



THE DIGITAL BERLIN WALL: HOW GERMANY (ACCIDENTALLY) CREATED A PROTOTYPE FOR GLOBAL ONLINE CENSORSHIP - ACT TWO

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The Digital Berlin Wall: How Germany (Accidentally) Created a Prototype for Global Online Censorship - Act two

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Executive Summary	2
1. NetzDG	4
2. New Countries	9
Africa	9
Ethiopia	9
Mali	10
Morocco	10
Nigeria	11
Asia	11
Cambodia	11
Indonesia	12
Kyrgyzstan	13
Pakistan	13
Latin-America	14
Brazil	14
Europe	15
Austria	15
Turkey	16
3. Developments in Countries from Previous Report	17
Africa	17
Egypt	17
Kenya	17
Asia	18
India	18
Malaysia	18
Vietnam	18
Singapore	19
Europe	19
France	19
United Kingdom	19
European Union	20
4. Conclusion	21
5. Appendix	22
Appendix 1: Overview of differences and similarities	22
Appendix 1A: Overview of differences and similarities for new countries included in the second report	23
Appendix 2: Types of illegal content	24
Appendix 2A: Types of illegal content for new countries included in the second report (including Egypt)	25
Appendix 3: Timeline for implementation	26
Appendix 3: Timeline for implementation for new countries included in the second report (including Egypt)	27

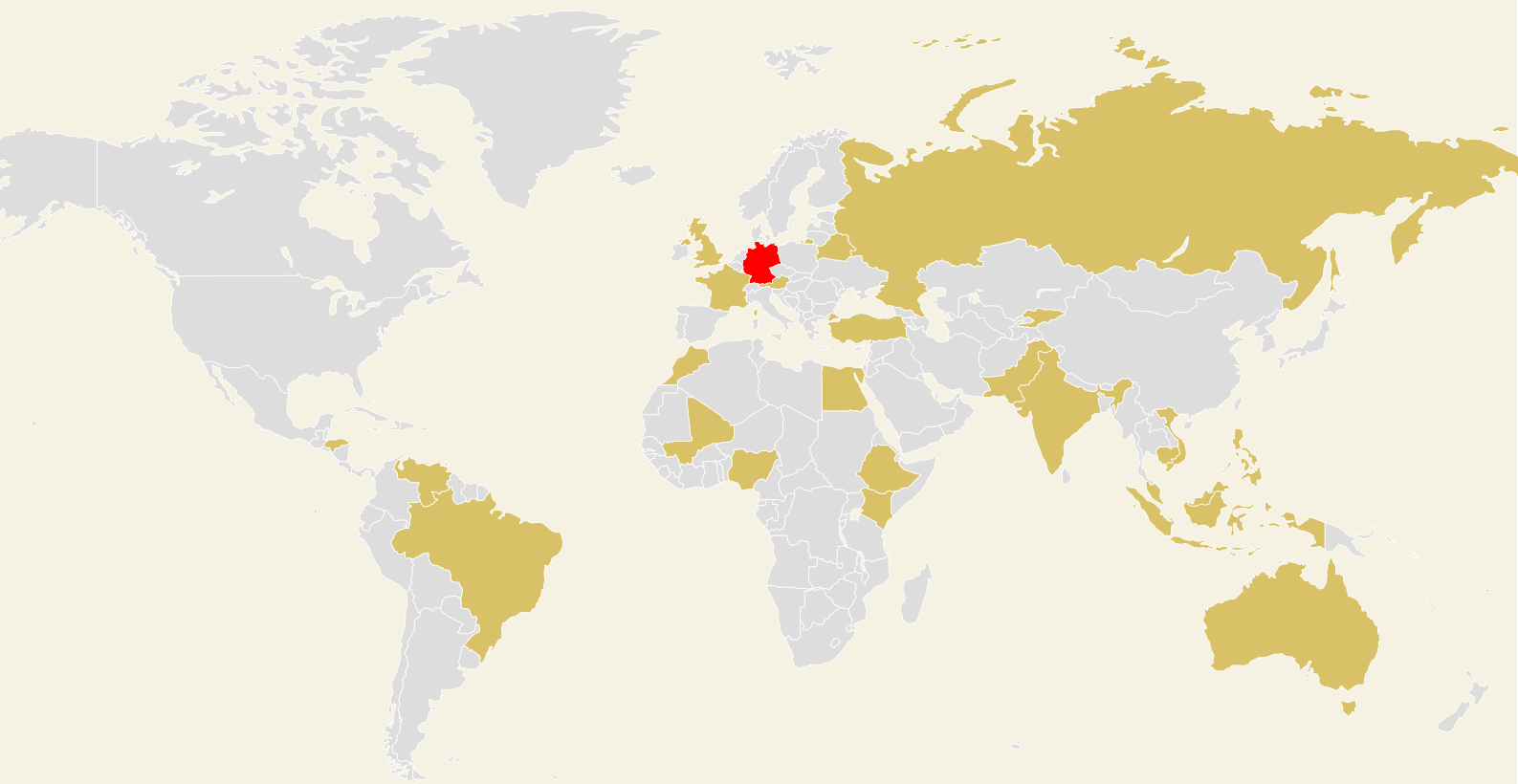
Executive Summary

In May 2019, Justitia issued a report entitled '[The Digital Berlin Wall: How Germany \(Accidentally\) Created a Prototype for Global Online Censorship.](#)' The report focused on the global consequences of Germany's Network Enforcement Act (NetzDG) which was adopted in 2017. The NetzDG obliges social media platforms to remove illegal content within time limits ranging from 24 hours to a week or risk being fined. The report documented that at least 13 countries (plus the EU) had adopted or proposed models similar to the NetzDG matrix (Egypt was added to the original list later on). According to Freedom House's Freedom on the Net report (2019), five of those countries were ranked "not free" (Honduras, Venezuela, Vietnam, Russia and Belarus), five were ranked "partly free" (Kenya, India, Singapore, Malaysia and Philippines), and only three ranked "free" (France, UK and Australia). Most of these countries explicitly referred to the NetzDG as a justification for restricting online speech. Moreover, several of these countries, including Venezuela, Vietnam, India, Russia, Malaysia, and Kenya, required intermediaries to remove vague categories of content that include "fake news," "defamation of religions," "anti-government propaganda" and "hate speech," all which can be abused to target political dissent and silence critics. In order to assess whether this worrying trend has continued in 2020, Justitia updated its 2019 report with a view of identifying any additional countries adopting intermediary liability laws broadly similar to the NetzDG (or aspects thereof). This report also includes updates on relevant developments, where applicable, in the 13 countries (plus the EU) identified in the initial report, as well as Egypt.

