Council for Media Services is further examined in light of the case-law of other national authorities with competences in this regard, addressing also the role of the recently established out-of-court dispute settlement body certified in Slovakia. We also look at the practical utilization of Articles 9 and 10 of the Digital Services Act enabling the competent authorities to issue orders to the providers of intermediary services to act against illegal content or to provide specific information about specific individual recipients of their services, focusing on selected intermediaries with significant representation in the national digital market. On this basis, we try to identify the emerging practices in the national enforcement of Digital Services Act and the processes established to ensure the effective sanctioning of the publication and dissemination of illegal content online.

Keywords: *Digital Services Act, Digital services coordinators, Enforcement, Illegal content, Intermediary service providers, Other competent authorities*

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1. INTRODUCTION

The adoption of the 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*“) aims at setting out harmonised rules for a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the Charter, including the principle of consumer protection, are effectively protected.¹ The regulation provides harmonised rules on the provision of intermediary services in the internal market, expanding the existing regulatory framework through the closer precision of the provisions on liability exemptions, reflecting the interpretative conclusions reached by the CJEU, and the establishment of rules on specific due diligence obligations tailored to different categories of intermediary service providers.

Considering the serious effects of illegal content dissemination and the speed with which it can be circulated online, the effective and timely enforcement of the Digital Services Act is key.² Enforcement of its provisions is entrusted to different authorities operating both at the European Union and national level. In this paper, we focus on the Digital Services Act enforcement in the national context, examining the practices being established in one of the European Union Member States – Slovakia. The objective of this paper is to answer the following research question: “*What is the present state of enforcement of Digital Services Act provisions in Slovakia and what future developments can be expected in this regard?*” To provide an answer to this research question, we stipulate the following research sub-questions:

1. “*Which national authorities are entrusted with competencies in the enforcement of the Digital Services Act?*”
2. “*What impact has the classification of different categories of illegal content on the determination of national authorities’ competencies?*”
3. “*What insights can be gained from the examination of the emerging case-law of the Slovak Council for Media Services, reflecting also the previous decisions of other national authorities adopted in this regard?*”

The methodology of this paper is based on the qualitative analysis and interpretation of the applicable European Union and national regulation regarding the Digital Services Act enforcement, examination of the corresponding case-law of

¹ Article 1 (1) of the 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’). OJ L 277, 27 October 2022, pp. 1–102.

² Eifert, M.; Metzger, A.; Schweitzer, H.; Wagner, G., *Taming the giants: The DMA/DSA package*, Common Market Law Review, Vol. 58, Issue 4, 2021, pp. 987-1028, Available at: [<https://doi.org/10.54648/cola2021065>], Accessed 4 April 2026.

the Slovak Council for Media Services and selected information sources providing insights into the practical utilization of competences stipulated in the Digital Services Act (transparency reports of selected intermediaries, annual statistics on the prosecution of selected criminal offences sanctioning the dissemination of illegal content online), reflecting also the current academic discourse on discussed issues.

This paper is organized into four sections. Section 1 includes introduction and specifies the methodology and the stipulated research questions. Section 2 examines the role of the national authorities in the enforcement of Digital Services Act provisions and analyses the impact of illegal content classification on their competences. Section 3 focuses on the emerging case-law of the Council for Media Services, a key national authority designated as the national Digital Services Coordinator. Section 4 concludes the article and provides insights into possible future developments in the enforcement of the Digital Services Act.

2. THE ROLE OF NATIONAL AUTHORITIES IN THE DIGITAL SERVICES ACT ENFORCEMENT

National enforcement of the Digital Services Act is ensured primarily through the designation of independent national authority – the Digital Services Coordinator tasked to oversee and coordinate the monitoring, application and enforcement of this regulation³ in relation to providers of intermediary services whose main establishment is located in the given Member State (*country of origin principle*). Digital Services Act also envisages the involvement of other competent national authorities in its enforcement, specifically authorities assigned specific tasks or sectors by their Member State, e. g. electronic communications, media or consumer protection. These authorities may also include national courts that adjudicate different civil, administrative or criminal delicts that sanction the dissemination of illegal content online. As the Digital Services Act “*covers so many areas, it will inevitably be a tool for many authorities with different types of expertise.*”⁴ Both categories of competent national authorities “*play a crucial role in ensuring the effectiveness of the rights and obligations laid down in this Regulation and the achievement of its objectives.*”⁵ Nonetheless, the Digital Services Coordinator is responsible for ensuring coordination at national level and for contributing to the effective and consistent supervision and enforcement of this regulation throughout the European

³ Wilman, F.; Kaléda, S. L.; Loewenthal, P.J., *The EU Digital Services Act. A Commentary*, Oxford, UK: Oxford University Press, 2024, p. 346.

