EXEMPTION FROM LIABILITY AND PROHIBITION OF GENERAL MONITORING OBLIGATIONS AS GUARANTEES FOR INTERNET INTERMEDIARIES' PARTICIPATION IN CIVIL RELATIONS

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Summary

This article examines the legal regulation of internet intermediaries' participation in civil relations, focusing on the regimes of exemption from liability and the prohibition on general monitoring obligations. The study analyzes the historical preconditions and reasons for introducing these legal mechanisms and assesses their impact on the development of the digital economy and user rights protection. Particular attention is paid to key aspects of European Union legislation, including the E-Commerce Directive and the Digital Services Act, which establish the fundamental principles of intermediary liability.

Special emphasis is placed on analyzing the case law of the Court of Justice of the European Union, which clarifies the limits of monitoring obligations and ensures a balance between freedom of expression, intellectual property rights, and business interests. The article highlights the specific features of Ukrainian legislation, including provisions of the Law of Ukraine "On Electronic Commerce" and the updated Law of Ukraine "On Copyright and Related Rights."

The study substantiates that exemption from liability is a critical element of intermediaries' functioning. Together with the prohibition of general monitoring, these two mechanisms constitute essential legal guarantees enabling intermediaries' participation in civil relations. The author stresses the importance of further harmonizing Ukrainian legislation with European standards to ensure intermediaries' effective participation in legal relations.

The findings can be utilized to improve the legal regulation of internet intermediaries and to develop new approaches for governing the digital environment in Ukraine.

Key words: internet intermediaries, exemption from liability, liability of internet intermediaries, "safe harbour" regime, prohibition of general monitoring, CJEU case law, Ukrainian legislation, Digital Services Act.

DOI https://doi.org/10.23856/6726

1. Introduction

The modern digital economy and the development of the Internet have significantly altered the approach to regulating internet intermediaries' activities, while the fundamental need to maintain certain guarantees for intermediaries' full participation in civil relations remains unchanged. The relevance of this research is determined by the necessity to strike an optimal balance between the interests of users, rights holders, and intermediaries. This is driven by technological changes, the increasing volume of information, and the influence of the digital environment on the legal sphere. The novelty of the topic lies in studying the principles of exemption from liability and prohibition of general monitoring as indispensable guarantees of intermediaries' participation in civil relations, considering the international experience and Ukrainian legislation.

The research aims to define the legal regime for intermediaries' exemption from liability and the prohibition of general monitoring as essential guarantees for their participation in civil relations. To achieve this aim, the following tasks have been identified: 1) general analysis of the historical preconditions and reasons for intermediaries' exemption from liability; 2) assessment of changes in the principle of prohibition of general monitoring within the context of recent European and Ukrainian legislation; 3) a brief overview of key case law relevant to the study.

The methodology of the research is based on the analysis of legal norms, comparative legal studies, data systematization, and case law analysis. The logical presentation of the material is grounded in a step-by-step disclosure of historical aspects, legal context, and practical implementation of the principles under discussion.

2. Internet Intermediaries' Exemption from Liability Regime: General Preconditions and Reasons for Introduction

Considering the essence of internet intermediaries as market participants, especially given the functions they perform, absolving them of liability for the content they transmit or store appears logical and fair. Otherwise, their participation in civil relations would be significantly complicated by the need to constantly monitor the content they handle. During the emergence and initial development of e-commerce and the Internet, this would have implied low efficiency of intermediary services, excessive costs for intermediaries, and, consequently, an inability to develop the network and digital market technologically and economically. At the same time, complete exemption of intermediaries from liability would make it impossible for users to effectively protect their infringed rights. Legislative and scientific-practical efforts in this area have aimed to find an optimal legal regime that ensures a fair balance between the rights and obligations of civil relations participants while avoiding negative impacts on innovation and the development of internet technologies. This search continues, given the need to adapt legislation to changes driven by the Internet and the digital market's evolution.