A total of 11 new countries have been found to follow the German template, whether by conscious policy or not. Four of these countries make specific reference to the NetzDG in the relevant laws/bills/official statements (Kyrgyzstan, Brazil, Austria, Turkey), 2 have an indirect link to the NetzDG (Nigeria and Cambodia) and 5 have no direct link identified beyond the theme and content of the assessed law/bill. Most of the States included in this report are flawed democracies or authoritarian states that do not include rule of law and free speech protections equivalent to their German counterpart. According to Freedom House's reports on Freedom on the Net/Press Freedom, only 1 of the new countries is free (Austria), 7 are "partly free" (Mali, Morocco, Nigeria, Cambodia, Indonesia, Kyrgyzstan and Brazil) and 3 are "not free" (Ethiopia, Pakistan and Turkey). Moreover, all the new countries examined in this report require online intermediaries to remove vague categories of content that include "false information" (for example Kyrgyzstan, Nigeria and Morocco), "blasphemy"/"religious insult" (Indonesia and Austria), "hate speech" (for example Austria, Cambodia), "incitement to generate anarchy" (Cambodia) and violations of "privacy" and "personal rights" (Turkey). Accordingly, it seems that authoritarian and illiberal states are still copy-pasting illiberal laws designed by liberal democracies. In total, the influence of the NetzDG template has extended - directly or indirectly - to at least 25 countries (plus the EU) around the globe (though the relevant laws in France and Malaysia have been declared unconstitutional and repealed respectively).

Whereas the German government's adoption of the NetzDG was a good faith initiative to curb hate online, the law has provided a blueprint for Internet censorship that is being used to target dissent and pluralism. This development creates a regulatory race to the bottom that undermines freedom of expression as guaranteed by international human rights standards and whose unintended

negative consequences outweigh its uncertain benefits at a time where Internet freedom has been in decline for nine consecutive years.¹ While it would be misleading to blame Germany for the draconian laws adopted in authoritarian states, the fact that the spread of illiberal norms based on the NetzDG precedent has continued unabated should give Germany, liberal democracies and the European Commission food for thought when it comes to countering illegal and undesirable online content.



1 https://freedomhouse.org/sites/default/files/2019-11/11042019_Report_FH_FOTN_2019_final_Public_Download.pdf

1. NetzDG

Germany's Network Enforcement Act (or NetzDG, from "Netzwerkdurchsetzungsgesetz") has perhaps been the most widely debated and controversial initiative enacted by a liberal democracy to counter illegal online content. The NetzDG was adopted in 2017 and entered into effect on 1 January 2018, after the German government considered unsuccessful its attempts to persuade Facebook to more rigorously enforce its own community standards and remove hate speech violating German law.² Hate speech was spread and possibly led to violence following the 2015 refugee and migration crisis, in which German Chancellor Angela Merkel decided to welcome upwards of one million asylum seekers.³ In 2016, tech companies agreed to a voluntary Code of Conduct to fight the hate speech scourge. However, the efforts of the companies pursuant to the agreement failed to satisfy the German government which subsequently decided that legally binding measures were necessary.⁴

The NetzDG imposes intermediary liability for social media networks with over two million registered users. These platforms are required to take down illegal content, including "hate speech" and "defamation of religions," flagged by individuals. Any content, which is "manifestly unlawful" must be removed in a time frame of 24 hours. For all other "unlawful content,"⁵ the deadline is seven days. Failure to remove illegal content is punishable by fines of up to 50 million euros. The scope and nature of the NetzDG has been widely debated, and the law has been criticized for being vague and over-inclusive, "privatizing" online censorship with little transparency or due process, and encouraging "over-implementation" by providing an incentive to err on the side of caution rather than free expression.⁶ Moreover, the categories of illegal content include criminal defamation and insults as well as "defamation of religion" that violate international human rights standards.⁷ In June 2020, the German parliament passed a draft law – colloquially referred to as NetzDG 2.0 - to "better combat right-wing extremism and hate crime." NetzDG 2.0 imposes an obligation on social media platforms to report certain types of "criminal content" as well as IP addresses, last logins, user passwords and port numbers of the user having shared such content directly to the Federal Criminal Policy Office (BKA).⁸ Failure to set up a system for transmitting the illegal content to the BKA leads to a sanction of up to 5 million Euros. Before its passing, the European Commission made remarks on the draft act, sharing its concern about the possible non-compliance with the General Data Protection Regulation. The Commission also expressed concerns regarding the enhanced burdens on social networks which would need to continue with their removal obligations and carry out further evaluation of the content in order to determine whether it falls within the framework of one of the listed criminal offences. Social networks would have to ascertain whether sufficient evidence exists

2 <https://www.dw.com/en/facebook-must-ban-abusive-content-says-german-justice-minister-maas/a-18676705>

3 <https://www.theatlantic.com/international/archive/2018/09/facebook-violence-germany/569608/>

4 <https://techcrunch.com/2015/12/16/germany-fights-hate-speech-on-social-media/>

5 Basically, that means material that is less obviously violating the law.

6 <https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law>

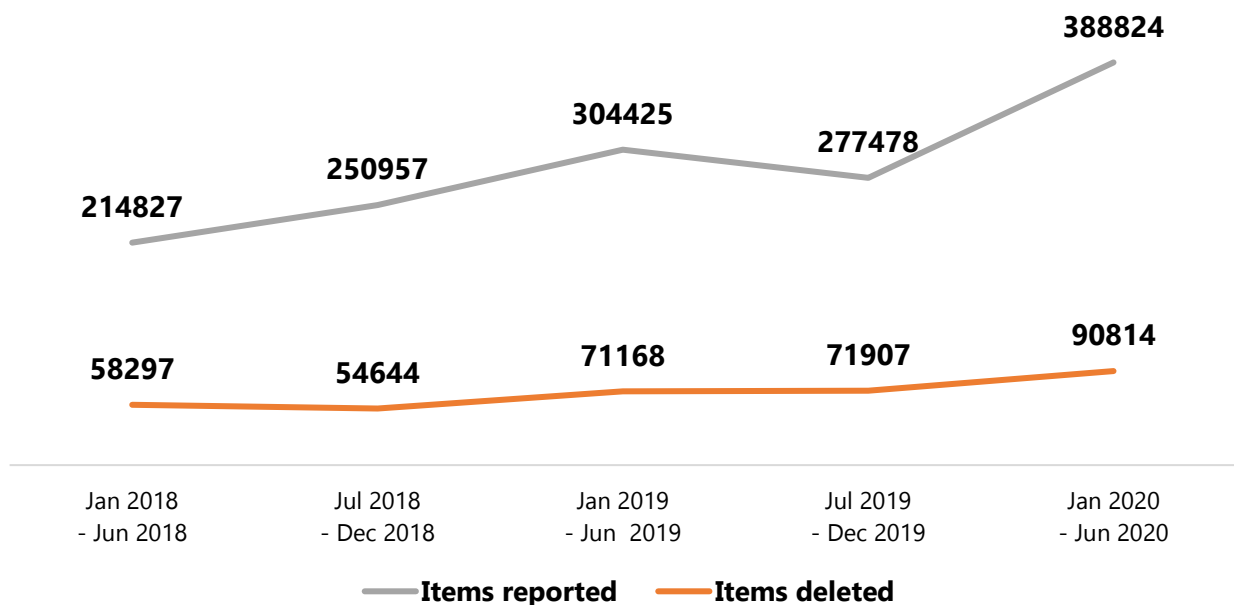
7 For a full list of countries in July 2017 see: <https://www.uscirf.gov/reports-briefs/special-reports/respecting-rightsmeasuring-the-world-s-blasphemy-laws>;