⁴ Husovec, M., *Principles of the Digital Services Act*, Oxford, UK: Oxford University Press, 2024, p. 426.

⁵ Recital 111 of the 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”), OJ L 277, 27.1 October 2022, pp. 1–102.

Union.⁶ Digital Services Coordinator also possess the so-called “*fallback competence*” for the supervision and enforcement of the Digital Services Act provisions, if and insofar as the Member State has not assigned certain tasks/sectors to another competent authority.⁷

In Slovakia, the competences of the Digital Services Coordinator are executed by the Council for Media Services (formerly Council for Broadcasting and Re-transmission), a pre-existing authority designated as the national Digital Services Coordinator. The Council’s general objective is the promotion of public interest i.e. in relation to the provision of content sharing platforms, intermediary services, online intermediary services and search engine services, protection of freedom of expression, right to information and right to access to cultural values and education, and exercise of state regulatory powers in this regard.⁸ Pursuant to Article 110 (2) (b) of the Act No. 264/2022 Coll. on media services as amended (“*Act on media services*”), the competences of the Council for Media Services within the state administration include the supervision of compliance with obligations stemming from this act, as well as from other legislative acts, including the Digital Services Act. More specifically, the Council supervises the compliance of intermediary service providers’ activities falling under its competence with the applicable regulation and imposes sanctions on these providers in cases of identified infringements. Articles 151 – 153 of the Act on media services also define a new type of proceedings on the prevention of dissemination of illegal content. However, these provisions do not provide the Council for Media Services with a blanket right to act in cases of illegal content dissemination. The competences are restricted through the determination of specific categories of illegal content that may form the subject of these proceedings. Specifically, the Council for Media Services may initiate (on the basis of a third-party motion or its own investigation, if the matter cannot be delayed) proceedings on the prevention of dissemination of the following categories of illegal content:

- a) content that fulfils the characteristics of child pornography or extremist material,
- b) content that incites to conduct that fulfils the characteristics of any of the terrorism offences,

⁶ Article 49 (2) of the 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”), OJ L 277, 27.10.2022, pp. 1–102.

⁷ Rademacher, T., *Article 49 Commentary*, Digital Services Act, Article-by-Article Commentary, in: Hofmann, F.; Raue, B. (eds.) Germany: Nomos Verlagsgesellschaft mbH & Co, 2025, ISBN: 978-3-8487-8616-9. p. 861.

⁸ Article 109 (3) of the Act No. 264/2022 Coll. on media services as amended.

- c) content that approves conduct that fulfils the characteristics of any of the terrorism offences, or
- d) content that fulfils the characteristics of the offence of denial and approval of the Holocaust, crimes of political regimes and crimes against humanity, the offence of defamation of a nation, race and belief or the offence of incitement to national, racial and ethnic hatred.⁹

It is clear that the above provided list of illegal content categories does not cover all types of content that can be considered illegal pursuant to Article 3 (h) of the Digital Services Act that provides a very extensive interpretation of the concept of illegal content. In this regard, the objective sought by the legislator must be reflected, which is primarily the determination of the Council for Media Services' competences in relation to the prevention of illegal content dissemination. Nonetheless, the Council's competences are significantly limited through the provision of an exhaustive list of content categories that may be investigated by this authority. The reason for such limitation may be the need to focus the Council's efforts primarily on the most serious categories of illegal content with significant impact on the democracy, society or rights of the affected parties. It must also be noted that all of these content categories are also sanctionable as criminally offences. In this regard, the support provided to competent authorities (police, prosecutors and national courts) by the Council for Media Services in relation to intermediaries that host such material may be necessary. Article 110 (2) (b) of the Act on media services, however, specifically stipulates the obligation of the Council for Media Services to ensure the compliance with the provisions of the Digital Services Act in its entirety, including all types of content that may be considered illegal pursuant to this regulation.¹⁰ It can be concluded that the full potential of the Digital Services Act, which was intended to enable the sanctioning of all categories of illegal content¹¹, including those that are generally not provided the same level of attention by intermediaries given to their perceived lesser seriousness¹² or the limited possibility

⁹ Article 151 (2) of the Act No. 264/2022 Coll. on media services as amended.