Western legal science has comprehensively substantiated the regime of intermediaries' exemption from liability. As J. Riordan writes, "to hold intermediaries liable for all harms facilitated by their services would impose an impossible monitoring burden, given the rate at which new information is uploaded and transmitted" *(Riordan, 2013: 8)*. Indeed, platforms process enormous amounts of data. For example, as of December 2022, more than 500 hours of video were uploaded to YouTube every minute *(Oxford Economics, 2022)*. Imposing liability and monitoring obligations on intermediaries under such circumstances would be unfair and require disproportionate investments to detect and block illegal content. Riordan also highlights risks to freedom of expression and privacy associated with excessive monitoring by intermediaries. Finally, he emphasizes that "conscripting intermediaries to police content was seen as inconsistent with their technical status as neutral conduits" and "limiting liability was thought to encourage innovation and economic development, since unlimited liability might deter firms from investing in network infrastructure and online services which created positive externalities." *(Riordan, 2013: 9)*.

Recognizing their role in facilitating online publications, internet providers and hosting platforms quickly realized the high risks of potential liability for content. Consequently, in the 1990s, their appeals for immunity from such liability significantly influenced the development of legal protection mechanisms. This led to the creation of immunity enshrined in Section 230 of the Communications Act of 1934, 47 U.S.C. § 230, as well as liability limitations in the

U.S. Digital Millennium Copyright Act (DMCA) and Directive 2000/31/EC (the "E-Commerce Directive", "ECD"), Articles 12–15.

According to the OECD, intermediaries' concerns were divided into three main categories: 1) the potential negative impact of liability on development and innovation; 2) the lack of effective legal or technical control mechanisms; 3) the unfairness of holding intermediaries liable when they act solely as "mere conduits." *(OECD, 2011: 73)*.

Regarding the first point, while the proliferation of illegal activities has posed challenges to legitimate business models, there were concerns that imposing liability for content created by third parties on providers and hosting platforms could hinder development and innovation. Given that the growth of e-commerce and the internet economy relies on a stable and expanding Internet infrastructure, the regime of immunity or "limited liability" has been and remains in the public interest. An important aspect is also the aspiration to preserve the open and decentralized architecture of the Internet, which continues to develop actively.

Regarding the second category, the OECD explains that, according to internet intermediaries, they are unable to manually verify the legality of all materials passing through their network routers or servers. Such verification may be impossible or could involve interference with the privacy and confidentiality of their subscribers *(OECD, 2011: 73)*. The case of LICRA v. Yahoo! (2000) became a turning point in the issues of liability for online content. The defendant argued that it was technically impossible for Yahoo!, an American company, to completely block access to pages selling Nazi memorabilia "to all individuals in France." The French court referred the question of technical feasibility of filtering to a special subcommittee, which concluded that Yahoo! could identify and restrict access for 90% of French users by utilizing mechanisms already employed for targeted advertising. As a result, the company was ordered to implement the blocking. This decision concerned content blocking based on geographical criteria. In this case, sellers manually classified the goods, but in the context of automated classification, internet intermediaries faced challenges, as automatic filtering of unwanted content at the time was technically limited and financially burdensome. An additional risk arose from content authored by third parties with whom intermediaries had no contractual relationships. The case also raised concerns among civil society about the impact of such decisions on freedom of expression.

Finally, the third category of concerns, according to the OECD, related to the fact that internet intermediaries act solely as channels of communication rather than content providers, and therefore holding them liable is unjust. They sought to be treated similarly to postal or telephone companies, which in the United States are not held liable for the transmitted content and are obligated to maintain confidentiality. Internet intermediaries avoided being classified as publishers due to the risks associated with liability for published content *(OECD, 2011: 73)*.

An analysis of the conditions and circumstances under which internet intermediaries operate, as well as the specifics of their activities, suggests that exemption from liability is an essential condition for their participation in civil relations. This immunity is also a factor in the normal functioning of the modern digital economy. One of the key reasons for such immunity is the promotion of innovation, as intermediaries form the backbone of technological infrastructure. Exemption from liability allows them to focus on developing services without the risk of numerous lawsuits. The liability exemption regime is further justified by the principle of neutrality, as internet intermediaries do not create content but merely provide the technical means for its transmission or storage. Another critical factor is the scale and complexity of monitoring: given the vast volumes of information transmitted and stored by internet intermediaries, monitoring every piece of content is practically impossible. Granting immunity avoids excessive

costs that could hinder the operation of digital services. Moreover, the immunity of internet intermediaries contributes to protecting freedom of speech, fostering an environment for the free exchange of information without the risk of excessive censorship. At the same time, this exemption establishes a regulatory balance: it is accompanied by obligations such as promptly responding to notifications about illegal content.

