

Decision

- Case ID: [REDACTED] -

In the out-of-court dispute settlement process between

[REDACTED]

- Complainant -

and

Instagram

- Online Platform -

because of

the removal of content based on Instagram's Policy on Dangerous Organisations and Individuals

the certified out-of-court dispute settlement body User Rights decided through its independent reviewers on **03/04/25**:

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 Dangerous Organisations and Individuals. Instagram should therefore reinstate the content.

I. Summary

The complaint concerns a black-and-white video posted by the complainant on Instagram, which juxtaposes a statement labeling non-vegans as Nazis with historical footage of a Nazi military parade. The complainant placed a caption on the historical footage of the Nazi parade: claiming it was his friends and him going to McDonald's. Instagram removed the content, citing a violation of its Policy on Dangerous Organisations and Individuals. The complainant appealed, arguing the post was satirical.

User Rights finds Instagram's decision to remove the content unjustified. The video does not glorify or support Nazi ideology and falls under permissible satire according to the policy. 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 October [REDACTED], 2024. The post in dispute contains a black-and-white video. It initially shows a [REDACTED] woman speaking directly into the camera. She states that people who do not follow a vegan diet are Nazis. Her spoken words are also shown as subtitles in the video. The scene then cuts to historical black-and-white footage of a military parade by the National Socialists. The footage depicts soldiers in Nazi uniforms marching in formation. Superimposed on this scene is the caption.

On March [REDACTED], 2025 Instagram removed the content from the platform. On March [REDACTED], 2025, 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 states that the post was intended as a joke in response to a statement that labeled non-vegan individuals as Nazis. The post was initially removed, then reinstated, removed again, and has not been reinstated since. On March 27, 2025, User Rights informed Instagram about the complaint to User Rights and gave it the opportunity to provide a submission which it did not send.

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 Dangerous Organisations and Individuals, 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 Dangerous Organisations and Individuals 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 Dangerous Organisations and Individuals.

The guideline prohibits the glorification, support, and representation of dangerous organizations. The term "dangerous organizations" also includes hate ideologies. The guideline explicitly lists National Socialism as an example. However, the video in question does not contain content that glorifies or supports the Nazi regime. Nor does it meet the definition of "representation" as set out in the guideline. According to the guideline, representation occurs when a person declares membership in a dangerous organization or creates and operates a page or profile on its behalf. The complainant uses historical footage of a Nazi parade in the video. However, this use does not amount to an expression of identification with or representation of the Nazi ideology within the meaning of the guideline.

Furthermore, the policy on Dangerous Organizations and Individuals allows "content that may otherwise violate the Community Standards when it is determined that the content is satirical". This means that the content in question "will only be allowed if the violating elements of the content are being satirized or attributed to something or someone else in order to mock or criticize them".

This is the case here. The footage of the Nazi parade is used in a satirical context. The complainant aims to parody the radical statement made by the [REDACTED] woman in the video, namely that non-vegans are Nazis. By showing the Nazi parade with the caption in response, the complainant seeks to highlight the absurdity of her claim through satire.

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 Dangerous Organisations and Individuals. 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.