¹⁰ See also: Rojszczak, M., *The Digital Services Act and the Problem of Preventive Blocking of (Clearly) Illegal Content*, 2023, Institutiones Administrationis - Journal of Administrative Sciences, Vol. 3, Issue 2, pp. 44-59, Available at: [\[https://doi.org/10.54201/iajas.v3i2.85\]](https://doi.org/10.54201/iajas.v3i2.85), Accessed 5 April 2026.

¹¹ See: Goanta, C., *Now What: Exploring the DSA's Enforcement in Relation to Social Media Platforms and Native Advertising*, in: Hoboken, J. *et al.*, Putting the Digital Services Act into Practice. Enforcement, Access to Justice, and Global Implication. Verfassungsbooks, 2023, ISBN Print 978-3-757517-96-0, Available at: [\[DOI 10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 4 May 2026.

¹² To illustrate, in a study provided by Goanta and Ortolani the authors examined four social media platforms (Twitter, Facebook, TikTok a Twitch), focusing on the identification of the type of content that the users of these platforms reported as illegal. The authors concluded that the content in question

of sanctioning them through criminal means, is thus not being fully realized in the national context.

As regards other competent national authorities, these include, primarily, courts that adjudicate different civil, administrative or criminal delicts that sanction the dissemination of illegal content on the Internet. Partial competences are also provided to other state authorities such as the Personal Data Protection Office of the Slovak republic that sanctions cases of unlawful processing of personal data. These may include cases such as the unauthorized recording of data subjects through camera information systems, the unauthorized disclosure of personal data on the Internet or the unauthorized sending of personal data to third parties via online communication tools.¹³ Another relevant authority is the Gambling Regulatory Authority that sanctions the promoting or operating of gambling websites without the necessary license.

In Slovakia, an out-of-court dispute settlement body¹⁴ – *the Central European Appeals Hub, n.o.* – established pursuant to Article 21 of the Digital Services Act was recently certified by the Council for Media Services. Its main purpose is to adjudicate the disputes arising from platform decisions that resulted in the removal of information, making it inaccessible or restricting its visibility, suspension or termination of the provision of a service or the user account itself, or restriction or termination of the user's ability to monetize their content. The majority of claims addressed to this body so far, however, originated from users outside the territory of Slovakia. This may possibly reflect the lack of interest or knowledge about the existence of subjects with the authority to examine the decisions adopted by intermediaries and resolve disputes arising from them. How this dispute resolution mechanism will be utilized in practice and whether it will be able to protect the

concerned primarily the categories of content that may be sanctioned as criminal offences and cases of intellectual property rights infringements. Other illegal content categories such as content in breach of consumer protection legislation (e. g. failure to provide the necessary information, unfair practices, etc.) were not included. See: Goanta, C.; Ortolani, P., *Unpacking content moderation: The rise of social media platforms as online civil courts*, in: Kramer, X.; Hoevenaars, J.; Kas, B.; Themeli, E. (eds.), *Frontiers in Civil Justice: Privatisation, Monetisation and Digitisation*. Edward Elgar Publishing, 2022, S, pp. 192-216, Available at:

[<https://doi.org/10.4337/9781802203820.00017>], Accessed 4 May 2026.

¹³ See: Klarić, M.; Proso, M., *Challenges of personal data protection on the Internet – impact on democracy, public administration and the rule of law in the EU*, in: Petrašević, T.; Duić, D.; Novokmet, A. (eds.), *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 2024, 8, pp. 1033-1055, Available at: [<https://doi.org/10.25234/eclic/32313>], Accessed 4 May 2026.

¹⁴ See: Hučková, R.; Pezlár Selecká, J., *Digital Services Act and the new mechanism of online dispute resolution*, in: Katkovič, M.; Pintérová, D.; Ťažká, D. (eds.), *Bratislava Legal Forum: Current issues of commercial law, financial law and economic sciences in the context of the impact of European law on national legal systems*, Bratislava: Comenius University in Bratislava, 2024.

rights of users originating in Slovakia,¹⁵ specifically their freedom of expression and right to information,¹⁶ will be an interesting question to examine in the future.