8 <https://www.bundestag.de/dokumente/textarchiv/2020/kw25-de-rechtsextremismus-701104>

to point to such an offence. As noted by the Commission, this is "often highly contextual and therefore complex. Moreover, the assessment is not guided by a legal standard."⁹

When assessing the direct impact of the NetzDG, it is relevant to look at the removal rates on social media platforms. In relation to Facebook, during the reporting period between 1 July 2019 and 31 December 2019, there were 3,087 NetzDG reports identifying a total of 4,274 pieces of content. Out of these, 562 NetzDG reports resulted in a total of 1,043 deleted or blocked content (approximately 25% of content deleted).¹⁰ In the reporting period of 1 January 2020 and 30 June 2020, there were 4,929 NetzDG reports identifying a total of 6,038 pieces of content, demonstrating a rise of nearly 2,000 more reports within the six-month period from the previous report. This resulted in 1,344 NetzDG reports leading to the deletion or blocking of content with a total of 2,308 deleted or blocked pieces of content (38% of content deleted),¹¹ reflecting a rise of approximately 1,000 removals from the previous period.

In relation to Youtube, between the period of July 2019-December 2019, a total of 277,478 complaints¹² were received within the framework of the NetzDG, which resulted in a total of 71,907 items being removed (26%)¹³ Between the reporting period of January 2020-June 2020, the transparency report shows that it received a total of 388,824 complaints under the NetzDG. A total of 90,814 items were removed as a result of these complaints.¹⁴



⁹ https://www.asktheeu.org/en/request/8206/response/26755/attach/2/C%202020%203380%20F1%20DECISION%20LETTER%20EN%20V2%20P1%201080594.pdf?cookie_passthrough=1

¹⁰ https://about.fb.com/wp-content/uploads/2020/01/facebook_netzdg_January_2020_english.pdf

¹¹ https://about.fb.com/wp-content/uploads/2020/07/facebook_netzdg_July_2020_English.pdf

¹² A single complaint may specify several pieces of content, which YouTube calls items. It counts each individual YouTube video or comment as a single item. The data reflects the total number of items cited in complaints during the 6-month reporting periods.

¹³ https://transparencyreport.google.com/netzdg/youtube?hl=en&items_by_submitter=period:Y2019H2&lu=reports_resulting_in_action&reports_resulting_in_action=period:Y2019H2

¹⁴ https://transparencyreport.google.com/netzdg/youtube?hl=en&items_by_submitter=period:Y2020H1&lu=items_by_submitter&reports_resulting_in_action=period:Y2019H2

Thus, there is a rise of both the complaints made (approximately 100,000 more in the second period) and the amount of content removed (approximately 19,000 more items removed in the second period). However, the percentage of removal decreased to 23%.

Regarding Twitter, between July and December 2019, 842,527 complaints were made under the NetzDG which resulted in a total of 137,171 items being removed (16%).¹⁵ In the reporting period of January until June there was a drop in complaints to 765,715 and in removals, which fell to 122,302 but the percentage of removal remained steady at 16%. On average, less than 20% of complaints led to removals. 83% of the removed postings were deleted within 24 hours. Subsequently no fines for non-compliance have been issued.¹⁶

These statistics prompted the German Justice Minister Christine Lambrecht to announce that “we see significant improvements in the way social networks deal with user complaints about criminal content.”¹⁷ Justice Minister Lambrecht also concluded that there is no evidence of over-blocking affecting legal content protected by freedom of expression – one of the main concerns of critics of the NetzDG.

However, the removal rates under the NetzDG regime cannot be viewed in isolation since the vast majority of content deleted by social media platforms is removed pursuant to the relevant platform’s Terms of Service/Community Standards, rather than national laws.

In the first quarter of 2018 (when the NetzDG had entered into force) Facebook removed 2,5 million pieces of content for violating its Community Standards. The removal of content within the sphere of prohibiting hate speech increased to 4,1 million in the first quarter of 2019 and 9,6 million in the first quarter of 2020. For the second quarter of 2020, more than 20 million pieces of content was deleted for violating Facebook’s hate speech ban. Moreover, from the first quarter of 2018 to the second quarter of 2020, Facebook’s automated proactive detection technology has increased the rate of deleted content flagged by Facebook before any complaint by human users from 38% to 94,5%.¹⁸ Here, the impact of Covid-19 is noteworthy as it contributed to the increased use of AI for content moderation because its staff had to go home.¹⁹

In addition, Facebook has amended its Community Standards. Since about 2018, Facebook has defined hate speech as an attack against a person due to his/her/their personal characteristic(s) and separated the types of attack into three tiers according to severity. 2020 saw a broadening of protected characteristics (with the inclusion of age) and a lowering of thresholds with the incorporation of “harmful stereotypes” in Facebook’s understanding of an attack. Likewise, Twitter’s latest report on its rules of enforcement covering July – December 2019 shows that 2,9 million pieces of content were removed, demonstrating a 50% increase from the previous reporting period.²⁰ YouTube removed 9,154,351 videos during the first quarter of 2018 but only 6,111,008 in Q1 of 2020.

15 <https://cdn.cms-twdigitalassets.com/content/dam/transparency-twitter/data/download-netzdg-report/netzdg-jul-dec-2019.pdf>

16 <https://www.en24news.com/2020/09/law-against-hate-speech-online-netzdg-did-not-lead-to-overblocking.html>

17 <https://www.en24news.com/2020/09/law-against-hate-speech-online-netzdg-did-not-lead-to-overblocking.html>

18 <https://transparency.facebook.com/community-standards-enforcement#hate-speech>

19 <https://www.protocol.com/ai-moderation-facebook-twitter-youtube>

20 <https://transparency.twitter.com/en/reports/rules-enforcement.html#2019-jul-dec>

However, 11,401,696 videos were removed during Q2 of 2020, the highest available number on record according to Google’s Transparency Report on Community Guidelines enforcement for YouTube.²¹

This suggests that the pressure on social media companies to remove more illegal speech emanating from the NetzDG and its international copies has impacted the enforcement of community standards more significantly than the direct enforcement of the NetzDG and other such laws. After all, if a platform like Facebook defines “hate speech” more broadly than legally required and is able to remove almost 95% of all such speech before any users have a chance to view it, relatively few complaints should be expected.

