

NETWORK ENFORCEMENT ACT (NETZDG) FACEBOOK ACT

DO YOU NEED A NETZDG REPRESENTATIVE?

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General information

- The Network Enforcement Act (Netzwerkdurchsetzungsgesetz, NetzDG), also known as Facebook Act is a German Act aimed at combating agitation and fake news in social networks.
- The NetzDG extend to platforms that are operated for profit and whose purpose is for users to share any content with others.
- Journalistic platforms for which the service provider is responsible, as well as platforms for individual communication or the dissemination of specific content, are explicitly not covered by the scope of application.
- Exempted from the reporting obligations: social network providers with less than two million registered users in Germany.

Does my company need a NetzDG Rep?

Companies regulated by the NetzDG but established outside of the EU need to designate an NetzDG Representative.

With this checklist, you can find out, if you need to have a NetzDG Representative:

1. EU / Non-EU based company
Your company is either based inside or outside the EU.
2. Entity covered by NetzDG
 - a) Social media provider with intention to profit
Can your users share content with other users, or can your users make their content accessible to the public?
 - b) Journalistic platforms
Can your users create their own content without your approval/regulation of the content?

Disclaimer

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. This is a general checklist that will hopefully help your business understand NetzDG Representative requirement under NetzDG. It offers a level of minimum requirement and best practise.

Cyberlegis RA GmbH does not accept any liability for the correctness of the checklist. You may use this checklist internally in your company. It is not meant to be freely distributed. Any commercial use is forbidden.

Obligations under the NetzDG?

Reporting obligation

- Reports must be made every six months on the handling of complaints about content relevant to criminal law. The report must contain, among other details, information on the volume of complaints and the decision-making practice of the networks as well as the staffing and competence of the work units responsible for handling the complaints. The reports must be published on the internet for everyone to access.

Complaints Procedure

- The provider must offer users a recognisable, immediately accessible and permanently available procedure for submitting complaints about criminal content, immediately take note of user complaints and check them for criminal relevance. Obviously criminal content must be deleted or blocked within 24 hours of receipt of the complaint. Any criminal content must be deleted, blocked or handed over to a recognised institution of regulated self-regulation within 7 days of receipt of the complaint. The user must be informed of any decision taken in relation to their complaint and the reasons for that decision must be given.

Right to information

- Anyone whose general right of personality is violated within the scope of application of the law can, in principle, demand information from the provider of the social network as to who committed the violation of rights. Such right to information already arises from general principles of civil law. The providers of social networks have the authority under data protection law to hand over the

registration data of the infringer to the infringed party. However, the surrender of the data by the social network must be ordered by the competent civil court (judge's reservation).

Responsibilities as NetzDG Rep

- The NetzDG Rep is the person authorised to receive service in Germany.
- The NetzDG Rep is named on the platform with his contact data. He has to be easily accessible to the persons concerned.
- It has to be possible to deliver to the NetzDG Rep the deliveries in procedures pursuant to section 4 or in judicial proceedings before German courts on account of dissemination of unlawful content.
- The same applies to the service of documents initiating such proceedings.
- The NetzDG Rep has to enable the receipt of requests for information from German law enforcement authorities.
- The NetzDG Rep is obliged to respond to such requests for information within 48 hours of receipt. If the requested information cannot be exhaustively provided, reasons for this has to be included in the response.

Fines for non-compliance

- Violation against §2 or §3: up to EUR 5.000.000
- Violation against §5: up to EUR 500.000
- The offence may be punished even if it is not committed within Germany.

Why you need a NetzDG Representative now

As a covered entity under the NetzDG without having appointed a dedicated NetzDG Representative, you risk fines up to EUR 500.000 for violating the NetzDG Representative obligation (§5 NetzDG).

→ Designate your CYBERLEGIS NetzDG Representative now!

About us

- CYBERLEGIS RA GmbH (CYBERLEGIS) is a European Tech Data Law Firm in Munich.
- CYBERLEGIS is specializing in NetzDG Representative Services under Network Enforcement Act.

Why hire CYBERLEGIS as your NetzDG Representative?

- **EFFICIENCY:** CYBERLEGIS is a specialized provider for representative services. CYBERLEGIS works on your request within 6 hours.
- **COST EFFECTIVE:** At just EUR 2.400 net per year CYBERLEGIS provides premier NetzDG representation services.
- **INSURANCE COVERAGE:** Since all NetzDG Representatives installed by CYBERLEGIS are specialized Privacy lawyers, the service comes along with a default liability of one million Euros (with higher representation available at extra cost).
- **PROFESSIONALISM:** CYBERLEGIS is sensitive to providing quality service to its clients. Thus, CYBERLEGIS designates only specialized Experts to act as NetzDG Representatives or handle representation-related matters for the clients.
- **ASSURED AVAILABILITY:** In an effort to satisfy its clients, the designated NetzDG Representative would be reachable not only from Monday to Friday (09:00h – 17:00h) via a team of English-speaking secretaries, but equally at weekends via e-mail and cell phone.
- CYBERLEGIS has minimum three legal experts, working around the clock to assist the clients fulfill the NetzDG requirements. Thus, at any given point in time, a CYBERLEGIS representative is always there to assist you with your requirements.

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How do I designate CYBERLEGIS as my NetzDG Representative?

- Just email us at: niedermeier@cyberlegis.io and we will be happy to answer all your question in a Zoom or WebEx meeting.
- We have standard document designating one of our expert Lawyers as your NetzDG Representative. In this regard, you would receive a draft designation document, which you would print, sign, and send by post, in accordance with NetzDG.
- Please connect with "RA Robert Niedermeier" on LinkedIN:

www.linkedin.com/in/ra-robert-niedermeier.

Robert Niedermeier CIPP/E CIPT CIPM FIP
(Mobile +49 171 2440099).



No set up fees



Data subject contacts



A Compliant EU-REP agreement



Secretary answering phone calls



NetzDG reports



Experienced privacy attorneys



Contact by Tel/Fax/E-mail



Access to our help-desk

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