3. EMERGING CASE-LAW OF THE COUNCIL FOR MEDIA SERVICES AND THE EMPLOYMENT OF ITS OTHER COMPETENCES IN THE FIGHT AGAINST ILLEGAL CONTENT ONLINE

3.1. Proceedings on the prevention of dissemination of illegal content

The proceedings on the prevention of dissemination of illegal content are initiated either on the basis of a third-party motion or the Council's own investigations, if the matter cannot be postponed.¹⁷ In case of a third-party motion, the Council will examine the objected content and begin proceedings if it concludes that such content is potentially illegal and its dissemination may endanger the public interest or represents a significant interference with the individual rights or legitimate interests of a person within the scope of the legal order of the Slovak Republic. Concurrently, the Council must ensure that the content service provider was demonstrably informed about the existence of potentially illegal content through its

¹⁵ See: Treščáková, D. *Individuals and their rights in the middle of digitalization and technological progress of the society*, in: Petrašević, T.; Duić, D.; Novokmet, A. (eds.), EU and Comparative Law Issues and Challenges Series (ECLIC), Digitalization and green transformation of the EU: conference book of proceedings, Josip Juraj Strossmayer University of Osijek, Osijek, 2023, ISBN 9789538109546, Available at: [<https://doi.org/10.25234/eclic/27453>], Accessed 6 May 2026.

¹⁶ See: 1) Treščáková, D. *Freedom of expression on the internet vs. digital services act: chosen aspects*, in: Petrašević, T.; Duić, D.; Novokmet, A. (eds.), EU and Comparative Law Issues and Challenges Series (ECLIC), Strong and Secure Europe: Legal and Economic Aspects: Book of proceedings: International Scientific Conference, Josip Juraj Strossmayer University of Osijek, Osijek, 2025, 9, Available at: [<https://doi.org/10.25234/eclic/38095>], Accessed 6 May 2026 and 2) Sudar, V.; Mišević, S., *Freedom of speech and democracy in Europe: legal challenges and institutional responses*, in: Petrašević, T.; Duić, D.; Novokmet, A. (eds.), EU and Comparative Law Issues and Challenges Series (ECLIC), Strong and Secure Europe: Legal and Economic Aspects: Book of proceedings: International Scientific Conference, Josip Juraj Strossmayer University of Osijek, Osijek, 2025, 9, Available at: [<https://doi.org/10.25234/eclic/38089>], Accessed 6 May 2026.

¹⁷ According to the Council for Media Services 2024 Annual report, it initiated its own investigations of illegal content in two instances directed at intermediary services Facebook (1) and YouTube (1) with the objective to examine the presence of illegal content on these platforms. In both cases the Council began administrative proceedings against the respective intermediaries on the basis of the possible dissemination of illegal content. In the case of Google (YouTube), all objected content (14 comments) was removed, therefore the Council suspended the proceedings in this matter. As the intermediary Meta (Facebook) has not responded to the Council's notification on the proceedings beginning, the Council adopted a decision ordering a removal of the objected content (14 comments published under the post regarding the Roma and Muslim minorities and migrants that included calls for physical disposal or violent acts against these groups).

own mechanisms designated for this purpose, and if they do not exist, in another appropriate manner and the provider:

- a) without delay, no later than two days after receiving this information, did not inform the person who provided it with the information, about the solution of this situation,
- b) without delay, no later than five days after receiving this information, did not remove the potentially illegal content in question, or
- c) notified the person who provided it with the information that it will not remove the potentially illegal content in question.

If the Council concludes the illegality of content in question and that its dissemination endangers the public interest or constitutes a significant interference with the individual rights or legitimate interests of a person within the national legal order, it will issue a decision on the prevention of illegal content dissemination, ordering the responsible intermediary to remove the illegal content in question and prevent its further dissemination. This decision does not preclude the right of the affected users to seek protection in court proceedings. If the intermediary fails to comply with the obligations stipulated in the Council's decision, the Council may impose on it a fine in the amount between 2 500 and 100 000 €.

To analyse the emerging case-law of the Council, we examined its decisions adopted in the proceedings on the prevention of dissemination of illegal content. The number of decisions available at the time of this paper preparation was, however, limited (only 9 relevant decisions were identified).¹⁸ The reason for this may be the short period of time between the time the Council acquired the competences to act in this regard. Nonetheless, an interesting development could already be identified. The initial active approach of the Council reflected in the first years after it acquired the corresponding competences, where all the decisions available as of date were issued (2023 - 2024), was followed by the absence of any decisions adopted in the calendar years 2025 and 2026. The reason for such pause in its decision-making practice is unclear. The available decisions, an overview of which is provided in Table 1 below, focused, primarily, on content that fulfilled the characteristics of the criminal offence of incitement to national, racial and ethnic hatred under Section 424(1) of the Criminal Code.¹⁹ The intermediaries af-

¹⁸ Two of these decisions were examined in detail also by: Rudohradská, S., *Practical Application of the Digital Services Act - The Case of the Slovak Republic*, in: Petrašević, T.; Duić, D.; Novokmet, A. (eds.), *EU and Comparative Law Issues and Challenges Series (ECLIC)*, Strong and Secure Europe: Legal and Economic Aspects: Book of proceedings: International Scientific Conference, Josip Juraj Strossmayer University of Osijek, Osijek, 2025, 9, Available at: [<https://doi.org/10.25234/eclic/38129>], Accessed 7 May 2026.

