

Online Audiovisual Content, Video Sharing Platforms and Regulation under DSA and AVMSD

H. Lisičar, T. Katulić i M. Jurić

Faculty of Law, University of Zagreb, Croatia

hrovoje.lisicar@pravo.hr, tihomir.katulic@pravo.hr, marko.juric@pravo.hr

Summary - In light of recent changes of regulatory framework for provision of digital services within the EU, this paper analyses interplay and overlapping of Digital Services Act and Audiovisual Media Services Directive with regard to the regulation of online audiovisual content. Implementation of DSA raises several questions which need to be clarified in order to enhance the legal certainty of the enforcement of EUs online content regulation. Both the Regulation and the Directive include provisions that pertain to video sharing platforms and their content. The paper examines their scope and the differences, especially in relation to protection of users and their rights.

Keywords – audiovisual media services, digital services, video sharing platforms, media, DSA, media content

I. INTRODUCTION

Over the past decade, the landscape of digital services and audiovisual media has changed dramatically due to technological advancements and changes in consumer behaviour. The European Union (EU) has recognized the need to ensure that the regulatory framework remains relevant and more efficient. As part of the two broader strategies, one for strengthening the digital single market[1] and the other for shaping the EU's digital future,[2] in recent years, there were several legislative initiatives pertaining to online audiovisual content and video sharing platforms. At the EU level, for several decades, audiovisual media content is regulated by the Audiovisual Media Services Directive 2010/13/EU (AVMSD).[3] Main goal of this Directive is to harmonize the rules and to ensure free reception and distribution of audiovisual services across borders while providing Member States with significant freedoms to regulate those services in line with their economic and cultural background. The AVMSD regulates main audiovisual players that are providing services under editorial responsibility, like television and video on-demand services and, since the last adaptation of AVMSD 2018/1808 in 2018,[4] the video-sharing platform (VSP) providers that do not fall under the scope of editorial responsibility but provide their services while organising the user generated audiovisual content that is distributed through their platforms.[5] With that, AVMSD is currently regulating different types of audiovisual content

dissemination where some of its provisions refer only to certain types of providers, depending on the responsibilities and distribution method to the consumers.[6] More recently, another specific regulatory instrument, Digital Services Act Regulation (EU) 2022/2065 (DSA)[7] came into force, so AVMSD is no longer the only relevant instrument governing the dissemination of audiovisual content. DSA introduces more comprehensive platform regulation, which partly also includes the players (VSPs) already addressed by the AVMSD. In addition, DSA also regulates platforms as intermediaries which are of great importance for the distribution of audiovisual content. In this paper, we will discuss the interplay and overlapping of these two legislative frameworks, analysing their key provisions, objectives, and implementation in the EU member states. Furthermore, we will explore the new challenges that arise from these legal frameworks and their impact on the dissemination of online audiovisual content. The starting point is an in-depth analysis of relevant provisions of the DSA and AVMSD with regard to the scope of application for providers of online content.

II. THE SCOPE OF DIGITAL SERVICES ACT

As previously mentioned, DSA is a new legal instrument that was enacted in the EU as part of the "Digital Services Act package" together with the Digital Markets Act Regulation (EU) 2022/1925 (DMA).[8] Where DSA is concerned mostly with free speech and content focus aspects, DMA's focus is on economic aspects of digital services, mainly competition and antitrust issues.

The DSA came into force on 16 November 2022 and will be fully applicable for all entities in its scope across the EU from February 2024, except for the provisions that pertain to the obligation of online platforms that have 3 months (until February 2023) to report the number of active end users on their websites which will be taken into account when European Commission (EC) makes an assessment[9] as to whether a platform should be designated a very large online platform (VLOP) or search engine. Following such a designation decision by the Commission, the entity in question will have 4 months to comply with the obligations under the DSA, including

carrying out and providing the Commission with the first annual risk assessment exercise.[10]