This policy of being “better safe than sorry” on the parts of platforms like Facebook may, in turn, result in “over-implementation,” by defining “hate speech” so broadly that it covers content that would be protected under international human rights law such as Article 19 of the International Covenant on Civil and Political Rights, which provides significantly stronger free speech protections than Facebook’s Community Standards (see page 3 of the original Justitia report and the UN Special Rapporteur on Freedom of Expression and Opinion’s 2019 report on the regulation of online “hate speech”).²² Since Facebook and other platforms do not make the millions of pieces of deleted content publicly available, there is no way of knowing how often the platforms “get it right,” if measured against human rights standards. As concluded in a 2019 report by then UN Special Rapporteur on Freedom of Expression and Opinion David Kaye “new laws that impose liability on companies are failing basic standards, increasing the power of those same private actors over public norms, and risk undermining free expression and public accountability.”²³

In addition to the risk of “over-implementation,” recent empirical evidence suggests that while the visibility of hate speech may have been heightened by social media, the prevalence of online hate speech is drastically exaggerated by many politicians, commentators and media reports. In his speech at the 2018 Internet Governance Forum, French president Emmanuel Macron stated that “today, when I look at our democracies, the Internet is much better used by those on the extremes. It is used more for hate speech or dissemination of terrorist content than by many others. This is the reality and we must face up to it” and warned against “the torrents of hate coming over the Internet.”²⁴ However, a 2020 study concluded that “only a fraction of a percentage of tweets in the American Twittersphere contain hate speech.”²⁵ A more limited study of Ethiopia showed a similarly low prevalence of hate speech on Facebook.²⁶

21 https://transparencyreport.google.com/youtube-policy/removals?total_removed_videos=period:Y2020Q2;exclude_automated:all&lu=total_removed_videos

22 <https://undocs.org/A/74/486>

23 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25174&LangID=E>

24 IGF 2018 Speech by French President Emmanuel Macron available at

<<https://www.intgovforum.org/multilingual/content/igf-2018-speech-by-french-president-emmanuel-macron>>

25 Alexander A. Siegel, ‘Online Hate Speech’ in Nathaniel Persily & Joshua A. Tucker (eds) ‘Social Media and Democracy: The State of the Field, Prospects for Reform’ (1st edn. Cambridge University Press 2020) 66

26 Ibid.

Even if the prevalence of hate speech is exaggerated, it is indisputable that online hate speech is real and affects a considerable number of users on social media. Several studies suggest that online hate speech may cause harms in terms of fear, psychological trauma and self-censorship, disproportionately affecting minorities.²⁷ Others look at causal links between Facebook and Twitter usage and anti-refugee and anti-Muslim hate crimes respectively, offering “preliminary evidence that social media can act as a propagation mechanism between online hate speech and offline violent crime.”²⁸ Yet, certain preliminary studies suggest that, on the whole, freedom of expression is associated with less rather than more violent extremism and social conflict.²⁹ Even if online speech may sometimes lead to real life harm, it does not necessarily follow that restrictions on free speech is an efficient remedy.³⁰ A 2017 study suggests that “extensive public repression of radical right actors and opinions helps fuel violent far-right extremism in Western Europe.”³¹ Moreover, several studies have shown that far-right extremists and white supremacists migrate to alternative platforms when purged from mainstream social media platforms for violating hate speech rules. This includes using encrypted messaging services like Telegram, where extremists may re-connect and network with minimal publicity or ideological pushback.³² This may not only defeat the efforts of law enforcement but also hinder targeted counter speech, which some studies have shown to be effective in reducing hate speech.³³

Such empirical studies are rarely part of the equation when governments legislate against a phenomenon like hate speech and other forms of illegal online content, although such considerations should be given due weight to ensure that responses are appropriate, necessary and proportionate as required by international human rights law.

Given these concerns, the significant – but unintended – global ramifications of the NetzDG merit close monitoring. For this reason, Justitia has re-visited the framework in order to ascertain whether any further developments have come about. These include developments in countries not included in the first report and, where relevant, changes made to the laws and regulations in existing countries.

27 Alexander A. Siegel, ‘Online Hate Speech’ in Nathaniel Persily & Joshua A. Tucker (eds) ‘Social Media and Democracy: The State of the Field, Prospects for Reform’ (1st edn. Cambridge University Press 2020) p 68

28 Ibid. p. 71

29 <https://www.cato-unbound.org/2018/06/22/jacob-mchangama/data-about-free-speech-violence>

30 As discussed by scholars such as Eric Heinze, ‘Hate Speech and the Normative Foundations of Regulation’ 9 International Journal of Law in Context 4, 599; Eric Bleich in ‘Hate Crime Policy in Western Europe: Responding to Racist Violence in Britain, Germany, and France’ (2007) 51 American Behavioral Scientist 2, 149–165 and Joost Van Spanje & Woost Van Der Brug, ‘The Party as Pariah: The Exclusion of Anti-Immigration Parties and its Effect on their Ideological Positions’ (2007) 30 Western European Politics 5, 1022–1040 For an overview of several positions regarding harms of repression see Jacob Mchangama, ‘How censorship crosses borders’ (2018) Cato: A Journal of Debate available at: <<https://www.cato-unbound.org/2018/06/11/jacob-mchangama/how-censorship-crosses-borders>> [Accessed 12 August 2020]

31 Jacob Aasland Ravndal, ‘Explaining right-wing terrorism and violence in Western Europe: Grievances, opportunities, and polarization’ (2017) European Journal of Political Research available at:

<<https://www.duo.uio.no/bitstream/handle/10852/59875/Article%2bIII%2bEJPR.pdf?sequence=1&isAllowed=y>> [Accessed 12 August 2020]

32 Siegel op. cit. p. 72 and Aleksandra Urman & Stefan Katz (2020) What they do in the shadows: examining the far-right networks on Telegram, Information, Communication & Society, DOI: 10.1080/1369118X.2020.1803946

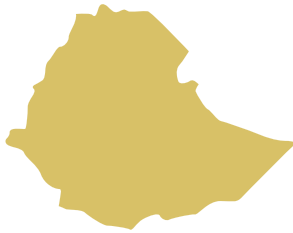
33 Ibid. p. 74

This report is to be considered an addendum to the first report, therefore please refer to the initial one for a more extensive and substantial discussion of themes.

2. New Countries

Africa

Ethiopia



Ethiopia is defined as “not free” by Freedom House in its 2019 Freedom on the Net report. Even though the report notes an improvement in Internet access, the government continues to interfere with this, ordering shutdowns on grounds of maintaining security and public order.³⁴ In 2020, Ethiopia passed a law named the “Hate Speech and Disinformation Prevention and Suppression Proclamation No.1185/2020.”³⁵ In terms of social media platforms, they are obliged to remove content that is considered fake or harmful within 24 hours of being notified. Social media is defined widely as “any social interactive method that facilitate the creation and sharing of information for more than one person at one time...”³⁶ Although the Ethiopian Broadcasting Authority (EBC) is named as a competent authority, its role in relation to social media is to report preparation in relation to whether social media companies are fulfilling their duties under the law.³⁷ It is thus unclear who/which authority will be providing the social media platforms with the relevant content that needs to be removed. Additionally, although monetary fines and imprisonment is set out for users, no penalty is set out in the event of non-conformity with the law by social media platforms. It must also be noted that the EBC has no experience beyond traditional media.³⁸ Even though no official mention is made to the NetzDG in the Law or any available public statements, it has been argued that the German law “may have served as a model.”³⁹

34 <https://freedomhouse.org/country/ethiopia/freedom-net/2019>

35 <https://chilot.me/wp-content/uploads/2020/04/HATE-SPEECH-AND-DISINFORMATION-PREVENTION-AND-SUPPRESSION-PROCLAMATION.pdf>

36 Article 2 (8) <https://chilot.me/wp-content/uploads/2020/04/HATE-SPEECH-AND-DISINFORMATION-PREVENTION-AND-SUPPRESSION-PROCLAMATION.pdf>

