



ADOPTED TEXT no. **822**
Provisional Act

FRENCH NATIONAL ASSEMBLY

CONSTITUTION OF 4 OCTOBER 1958

FIFTEENTH LEGISLATURE

ORDINARY SESSION, 2021-2022

9 March 2022

EUROPEAN UNION RESOLUTION

*pertaining to the draft regulation known as
the **Digital Services Act**.*

*In application of article 151-7 of the Regulation, the resolution
whose content is summarised below is hereby deemed to be definitive:*

See number **4917**.

.....

Single article

The French National Assembly,

In view of article 88-4 of the Constitution,

In view of article 151-5 of the National Assembly Rules of Procedure,

In view of article 114 of the Treaty on the Functioning of the European Union,

In view of 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,

In view of the Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services and amending Directive 2000/31/EC, known as the 'Digital Services Act' (DSA) (COM/2020/825 final),

In view of the European Parliament resolution of 20 October 2020 with recommendations to the Commission on the Digital Services Act: Improving the functioning of the Single Market (2020/2018(INL)),

In view of the European Parliament resolution of 20 October 2020 with recommendations to the Commission on the Digital Services Act: adapting commercial and civil law rules for commercial entities operating online (2020/2019(INL)).

Considering the development of the digital services market since the adoption of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 (the 'e-commerce Directive') referred to heretofore, in particular with the emergence of very large online platforms and advertising systems based on complex algorithm decisions;

Considering the new risks to the public arising from the use of digital services, notably increased exposure to hate speech and disinformation online;

Considering that several Member States have already adopted a range of standards to regulate unlawful content;

Considering that to avoid fragmentation of the internal market, enhanced and harmonised obligations in terms of due diligence must be established throughout the European Union with respect to intermediate service providers;

Considering that the proposed DSA Regulation maintains the exemption from liability (subject to conditions) of intermediate service providers created by the aforementioned e-commerce Directive;

Considering that the adoption of the draft DSA Regulation must not harm the application of other sector-specific legislation, such as 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), 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, and Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market;

Considering that the due diligence obligations incumbent on intermediate service providers and their scope must be better defined in the DSA;

Considering that the control of DSA obligations must be made more effective, in particular by means of the European Commission acting more stringently with respect to very large online platforms and the adaptation of the principle of ‘country of origin’;

1. Wishes the DSA Regulation to contain a fully-fledged review clause in order to allow it to be adapted to future practices in the online digital services market and in this respect, to evaluate whether it is opportune to maintain the principle of limited liability for online service providers;

2. Advocates the inclusion of a policy of systematic application of the most stringent clause in order to avoid the DSA resulting in unintended side effects on sector-specific legislation and allowing intermediate service providers to evade their obligations;

With respect to the balance between the need to combat unlawful content and the protection of users' freedom of speech:

3. Requests the creation of a framework governing the options available to online service providers to delete content that does not comply with their terms of use;

4. Seeks clarification of Article 6 of the DSA such that if voluntary measures deployed by intermediaries allow them to become fully aware of unlawful content, platforms' liability should be engaged unless they withdraw such content;

5. Welcomes the decision by the Council, in its general approach to the DSA of 25 November 2020, to establish a means to withdraw high-impact content of a nature requiring the intermediate service provider to speedily withdraw or block the content in question;

6. Supports the establishment of a requirement to keep unlawful content that is already deleted or blocked offline;

7. Seeks to facilitate the possibility of users disabling targeted advertising;

On the clarification and extension of the scope of concerned parties:

8. Advocates the inclusion of search engines within the scope of the DSA and the definition of specific obligations with respect to very large search engines;

9. Requests the express inclusion within the scope of the DSA of online streaming platforms;

On the tightening of specific obligations on online marketplaces:

10. Emphasises the need to extend the scope of the traceability obligation for traders specified in article 22 of the draft DSA Regulation to small businesses and existing vendors;

11. Seeks harmonisation of the list of information required for trader traceability with that in existing legislation;

12. Requests the inclusion of the DSA of the possibility of engaging the liability of marketplaces should a third-party trader not have a legal representative in the European Union;

13. Asks for ‘active end-users’ to be defined in view of the type of platform and the way it monetises its users;

14. Supports the lowering of the threshold of forty-five million active end-users to qualify as a very large online marketplace;

15. Rules out the creation of too great a distinction between social media and online marketplaces, in order to take into account the existing hybridisation between the two categories;

On enhancing the effectiveness of DSA control mechanisms:

16. Underscores the need to give the new authority for digital services a single, coordinating role at national level, in order not to compromise the independence or effectiveness of existing institutions;

17. Sees the enhancement of existing European cooperation networks as a priority, in particular in terms of regulating online content platforms and combating copyright infringement, over and above the creation of a European digital services committee;

18. Welcomes the general approach adopted by the Council on 25 November 2020 establishing as a principle that the European Commission has the power of control of DSA obligations for very large platforms in order to ensure more effective control of related obligations;

19. Requests clarification and consolidation of the effective capability of regulatory authorities (including in destination countries) to access all relevant data, in particular by restricting the possibilities for platforms to invoke professional secrecy;

20. Advocates increased transparency in the workings of very large online platform algorithms with respect to regulatory authorities, whilst protecting these intermediaries from risks of disclosure to the general public;

21. Seeks the possibility of engaging the legal liability of very large online platforms in the event of their algorithms being configured in such a way as to promote hate speech;

22. Invites national authorities and Commission administrations to acquire sufficient human and technical resources to ensure proper control of intermediate service providers' binding due diligence obligations;

23. Underscores the need to introduce an obligation to systematically forward certain manifestly unlawful content to enforcement authorities;

24. Invites EU institutions to specify in the DSA that suspending an account that is in the public interest, such as those of public figures and politicians, must be subject to a court ruling.

Paris, 9 March 2022.

The President,
Signature: RICHARD FERRAND



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