



More Effective Protection for Personal Rights in the Internet

Proposed alternative to the German Network Enforcement Act (NetzDG)

An alternative to the controversial Network Enforcement Act (*Netzwerkdurchsetzungsgesetz, NetzDG*) was developed in the course of a joint research project initiated by ARAG SE and carried out in collaboration with the Research Center for IT Law and Internet Policy (*Forschungsstelle für IT-Recht und Netzpolitik*) of the University of Passau. In order to ensure that the proposal reaches a broad segment of the general public, ARAG and the University of Passau are sharing the results of their research.

- **In support of further discussion, the research results are freely accessible in the form of a concrete legislative proposal. Please refer to the link below**
- **For the [discussion on Twitter](#) see hashtag #werteimnetzschützen**

The questionable impact of the Network Enforcement Act (NetzDG) became quite evident shortly after it came into force. The law has been a focus of heated debate among experts, due primarily to its direct potential to restrict the freedom of speech or rather free expression of opinion in the Internet. A genuine improvement in protection for personal rights in the Internet is neither intended nor actually achievable on the basis of the NetzDG.

“It is not enough simply to criticize. What is needed in this debate is a concrete proposal for improvement,” says Klaus Heiermann, Senior Representative of ARAG SE. “It is not aiming too high to contend that the rule of law and the principle of equality of opportunity are equally relevant in the Internet as well. Appropriate solutions are possible and feasible.” That is what ARAG and the [Research Center for IT Law and Internet Policy](#) of the University of Passau hope to demonstrate. Dr. Dirk Heckmann, Director of the Research Center, and General Manager Anne Paschke have authored an alternative proposal devoted to improving the protection of personal rights in the Internet.

“Severe insults and slander can be sanctioned in the Internet as well if the possibilities offered by the Criminal Code, the Code of Criminal Procedure and the Telemedia Act are exploited effectively,” explains Prof. Dr. Dirk Heckmann with respect to the approach. “Severe instances of libel in the Internet must be defined as punishable acts under the Criminal Code and made subject to appropriate penalties.” Even more severe penalties must be imposed for this new “crime of cyberbullying” in cases in which victims commit suicide in response to libel in the Internet.

The draft bill goes far beyond the mere imposition of standards for punishment. The proposal provides in particular for significant improvement in protection for victims. In addition to the obligation to conduct official investigations, it also calls for the appointment of a “victim’s attorney” and psychosocial legal counselling for victims of severe libel.



The heart of the draft proposal is a revision of the Telemedia Act, which is expressly conceived as an alternative to the NetzDG. Providers and platform operators should be called upon to contribute their technological expertise in support of the protection of personal rights and not to play the role of courts. They should be obliged to make procedures for reporting and identifying problematic content available. Reported contents should no longer be deleted by website operators, but documented instead for the purpose of preserving evidence. A court order should be required for the enforcement of a petition to delete content. In this way, the legal distinction between libel, simple slander and the free expression of opinion in the Internet will be reassigned to the scope of responsibility of the courts – where it clearly belongs. The obligation of platform operators to document disputed content represents a suitable approach to the requirement to present sufficient evidence. “In this way, the standardized obligations of service providers cover only the risks they have created themselves through the technical configuration of their business models,” emphasizes Anne Paschke, Academic Councilor at the University of Passau.

“It’s all about personal rights in the Internet, and we should all be given the opportunity to discuss and formulate proposals for improvement in the Internet. Let us seize that opportunity. It is an issue of concern to everyone!” says Klaus Heiermann with reference to the initiative.

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