The main objective of DSA is to enhance the responsibility of platforms in the dissemination of online content.[11] Since the introduction of the E-commerce Directive (ECD)[12] in 2000, online platforms have been mainly defined and regulated under the term information society services. ECD has also introduced the liability exemption regime for three types of information society services as intermediary services, where the service can be considered as a mere conduit, caching, or hosting service. Several Member States took a somewhat different approach when defining information society service and liability exemptions while transposing the ECD in their national regulatory frameworks, which then led to numerous cases where the Court of Justice of the EU (CJEU) had to interpret the definition of information society services[13] and provide guidelines on the application of the liability exemption.[14] Furthermore, in recent years, to answer the new challenges that are connected to the dissemination of audiovisual content in various sectors, some other specific definitions of different types of online platforms have emerged, like for example the notion of video sharing platforms in AVMSD. Following all those developments, in technology advancements, provisions of services and new regulations, where the digital landscape has changed dramatically, it was clear that the existing regulatory framework, mainly ECD, was not adequate and had to be revised and improved. Before the introduction of the new regulatory framework, European Commission (EC) conducted an impact assessment analysis[15] in which three possible options for revision of the existing regulatory framework were assessed. The first option included the introduction of limited measures against illegal activities, laying down the procedural obligations for online platforms to tackle illegal activities, in order to protect users' fundamental rights and ensure transparency. The second option considered the implementation of fully harmonised measures to incentivise actions from service providers, enhance transparency and address a wider set of emerging risks by empowering users. The third and preferred option was the implementation of asymmetric measures with stronger obligations for very large online platforms, further clarifications of the liability regime for online intermediaries and EU governance with reinforced oversight and enforcement. [16] Advantage of this approach is that platforms of different size, scope and influence can be subject to different regulation. In a final version of a new regulatory framework for digital services third option was implemented. ECD is kept in force (except Art. 12-15 of the ECD) with DSA rules modifying it, additional rules for online platforms that are not part of other regulations and directives are introduced, a new *ex ante* regime is established with DMA Regulation and sector-specific rules are still valid.[17]

Building upon existing provisions in ECD, DSA took a horizontal approach to regulate different platforms, meaning that, a targeted set of uniform, effective and

proportionate mandatory rules[18] shall apply to all digital service providers operating in the EU, regardless of the type of service they offer or their specific business model. Expanding on previous liability exemptions for intermediaries in ECD, the novelty of DSA is that it introduces a layered approach to defining intermediary services. Art. 3(g) of the DSA defines three types of providers of intermediary service: a 'mere conduit' service, a 'caching' service, and a 'hosting' service. Additionally, hosting providers can be further categorised as online platforms according to Art. 3(i) or very large online platforms (VLOPs). This layered approach to intermediary services provides a different set of rules for hosting services, online platforms, and very large online platforms (VLOPs), where each category is subject to different obligations and responsibilities, depending on their role and level of influence in the online environment. "Simple" hosting services refer to intermediaries that provide storage services for user-generated content. They are typically not involved in the moderation or curation of the content and do not provide access to the public. Under the DSA, these hosting services would be subject to a set of general obligations that pertain to all hosting services[19] and are related to the designation of points of contact for Member States' authorities and recipients of the service, transparency, notice and action mechanisms, user complaints, and cooperation with law enforcement authorities.

The next step in this layered approach is the regulation of online platforms that are also hosting services, but they enable users to access and share content with others, where the platform stores and disseminates content to the public, like social media platforms, video-sharing platforms, and online marketplaces. Under the DSA, besides general obligations applicable to all hosting services, online platforms are subject to a broader set of obligations related to content moderation (Art 20, 23), dispute settlement (Art. 21), trusted flaggers (Art. 22), interface design and organisation (Art. 25), advertising (Art. 26.) and protection of minors (Art. 28.).

Finally, VLOPs are the largest digital intermediaries with a huge number of users (which have a number of average monthly active recipients of the service in the Union equal to or higher than 45 million - Art. 33 DSA) and most influence on society, such as Facebook, Google, YouTube etc. They are subject to an even stricter set of rules than regular online platforms and have more obligations under the DSA. These obligations pertain to identifying, analysing and assessing and mitigating any systemic risks (Art. 34, 35), they are subject to independent audit, providing at least one option for each of their recommender systems (Art. 38), additional online advertising transparency (Art. 39), they have to enable access to data that are necessary to monitor and assess compliance with DSA (Art. 40), they have to establish a compliance function (Art. 41) and have a transparency reporting obligation with regards to content moderation that they engaged in (Art. 42).

In summary, this layered regulation of intermediary services under the DSA aims to establish a different set of

rules and obligations that are appropriate for different types of intermediaries, depending on their role and level of influence in the society and digital landscape.