Since the mid-1990s, internet intermediaries in the United States, Europe, and other countries have successfully advocated for limited liability under certain circumstances. In the U.S., Section 230 and the DMCA of 1998 introduced the "safe harbor" regime to protect providers from liability for content created by third parties, particularly in cases of copyright infringement.

In Europe, the European Commission initially questioned this concept, considering the possibility of providers controlling online pornography, spam, and defamation. However, by 2000, a general consensus had emerged. It was acknowledged that providers perform diverse functions and require specific responses, but they should be granted limited liability if they cooperate in removing illegal or copyright-infringing content. These liability regimes, established in the U.S. (DMCA) and Europe (ECD), have become critically important for internet services, e-commerce, and industries reliant on user-generated content.

3. The General Features of the Liability Exemption Regime

Various countries worldwide have adopted different approaches to defining the criteria for exempting internet intermediaries from liability, which are often combined and borrowed. Ashley Johnson, a researcher at the Information Technology and Innovation Foundation (ITIF) (USA), identifies three main approaches applied to intermediary liability in countries other than the U.S.: the awareness or "actual knowledge" criterion (Australia, India, Japan, and the Philippines), the "notice and takedown" procedure (New Zealand, South Africa), and the "mere conduit" concept (EU, South Africa, India) *(Johnson, 2021)*.

In the EU, the E-Commerce Directive introduced a fundamental principle that provided internet intermediaries with the possibility of exemption from liability for the content and consequences of disseminating information by users of their services – a "safe harbor" regime. According to T. Madiega, this regime was characterized by the following key features: 1) it could be applied in cases where the intermediary lacked knowledge of the illegality of the content; 2) the intermediary was required to take active measures to stop the violation, including responding to relevant requests from individuals whose rights had been infringed; 3) the intermediary was prohibited from being obligated to conduct active monitoring of users' online content; and 4) self-regulation was strongly encouraged to remove and disable access to illegal information *(Madiega, 2020: 3)*. An important condition for applying this regime was the "passive" role of the internet intermediary: according to paragraph 42 of the Preamble to the E-Commerce Directive, its activities must have a "purely technical, automatic, and passive nature, meaning that the provider of information society services neither has knowledge of nor controls the information transmitted or stored." Currently, one of the most distinctive features of intermediary liability is its transformation–a partial shift from the initial "safe harbor" regime, where the intermediary role of e-commerce entities was considered entirely passive (directly affecting the application of liability), to the recognition of the active role of intermediaries and the imposition of obligations on them to participate in regulating the circulation of intellectual property objects and goods, as well as controlling other data flows to

enhance safety and compliance of the digital environment with applicable laws. The "horizontal approach" to intermediary liability introduced by the E-Commerce Directive has been preserved in the new Digital Services Act, while other sectoral acts expand and complement this approach.

Ukrainian legislation has adopted the "horizontal" approach to liability exemption, borrowed from the E-Commerce Directive. For instance, the Law of Ukraine "On Electronic Commerce" (hereinafter referred to as the "E-Commerce Law") does not impose limitations on the type of liability to which the granted immunity applies: "...[an internet intermediary] is not liable for the content of transmitted or received information or for damages caused by the use of the results of such services..." (Part 4, Article 9). Damages resulting from an offense may arise not only in contractual relationships but also in cases involving the infringement of intellectual property rights. In European legal doctrine, this is confirmed by case law, as illustrated in the case of Sotiris Papasavvas v O Fileleftheros Dimosia Etaireia Ltd and Others (C-291/13). Thus, the court interpreted the provisions of the E-Commerce Directive in a defamation case as follows: “The limitations on civil liability set out in Articles 12-14 of Directive 2000/31 may apply in proceedings between individuals concerning civil liability for defamation, provided that the conditions specified in these articles are met.” Consequently, the nature of the activity performed by a particular entity and compliance with the criteria (conditions) for exemption from liability are significant. The wording of Article 9 of the E-Commerce Law also does not explicitly establish limitations regarding the type of liability or the nature of the violation. Therefore, providers of intermediary services are potentially exempt from any liability, including liability for copyright infringement, trademark violations, and other civil rights violations.