37 Section 8(4) <https://chilot.me/wp-content/uploads/2020/04/HATE-SPEECH-AND-DISINFORMATION-PREVENTION-AND-SUPPRESSION-PROCLAMATION.pdf>

38 Tewodros W. Workneh, ‘Ethiopia’s Hate Speech Predicament: Seeking Antidotes Beyond a Legislative Response’ (4 March 2020) 40 African Journalism Studies 3

39 <https://www.dw.com/en/africas-online-hate-speech-laws-sound-alarm-over-press-freedom/a-52488748>

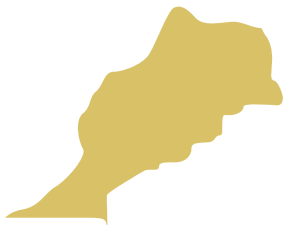
Mali



In Freedom House's 2017 Freedom of the Press report, Mali is defined as "partially free" and reference is made to the severance of Internet connections during moments of contentious political activity.⁴⁰ In 2020, the president of Mali promulgated "Law No 2019-056 on the Suppression of Cybercrime." Under this law, service providers must install mechanisms to monitor systems for illegal activities. Failure to inform the competent authorities of illegal activities is punishable by a prison sentence and/or a

fine of between approximately 760– 3,000 Euros.⁴¹ No official documents have been traced which mention the NetzDG, but the imposition of obligations on intermediaries *vis-à-vis* content regulation is reflective of the German law.

Morocco



Morocco is defined as "partly free" by Freedom House in its 2019 Freedom on the Net report. The report describes the Internet situation as "tenuous" due to, amongst other reasons, a crackdown on online journalists and sophisticated surveillance systems.⁴² In 2020, the Government Council approved the "Draft Law 22.20 on the Use of Social Networks"⁴³ which, according to the Ministry of Justice, seeks to tackle false information and harmonize the country's legislation with the Budapest Convention on

Cybercrime. Article 8 of the law holds that "network providers" are obliged with "suppressing, prohibiting, restricting access to any electronic content which clearly constitutes a dangerous threat to security, public order or which would be likely to undermine the constants of the Kingdom, its sacredness and its symbols within a period of not more than 24 hours." In the event of non-compliance, the service provider shall receive a formal notice and must comply with the removal of any illegal content within 5 days of receipt of the notice. Failure to comply with this will result in a penalty of nearly 46,000 Euros which may also come with a temporary suspension. Failure to comply within another five days allows the administration to prohibit them from operating in Morocco.⁴⁴ No specific mention is made of the NetzDG.

40 Mali is not included in Freedom House's 2019 Freedom on the Net report, but is ranked "Partly Free" in Freedom House's 2017 Press Freedom Report.

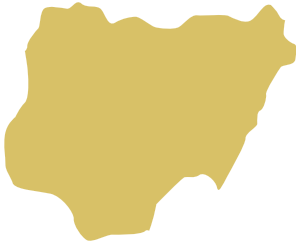
41 <https://www.malibuzz.tv/loi-n2019-056-du-05-decembre-2019-portant-repression-de-la-cybercriminalite-au-mali/>

42 <https://freedomhouse.org/country/morocco/freedom-net/2019>

43 <https://euromedmonitor.org/uploads/reports/moroccoen.pdf>

44 https://www.article19.org/resources/morocco-social-media/#_ftn1

Nigeria



Nigeria is defined as “partly free” by Freedom House in its 2019 Freedom on the Net report due to, for example, the manipulation of online contact in the run up to the 2019 national elections and the arrests of online users.⁴⁵ In 2019, Nigeria proposed “The Protection from Internet Falsehood and Manipulation Bill 2019.”⁴⁶ The bill introduces, amongst others, the fining of individuals making “false statements” and allows the government to cut off internet access for specific platforms at its own discretion. An Internet service provider, defined by the bill to include social media platforms, may be required to disable access for users who fail to comply with a regulation on stopping the transmission of false information.⁴⁷ In the event that an Internet access service provider does not comply with an access blocking order, it is liable to a fine not more than ten million Naira (approximately 21,750 euros) for each day during which the order is not fully complied with.⁴⁸ Mohammed Sani Musa, a senator from Niger State who sponsored the bill, held that its drafting was guided by examples from other jurisdictions, including Singapore, the UK, the EU and the United Arab Emirates.⁴⁹ In fact, he was accused of plagiarizing the relevant Singaporean Law and argued, on twitter (text is his own with no corrections) that “it is [sic] that this is said to be an instance of plagiarism. All over the world, legislation in other jurisdictions, particular and present the same or similar challenges of regulation.”⁵⁰ Although there is no specific mention of the NetzDG and the thematic differs in that it focuses on false information, the liability of social media platforms is common to both. The fact that the bill is based on various other laws, including that of Singapore, is an indirect link to the NetzDG since Singapore’s law specifically mentions the Germany precedent.

Asia

Cambodia



Cambodia is defined as “partly free” by Freedom House in its 2019 Freedom on the Net report as a result of, for example, blocked websites and the harassment and intimidation of online activists during election time.⁵¹ In 2010, a working group was established to develop the Cybercrime Law. The process is still ongoing. In 2019, the Ministry of Interior noted that relevant legislation from countries such as Singapore has been studied. For purposes of facilitating an investigation into a crime committed by means

45 <https://freedomhouse.org/country/nigeria/freedom-net/2019>

46 <https://www.nassnig.org/documents/billdownload/10965.pdf>

47 <https://guardian.ng/news/social-media-bill-to-empower-government-to-shut-down-internet/>

48 <https://guardian.ng/news/social-media-bill-to-empower-government-to-shut-down-internet/>

49 <https://cpj.org/2020/04/an-attempt-to-gag-the-media-journalists-on-nigeria/>

50 <https://theindependent.sg/nigerian-senator-accused-of-plagiarising-singapores-pofma-says-similarities-only-due-to-common-subject-matter/>

51 <https://freedomhouse.org/country/cambodia/freedom-net/2019>

of a computer system, service providers (which also include social media platforms) must preserve user data and disclose this information when required.⁵² Punishable content includes, *inter alia*, “hate speech,” “manipulation,” “defamation” and “slander.” The process leading up to the development of the law commenced well before the NetzDG, however it is ongoing and continues to be impacted by other laws. Furthermore, the fact that it is based on various other laws, including that of Singapore, is an indirect link to the NetzDG since Singapore’s law specifically mentions the German precedent.

Indonesia



Indonesia is defined as ‘partly free’ by Freedom House in its 2019 Freedom on the Net report. The report notes that Internet freedom has declined due to, for example, restricted access to social media and content manipulation for political gain during election time.⁵³ Towards the end of 2019, the “Digital Platform Law (PP PSTE no. 71/2019 on the Government Regulation on the Implementation of Electronic and Transaction System).”⁵⁴ The bill was initiated by the Indonesian Journalists Association, the Indonesian

Television Journalist Association and the Press Council. These institutions held that if the bill was passed it would become a “legal basis for social media platforms to self-censor their own content.”⁵⁵ The law obliges entities such as social media companies to control content and preserve user data. Article 5 of the law provides that social media companies must ensure that their platforms do not contain or facilitate the spread of “restricted content.” This term contains a list of different forms of speech such as “false news”, “hate speech” and “blasphemy” online. The penalty for social media companies of not complying with this requirement is a fine between (approximately) 580 and 2800 Euros as well as administrative sanctions and suspending their networks.⁵⁶ In discussing the law, the director general of the Ministry of Communication and Information held that “the platforms will be fined for facilitating [the spread of negative contents], because they actually have the technology to prevent it.”⁵⁷ No official documents have been traced which mention the NetzDG, however, the imposition of obligations on intermediaries *vis-à-vis* content regulation is reflective of the German law.

