

# Polish NGO wins against Facebook. Giant not allowed to censor content at will

By blocking the accounts and groups of Społeczna Inicjatywa Narkopolityki (SIN, the Civil Society Drug Policy Initiative), Meta has infringed on the organization's personal rights. On Wednesday, a Polish court issued a watershed decision in a case supported by the Panoptykon Foundation, thereby confirming that Internet platforms cannot block users at will. The court also confirmed that banned users have the right to sue in their own country.

The court has obliged Meta to restore the blocked content and publicly apologize to SIN for the wrongful blocking of its accounts and groups on Facebook and Instagram.

This marks a great success for Panoptykon and SIN, and an important day for online freedom of expression. For five years, two Polish organizations fought for access to a trial in Poland, for the right to have the moderators' decisions explained and for the right to effectively contest such by the people and organizations wrongfully blocked on social media.

A comment on the ruling was made by Jakub "Gessler" Nowak, SIN spokesman and board member:

"We are glad that the court ordered the restoration of the fanpage. This is not about the numbers: over the past five years, we have almost managed to recover our followership, although it did take a lot of work. But our old Facebook page was a goldmine of information on harm reduction, dependence prevention and specific psychoactive substances. It was also a repository of memories from the first seven years of SIN's work."

## A watershed decision for other censored users

SIN v. Facebook is the first such lawsuit in Poland involving private censorship on Facebook and Instagram, and the first one where the court ruled in favor of the organization that contested an arbitrary blocking.

"The court clearly stated: Facebook cannot block users without any justification and without providing them the possibility to effectively challenge the decision. Such actions are unlawful," says Dorota Głowacka, a Panoptykon Foundation lawyer who has been involved in the case since 2019. "Until now, blocking decisions have often been made arbitrarily and in a non-transparent manner. It has been difficult to contest them in practice. Any attempts to appeal them have seemed rather Kafkaesque. We are hoping that now, thanks to this ruling, we will no longer be helpless against private censorship," she adds.

However, the lawyer also notes that Meta should not have waited for this court decision before making changes to its moderation practices. In August 2023, the European Union adopted the Digital Services Act (DSA), which imposes specific requirements on very large Internet platforms, including obligations related precisely to content moderation.

In theory, the situation in which SIN found itself – blocked without justification and the possibility of appeal – should never happen to anyone again. Today, the DSA clearly says that platforms must substantiate their decision on content removal or visibility reduction, and create appropriate appeal procedures for their users. Still, Głowacka stresses the significance of the decision in blazing the legal trail for people aggrieved by the wrongful blocking of their account.

“No less importantly, the court has confirmed our right to sue global platforms in Poland, under Polish law, rather than exclusively in Ireland, as Meta has argued before the court” the lawyer adds.

The ruling is not final. Meta may file an appeal before the Appeal Court.

Case number: IV C 608/19

*On Panoptykon’s request, SIN is represented pro bono by Advocate Łukasz Lasek, Advocate Bartosz Troczyński and Attorney-at-Law Piotr Gołędzinowski from Wardyński & Partners.*

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## Behind the scenes: this case against Facebook has continued since 2018

SIN is a social organization that promotes knowledge on the harmful effects of psychoactive substances and helps people who use them. Its goals include reducing the harms caused by substance abuse.

In 2018, without a warning or transparent explanation, Facebook removed SIN’s fanpages and groups, stating that they “violated Community Standards”. In January 2019, one of the organization’s Instagram accounts was removed on similar grounds (the app also belongs to Meta).

“Our fanpage was removed without a warning, without any explanation why we were being censored and without any indication which content specifically violated the Community Standards. We were also not given the possibility to effectively appeal the ban. Years of our work and memories recorded on this page were at the mercy of corporate whims,” SIN spokesman comments. He explains why the organization’s disappearance from social media dealt such a blow to its work: “Facebook was SIN’s primary communication channel, but more importantly, it

was also a goldmine of information on harm reduction, dependence prevention and specific psychoactive substances. A popular fanpage with an archive of information amassed over 7 years could reach more people in need, and the knowledge collected there could help minimize risks and protect people's health."

On 7 May 2019, SIN – supported by the Panoptykon Foundation – filed a lawsuit in a Polish court, demanding that Facebook apologize publicly and restore access to the removed pages and accounts. In June 2019, SIN was able to secure interim measures: for the duration of the trial, the court obliged Facebook to store all data from the removed profile, and prohibited Facebook from removing content posted by the organization's new account.

Facebook questioned both the Polish court's jurisdiction (claiming that the competent court was located in Ireland) and the language in which the documents were written (SIN was forced to pay almost 9,000 *złoty* for an official translation; the equivalent of ca. €2,100 or \$2,300).

## The decision's significance

1. The decision indicates that blocking accounts and content without any justification or the possibility of appeal is against the law. Platforms must explain to their users why they have been blocked, and give them the possibility to effectively challenge the decision. Platforms cannot decide at their own discretion who can say what online.
2. The ruling opens up a legal path for people aggrieved by a wrongful account ban. The ruling confirms that they may challenge a platform's decision in front of an independent institution.
3. The ruling confirms that blocked users can assert their rights against global internet platforms in Polish courts, under Polish law.

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