[DE] Recognition granted to first self-regulatory body for illegal social network content analysis

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The German *Bundesamt für Justiz* (Federal Ministry of Justice) has recognised the *Freiwillige Selbstkontrolle Multimedia-Diensteanbieter e. V.* (FSM) as the first regulated self-regulatory body for the analysis of illegal social network content. This means that online platforms, as part of their obligations to check content, can ask the FSM to decide whether content that users have uploaded to their platform is unlawful.

Since the entry into force of the *Netzwerkdurchsetzungsgesetz* (Network Enforcement Act – NetzDG) in Germany in 2017, social network providers have become more accountable when it comes to dealing with illegal content. In particular, they are subject to transparency obligations and must establish a simple procedure for submitting complaints about and analysing illegal content.

Under Article 3(6) of the Act, social network providers can refer decisions regarding the lawfulness of content published on their platforms to a so-called regulated self-regulatory body in cases requiring a particularly complex analysis process. These bodies must employ independent, expert analysts; provide appropriate facilities and guarantee prompt analysis within seven days; and establish rules of procedure that regulate the scope and structure of the analysis process and stipulate the submission requirements of the affiliated social networks. In addition, a decision review process must be provided and a complaints office set up. Consideration is given to self-regulatory bodies that are funded by several social network providers or institutions and that are open to admitting further providers. If the analysts of such a recognised body decide that content which has been complained about is unlawful, the social network concerned is bound by their decision and must remove the content from its platform.

At the start of the year, the Bundesamt für Justiz had explained that the FSM met the requirements to be recognised as the first self-regulatory body under the Network Enforcement Act. The FSM's committee of analysts contains 50 lawyers who, according to the FSM, decide on cases fully independently of the platforms and the self-regulatory body. So far, the Facebook and YouTube platforms have submitted themselves to self-regulation. In a press release, the FSM announced that it wanted to start its analysis work in the near future.

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The FSM has been recognised as a voluntary self-regulation body by the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media – KJM) and has been active in the telemedia sector since 2005. As part of its activities, it deals largely with the protection of young people in the media, in particular the fight against online media content that is illegal or that harms young people or their development.

Pressemitteilung des Bundesamtes für Justiz vom 23. Januar 2020

https://www.bundesjustizamt.de/DE/Presse/Archiv/2020/20200123.html

Federal Ministry of Justice press release of 23 January 2020

Pressemitteilung der Freiwilligen Selbstkontrolle Multimedia-Diensteanbieter e. V. (FSM) zum Beginn der Arbeit als Selbstkontrolleinrichtung nach NetzDG

https://www.fsm.de/de/presse-und-events/fsm-als-netzdg-selbstkontrolle

Press release of the Freiwillige Selbstkontrolle Multimedia-Diensteanbieter e. V. (FSM) on the start of its work as a self-regulatory body under the Network Enforcement Act

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