52 https://www.article19.org/data/files/medialibrary/37516/Draft-Law-On-CyberCrime_Englishv1.pdf

53 <https://freedomhouse.org/country/indonesia/freedom-net/2019>

54 https://jdih.kominfo.go.id/produk_hukum/unduh/id/695/t/peraturan+pemerintah+nomor+71+tahun+2019+tanggal+10+oktober+2019

55 <https://www.thejakartapost.com/news/2019/02/23/proposed-bill-aims-to-control-negative-content-on-social-media.html>

56 Ibid

57 <https://en.tempo.co/read/1268430/indonesia-to-fine-social-media-platforms-allowing-illegal-content>

Kyrgyzstan



Kyrgyzstan is defined as “partly free” by Freedom House in its 2019 Freedom on the Net report. The report recorded a slight decline in Internet freedom during the reporting period due to, for example, technical attacks against online news outlets and the government’s disproportionate censorship of the Internet within the framework of countering extremism.⁵⁸ The government of Kyrgyzstan put forth a bill “On the Manipulation of Information,”⁵⁹ which is aimed at combatting disinformation and fake accounts. In the briefing supporting the bill, the government mentioned Germany (the NetzDG),⁶⁰ France (2018 misinformation law) and the UK to justify the measures they sought to adopt. The law, amongst others, obliges social media companies to store user data and share it with the government upon request and obliges social media companies to protect users from certain content at risk of heavy fines or site blockage.⁶¹ It was approved by the parliament on 25 June 2020. However, the Kyrgyz president has sent it back for review, noting that “I feel it is necessary to ensure that the law in question is reviewed from the point of view of human rights, government policy, technological capabilities and the stable development of the state.”⁶²

Pakistan



Pakistan is defined as “not free” by Freedom House in its 2019 Freedom on the Net report. The report notes, amongst other reasons, the increased blocking of political, social and cultural website, silencing of critical journalists and activists and passing of death sentences on charges of posting blasphemous content online.⁶³ In 2020, Pakistan proposed the “Citizens Protection (Against Online Harm) Rules,”⁶⁴ which would oblige some social media platforms such as Facebook, Twitter and Google to block or remove posts that the government considers objectionable. The timeframe is 24 hours or in cases of “emergency” just six hours. Under this law, the government can also request data and information from the platforms. Platforms will also have to establish a physical presence in the country and appoint a contact person who will report to the Ministry of Information and Telecommunications.⁶⁵ Further, social media platforms are required to establish one or more database servers in Pakistan to store data and online content within Pakistan. The platforms are also required to remove access to accounts and online content of citizens of Pakistan residing outside its

58 <https://freedomhouse.org/country/kyrgyzstan/freedom-net/2019>

59 <https://en.fergana.news/news/120711/>

60 <https://www.article19.org/wp-content/uploads/2020/07/Briefing-on-NetzDG-Avia-WPOH-KG-project-final.pdf>

61 https://24.kg/vlast/152767_snova_tsenzura_vedomstvo_dlya_kontrolya_kontenta_vinternete_hochet_soizat_deputat/

62 <https://en.fergana.news/news/120711/>

63 <https://freedomhouse.org/country/pakistan/freedom-net/2019>

64 [https://moitt.gov.pk/SiteImage/Misc/files/CP%20\(Against%20Online%20Harm\)%20Rules%2C%202020.pdf](https://moitt.gov.pk/SiteImage/Misc/files/CP%20(Against%20Online%20Harm)%20Rules%2C%202020.pdf)

65 <https://www.dw.com/en/pakistans-new-internet-laws-tighten-control-over-social-media/a-52375508>

territorial boundaries in the event that the content is deemed objectionable.⁶⁶ Whilst no specific mention of the NetzDG is made, the scope of this law includes tackling online harm and enhancing the responsibilities of social media companies.⁶⁷ In an immediate response to the Rules, a coalition of Google, Facebook, Amazon, Apple and other tech companies wrote a public letter to the Prime Minister threatening to cease operations and pull out from Pakistan if the onerous Rules were implemented.⁶⁸ A consultation is ongoing and, although the Rules remain on the statute books, the Pakistani authorities have pledged to review the regulations and undertake an “extensive and broad-based consultation process with civil society and technology companies.”⁶⁹

Latin-America

Brazil



Brazil is defined as “partly free” by Freedom House in its 2019 Freedom on the Net report. The report noted, amongst others, a decline in Internet freedom during the 2018 election campaign, politically motivated content removals and restrictive limits on content related to elections.⁷⁰ “The Law on Freedom, Responsibility and Transparency on the Internet”⁷¹ was proposed in 2020 and approved by the Senate in July.⁷² It is currently being discussed in the Chamber of Deputies. The text approved by the Senate has

a focus on false information and has certain similarities with the NetzDG, such as the inclusion of platforms of more than 2 million users in the country. It is noteworthy that during the amendment stage in the Senate, one Senator referred to the German Law as an inspiration. The Senator noted that that “the draft proposal presented by the authors is clearly inspired by the German legislation on the matter, in force since September 2017, entitled *Netzwerkdurchsetzungsgesetz (NetzDG)*.”⁷³ However, as noted by one commentator, the Brazilian reality is very different from its German counterpart, particularly because the motivation of the NetzDG stemmed from issues such as the far-right and the glorification of Nazism.⁷⁴ This contextual differentiation between Germany and Brazil is applicable to other countries included in both reports. Whilst the Brazilian bill does not obligate companies to delete posts, it does force them to remove fake accounts. The element of fines is also incorporated therein in case of non-compliance.⁷⁵ These provisions may change at the Chamber of Deputies.