With regards to the territorial scope of DSA, Art. 2(1) states that it applies to intermediary services offered to recipients of the service that have their place of establishment or are located in the Union, irrespective of where the providers of those intermediary services have their place of establishment. This approach is similar as in some other instruments addressing the provision of digital services for recipients in the EU (most notably, GDPR).[20] Furthermore, this approach reflects the legislator's intention to protect EU citizens and their fundamental rights and is further specified in Art. 3(d) which provides a definition of meaning 'to offer services in the Union as enabling natural or legal persons in one or more Member States to use the services of a provider of intermediary services that has a substantial connection to the Union. A substantial connection to the Union, as per Art. 3(e), can result either from the provider's establishment in the EU or from specific factual criteria such as a significant number of European users or the targeting of activities towards one or more Member States.

With regards to the content, the main goal of the DSA is to harmonize the rules applicable to intermediary services with the objective of ensuring a safe, predictable, and trusted online environment addressing the dissemination of illegal content and dissemination of harmful content like disinformation,[21] while at the same time introducing safeguards for freedom of speech and other fundamental rights such as the right to an effective remedy, non-discrimination, rights of the child as well as the protection of personal data and privacy online. To achieve the above-mentioned goals, DSA introduces measures like 'voluntary initiative investigations and legal compliance' conducted by intermediaries, so called "Good Samaritan" clause, that do not preclude well-known established liability limitation regime i.e., "safe harbour".

III. ONLINE AUDIOVISUAL CONTENT AND THE SCOPE OF AVMSD

The AVMSD is the main regulatory instrument that governs the cross-border transmission of audiovisual media services in the EU. As a Directive, it establishes a minimum set of rules to which providers of audiovisual media services in all Member States must adhere. The original scope of the Directive (previously named Television without Frontiers Directive - TWFD) applied to the broadcasting of television, but in 2007[22] it was extended to on-demand audiovisual media services (VOD). Since providers of VOD services are, amongst others, online platforms, this was the first extension of the scope of the Directive to a certain type of services and content provided online, due to the developing media landscape. The second revision of AVMSD in 2018 further extended the scope to online services and online audiovisual content, introducing the provisions pertaining

to video sharing platforms (VSP) and user-generated content (UGC). With this revision, for the first time, AVMSD is extended to online services and providers that do not have editorial responsibility.

AVMSD defines VSPs as a service whose principal purpose or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, using an electronic communications network.[23] It is clear that this definition also covers and pertains to hosting intermediaries.

With regards to the online audiovisual content provided by VSPs, Art. 28(b) of AVMSD 2018/1808 imposes the obligations on providers to take appropriate measures to protect minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental, or moral development in accordance. Furthermore, they have to take appropriate measures to protect the general public from programmes, user-generated videos and audiovisual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of a group based on any type of discrimination and from programmes, user-generated videos and audiovisual commercial communications containing content the dissemination of which constitutes an activity which is a criminal offence under Union law, like a provocation to commit a terrorist offence, offences concerning child pornography and offences concerning racism and xenophobia.[24] These measures are without prejudice to Articles 12 to 15 of ECD and they can't lead to any ex-ante control measures or upload filtering of content.[25] They comprise revised terms of service, the introduction of flagging systems and reporting of illegal and inappropriate content, a clear declaration of functionalities of VSPs, implementation of age verification or rating and control systems, establishing transparent and easy to use measures to resolve complaints and provision of effective media literacy tools.[26]

The territorial scope of AVMSD 2018/1808 extends the country of origin principle, a well established system for all audiovisual media content providers since the introduction of TWFD, to VSPs. This means that VSPs established on the territory of any Member State are under the jurisdiction of that Member State. If there is a case where VSP is not established on the territory of a Member State of the EU, it will still be under the jurisdiction of a certain Member State if it is part of a parent undertaking or subsidiary undertaking that is established on the territory of that Member State. It is the same case if it is part of a group and another undertaking of that group that is established on the territory of the Member State.[27]

Considering all the above-mentioned AVMSD provisions that govern on-demand audiovisual media services, video sharing platforms and online audiovisual media content, it is clear that AVMSD and DSA share a

lot of common grounds when online platforms and online audiovisual content regulation are concerned. Although the legislator clearly states that DSA is without prejudice to the rules laid down by other Union legal acts regulating other aspects of the provision of intermediary services, including AVMSD,[28] interplay between these two instruments and possible overlapping in their implementation must be considered.

IV. INTERPLAY AND OVERLAPPING OF DSA AND AVMSD

Laying out the scope of the DSA and AVMSD and provisions that pertain to the regulation of online platforms and online audiovisual content raises several questions which must be clarified to enhance the legal certainty of the enforcement of online content regulation.