¹⁹ Referencing Article 151 (2) (d) of the Act No. 264/2022 Coll. on media services as amended.

affected included operators of large social media platforms (X, Facebook, Instagram, YouTube), as well as websites of national tabloids or a disinformation blog. In the majority of decisions, the Council discontinued the proceedings as the reason for the proceedings had ceased to exist because the intermediary concerned had removed the contested illegal content. In only two decisions an obligation was imposed to remove the identified illegal content and prevent its further dissemination; the obligation was directed towards Meta Platforms Ireland Limited and Twitter International Unlimited Company. This may indicate the preference of affected intermediaries to resolve disputes being adjudicated by Digital Services Coordinators in a quick manner, avoiding lengthy proceedings and possible sanctions that may be imposed in case of identified infringements that may be significant.

Table 1. Overview of Council for Media Services decisions adopted in the proceedings on the prevention of illegal content dissemination

Decision No.	Intermediary	Content category	Nature of illegal content	Conclusion
RZK/139/2023 ²⁰	Twitter International Unlimited Company	§ 151 (2) (d)	a post on platform X, in which the user incited violence against a group of persons because of their belonging to the Roma nationality or ethnic group, or to restrict their rights and freedoms, thereby fulfilling the elements of the criminal offence of incitement to national, racial and ethnic hatred (Section 424, paragraph 1 of the Criminal Code)	suspension of proceedings, removal of user post
RZK/138/2023 ²¹	Meta Platforms Ireland Limited	§ 151 (2) (d)	a comment on Facebook that meets the characteristics of extremist material pursuant to Section 130, paragraph 7, letter c) of the Criminal Code and also constitutes incitement to violence against a group of persons because of their belonging to the Roma nationality or ethnic group, or to the restriction of their rights and freedoms, thereby meeting the characteristics of the criminal offence of incitement to national, racial and ethnic hatred (Section 424, paragraph 1 of the Criminal Code)	suspension of proceedings, removal of user comment

²⁰ Council for Media Services Decision No. RZK/139/2023 from 25 October 2023.

²¹ Council for Media Services Decision No RZK/138/2023 from 8 November 2023.

Decision No.	Intermediary	Content category	Nature of illegal content	Conclusion
RZK/137/2023 ²²	Meta Platforms Ireland Limited	§ 151 (2) (d)	comments on Instagram that constitute incitement to violence against a group of persons because of their belonging to the Roma nationality or ethnic group, or to the restriction of their rights and freedoms, and thus meet the characteristics of the criminal offence of incitement to national, racial and ethnic hatred (Section 424 (1) of the Criminal Code)	suspension of proceedings, removal of user comments
RZK/44/2023 ²³	Google Ireland Limited	§ 151 (2) (d)	a comment on YouTube that constitutes incitement to violence against a group of persons because of their belonging to the Roma nationality or ethnic group and meets the characteristics of the criminal offence of incitement to national, racial and ethnic hatred (Section 424(1) of the Criminal Code)	suspension of proceedings, removal of user comments
RZK/41/2023 ²⁴	HEURÉKA EVOLUTION, s.r.o.	§ 151 (2) (d)	a blog on the website “Hlavné správy” that incites national, racial and ethnic hatred towards the Jewish community, thereby fulfilling the elements of the crime of inciting national, racial and ethnic hatred (Section 424, paragraph 1, of the Criminal Code)	suspension of proceedings, removal of blog
RZK/38/2023 ²⁵	FPD Media, a.s.	§ 151 (2) (b), (c)	photographs of the suicide note of the terrorist attacker from Zámocká Street published on the website cas.sk, which incite to conduct that meets the characteristics of one of the criminal offences of terrorism, as well as approve of conduct that meets the characteristics of one of the criminal acts of terrorism	suspension of proceedings, removal of content

²² Council for Media Services Decision No. RZK/137/2023 from 25 October 2023.