4. On the Prohibition on General Monitoring Obligations

The principle of prohibiting the imposition of a general monitoring obligation was introduced by the E-Commerce Directive as a guarantee of the liability exemption regime. European Union legislation explicitly stipulates that internet intermediaries cannot be required to conduct general monitoring of their services to detect and prevent illegal activities by users. This provision is reflected in Article 15 of the E-Commerce Directive and reaffirmed in Article 8 of the Digital Services Act and Article 17(8) of the Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (the “DSM Directive”). Researchers Martin Senftleben and Christina Angelopoulos emphasize that the prohibition on general monitoring is grounded in several fundamental rights enshrined in the Charter of Fundamental Rights of the EU, including the right to protection of personal data (Article 8), freedom of expression and information (Article 11), and freedom to conduct a business (Article 16). Additionally, this principle supports the free movement of goods and services within the EU internal market. These legal safeguards serve as a common foundation for applying the prohibition on general monitoring in secondary legislation. *(Senftleben, Angelopoulos, 2020: 2)*.

The prohibition of general monitoring as a principle of internet intermediary regulation was introduced based on several key factors outlined in the European Commission's Communication “A European Initiative in Electronic Commerce” (1997), the Resolution of the European Parliament (1998), and the First Report on the Application of the E-Commerce Directive (2003), which can be consolidated as follows:

1) Technical limitations – During the early stages, internet intermediaries lacked the capacity to effectively monitor large volumes of information.

2) Unfairness of obligations – Imposing such a burden on intermediaries, who act merely as passive transmitters of data, was deemed unjustified.

3) Industry stimulation – Avoidance of excessive regulation that could hinder the development of online commerce within the EU.

4) Risk of excessive blocking – The potential restriction of lawful content and violation of the principle of free flow of information.

5) Risk of limiting freedom of expression – Erroneous blocking or automated systems could lead to infringements on freedom of expression.

At the same time, Article 15(1) of the E-Commerce Directive covered only the prohibition of general monitoring and did not exclude the obligation to conduct monitoring in specific cases. Paragraph 47 of the Directive's Preamble emphasizes that national courts have the right to require intermediaries to take measures to prevent violations, and Member States may impose obligations on hosting providers to detect and prevent certain types of illegal activities. This position is upheld in Article 8 of the Digital Services Act.

The prohibition of general monitoring has been repeatedly interpreted by the European Court of Justice (ECJ) in a series of landmark cases that have established significant legal positions for national courts in EU Member States. The case of L'Oréal v. eBay (2011) was the first in which the ECJ addressed the appropriateness of an injunction imposed on an online marketplace to prevent future trademark infringements by platform users. The ECJ determined that such a preventive injunction, which would require eBay to perform "active monitoring of all data from each of its clients to prevent any future infringements" of L'Oréal's trademark rights, would effectively constitute general monitoring. This was contrary to the provisions of Article 15(1) of the E-Commerce Directive, which prohibits imposing general monitoring obligations on internet intermediaries.

The interpretation of the principle prohibiting general monitoring was later elaborated in the cases of Scarlet Extended v. SABAM (2011) and SABAM v. Netlog (2012), where the Court of Justice of the European Union examined the compatibility of Article 15(1) of the E-Commerce Directive with judicial injunctions requiring a communications service provider and a hosting service provider to implement permanent filtering systems to prevent copyright infringements. These filtering systems were designed to identify copyrighted works from the repertoire of the Belgian copyright collection society SABAM and prevent their unlawful use. The ECJ concluded that performing such functions would require active monitoring of all information transmitted or stored by all users, which would amount to general monitoring. Specifically, in the case of SABAM v. Netlog, the court stated that the provisions of the relevant directives on the prohibition of general monitoring "…must be interpreted as precluding a national court from issuing an injunction against a hosting service provider which requires it to install a system for filtering: (i) information which is stored on its servers by its service users; (ii) which applies indiscriminately to all of those users; (iii) as a preventative measure; (iv) exclusively at its expense; and (v) for an unlimited period, which is capable of identifying electronic files containing musical, cinematographic or audio-visual work in respect of which the applicant for the injunction claims to hold intellectual property rights, with a view to preventing those works from being made available to the public in breach of copyright".

Similarly, in the case of McFadden v. Sony Music (2016), the Court of Justice of the European Union (CJEU) examined the compatibility of a judicial injunction requiring a communications service provider ("mere conduit") to monitor all information transmitted through its channel to prevent copyright infringements by third parties. The court determined that such an injunction, aimed at protecting specific works owned by Sony and covered by copyright, would effectively require general monitoring of all information transmitted by all users.