As previously mentioned, and as stated in Recital (10) and Art. 2 of the DSA, it is not intended for DSA Regulation to affect sectoral legislation like AVMSD, rather it should complement them. It should address issues that are not addressed or not fully addressed in AVMSD. This makes a DSA *lex generalis* in relation to other specific sectoral regulations, including AVMSD. Although the relationship between these two documents is clearly established, there are still some unanswered questions and possible situations of legal uncertainty.

One of those questions can be linked to the regulation of VSPs since they should also be treated as online platforms as defined by DSA. AVMSD as a Directive imposes certain obligations on Member States to regulate VSPs regarding the provision of audiovisual content. The rules applicable to VSPs imposed by certain Member States can vary in their scope, detail and strictness. In cases where those imposed provisions are stricter and more detailed should they be reviewed, in order to comply with DSA or will the provisions of DSA as a Regulation prevail. Furthermore, VSPs can provide other ancillary services that do not constitute audiovisual media content but are closely linked to it and are not covered by AVMSD. It is clear that for these types of services DSA applies, but does this also mean that jurisdiction and oversight of such VSPs will be divided between different regulatory bodies or only one regulatory body will be authorized to oversee all of the VSP's services, regardless of services that it provides. Also, when considering the provision of online audiovisual content, we should consider some specific forms of services, for example, streaming services. Those services are regulated by AVMSD. Since the goal of DSA's horizontal approach is to regulate all digital services, in which category of intermediaries should streaming services fall.[29] It is possible that streaming services in certain cases and depending on the means of provision of those services won't be covered by the DSA's definition of 'hosting service' or 'online platform'. This means that in certain cases all of the provisions pertaining to those types of services (notice and action mechanisms, internal complaint-handling system, trusted flaggers etc.) won't be applicable, although it is clear that they should be.

Regarding the provisions of AVMSD pertaining to the implementation of measures to protect minors and the general public from illegal and harmful content, AVMSD sets out general obligations for VSPs and Member States. Contrary to that, DSA as *lex generalis*, appears to have more precise demands when imposing measures to combat illegal and harmful content. When comparing provisions pertaining to VSPs and the publication of their terms and conditions, AVMSD requires that protection of minors and the general public from illegal and harmful content, and qualitative rules for audiovisual commercial communications should be included. On the other hand, Art. 14. of the DSA have more precise requirements, like the inclusion of information on any restrictions that they impose in relation to the use of their service in respect of information provided by the recipients of the service (policies, procedures, measures and tools used for the purpose of content moderation). In applying and enforcing these restrictions providers of services must act with due regard to the rights and legitimate interests of all parties involved, including the fundamental rights of the recipients of the service, such as the freedom of expression, freedom and pluralism of the media, and other fundamental rights and freedoms as enshrined in the Charter.[30]

When considering online advertising, provisions of AVMSD must be also supplemented with DSA's requirements in Art 26. for advertising on online platforms. Furthermore, with regards to provisions pertaining to mechanisms for reporting and flagging certain online content, Art. 28 (3)(d, e) of the AVMSD in general terms sets out obligations for VSPs to establish such systems and inform the users on their effects, while DSA in Art 16. includes more elaborate rules on the implementation and functioning of those systems. Furthermore, Art. 22. of the DSA imposes the obligation on providers to establish the systems to be able to receive notices submitted by trusted flaggers that are acting within their designated area of expertise.[31] Similar situation, where DSA's provisions are more concise and elaborate can be also found in the case of transparency obligations of platforms, users' complaint systems and out-of-court settlement of disputes.[32]This situation where *lex generalis* rules are more detailed and elaborate than rules set out in *lex specialis* can cause some practical problems in their implementation. Firstly, AVMSD as a Directive is already transposed by the Member States since it already came into force and implemented measures can be more detailed and stricter than the measures referred to in AVMSD. Secondly, AVMSD measures must be applied to all VSPs in a practicable and proportionate manner while taking into account the nature of the content, the harm it may cause, the characteristics of the category of persons to be protected, as well as the rights and legitimate interests at stake. On the other hand, DSA pertains to a specific category of intermediaries where certain provisions are applied according to their categorization and in the case of online platforms, their reach.

