# [NL] District Court of Amsterdam rules that X has violated the DSA and the GDPR by “shadowbanning” its user

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On 5 July 2024, the District Court of Amsterdam (*Rechtbank Amsterdam*) declared that Twitter International Unlimited Company – the Irish subsidiary of X – violated Articles 12 and 17 of the Digital Services Act (DSA) by failing to designate a single point of contact for recipients of its services and silently hiding its user’s account from search suggestions (the practice also known as ‘shadowbanning’).

The proceedings were initiated by the Dutch entrepreneur and PhD student Danny Mekić, who has a paid X Premium subscription. In October 2023, he made a post criticising the European Commission for spreading misleading information concerning its proposal for a regulation laying down rules to prevent and combat child sexual abuse.

Shortly after that, he was informed by other X users that his account was no longer searchable. The applicant contacted X to demand an explanation for the exclusion of his account from ‘autocomplete’ search suggestions.

At first, he received merely a general response indicating that his request was being reviewed and that temporary account-level restrictions may have been triggered by X’s automated systems. In January 2024, the applicant was finally informed that his account had been subject to a restriction as his post had been wrongfully associated with child sexual exploitation.

The restriction was lifted as the post in question was ultimately found not to violate X’s User Agreement. Before the District Court of Amsterdam, the applicant sought a declaratory judgment that X had acted in violation of Articles 12 and 17 DSA, obliging providers of intermediary services to designate a single point of contact enabling direct and rapid communication and to provide a clear and specific statement of reasons to any affected user for any restriction on their content or account respectively. Additionally, he sought an order to terminate both violations and symbolic compensation of 1.87 US dollars (USD) for the period during which the service for prioritising his account and posts under X Premium subscription was not fulfilled.

Twitter did not dispute that the applicant’s account had been temporarily restricted but appealed to its terms and conditions (‘X’s User Agreement’), which

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reserves its right to limit access to various aspects and functionalities of its service. It also argued that since the applicant had access to other key functionalities, Twitter's obligations towards the user were fully met. However, the court found that the clause enabling Twitter to suspend or terminate access to its paid service at any time without any reason was contrary to the Unfair Terms Directive. Hence, Twitter was found to be in violation of its obligations under X's User Agreement.

The court then established a breach of Article 17 DSA since its first two responses to the applicant's request for information were too vague and did not elucidate the exact reasons behind the restriction. However, the applicant's claim for an order requiring Twitter to comply with Article 17 DSA was rejected since it had already provided information on the limitation applied and no new restrictions on the applicant's account have been imposed since. Furthermore, the court found that X's Help Centre did not meet the requirements of Article 12 DSA as it does not enable effective communication between the platform and its users. It ordered it to provide an appropriate point of contact to the applicant. In light of these multiple violations, the court ordered Twitter to pay the applicant the requested compensation as well as the costs of judicial proceedings.

One day earlier, the District Court of Amsterdam also ordered Twitter to comply with Mekić's data access requests under Articles 15 and 22 of the General Data Protection Regulation (GDPR) filed following the imposition of the account restriction. In the event of non-compliance, Twitter will have to pay EUR 4 000 per day until the requested data is provided.

Both judgments represent a resounding victory for platform user rights.

### *Rechtbank Amsterdam, 5 July 2024, ECLI:NL:RBAMS:2024:3980*

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