

EU Digital Service Act on the internal market for digital services - regulation in Romania

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The services of the information society determine everyday life in the European Union, but also entail considerable risks and challenges.

The EU **Regulation 2022/2065 on a Single Market for Digital Services (Digital Service Act, "DSA")** was therefore published on 27 October 2022.

Its purpose is to establish standardized regulations for dealing with illegal content, online disinformation or other social risks and thus a "safe, predictable and trustworthy online environment".

The DSA sets rules for "any service normally provided for remuneration at a distance and on behalf of an individual user", in particular for digital **intermediary services** consisting of the "mere conduit" of information, its "caching" and "hosting", as the use of these services is increasing exponentially. This applies in particular to social media, remote IT services and transport, accommodation and delivery services.

The DSA has been mandatory in the EU since **17 February 2024**.

1. Romanian regulation

A **draft law Plx 803/2023** on measures to implement the DSA ("**the draft**") was adopted by Parliament on 26/02/2024.

This concerns services offered by intermediary service providers with headquarters, residence or a legal representative in Romania to users established or residing in the EU.

2. Supervisory authority („DSC")

Under the DSA, each Member State must appoint authorities as **Digital Services Coordinators ("DSCs")**. They supervise the intermediary service providers established on their territory and ensure the enforcement of the DSA.

The Romanian DSC is the authority for administration and regulation in the communications sector ("ANCOM").

3. Information obligations

Each provider of intermediary services in Romania, except for public authorities and organisations, must provide ANCOM with its identification data and the central point of contact for communication with public authorities, organisations and users no later than 45 days after the start of the service provision.

ANCOM sets up an individual account for their access to the "**My ANCOM**" service and assigns them a unique password.

4. Monitoring

Authorities or institutions with supervisory powers over certain sectors or areas of activity are authorised to issue orders to providers of digital services via the contact point in order to take

action against any illegal content identified. These bodies also monitor the implementation of the orders issued.

Within 10 working days of receiving the last response from the intermediary service provider, the issuing authority shall send a copy of this order to ANCOM.

These orders are subject to Romanian administrative proceedings, which fall under the jurisdiction of the Bucharest Court of Appeal (*Curtea de Apel*).

In exceptional cases, ANCOM may even search the premises of intermediary service providers or persons acting in connection with their activities, upon specific judicial authorisation. For example if it is deemed necessary to examine and investigate the computer system or obtain copies of the algorithmic systems used.

5. Cooperation with authorities

Authorities or organisations that have taken measures in accordance with their national legislation may conclude cooperation agreements with ANCOM for the exchange of data and/or information resulting from the application of the DSA.

At the same time, they can transmit data and information to each other and consult each other, whereby they guarantee the protection of personal data in principle.

6. Sanctions

The draft provides for several categories of sanctions depending on which provision an intermediary service provider violates. The following fines are imposed, among others:

- between RON 5,000 and RON 30,000 for failure to provide ANCOM with the identification data and the contact point in due time and form, even in the event of changes;
- up to 6% of global annual turnover in the previous financial year for non-compliance with certain relevant provisions of the DSA;
- up to 1 % of global annual turnover in the previous financial year for providing or failing to correct incorrect, incomplete or misleading information, failing to answer questions or resisting an audit.

ANCOM may also impose fines of up to 5% of the average daily worldwide turnover or the average daily income of the intermediary service provider in the previous financial year per day from the date specified in the fine notice in order to encourage it to comply with obligations in certain situations.

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