The provisions of the AVMSD relating to the establishment and territorial jurisdiction for VSPs that are not established in a Member State also significantly differ from the provisions in the DSA, which can also cause difficulties in their practical implementation. Art. 28a (2) of the AVMSD provides a criterion for determining the jurisdiction of VSP in cases where VSP is established in a third country but has a connection to a Member State via its parent or subsidiary undertaking or an undertaking member of the same group. At the same time Art. 56 (4) of the DSA stipulates that in case of a provider that does not have an establishment in the EU must appoint a legal representative and the Commission or Member State where that representative resides or is established shall have powers, to oversee and enforce the relevant obligations. This leads to a situation where the assessment of jurisdiction would have, in some cases, been conducted according to both legal instruments. It is also easy to imagine the situation where an online platform that also constitutes a VSP and does not have an establishment in the EU but provides services to the EU citizens has appointed a legal representative in one Member State, but also has a connection to another Member State via its parent or subsidiary undertaking.[33] Since AVMSD implements the country of origin principle, for that VSP jurisdiction must be determined under the AVMSD rules.

Finally, with regards to the online audiovisual content and liability exemption for providers, the interplay between these two instruments becomes once again apparent. Art. 28b of the AVMSD 2018/1808 stipulates that provisions pertaining to VSPs' obligations to implement measures to protect minors and the general public are without prejudice to articles 12 to 15 of the ECD (replaced by DSA Art. 4,5,6 and 8). This means that "safe harbour" still applies to VSPs.[34] We can take a look at YouTube as an example, which definitely qualifies as a VSP but also qualifies as VLOP under the DSA. For relevant online audiovisual content and audiovisual commercial communications that are hosted and provided by YouTube, the platform will have to apply all the measures from AVMSD to protect minors from content that may impair their physical, mental or moral development and the general public from illegal content, however, DSA will be applicable to the extent that the AVMSD or other EU legal acts, such as a Regulation on addressing the dissemination on terrorist content online,[35] do not contain more specific provisions.[36]

V. CONCLUDING REMARKS

The scope of the Digital Services Act (DSA) and Audiovisual Media Services Directive (AVMSD) raises several questions that must be clarified to improve the legal certainty of the enforcement of online content regulation. Although the relationship between the two documents is established, there are still uncertainties, particularly with regard to regulating video sharing platforms (VSPs). While AVMSD provides general obligations for VSPs, DSA imposes more precise requirements to combat illegal and harmful content,

including the inclusion of information on restrictions that online platforms impose in relation to their service. Additionally, DSA's provisions on mechanisms for reporting and flagging content, transparency obligations of platforms, users' complaint systems, and out-of-court settlement of disputes are more elaborate than those set out in AVMSD. The differences in the establishment and territorial jurisdiction for VSPs between the two documents may also cause difficulties in their practical implementation. This creates the potential for confusion and legal uncertainty, particularly for smaller platforms that may struggle to comply with varying regulatory regimes across different jurisdictions.

Therefore, further harmonization of these provisions is necessary to ensure a consistent and effective online content regulation across the EU. This will be the task of competent authorities that will be responsible for the supervision of providers of intermediary services and enforcement of these instruments.

It is worth noting that the issues raised by the relationship between the DSA and AVMSD are not the only ones that require clarification. As online content regulation continues to evolve, new questions and challenges will arise that must be addressed in order to ensure legal certainty and effective enforcement. Especially with regard to media content. For that purpose, a legislator has already come out with a proposal of several new legislative instruments like for example European Media Freedom Act.[37]

In conclusion, while the DSA and AVMSD provide important frameworks for regulating online platforms and online audiovisual content, their relationship requires further clarification in order to enhance legal certainty and ensure effective enforcement. It is important that policymakers and regulators continue to work together to address these issues and ensure that online content regulation remains effective and up-to-date in the face of evolving challenges.

