Lost in Translation

How Misunderstanding Free Speech Undermines the Very Purpose it Claims to Serve

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In January 2026, president Karol Nawrocki vetoed the draft law set to adapt Polish law to the Digital Services Act (DSA), further prolonging the country's delay in DSA's implementation. The censorship concerns he invoked are unconvincing and reveal a limited understanding of the realities of today's online environment. Nearly a year after J.D. Vance's infamous Munich Security Conference address, in which he accused EU Commissioners of suppressing free speech, the narrative still has an impact on Poland. The Polish President has embraced a free speech paradigm prevalent in the American political discourse – one that is ill-suited to the European legal and institutional framework. The consequences are substantial, as platform users are deprived of important safeguards, making it essential that some version of legislation aligning the Polish legal framework with the DSA be adopted as a matter of urgency.

Veto this, veto that

This veto was somewhat anticipated. In the first six months of his presidency, Nawrocki has already vetoed 23 laws – more than his predecessor, Andrzej Duda, did in his ten years in office. In the final days before his decision, over 100 experts appealed to the First Lady to urge the President to sign the bill, with children's online safety being the dominant argument in the public debate – yet even that appeal had no effect. The reasons the President gave for the veto feel more declaratory than explanatory: he said that he believes that the notice and action mechanism for the removal of illegal content established in the draft law (Article 1(5), intended to ensure compliance with Article 16 of the DSA) interfered excessively with the freedom of expression, stating that "the state should guarantee freedom, not regulate it."

This argument is unpersuasive. The category of content covered by this provision is defined very narrowly and explicitly refers to provisions of other statutes, in particular the Criminal Code, intellectual property law, and industrial property law. As a result, such content is already prohibited under Polish law, and a person publishing it would in any event be committing an offence.

What the DSA does, however, is to make platforms react quicker to notices about illegal content by establishing a structured notice-and-action mechanism under Article 16 of the DSA. Such a notice can be submitted, by the police or by users themselves. So, imagine that someone – whether a law enforcement authority or an ordinary user – wants to have content amounting to child sexual abuse, content inciting racial hatred, or content promoting suicide, taken down; this would be the procedure to use. Additionally, it would arguably be much faster than going through a standard criminal process. One might say these are extreme examples – but this is exactly the type of situation the law is meant to address. While this procedure could, of course, be abused, given the narrow scope of the law, such abuse appears rather unlikely. At the same time the draft law provides for an appeal mechanism that would constitute an effective remedy against the removal of content falling outside the scope of the Act. The bottom line is that the notice-and-action mechanism is a core element of the DSA. One may therefore wonder how the President expects Polish law to be aligned with the requirements of the DSA while excluding that mechanism.

On a related note, when it comes to the abusive removal of online content, the greatest threat does not stem from individual users or even public authorities, but from the platforms themselves. According to a

report by the Appeals Centre Europe – a dispute settlement body established under the DSA – more than 75% of content moderation decisions reviewed on appeal were overturned. These wrongful removals also affect important voices in public debate, including journalistic content. The seriousness of the problem is further reflected in the Commission's recent adoption of guidelines to protect media content on online platforms. These safeguards require Very Large Platforms to notify media providers in advance of any intended removal of journalistic content and to clearly state the reasons for that decision. Responding to accusations that the DSA constitutes a tool of censorship, a Commission spokesperson, Thomas Regnier, went so far as to argue that its purpose is, in fact, to curb unjustified platform censorship, precisely by enabling users, including journalists, to appeal content removal decisions.

Returning to the Polish context, Poland remains one of the last Member States yet to align its legal framework with the standards stemming from the DSA, and the Commission has already initiated infringement proceedings in 2025. In this context, the President's veto suggests that meaningful regulation of the digital environment – and broader reforms concerning freedom of expression – are unlikely to materialise anytime soon.

