[DE] Fifth state media treaty clarifies media authority supervision under DSA youth protection rules

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On 1 October 2024, the *Fünfte Staatsvertrag zur Änderung medienrechtlicher Staatsverträge* (fifth state treaty amending the state media treaty – 5. MÄStV) came into force, primarily to introduce changes necessitated by the entry into force of the Digital Services Act (DSA). It deals, firstly, with the relationship between the *Medienstaatsvertrag* (state media treaty – MStV) and *Jugendmedienschutzstaatsvertrag* (state treaty on the protection of minors in the media – JMStV) and the DSA and the German law transposing it, and, secondly, with the supervision provided under the DSA by the state media authorities, which are designated as competent authorities in the field of youth protection in the media.

The 5. MÄStV amends the MStV and the JMStV, primarily making formal changes necessitated by the replacement of the *Telemediengesetz* (Telemedia Act) by the *Digitale-Dienste-Gesetz* (Digital Services Law – DDG) following specific provisions of the DSA. References and terminology also, therefore, needed amending. Both the MStV and the JMStV therefore now specify that they only apply to intermediary services within the meaning of Article 3(g) DSA if the DSA does not apply. Furthermore, the obligation for video-sharing services to report user complaints, required by the Audiovisual Media Services Directive and previously contained in the repealed Telemedia Act, has been incorporated in a new Article 5b of the JMStV, along with specific references to youth protection in the media. The article describes the obligation to create a reporting mechanism for unlawful audiovisual content, the reporting procedure itself and the characteristics of unlawful content.

An important change regarding the supervisory system is contained in Article 111(3) MStV. Article 12 DDG mentions the competent authorities referred to in Article 49 DSA, in particular the *Bundesnetzagentur* (Federal Network Agency) as Germany's Digital Services Coordinator (see also IRIS 2024-5:1/21). According to Article 12(2), the *Bundeszentrale für Kinder- und Jugendmedienschutz* (Federal Office for the Protection of Children and Young People in the Media) is responsible for enforcing Article 14(3) DSA and structural preventive measures in Article 28(1) DSA, apart from measures taken under the JMStV. Responsibility for these measures and individual measures governed by the JMStV will be assumed by the bodies designated by the *Länder* in the 5. MÄStV. The new Article 111(3) MStV, therefore states that the competent authority is the state media authority

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responsible under Article 106 (by its location), with coordination provided by the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media), a joint body of the German state media authorities. The state media authorities are also required to appoint a joint representative to coordinate cooperation with the Digital Services Coordinator, the other competent authorities under the DDG, the European Commission and other authorities governed by the DSA. They have already appointed Dr. Tobias Schmid, director of the North Rhine-Westphalia state media authority, European representative of the state media authorities and former chair of the European Regulators Group for Audiovisual Media Services (ERGA), in this role. The MStV also states that, if public broadcasters are the subject of measures under Article 12(2)(2) DDG, the joint representative should include the broadcaster concerned in the proceedings.

Fünfter Medienänderungsstaatsvertrag

https://rundfunkkommission.rlp.de/fileadmin/rundfunkkommission/Dokumente/Staatsvertraege_und_andere_Dokumente/5._MAEStV_final.pdf

Fifth state treaty amending the state media treaty

Pressemitteilung der Landesmedienanstalten

https://www.die-medienanstalten.de/pressemitteilungen/neue-regeln-im-netz-medienanstalten-sichern-grenzueberschreitende-aufsicht/

State media authorities press release

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