[DE] Network Enforcement Act enters into force

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The Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (Act to improve law enforcement in social networks - NetzDG) entered into force on 1 October 2017. The new law is designed to force social networks to deal more quickly and more comprehensively with complaints, in particular from users, about hate speech and other criminal content.

The act applies to social networks defined in Section 1(1)(1) NetzDG as telemedia service providers which, for profit-making purposes, operate Internet platforms designed to enable users to share any content with other users or to make such content available to the public. Platforms offering journalistic or editorial content for which the service provider itself is responsible, and platforms designed to enable individual communication or the dissemination of specific content, are excluded from the scope of the act. The former concerns Internet platforms often used by radio stations or television providers, for example. It is also significant that, according to Section 1(2) NetzDG, the act only applies to providers whose social networks have more than 2 million registered users in Germany. It is therefore deliberately aimed at large social networks such as Facebook.

Providers to whom the act applies are placed under new obligations with regard to unlawful content. Unlawful content is defined in Section 1(3) NetzDG as content that breaches specific provisions of the Criminal Code (StGB), such as the rules on slander in Article 185 StGB and certain criminal law provisions on protection from threats to the democratic rule of law.

Exactly how providers should handle complaints about unlawful content is explained in Section 3 NetzDG. Providers must ensure, through an effective and transparent procedure, that complaints are immediately noted and checked. Content that is manifestly unlawful must be removed within 24 hours of the complaint being received; all unlawful content must be removed within seven days of the complaint being received; and any decision taken by the provider must be notified to the complainant.

Section 4 NetzDG concerns regulatory fines and stipulates that fines of up to EUR 5 million may be imposed for certain infringements of the act.

Section 5 NetzDG requires social network providers to appoint an authorised agent in Germany and to draw attention to this fact on their platform in an easily

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recognisable and directly accessible manner.

Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken - NetzDG

https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/BGBl_NetzDG.pdf?__blob=publicationFile&v=2

Act to improve law enforcement in social networks - NetzDG

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