

## Decision

- Case ID: [REDACTED] -

In the out-of-court dispute settlement process between

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[REDACTED]

- Complainant -

and

**Instagram**

- Online Platform -

**because of**

the removal of content based on Instagram's Policy on Hateful Conduct

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the certified out-of-court dispute settlement body User Rights decided through its independent reviewers on **17/04/25**:

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**User Rights finds that Instagram's decision to remove the content from the platform was not justified. User Right's assessment is that the content does not violate the Policy on Hateful Conduct. Instagram should therefore reinstate the content.**

## **I. Summary**

The complaint concerns an Instagram story reposting a speech by Illinois Governor JB Pritzker, warning against authoritarianism and referencing historical events related to the Nazi regime. The complainant added text highlighting the speed at which Nazis dismantled a constitutional state. Instagram removed the content, citing a violation of its Policy on Hateful Conduct, claiming it potentially attacked groups based on identity. The complainant argued that the content opposed discrimination and was not banned on Facebook.

User Rights finds Instagram's decision to remove the content unjustified. The content does not violate the Policy on Hateful Conduct, as it focuses on political discourse and historical analysis without targeting any group based on identity. Therefore, User Rights overturns Instagram's decision and recommends reinstating the content.

## **II. Facts of the case**

The complaint deals with content posted by the complainant on April 1, 2025. The disputed content is an Instagram story which reposts a video of a speech held by the governor of Illinois JB Pritzker on February 19, 2025, in the State capitol. In his speech he warns against authoritarianism referring to the current government policy under US President Donald Trump after his first months in office. JB Pritzker refers to the discrimination against minorities, including immigrants, members of the LGBTQIA+ community, and persons with disabilities, which had already taken place during these first months. As an example of the danger of authoritarianism and dictatorship he states that it took the Nazis one month, three weeks, two days, 8 hours and 40 minutes to dismantle a constitutional republic. He concludes by appealing to the courage of the American people, and in particular the citizens of Illinois, to safeguard democracy in these challenging times. The complainant added a text to her story saying that if you think it is too early to sound an alarm, it took the Nazis one month and three weeks to dismantle a constitutional state. The following day Instagram removed the content from the platform. The same day, the

complainant appealed Instagram's decision to User Rights. When filing their complaint to User Rights, the complainant was asked to provide relevant context. The complainant explained that they had shared a story featuring a speech by the governor of Illinois, which addressed the issues of discrimination and domination in society. The speech referenced the number of days it took the Nazis to overtake constitutional institutions in Germany before World War II. The complainant stated that the content spoke against discrimination of certain minorities, using historical facts from Germany and the US as evidence. According to the complainant, the platform had decided to block the content, claiming it violated the Community Standards on hateful conduct, as it was classified as potentially attacking a person or group based on their identity. The complainant argued that this reasoning was contrary to the actual intent of the content, which aimed to oppose discrimination, and thus considered the action as censorship. Additionally, the complainant noted that the same content was not banned on Facebook, which is also under the META company.

On April 10, 2025, User Rights informed Instagram about the complaint to User Rights and gave it the opportunity to provide a submission. User Rights invited Instagram to provide additional information justifying its contested content moderation decision. The platform stated that they did not permit individuals to attack a person or group of people based on their identity.

### **III. Admissibility**

The complaint is admissible.

User Rights is certified to resolve disputes between platforms and complainants regarding moderation of content posted on a social media platform in German or English. Instagram is a social media platform. The relevant content is in English, thus a language for which User Rights is certified. Instagram removed content that the complainant had shared on Instagram. The removal of content constitutes a measure which, in accordance with Art. 20 para. 1 a) and 21 para. 1 DSA, can be appealed to User Rights.

## **IV. Merits**

The complaint is justified.

User Rights overturns Instagram's decision to remove the content from the platform. The content does not violate the Policy on Hateful Conduct, and should not have been removed on that basis. Instagram should therefore reinstate the content.

### **1. Scope of review**

In its submission to User Rights the online platform explained that it relied on its Policy on Hateful Conduct to moderate the content.

When moderating the content of a user, Instagram has an obligation to provide a statement of reason satisfying the requirements of Art. 17 DSA. This statement of reason must, among other information, reference the specific contractual ground relied on, Art. 17 (3) e) DSA. The subject of the complaint is thus primarily determined by which regulation the platform bases its action on.

Should Instagram later determine that the invoked policy was not violated but a different policy was, it needs to make a new content moderation decision, provide a statement of reason for that decision to the user, and the user has the right to appeal that decision, Art. 20 or 21 DSA.

### **2. Substantive Assessment**

User Rights bases its decision on the most recent version of the platform's general terms and conditions.

The content does not violate the Policy on Hateful Conduct.

Instagram's policy on hateful conduct prohibits direct attacks against people based on protected characteristics such as race, ethnicity, national origin, and others. The policy allows for commentary on political topics and criticism of policies, provided it does not target individuals or groups based on their identity.

The complainant reposted a video of a speech by the governor of Illinois, JB Pritzker, which warned against authoritarianism and used historical references to the Nazi regime to illustrate the dangers of dismantling constitutional institutions. The complainant added a text to the story, emphasizing the speed at which the Nazis dismantled a constitutional state.

The complainant's content is focused on political discourse and historical analysis, without any dehumanizing speech, slurs, or harmful stereotypes directed at a protected group. The reference to the Nazis is used in a historical context to warn against authoritarianism, not to attack any group based on identity.

The complainant's argument that the content aims to oppose discrimination aligns with the policy's allowance for political commentary. The platform's decision to block the content appears to be an overreach, as the content does not contain elements that would typically be considered a violation under the Community Standards. The complainant's reference to the content not being banned on Facebook further supports the argument that the content does not violate the policy. Therefore, the platform's decision to block the content was not justified.

## **V. Result**

**User Rights finds that Instagram's decision to remove the content from the platform was not justified. User Rights' assessment is that the content does not violate the Policy on Hateful Conduct. Instagram should therefore reinstate the content.**

*Note: The decisions of out-of-court dispute settlement bodies are not binding for platforms according to Art. 21 para. 2, third sentence of the DSA. However, as part of their duty to cooperate in good faith pursuant to Art. 21 para 2, first sentence of the DSA, platforms must assess whether there are reasons against implementing the decision and must inform the dispute resolution bodies about the implementation of the decision.*