

DSA.102 OP Liability

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Art. 6 DSA

Hosting

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service the service provider shall not be liable for the information stored at the request of a recipient of the service on condition that the provider:

(a) does not have actual knowledge of illegal activity or illegal content and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or illegal content is apparent; or

(b) upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the illegal content.

2. Paragraph 1 shall not apply where the recipient of the service is acting under the authority or the control of the provider.

3. Paragraph 1 shall not apply with respect to liability under consumer protection law of online platforms allowing consumers to conclude distance contracts with traders, where such an online platform presents the specific item of information or otherwise enables the specific transaction at issue in a way that would lead an average consumer to believe that the information, or the product or service that is the object of the transaction, is provided either by the online platform itself or by a recipient of the service who is acting under its authority or control.

4. This Article shall not affect the possibility for a judicial or administrative authority, in accordance with Member States' legal systems, of requiring the service provider to terminate or prevent an infringement.