Uncle Sam

The President's veto does not occur in isolation. It takes place against the backdrop of a growing transatlantic rift over the regulation of online content. The United States – particularly under renewed political pressure from both Congress and the President – has begun framing the EU's digital regulation as a threat to American free speech.

Among Trump's first executive orders was one titled "Restoring Freedom of Speech and Ending Federal Censorship", signalling alignment with the broader Republican position on content moderation. The administration has also issued a memorandum on "defending U.S. companies from foreign extortion, unfair fines and penalties", which takes direct aim at the DSA. The memorandum envisages retaliatory measures against countries that impose additional charges, including regulatory penalties, on American companies. A report published in February 2026 by the US House Judiciary Committee accused the European Commission of using the DSA and the DSA related Strengthened Code of Practice on Disinformation to coerce American technology companies into restricting lawful political expression. While the report's conclusions are far-reaching – and its characterisation of EU regulation as censorship is very much disputed – the political signal is clear: American policymakers increasingly view European content moderation rules as an assertion of extraterritorial regulatory power that clashes with First Amendment values.

This framing has real consequences for the Polish debate. The rhetoric of the veto – the invocation of freedom of expression as a shield against any form of state-mandated content regulation – echoes the arguments now being made in the US. Yet the analogy is misleading. The DSA does not define what constitutes illegal content; it defers to national law on that question. Its primary function is to impose procedural obligations on platforms: to act on notifications of illegal content, to provide transparent moderation decisions, and to allow users to challenge those decisions. In other words, it is as much a tool for protecting speech – by giving users recourse against arbitrary platform decisions – as it is for limiting it.

It's an AI's world

This dimension is all the more pressing in light of the growing role of artificial intelligence in generating and amplifying disinformation as well as illegal content. AI-generated content – from deepfakes to synthetic text – is increasingly difficult to distinguish from authentic material and is being deployed at scale by state and non-state actors alike. In late December 2025, xAI's chatbot Grok – integrated directly into Elon Musk's X platform – has generated sexualised images of minors after users exploited its image-editing feature, prompting investigations by the European Commission, the UK's Ofcom, and regulators in Australia and Brazil. This illustrates not only how quickly AI tools can be weaponised to produce illegal

content, but also the inadequacy of relying on platforms' self-regulation to prevent it, especially since platforms themselves rely on algorithmic systems that tend to amplify emotionally charged and sensational content, often at the expense of accuracy. In such an environment, the absence of a functioning regulatory framework that is the national implementation of the DSA leaves users, and children in particular, exposed.

Thus, the practical implications for Polish internet users are significant. Without the implementing legislation, Poland lacks a fully empowered Digital Services Coordinator capable of accepting complaints, certifying out-of-court dispute resolution bodies, or designating trusted flaggers. Polish users who are wrongly blocked by platforms have no rapid, accessible mechanism for independent review – a situation starkly illustrated by the long-running *SIN v. Facebook* litigation, in which a harm reduction organisation had to resort to civil proceedings lasting years in order to challenge the arbitrary removal of its educational content. The DSA's out-of-court dispute resolution bodies were designed precisely to avoid this kind of procedural burden, yet without transposition they remain unavailable in Poland.

The veto also deprives Polish users of a number of other protections that the implementing law would have introduced: the possibility to complain to a national authority about platforms admitting children under the age of 13, the ability to block content depicting child sexual abuse through an expedited administrative procedure with full judicial review, and the creation of a mechanism for the rapid restoration of content that has been unjustly removed by platforms.

President's decision leaves disappointment but little surprise. Given his track record in exercising his veto power, as well as his clearly expressed alignment with U.S. free speech narratives, the veto was easily foreseeable. Moreover, the President's reasoning appears to draw on a vision of the internet from the early 2000s – a free and open agora of unrestricted speech – that bears little resemblance to the commercially driven, algorithmically curated digital environment of today. To quote Brave New World, "ending is better than mending." Still, one may hope that the veto will not mark the end of efforts to align Polish law with the DSA, and that the legislation, once amended, will ultimately be adopted.

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