66 <https://www.loc.gov/law/foreign-news/article/pakistan-federal-government-issues-controversial-rules-on-social-media-content/>

67 <https://docs.google.com/document/d/16dqm0q3C1AtPZeT3k19iyzTkaojROhVRmDOagu527IE/edit>

68 <https://docs.google.com/document/d/16dqm0q3C1AtPZeT3k19iyzTkaojROhVRmDOagu527IE/edit>

69 <https://fudzilla.com/news/50392-how-big-tech-defeated-pakistan-s-censorship-police>

70 <https://freedomhouse.org/country/brazil/freedom-net/2019>

71 <https://legis.senado.leg.br/sdleg-getter/documento?dm=8110634&ts=1597243649732&disposition=inline>

72 <https://www25.senado.leg.br/web/atividade/materias/-/materia/141944>

73 <https://legis.senado.leg.br/sdleg-getter/documento?dm=8126276> P.38

74 <https://www.jota.info/coberturas-especiais/liberdade-de-expressao/marco-civil-da-internet-e-o-encilhamento-das-liberdades-online-07072020>

75 <https://www.bbc.com/portuguese/brasil-53914408>

Europe

Austria⁷⁶



Austria is rated as having a free press in Freedom Houses' 2017 Freedom of the Press Report.⁷⁷ In 2019, "The Austrian Federal Act for Diligence and Responsibility Online"⁷⁸ was proposed. The draft legislation is under national consultation until 15 October 2020.⁷⁹ If enacted, this will apply to social media platforms with more than 100,000 users or 500,000 Euros in revenue in Austria. The Law applies to a series of 15 offences, including "hate speech" and the "degradation of religious teachings." Platforms have 24 hours to assess and remove obviously illegal content but if has and a total of 7 days for less obviously illegal content.⁸⁰ The Law also allows for a review process in the event that a person believes that illegal content has been wrongly blocked or not. The first phase of this process is with an appeal to the platform itself and, if not resolved, this can be taken to an arbitration body in Austria. A criticism of this process is that "the ultimate decision on whether or not a piece of content was illegal no longer rests with a court."⁸¹ Digital rights organizations have criticized for being drafted in a manner which "endangers the existence of the small, decentralized parts of the Internet that could offer meaningful alternatives to the dominant players."⁸² Although no reference of the German NetzDG is made in the bill, overarching aims such as the removal of online hateful content are in line the German NetzDG.⁸³ In fact, the NetxDG seems to be "a model" for it.⁸⁴ In the Austrian government's submission of the bill to the European Commission, the representation noted that the ongoing consultation process in relation to legislation at a European level will take some time and thus, "it is necessary – based on the experience of the German and French initiatives – to take legal measures, as soon as possible."⁸⁵ The Austrian Justice Minister Alma Zadić expressed interest in the NetzDG and wants suggestions from Germany (and France) to see how to proceed with the issue of online hatred on social media platforms in Austria.⁸⁶ Lohninger, head of the network policy NGO 'epicenter. works' noted his concern with the bill's 'similarity with the NetzDG'⁸⁷ but also with the fact that, unlike its German counterpart, it does not only tackle social media but also any platform with

76 Austria is not included in Freedom House's 2019 Freedom on the Net report, but is ranked "Free" in Freedom House's 2017 Press Freedom Report.

77 https://freedomhouse.org/sites/default/files/FOTP_2017_booklet_FINAL_April28.pdf

78 https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Begut&Dokumentnummer=BEGUT_COO_2026_100_2_1631073

79 <https://en.epicenter.works/content/first-analysis-of-the-austrian-anti-hate-speech-law-netdgpklg>

80 Ibid.

81 <https://edri.org/our-work/first-analysis-of-the-austrian-anti-hate-speech-law-netdg-koplg/>

82 <https://en.epicenter.works/content/first-analysis-of-the-austrian-anti-hate-speech-law-netdgpklg>

83 <https://www.euractiv.com/section/data-protection/news/austrias-law-against-online-hate-speech-question-marks-in-the-home-stretch/>

84 <https://www.euractiv.com/section/data-protection/news/austrias-law-against-online-hate-speech-question-marks-in-the-home-stretch/>

85 <https://ec.europa.eu/growth/tools-databases/tris/en/search/?trisation=search.detail&year=2020&num=544>

86 <https://www.derstandard.at/story/2000118265006/zadic-sucht-nach-einem-mittel-gegen-digitale-hetze>

87 <https://www.euractiv.com/section/data-protection/news/austrias-law-against-online-hate-speech-question-marks-in-the-home-stretch/>

user-generated content. The official explanatory documents of the bill underline that the problem is that users are posting more and more illegal content, in particular so-called “hate postings” with users often adopting pseudonyms. As a result, there are legal and technical difficulties in identifying these users.⁸⁸ As such, this bill focuses on challenging online anonymity rather than content moderation.⁸⁹ This aim is pursued through obliging certain platforms to store data about their users in order to hand them to competent authorities or other users who wish to commence legal proceedings⁹⁰

Turkey



Turkey is defined as “not free” by Freedom House in its 2019 Freedom on the Net report. The report noted, amongst others, the frequent blocking of online content and regulations requiring online content providers to secure broadcasting licenses, possibly leading to increased censorship and content regulation.⁹¹ According to Twitter’s transparency report for the first half of 2019, Turkey had the highest number of content removal request, with more than 6,000 requests. In 2020, the Turkish parliament

passed Law 7253 amending “Law No. 5651 on The Regulation of Publications made in the Internet Environment and Combatting Crimes Committed through these Publications.” The bill was submitted to parliament by president Erdoğan’s Justice and Development Party (AKP). The new law is expected to enter into effect on the 1st October 2020.⁹² The Turkish government says the bill is modelled on the NetzDG. A government spokesperson said that: “we looked at Germany as our starting point for all of it from ensuring our freedom in using social platforms, to combating disinformation to protecting the right to privacy and the protection of our data.”⁹³ However, the U.S. based digital rights advocacy organization Electronic Frontier Foundation defines the Turkish counterpart as “the worst version of Germany’s NetzDG yet.”⁹⁴ According to the law, social media platforms with over one million daily users will be obliged to appoint local representatives in Turkey who will be held accountable for legal matters. Those who refuse to do so will be penalised through measures such as making the websites largely inaccessible and slowing bandwidth. Among other provisions such as storing users’ data in Turkey, the law forces social media companies to respond within 48 hours to user complaints or to judicial orders to remove content. Penalties for non-compliance are fines of up to 1.5 million US Dollars.⁹⁵ The hosting providers must remove content which is unlawful according to Articles 8 and 9 of the law which deals with, among others, sexual abuse of a child, encouraging suicide, obscenity, gambling, protection of private life.⁹⁶

88 https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Begut&Dokumentnummer=BEGUT_COO_2026_100_2_1631073

89 <https://www.reuters.com/article/us-austria-socialmedia/austria-plans-to-force-social-media-to-identify-users-as-bar-to-hate-speech-idUSKCN1RM26R>

90 <https://edri.org/austria-new-responsibility-law-will-lead-to-self-censorship/>

91 <https://freedomhouse.org/country/turkey/freedom-net/2019>

92 <https://edition.cnn.com/2020/07/29/europe/turkey-social-media-law-intl/index.html>

93 <https://edition.cnn.com/2020/07/29/europe/turkey-social-media-law-intl/index.html>

94 <https://www.eff.org/deeplinks/2020/07/turkeys-new-internet-law-worst-version-germanys-netzdg-yet>

95 <https://edition.cnn.com/2020/07/29/europe/turkey-social-media-law-intl/index.html>

96 The description of the Turkish bill has been updated for accuracy.

3. Developments in Countries from Previous Report

This section includes developments that occurred in relation to countries included in the first report. These pertain both to legislative and policy developments but also to noteworthy issues of enforcement.