In the case of Glawischnig-Piesczek v. Facebook (2019), the Court of Justice of the European Union allowed a judicial injunction requiring a hosting service provider to remove identical or substantially unchanged defamatory content that had previously been declared unlawful by a national court. The court also mandated that clear instructions be provided to providers to avoid them having to independently assess the legality of the content. Given the dynamic nature of social networks, which facilitates the rapid dissemination of information, the CJEU found monitoring focused solely on individual users to be insufficient and allowed active oversight of all information uploaded to the platform to prevent repeated infringements. This decision, while diverging from previous precedents, takes into account the specifics of defamation cases, where effective protection of rights requires a broader approach to monitoring. This case serves as an example of permissible "specific" monitoring as opposed to "general" monitoring, the prohibition of which remains in effect.

In another landmark case, Petersons/Elsevier v. YouTube/Cyando, the Court of Justice of the European Union expanded the permissible scope of monitoring to cases of copyright infringement, allowing judicial orders for the removal and prevention of the dissemination of illegal content. The CJEU noted that such measures are permissible provided that the provider has been previously notified of the infringement by the rights holders. This allows online intermediaries to avoid litigation costs by responding promptly to violations, thereby preventing involvement in legal proceedings and the imposition of judicial injunctions and associated excessive expenses.

Finally, in 2022, in the case of Poland v. European Parliament and the Council of the European Union (C-401/19), the Court of Justice of the European Union (CJEU) examined the request to annul Article 17(4) of the DSM Directive. This provision imposes obligations on online content-sharing services (a type of hosting service provider) to make their best efforts, in line with high industry standards of professional diligence, to prevent copyright infringements, provided that the respective service providers have received sufficiently substantiated, relevant, and necessary information from rights holders about specific copyright infringements. First and foremost, the court concluded that the requirement for "best efforts in line with high industry standards of professional diligence" to prevent copyright infringements obliges very large content-sharing services, which receive thousands or millions of uploads daily, to conduct pre-emptive checks and filtering of online content using automated recognition and filtering tools. However, the court also noted that this obligation becomes applicable only after the service provider receives sufficiently substantiated notification of a specific infringement or relevant and necessary information about a copyrighted work, enabling the provider to identify illegal content without conducting a legal assessment. The court reiterated that, as a rule, service providers cannot be required to prevent the upload and public availability of content that requires an independent assessment of its legality, taking into account information provided by rights holders, as well as any exceptions or limitations to copyright, as this would amount to imposing a general monitoring obligation.

The case law of the CJEU has established the so-called "fair balance test," which provides a set of criteria and methods to determine the permissible limits of imposing monitoring obligations for specific content without amounting to a general monitoring obligation, prohibited under EU law. This test takes into account the balance of rights, obligations, and interests of all parties involved, including fundamental human and civil rights, such as the right to conduct a business, the right to freedom of expression, and the fair distribution of financial burdens, among others.

The principle of general monitoring prohibition is not only an essential component of the liability exemption regime but also a guarantee of internet intermediaries' participation in legal relations. Without the implementation of this principle, the burden of societal obligations would be overwhelming for businesses and would contradict the very nature of intermediaries as market entities. Therefore, this principle should be preserved, even considering the improved technical capabilities of modern content moderation and filtering systems.

5. The Digital Single Market: A Shift in the European Paradigm of Liability Exemption

With the adoption of the revised Directive on Audiovisual Media Services in 2018 and the DSM Directive in 2019, the fundamental principles of internet intermediary liability established by the E-Commerce Directive in the areas of copyright and audiovisual content regulation were shaken. While the guarantee of a prohibition on general monitoring was maintained in the DSM Directive, its implementation involves imposing additional obligations on online platforms, which may, in practice, require the use of content monitoring, filtering, and moderation tools to ensure compliance with the Directive's provisions. As Giancarlo Frosio explains, "In order to ensure the functioning of licensing agreements and prevent the availability of infringing content, the proposal would impose to hosting providers the use of effective content recognition technologies, such as YouTube's Content ID or other automatic infringement assessment systems. The proposal would de facto force intermediaries to develop and deploy filtering systems. In turn, such an obligation would impose general monitoring obligations as to the end of filtering unwanted content, all content must be monitored" *(Frosio, 2017: 10)*.