²³ Council for Media Services Decision No. RZK/44/2023 from 6 July 2023.

²⁴ Council for Media Services Decision No. RZK/41/2023 from 7 June 2023.

²⁵ Council for Media Services Decision No. RZK/38/2023 from 26 April 2023.

Decision No.	Intermediary	Content category	Nature of illegal content	Conclusion
RZK/6/2023 ²⁶	Zoznam, s.r.o.	§ 151 (2) (b), (c)	quotes and an authentic photograph of the suicide note of the terrorist attacker from Zámocká Street published on the internet portal Topky.sk, which incite to conduct that meets the characteristics of one of the criminal acts of terrorism, as well as approve conduct that meets the characteristics of one of the criminal acts of terrorism	suspension of proceedings, removal of content
RNO/2/2024 ²⁷	Meta Platforms Ireland Limited	§ 151 (2) (a)	comments on the Facebook platform that meet the characteristics of extremist material, as well as the characteristics of the criminal offense of defamation of a nation, race and belief (Section 423 of the Criminal Code) and the characteristics of the criminal offense of incitement to national, racial and ethnic hatred (Section 424 of the Criminal Code)	imposition of an obligation to remove content
RNO/1/2024 ²⁸	Twitter International Unlimited Company	§ 151 (2) (a), (d)	a post on platform X that meets the characteristics of extremist material as well as the characteristics of the criminal offense of incitement to national, racial and ethnic hatred (Section 424 of the Criminal Code)	imposition of an obligation to remove content

In the national context, all categories of illegal content that fall under the competence of the Council for Media Services may also be prosecuted as criminal offences under different provisions of the Slovak Criminal Code (Act No. 300/2005 Coll.). While in some instances the case law established by competent courts is quite extensive, in other cases there are no judicial decisions to refer to. To illustrate, the dissemination of terrorist content may be prosecuted as the criminal offence of certain forms of participation in terrorism (Article 419b of the Criminal Code) that covers incitement and public approval of the characteristics of any of the terrorism offences. The practical application of this provision is, however, rare (we were not able to find any judicial decision applicable in this regard). On the other hand, the criminal offence of child pornography dissemination (Article

²⁶ Council for Media Services Decision No. RZK/6/2023 from 22 February 2023.

²⁷ Council for Media Services Decision No. RNO/2/2024 from 18 December 2024.

²⁸ Council for Media Services Decision No. RNO/1/2024 from 24 April 2024.

369 of the Criminal Code) is applied frequently, with dozens of perpetrators being prosecuted every year in Slovakia (e. g. in the last five calendar years, 244 persons were convicted for this offence).²⁹ The analysis of 101 decisions adopted between 1.1.2019 and 31.12.2023³⁰ revealed that in most cases, the perpetrators make child pornography material available through different communication applications to other unidentified users (e. g. Facebook, WhatsApp, Telegram, Skype, Snapchat or Instagram) or publish such material directly on their social media profiles. The punishments awarded in this regard are, however, not severe, as in most instances only conditional punishment of imprisonment is imposed, in some instances combined with low pecuniary fines or forfeiture of items used in the commission of a crime. Similarly, extremist content punishable as the criminal offence of extremist content dissemination pursuant to 422b of the Criminal Code is also frequent subject of prosecution, with 83 convictions recorded in the last five calendar years.³¹ The most commonly prosecuted cases of extremist content dissemination cover instances of making such content available on the perpetrators social media, e. g. by its publication on the offenders' public profiles, including writing offensive comments under other users' posts or even liking extremist content published by other users. Analogously as in the case of child pornography, the punishments imposed may be considered less severe, not reflecting the seriousness of such content dissemination.³² Criminal prosecution of the above examined categories of illegal content always targets individual perpetrators – users that published or otherwise circulated illegal content online. To our knowledge, as of date there are no cases in which intermediaries, whose services were being used for the dissemination of illegal content, were held liable in any scope in the national context. Here, of course, the exemptions from liability of intermediary services providers come into play. Specifically, the application of the

²⁹ This data is based on the Statistical yearbooks published by the Ministry of justice of the Slovak republic. The number of convicted persons in a given year based on the available data is as follows: 40 convictions in 2024, 52 in 2023, 61 in 2022, 44 in 2021 and 47 in 2020. Available at: [<https://www.justice.gov.sk/ministerstvo/analyticke-centrum/>], Accessed 6 May 2026.

