

PAX 2024-2025 Case

Applicant: Safe Socials Foundation (NL)

Respondents: Telerel SA (France); Watermelon Information Technology Ltd. (Ireland) and Watermelon IT Platform Ltd. (UK)

1. Content moderation

Content moderation is a critical part of the data flow reaching social media users' devices. Without content moderation, social networks cannot exist.

Content moderation is typically a combined effort of technology (algorithms) and human intervention (content moderators). The work of a content moderator is very demanding. They are continuously faced with "the worst of humanity". As one content moderator said in a recent interview: *"We don't choose what to see, it just comes in randomly: suicide videos, graphic violence, child sexual exploitation, nudity, violent incitement... They flood into the system"*. Furthermore, content moderators work under considerable time pressure, with sometimes an "average handling time" of 55 to 65 seconds per video or "ticket" assigned to them. That amounts to anywhere between 387 and 458 tickets viewed per moderator each day.

Often, platforms outsource content moderation to independent service providers, who in turn hire the actual content moderators either as employees or self-employed contractors.

2. Safe Socials Foundation

A number of former content moderators who suffered severe mental issues because of their work establishes the "Safe Socials Foundation" (SSF) with the aim of improving both the safety of social media and the working conditions of content moderators. SSF is incorporated under Dutch law and has its statutory seat in Maastricht, the Netherlands. According to its Articles of Incorporation, the SSF's purposes are:

- To contribute to a safe social media environment for both its users and content creators;
- To promote recognition of the pivotal function of content moderators to create and maintain a safe social media environment;
- To actively pursue content moderator's right to enjoy just and favourable conditions of work, including a fair wage for employees or adequate income for self-employed workers, and safe and healthy working conditions;
- To take all further actions that are related to the foregoing in the broadest sense or that may be conducive thereto.

3. Watermelon

Watermelon is a digital tech company operating a successful social media platform worldwide. Its main office, Watermelon Information Technology Ltd., is headquartered in Cork, Ireland. Watermelon IT Platforms (UK) Ltd. is one of its subsidiaries. Watermelon IT Platforms (UK) Ltd. has its principal place of administration in London, United Kingdom.

Watermelon's content moderation activities are organised by Watermelon IT Platforms (UK) Ltd. It employs a small number of moderators, all of whom are based in the UK. The main contingent of content moderators, however, is obtained through the digital services company **Telerel SA**.

4. Telerel

Telerel SA, a French company established in Lille, specialises in providing digital services to other companies. For its contract with Watermelon IT Platforms (UK) Ltd., it hires around 2000 people as self-employed content moderators to work exclusively for the Watermelon platform. These content moderators are “digital nomads,” They can work from anywhere provided they have a laptop and internet connection. Nothing in their contract with Telerel specifies where and when their work is to be performed exactly. Each worker has a daily target of 400 tickets. Many Watermelon digital nomads in Europe tend to flock together and live or spend long periods of time in the Meuse–Rhine Euroregion (EMR), which spans three countries, five regions, three languages, four million inhabitants and the cities of Maastricht, Liège, Aachen, Hasselt and Eupen. Each of them carries out their moderating activities for some period of time from a Dutch location.

While the contract between Watermelon IT Platforms (UK) Ltd. and Telerel provides that Telerel must arrange for a healthy workplace and ensure mental care where needed, it is common knowledge that many moderators of Telerel struggle with mental health disorders: depression, anxiety, post-traumatic stress disorder, and suicidal ideation are common side-effects of their work.

The settlement

In August 2024, a settlement was reached during proceedings before the High Court in London between Watermelon IT Platforms (UK) Ltd and 55 of the UK based content moderators it employs. The settlement provides not only for the 55 moderators to be compensated but also for an obligation for Watermelon companies to adequately protect the health of content moderators it employs either directly or indirectly (outsourcing).

The claim

On 25 October 2024, SSF filed a claim with the court of first instance in Maastricht against Telerel SA as well as Watermelon Information Technology Ltd., Cork (Ireland) and Watermelon IT Platforms Ltd., London (UK). The Foundation requests the court:

- to declare that Respondents failed to properly protect content moderators against severe psychological harm by imposing excessive demands on "average handling time" resulting in an excessive exposure to material adversely affecting their psychological health;
- to order Respondents to take adequate measures to prevent mental harm by reducing the standards *on* “average handling time” and to provide all necessary and appropriate medical, psychiatric and psychological care to content moderators.

The court is facing several issues of private international law. On behalf of the Applicant and on behalf of Respondents, your team is invited to submit arguments on the question:

1. Whether the court has international jurisdiction.
2. Which law is applicable to the merits of the case, whereby the Applicant argues for the applicability of Dutch law and Respondents argue for the applicability of another law or laws.
3. Whether a request by Watermelon for the recognition of the UK settlement in the Netherlands be granted and, if so, what the effects of the recognition are for the Maastricht proceedings. This question is to be addressed assuming the 2019 Judgments Convention is binding in the UK and The Netherlands at the time of your legal assessment.