According to Article 17(4) of the DSM Directive, online content-sharing service providers that have not obtained authorization from rights holders are required to: 1) make their best efforts to prevent the availability of specific copyright-protected works based on information provided by the rights holders; 2) promptly remove infringing content upon receiving a substantiated notice and take measures to prevent its re-upload. The assessment of "best efforts" is based on high industry standards of professional diligence, taking into account the type and size of the service, its audience, available technologies, and their cost. New services operating in the EU for less than three years, with fewer than 5 million unique visitors per month and annual turnover below 10 million euros, are exempt from this requirement. Article 17(8) of the Directive ensures that these obligations do not create a general monitoring requirement. The European Commission and the CJEU have agreed that automated filters, such as Content ID, may be used to detect specific infringements identified by courts or rights holders, provided safeguards are in place to protect freedom of speech and the right to appeal (Case C-401/19).

The described changes indicate a trend toward a gradual narrowing or limitation of the guarantee against general monitoring (and conditions for liability exemption) concerning specific types of internet intermediaries and content in the EU. At the same time, it cannot be unequivocally stated that this trend is negative or will have a significant detrimental impact on the ability of intermediaries to participate in civil relations. Firstly, the strict provisions of the DSM Directive are explained by the "value gap" between copyright holders and online platforms: the latter derive significantly greater financial benefit from the use of copyright-protected content than the rights holders themselves. The Directive's provisions aim to improve control over content use and enhance the caution and responsibility of online platforms to help reduce this "value gap." Secondly, these provisions respond to new types of intermediary activities and their

specific forms (e.g., online platforms), as well as innovative technical tools that have become more accessible for reducing illegal content on intermediary platforms. Finally, the new Digital Services Act has preserved the immunity and prohibition of general monitoring for internet intermediaries, maintaining the relevance of earlier CJEU case law and the fair balance test for enforcement.

Until recently, the prohibition of a general monitoring obligation for providers of intermediary services in the information sphere was entirely absent in Ukraine, despite the fact that the relevant provisions of the E-Commerce Law had partially implemented the norms of the E-Commerce Directive, taking into account the provisions of the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014) (the "Association Agreement"). Thus, the E-Commerce Law, adopted in 2015, failed to fulfill the requirements of Article 249 of the Agreement to fully implement Section 2 into national legislation within 18 months of the Agreement's entry into force. The new version of the Law "On Copyright and Related Rights" dated March 23, 2017, which supplemented this law with provisions on the duties and responsibilities of hosting service providers regarding copyright objects, also did not include a prohibition on the obligation of general monitoring. According to Part 1 of Article 248 of the Association Agreement, "The Parties shall not impose, on providers of services covered by Articles 245, 246 and 247 of this Agreement, a general obligation to monitor the information which they transmit or store, nor a general obligation actively to seek facts or circumstances indicating illegal activity." The new version of the Law of Ukraine "On Copyright and Related Rights" of 2023 finally includes a corresponding prohibition in Part 3 of Article 58: "In the absence of information received from copyright holders and/or holders of related rights regarding violations of rights to specific objects of such rights, content-sharing service providers are not required to conduct general monitoring of content, i.e., to search for facts and circumstances indicating copyright and/or related rights violations." However, this provision is insufficient to meet the implementation requirements of the Agreement, as the prohibition on imposing a general monitoring obligation should apply to all internet intermediaries, not just to content-sharing service providers and those in the copyright sphere.

6. Conclusions

The study allows several important conclusions to be drawn. First, the exemption of internet intermediaries from liability and the prohibition of general monitoring are key guarantees of their participation in civil legal relations. These guarantees operate and evolve to balance the need to stimulate innovation with the protection of users' rights, as well as the interests of internet intermediaries as businesses with the civil, constitutional, and intellectual property rights of users.

Second, international experience (particularly European legislation) demonstrates the effectiveness of imposing limited obligations on intermediaries, which supports the growth of the digital economy. At the same time, the gradual expansion of monitoring obligations must respect the boundaries maintained in recent EU legislation regarding the prohibition of general monitoring, as guarantees in a democratic society must remain inviolable and consistently robust.

Finally, it should be noted that the adaptation of Ukrainian legislation to European standards shows progress but requires further refinement to ensure the comprehensive implementation of European approaches to regulating internet intermediaries.

Future research perspectives include analyzing the impact of new automatic monitoring technologies on legal regulation and developing mechanisms to integrate these technologies while minimizing risks to users' rights and freedoms.

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