[DE] Parliamentary debate on law implementing Digital Services Act

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On 18 January 2024, the *Bundestag* (German federal parliament) debated the so-called *Digitale-Dienste-Gesetz* (Digital Services Law), which was tabled by the federal government to implement the Digital Services Act (DSA) at national level, for the first time. While the DSA, which will apply across the EU from 17 February 2024, regulates matters including due diligence obligations for online services in the battle against disinformation and hate speech on the Internet and their enforcement at EU level, the government bill, known as the DDG-E, lays down the relevant responsibilities in Germany.

The DDG-E begins by proposing the amendment of national legislation. Individual provisions of current national law which will largely disappear as a result of the harmonising effect of the DSA are incorporated into the DDG-E, partly amended and adapted to the concept of 'digital services'. These include provisions of the *Telemediengesetz* (Telemedia Act – TMG) that implement EU directives such as the Audiovisual Media Services Directive (AVMSD) and the E-Commerce Directive.

The DDG-E also contains provisions required to implement the DSA. Under Article 12(1), for example, the authority responsible for the supervision of providers and enforcement of the DSA in Germany within the meaning of Article 49(1) DSA is, "subject to paragraphs 2 and 3", the *Bundesnetzagentur* (Federal Network Agency). The *Bundesnetzagentur* will work closely with the supervisory authorities in Brussels and other EU member states. Article 12(2) DDG-E provides for an exception in the field of media supervision, stating that the *Bundeszentrale für Kinder- und Jugendmedienschutz* (Federal Office for the Protection of Children and Young People in the Media) is responsible for enforcing (1) the specific provisions of Article 14(3) DSA governing the general terms and conditions of intermediary services primarily directed at or predominantly used by minors, and (2) structural preventive measures under Article 28(1) DSA, "excluding measures taken under the *Jugendmedienschutz-Staatsvertrag* (State Treaty on the Protection of Minors in the Media) in the version of 14 December 2021". Responsibility for the latter measures will be assumed by the bodies designated under the media law provisions of the *Länder*, i.e. the *Landesmedienanstalten* (state media authorities), which have delegated it to the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media – KJM).

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The DDG-E also regulates the establishment, resourcing, independence and management of the digital services coordinating body to be created within the *Bundesnetzagentur*. The *Bundesnetzagentur* will therefore act as the Digital Services Coordinator under Article 49(2) DSA. Provision is also made for collaboration with various national authorities and the establishment of an advisory board for the Digital Services Coordinator.

The subsequent sections of the DDG-E set out the fines and penalties applicable for infringements of the DSA, as well as powers and procedures under the DSA. The government bill emphasises that "the scope for sanctions provided under the DSA for breaches of the DSA is fully covered by this bill" and stipulates that platform operators can be fined up to 6% of their annual turnover.

Entwurf für ein zur Durchführung der Verordnung (EU) 2022 / 2065 des Europäischen Parlaments und des Rates vom 19. Oktober 2022 über einen Binnenmarkt für digitale Dienste und zur Änderung der Richtlinie 2000/31/EG sowie zur Durchführung der Verordnung (EU) 2019/1150 des Europäischen Parlaments und des Rates vom 20. Juni 2019 zur Förderung von Fairness und Transparenz für gewerbliche Nutzer von Online-Vermittlungsdiensten und zur Änderung weiterer Gesetze (Digitale-Dienste-Gesetz, DDG)

https://dserver.bundestag.de/btd/20/100/2010031.pdf

Bill implementing Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) and Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services and amending other laws (Digital Services Law, DDG)

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