³⁰ The detailed analysis is provided in: Bachňáková Rózenfeldová, L., *Regulácia nezákonného obsahu a súvisiacich deliktov na internete*. Bratislava, C. H. Beck, 2025.

³¹ This data is based on the Statistical yearbooks published by the Ministry of justice of the Slovak republic. The number of convicted persons in a given year based on the available data is as follows: 11 convictions in 2024, 15 in 2023, 11 in 2022, 20 in 2021 and 26 in 2020. Available at: [<https://www.justice.gov.sk/ministerstvo/analyticke-centrum/>], Accessed 21 May 2026.

³² It must also be noted that a proposal for the amendment of the Slovak Criminal Code was recently submitted to the National Council of the Slovak Republic aiming to remove the so-called extremist criminal offences, including the criminal offence of extremist content dissemination, from the list of criminal offences regulated in the Criminal Code, effectively excluding the possibility to criminally sanction the dissemination of such content. As of date, this proposal was not included in the regulator's agenda, but the proposal seems to lack the necessary support for its adoption.

hosting exemption stipulated in Article 6 of the Digital Services Act ensuring that intermediaries providing information society services consisting of the storage of information provided by the recipients of their services are not liable for information stored at the request of the recipient of the service on the condition that they do not possess actual knowledge of illegal nature of such information or upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content. Nevertheless, the provision of new competences of the Council for Media Services in the proceedings on the prevention of dissemination of illegal content directed at intermediaries may prove helpful and ensure the inclusion of parties enabling the circulation of illegal content in the process of its removal or blocking access to it.

3.2. Case study of the Council's application of Article 9 and 10 of the Digital Services Act

To provide a more comprehensive overview of the state of the Digital Services Act enforcement in Slovakia, we also examined the available transparency reports of selected intermediaries with significant representation in the national digital market. Our objective was to identify the real utilization of the competences awarded by the Digital Services Act and the corresponding national regulation implementing its provisions to competent authorities. We focused, specifically, on the practical employment of the following competences:

1. the right to issue an order to act against one or more specific items of illegal content to providers of intermediary services (Article 9 of the Digital Services Act)
2. the right to issue an order to provide specific information about one or more specific individual recipients of the service to providers of intermediary services (Article 10 of the Digital Services Act).

The enumeration of the selected providers of intermediary services is provided in Table 2.

Table 2 - Selected intermediary services and their average monthly active recipients in Slovakia

Intermediary service	The average monthly active recipients of the service
YouTube	4 300 000 – 4 500 000 (from 1 January 2023 to 31 December 2025)
Facebook	3 200 000 – 3 300 000 (from 25 April 2023 to 30 June 2025)
Instagram	2 300 000 – 2 500 000 (from 25 April 2023 to 30 June 2025)

Table 3 provides an overview of the practical employment of Articles 9 and 10 of the Digital Services Act by the competent national authorities in relation to selected intermediary services with significant basis of average monthly active service recipients in Slovakia. Whereas no orders to act against illegal content or to provide information may be identified in relation to the platform YouTube, this is not the case when it comes to platforms Facebook and Instagram operated by Meta Platforms, Inc. to which multiple orders were addressed, primarily in 2024. A clear preference can be distinguished in issuing orders to act against identified illegal content, with only a few instances of orders issued with the objective of obtaining the information on individual recipients of intermediary services can be detected.

Table 3. – Practical employment of Articles 9 and 10 of the Digital Services Act by Slovak authorities in relation to selected intermediary services

Intermediary service	Number of orders to act against illegal content issued	Number of orders to provide information issued	Examined time period
YouTube	0	0	September 2023 – February 2024
	0	0	July – December 2024
Facebook	0	0	April – September 2023
	1	1	October 2023 – March 2024
	6	2	April – September 2024
	24	0	October – December 2024
	7	0	January – June 2025
Instagram	0	0	April – September 2023
	0	1	October 2023 – March 2024
	4	2	April – September 2024
	0	0	October – December 2024
	4	0	January – June 2025

The above-provided analysis of the transparency reports published by providers of selected intermediary services revealed the current lack of interest of national competent authorities in applying their powers established in the Digital Services Act that enable them to issue orders to act against illegal content (Article 9) or to provide information about individual service recipients (Article 10) to providers of intermediary services. The services examined above cover some of the most visited websites in Slovakia with millions of daily users viewing presented content that, naturally, includes instances of content that may be considered illegal. This confirms our argument that the national authorities have not yet been able to fully utilize the competences provided for by the Digital Services Act in practice. It may be argued that the reason for such development is the lack of interest in furthering the fight against illegal content online in the national context beyond the previously established practices. These are primarily based on prosecuting the most serious instances of illegal content dissemination as criminal offences or other delicts, depending on their nature, focusing on individual perpetrators and not providers of services through which was such content made available online. The absence of experience in requiring the cooperation of intermediary service providers in cases of illegal content prosecution may, therefore, lead to the postponement of the full implementation of the Digital Services Act in the national context.