References

- [1] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Digital Single Market Strategy for Europe", COM/2015/0192 final.
- [2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Shaping Europe's digital future", COM/2020/67 final.
- [3] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, p. 1–24.
- [4] Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, OJ L 303, 28.11.2018, p. 69–92.
- [5] Buiten, Miriam, The Digital Services Act: From Intermediary Liability to Platform Regulation (June 21, 2021). Available at SSRN: <https://ssrn.com/abstract=3876328>, p5.
- [6] Etteldorf Christina Cole D. Mark., Future Regulation Of Cross Border Audiovisual Content Dissemination, Media Authority of North Rhine-Westphalia, available at: https://www.medienanstalt-nrw.de/fileadmin/user_upload/NeueWebsite_0120/Presse/Pressemitteilung/Gutachten_ExSum_lang_EN_Cole_2023_2.pdf [3.2.2023].
- [7] 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, p. 1–102.
- [8] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA relevance), OJ L 265, 12.10.2022, p. 1–66.
- [9] Art. 33. DSA
- [10] Art. 34. DSA
- [11] Cole D. Mark., Overview of the impact of the proposed EU Digital Services Act Package on broadcasting in Europe, Institute of European Media Law, p.3. available at: https://emr-sb.de/wp-content/uploads/2021/06/EMR_Legal-Issue-Paper-DSA-DMA-and-Broadcasting_Summary.pdf [5.2.2023].
- [12] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), OJ L 178, 17.7.2000, p. 1–16.
- [13] For example, in Case C-434/15 *Press and Information Asociación Profesional Elite Taxi v Uber Systems Spain SL*
- [14] *op.cit.* 9, Cole D. Mark, p.7., for example in joined cases C-236/08 to C-238/08 against Google France SARL.
- [15] European Commission, Impact Assessment, Digital Services Act package: deepening the Internal Market and clarifying responsibilities for digital services, available at: <https://ec.europa.eu/newsroom/dae/redirection/document/72158> [7.2.2023.]
- [16] *Ibid.*
- [17] See more: Savin A., *The EU Digital Services Act: Towards a More Responsible Internet*, Copenhagen Business School. Aspen Publishers, March 2021, 15-25, available at: <https://www.proquest.com/docview/2528510222>
- [18] Rec. (4) DSA
- [19] Chapter 3, section 1 and 2 of the DSA.
- [20] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88
- [21] Geiger C., Frosio G. Taking Fundamental Rights Seriously in the Digital Services Act's Platform, Liability Regime, *European Law Journal* December 2022 available at: https://www.researchgate.net/profile/Giancarlo-Frosio/publication/350320059_Taking_Fundamental_Rights_Seriously_in_the_Digital_Services_Act's_Platform_Liability_Regime_European_Law_Journal_2022_forthcoming/links/60638e6e92851cd8ce7ad122/Taking-Fundamental-Rights-Seriously-in-the-Digital-Services-Acts-Platform-Liability-Regime-European-Law-Journal-2022-forthcoming.pdf
- [22] Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (Text with EEA relevance) OJ L 332, 18.12.2007, p. 27–45
- [23] Art. 1. (b)(aa) AVMSD 2018/1808
- [24] Art 28b p.1 AVMSD 2018/1808
- [25] Art 28b p.3 AVMSD 2018/1808
- [26] *ibid.*
- [27] Art 28a p.2 AVMSD 2018/1808
- [28] Art. 2. p. 4 DSA
- [29] About non-hosting intermediaries see more: Schwemer, Sebastian Felix and Mahler, Tobias and Styri, Håkon, *Legal Analysis of the Intermediary Service Providers of Non-hosting Nature* (July 1, 2020). Final report prepared for European Commission, University of Copenhagen Faculty of Law Research Paper No. 2021-108, Available at SSRN: <https://ssrn.com/abstract=3798494>
- [30] Art 14.(4) DSA
- [31] van Hoboken, Joris V. J. et.al. Putting the Digital Services Act Into Practice: Enforcement, Access to Justice, and Global Implications (March 10, 2023). *Amsterdam Law School Research Paper No. 13, 2023*, Institute for Information Law Research Paper No. 03, 2023, *Verfassungsbooks*. <https://doi.org/10.17176/20230208-093135-0>, available at: <https://ssrn.com/abstract=4384266>
- [32] About out of court mechanisms see more: Husovec M, *Will the DSA Work?, On Money and Effort*, *ibid.*
- [33] For conflict of laws with regards to territorial scope see more: Lutzi, T., *The Scope of the Digital Services Act and Digital Markets Act: Thoughts on the Conflict of Laws* February, 2023. *Dalloz IP/IT*, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=4367531>
- [34] For exemption of platforms see more: Genç-Gelgeç, B. *Regulating Digital Platforms: Will the DSA Correct Its Predecessor's Deficiencies?*, *Croatian Yearbook of European Law and Policy*, Faculty of Law – University of Zagreb, 2022, p 57
- [35] Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (Text with EEA relevance), OJ L 172, 17.5.2021, p. 79–109
- [36] Similar situation can be found in relationship between DSA and CDSM Directive as explained in: Quintais J.P and Schwemer S.F., *The Interplay between the Digital Services Act and Sector Regulation: How Special Is Copyright?*, *European Journal of Risk Regulation* (2022), 13, 191–217
- [37] Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU, COM/2022/457 final