

compensatory payment to the benefit of the injured person, the Polish Red Cross or towards another social cause indicated by the injured person (Article 216 § 4 of the Penal Code).

14. It is also worth noting that the Polish Penal Code (apart from Article 216) contains a number of other provisions governing insult of specific people, objects or places (Article 133 – public insult of the Polish nation or the Republic of Poland; Article 135 § 2 – public insult of the President of Poland; Article 136 § 3 and 4 – public insult of the head of a foreign country and other persons; Article 137 – public insult of national insignia; Article 196 – Public insult of places of worship; Article 226 § 1 and 3 – public insult of a public official or a person assisting him, or of a constitutional body of the Republic of Poland; Article 257 – insult of a group of population or a person because of their nationality, ethnicity, etc.; Article 261 – insult of a monument; Article 262 – profanation of a corpse; Article 347 – insult of a superior by a soldier; Article 350 – insult of a subordinate by a soldier).

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Seitz Elena, Program Director,
International Cultural-Educational Association (ICEA), USA

THE EUROPEAN UNION DIRECTIVE ON COPYRIGHT IN THE DIGITAL SINGLE MARKET

The European Union Directive on Copyright in the Digital Single Market [1] is a proposed European Union directive that is designed to limit how copyrighted content is shared on online platforms. EU directives are a form of legislation that set an objective for member states to achieve, so if the Directive on Copyright passes, all EU member states will be expected to eventually pass their own domestic legislation in line with the terms of the directive.

The Directive on Copyright is sometimes referred to as 'Article 13' after its most controversial component – the article that would require online platforms to filter or remove copyrighted material from their websites.

The Directive on Copyright would make online platforms and aggregator sites liable for copyright infringements, and supposedly direct more revenue from tech giants towards artists and journalists. Under current legislation, platforms such as YouTube aren't responsible for copyright violations, although they must remove that content when directed to do so by the rights holders. Proponents of the Directive on Copyright argue that this means that people are listening to, watching and reading copyrighted material without the creators being properly paid for it.

While the amended version of the Directive on Copyright is made up of 17 individual articles, the most substantial and controversial points are Article 13

and Article 11.

Article 13 – the “meme ban” – is the part of the Directive on Copyright that has most people worried. This article states that “online content sharing service providers and right holders shall cooperate in good faith in order to ensure that unauthorised protected works or other subject matter are not available on their services”.

So what does it mean? All this article is saying is that any websites that host large amounts of user-generated content (think YouTube, Twitter and Facebook) are responsible for taking down that content if it infringes on copyright.

But things aren’t quite that simple. No one can quite agree how these platforms are expected to identify and remove this content. An earlier version of the Directive referred to “proportionate content recognition technologies” which sounds an awful lot like it’s asking platform owners to use automate filters to scan every piece of upload content and stop anything that might violate copyright from being uploaded.

The latest amended version of the Directive removes this phrase and inserted an exception saying “special account shall be taken of fundamental rights, the use of exceptions and limitations as well as ensuring that the burden on SMEs remains appropriate and that automated blocking of content is avoided”.

The reason why this article has been dubbed the “meme ban” is that no one is sure whether memes, which are often based on copyrighted images, will fall foul of these laws. Proponents of the legislation argue that memes are protected as parodies and so aren’t required to be removed under this directive, but others argue that filters won’t be able to distinguish between memes and other copyrighted material so they’d end up being caught in the crossfire anyway.

Article 11 – the “link tax” – intends to get news aggregator sites, such as Google News, to pay publishers for using snippets of their articles on their platforms. Press publications “may obtain fair and proportionate remuneration for the digital use of their press publications by information society service providers,” the Directive states.

No one is really sure how this one would work either. How much of an article has to be shared before a platform has to pay the publisher? The Directive states that platforms won’t have to pay if they’re sharing “mere hyperlinks which are accompanied by individual words,” but since most links are accompanied by more than a couple of words it seems that many platforms and news aggregators would fall foul of this rule.

The Directive does contain an exemption for “legitimate private and non-commercial use of press publications by individual users,” so it doesn’t look like individuals sharing links on social platforms will have to dip into their pockets. But even this is open to interpretation. Is someone with a huge following on social media, who posts adverts to that audience, a “private and

non-commercial” entity?

Article 12a might stop anyone who isn't the official organiser of a sports match from posting any videos or photos of that match. This could put a stop to viral sports GIFs and might even stop people who attended matches from posting photos to social media. But as with the articles above, all of this depends on how the directive is interpreted by member states when they make it into national law.

List of References

1. Proposal for a Directive of the European Parliament and of the Council on Copyright in the Digital Single Market // Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016PC0593>.

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Самко А. В., магистр юридических наук,
Академия МВД Республики Беларусь, г. Минск, Беларусь

ОТДЕЛЬНЫЕ ПРОБЛЕМНЫЕ АСПЕКТЫ ПРИМЕНЕНИЯ МЕР ПРЕСЕЧЕНИЯ ПО УГОЛОВНЫМ ДЕЛАМ ЧАСТНОГО ОБВИНЕНИЯ

В соответствии с ч. 1 ст. 426 Уголовно-процессуального кодекса Республики Беларусь (далее – УПК) уголовные дела частного обвинения возбуждаются лицом, пострадавшим от преступления (его представителем, юридического лица) путем подачи заявления о совершении в его отношении преступления, предусмотренного ч. 2 и 3 ст. 26 УПК непосредственно в районный (городской) суд. Подобный порядок производства, отсутствие стадии предварительного расследования по замыслу законодателя должны способствовать их более быстрому рассмотрению, устранению волокиты, экономии бюджетных средств, с тем, чтобы права и законные интересы пострадавшего лица были восстановлены в максимально кратчайшие сроки. В противном случае теряется сама логика выделения данного производства. Однако, не всегда стороны добросовестно относятся к соблюдению требований по явке, в связи с чем в ходе правоприменительной деятельности судебные разбирательства зачастую откладываются в связи с неявкой обвиняемых в суд. Одной из причин к тому видится в отсутствии четко предусмотренных в законе полномочий суда по применению к обвиняемому меры пресечения в стадии назначения и подготовки судебного разбирательства.

Так, в соответствии со ст. 277 УПК по поступившему в суд уголовному делу судья лишь выясняет, подлежит ли *изменению или отмене* примененная в отношении обвиняемого мера пресечения. Правом