4. DISCUSSION AND CONCLUSION

The law is only as good as its enforcement.³³ Naturally, the enforcement will not happen overnight.³⁴ The Digital Services Act enforcement system is multifaceted, requiring the participation of competent authorities on both the European Union³⁵ and Member State level. In the national context, the main competences are entrusted to digital services coordinators appointed with the task of supervising the ap-

³³ Bartels, M. *Enforcement*, in: Kraul, T. (ed.), *New Digital Services Act, A Practitioner's Guide*, Germany, Nomos Verlagsgesellschaft mbH & Co., 2024, ISBN: 978-3-7560-0318-1. S. p. 132.

³⁴ Husovec, M., *Will the DSA work? On money and effort*, in: Hoboken, J. van et al. (eds.) *Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications*, Berlin, Verfassungsbooks, 2023, Available at: [\[https://doi.org/10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 26 April 2026.

³⁵ See: Geese, A., *Why the DSA could save us from the rise of authoritarian regimes*, in: Hoboken, J. van et al. (eds.), *Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications*, Berlin, Verfassungsbooks, 2023, Available at: [\[https://doi.org/10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 27 April 2026 and Buri, I., *A Regulator Caught Between Conflicting Policy Objectives Reflections on the European Commission's Role as DSA Enforcer*, in: Hoboken, J. van et al. (eds.), *Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications*. Berlin, Verfassungsbooks, 2023, Available at: [\[https://doi.org/10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 27 April 2026.

plication and, where necessary, enforcing the provisions of the Digital Services Act.³⁶ In Slovakia, this position is held by the Council for Media Services. As discussed in this article, the competences of this authority are significantly limited through the enumeration of specific categories of illegal content that may be investigated within the scope of the proceedings on the prevention of dissemination of illegal content. This is in contrast to the objectives of the Digital Services Act that aims to cover all categories of illegal content, notwithstanding the degree of their seriousness.³⁷ While the extensive interpretation of the Act on media services may provide a basis for the Council's participation in dealing with other categories of illegal content not explicitly covered in the applicable national regulation, a clearer designation of competences in this regard would be preferable. The emerging case-law of the Council confirms the authority's willingness to initiate investigations into both large intermediary services providers (prosecution of illegal content found on social media platforms such as Facebook, YouTube, Instagram or X), as well as smaller, local intermediaries (websites of local tabloid magazines or disinformation media). Noteworthy is, however, the lack of decisions adopted after 2025. The smaller number of decisions adopted as of date of this paper preparation in the proceedings on the prevention of dissemination of illegal content as well as the rather scarce use of the competences to issue orders to act against illegal content or to provide information about specific individual recipients of the service to providers of intermediary services corresponds to the short time period following the Digital Services Act adoption and coming into effect. Concurrently, the existing preference of prosecuting the most severe instances of illegal content dissemination through the instruments of criminal law in the national context, focusing on individual perpetrators while "ignoring" the role that intermediaries play in the dissemination of illegal content online, may be another reason for the slower application of Digital Services Act provisions in Slovakia. How the Council for Media Services will step into its role of the national digital services coordinator and whether it will try to ensure the achievement of the full potential of the Digital Services Act in the national context will be an interesting topic for future analysis.

³⁶ Jaurisch, J., *Platform Oversight Here is what a Strong Digital Services Coordinator Should Look Like*, in: Hoboken, J. van *et al.* (eds.), *Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications*, Berlin, Verfassungsbooks, 2023, Available at: [\[https://doi.org/10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 27 April 2026.

³⁷ See: Goanta, C., *Now What Exploring the DSA's Enforcement Futures in Relation to Social Media Platforms and Native Advertising*, in: Hoboken, J. van *et al.* (eds.), *Putting the DSA into Practice: Enforcement, Access to Justice, and Global Implications*, Berlin, Verfassungsbooks, 2023, Available at: [\[https://doi.org/10.17176/20230208-093135-0\]](https://doi.org/10.17176/20230208-093135-0), Accessed 27 April 2026.

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