Africa

Egypt



Egypt is defined as “not free” by Freedom House in its 2019 Freedom on the Net report due to, *inter alia*, increased blocking of websites and the subsection of bloggers and social media users to account deletion, fines and imprisonment if they were considered to be spreading false news.⁹⁷ In 2018, Egypt passed the “Law on the Organization of Press, Media and the Supreme Council for Media No.180” which subjects social media accounts, blogs or websites with more than 5,000 followers as media outlets placed under the supervision of the Supreme Council for the Administration of the Media.⁹⁸ This entity has the power to block websites and file criminal complaints against platforms and users accused of offences which are considered to constitute a threat against national security, disturb the public peace, promote discrimination, violence, racism, hatred or intolerance.⁹⁹ No reference to the NetzDG is made, however, the objective of this law is to, tackle online ‘harms.’¹⁰⁰ Whilst no direct obligation is placed on social media companies in terms of removal within a specific time frame, the law allows for the criminal prosecution of platforms. In a 2019 report, the Associated Press reported that the Egyptian government had enhanced its regulations and that news outlets (as defined above) can receive steep fines of up to approximately 14,000 Euros.¹⁰¹ (Note! Although not in the first report, Egypt is not a ‘new country’ per se due to the temporal framework of developments but was added subsequently).

Kenya



In 2019, the “Kenya Information and Communication (Amendment) Bill”¹⁰² passed its first reading in parliament. The bill seeks to amend the provisions of the “Kenya Information and Communications Act” through the introduction of stringent regulations on the use of social media in Kenya. The bill requires that social media companies which are active in Kenya must obtain a license and open an office in Kenya. The company is also

97 <https://freedomhouse.org/country/egypt/freedom-net/2019>

98 <https://www.bbc.com/news/world-middle-east-44858547>

99 <https://www.bbc.com/news/world-middle-east-44858547>

100 <https://www.poynter.org/ifcn/anti-misinformation-actions/>

101 <https://www.poynter.org/ifcn/anti-misinformation-actions/>

102 https://www.bowmanslaw.com/wp-content/uploads/2019/10/Kenya-Information-and-Communication-Amendment-Bill-2019-No.2_compressed.pdf

required to maintain all user data and submit it to the Communications Authority of Kenya upon request. However, there are no penalties for non-compliance, so the mandatory nature of the above remain unclear. Reference to the NetzDG is not made, yet similarities in terms of the enhanced responsibilities of social media platforms can be discerned. As with the Austrian bill, emphasis is placed on tackling the anonymity of users through their registration on platforms by using legal documents and the submission of user data to the relevant authority by the platforms.

Asia

India



The proposals in relation to the “Intermediary Liability (Amendment) Guidelines” referred to in the first report are still pending. However, reports suggest that the Government is keen on releasing them only after the provisions of India’s new Data Protection law are.¹⁰³

Malaysia



In December 2019, the “Ant-Fake News Act” was finally repealed by the lower house of the Malaysian parliament.¹⁰⁴

Vietnam



A senior representative of the Ministry of Information and Communications announced that following the passing of the Cybersecurity Law, takedown requests in some areas has increased from 20-30% to 80-90%.¹⁰⁵

103 <https://www.thehindubusinessline.com/info-tech/intermediary-guidelines-for-net-platforms-likely-to-be-delayed/article30801754.ece>

104 <https://www.thestar.com.my/news/nation/2019/12/19/finally-dewan-negara-approves-repeal-of-anti-fake-news-act>

105 <https://www.lexology.com/library/detail.aspx?g=8833627c-e189-4d60-a472-6ee742cc38fd>

Singapore



Some issues have come about with the enforcement of the “Protection from Online Falsehoods and Manipulation Bill.” In February 2020, the government of Singapore ordered Facebook to block access to a page on its platform entitled “States Times Review” on the grounds that it repeatedly sent out fake news. Facebook held that such orders were “disproportionate.” The Minister of Justice responded by saying that Facebook had been “behind the curve on fake news and has had to

apologize a number of times.”¹⁰⁶

Europe

France



In June 2020, the French Constitutional Council found many of the provisions of the Avia Law to constitute a disproportionate infringement on free speech. It underlined that the burden of content analysis is placed solely on the private companies, without the involvement of a judge and that the timeframe given, at the threat of heavy penalties, is too short.¹⁰⁷

“This infringement [to freedom of expression] would also be disproportionate insofar as the shortness of the time allowed to the operators to proceed with this withdrawal, coupled with the difficulty for them to determine whether or not statements are manifestly illegal, will encourage them to remove any content flagged as potentially illegal.”¹⁰⁸ The implications of the judgment go beyond the national level, to a European one. France has been leading the way in pushing for an enforceable model for taking down illegal content (especially for Terrorist Content Regulation). The above setback for the French Government could have implications not only for the country’s efforts but also for the protection of free speech at an EU level.¹⁰⁹

United Kingdom



In June 2020, the Chair of the Lords Democracy and Digital Committee said that the Online Harms Bill could be delayed for years after a minister said that the bill may not come to parliament until 2021.¹¹⁰

106 <https://www.cnn.com/2020/04/08/singapore-law-minister-on-tackling-fake-news-during-coronavirus-pandemic.html>

107 <https://www.nytimes.com/2020/06/18/world/europe/france-internet-hate-speech-regulation.html>

108 *Décision n° 2020-801 DC du 18 juin 2020, Loi visant à lutter contre les contenus haineux sur internet* available at: <<https://www.conseil-constitutionnel.fr/decision/2020/2020801DC.htm>> [Accessed 16 September 2020]

109 <https://edri.org/french-avia-law-declared-unconstitutional-what-does-this-teach-us-at-eu-level/>

110 <https://www.bbc.com/news/technology-53222665>

European Union



In her 2020 State of the Union Address, president von der Leyen announced that the Commission will extend the list of EU-level crimes to all forms of hate crime and hate speech.¹¹¹ The voluntary nature of the code of practice on disinformation may be altered. A 2020 study conducted to support the European Commission's evaluation of the Disinformation Code's effectiveness called for "sanctions and redress mechanisms"¹¹² under the currently voluntary Code involving social media platforms. In January 2020, the European Commission expressed its intention to put forth a Digital Services Act to modernize the legal framework for digital services. The current proposal looks at, amongst others, the need to set out clear rules on the responsibilities of digital services to address the risks faced by users and protect their rights including tackling illegal online content.¹¹³ In fact, in European Commission's commentary on the German Law on combating right-wing extremism and hate crime discussed above, the Commission noted that the law 'is likely to overlap with the EU Digital Services Act.'¹¹⁴

111 https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1657

112 <https://ec.europa.eu/digital-single-market/en/news/study-assessment-implementation-code-practice-disinformation>

113 <https://ec.europa.eu/digital-single-market/en/digital-services-act-package>

114 https://www.asktheeu.org/en/request/8206/response/26755/attach/2/C%202020%203380%20F1%20DECISION%20LETTER%20EN%20V2%20P1%201080594.pdf?cookie_passthrough=1

4. Conclusion

Three years after the adoption of the NetzDG in Germany, its direct or indirect cross-fertilization for countering illegal and undesirable online content continues. A total of 11 new countries have been identified as following the German template, whether by conscious policy or not. The large majority of the States included in this report are flawed democracies or authoritarian states that do not have a German equivalent in terms of the rule of law. According to Freedom House's, Freedom on the Net/Press Freedom Reports only one of the new countries is free (Austria), seven are "partly free" (Mali, Morocco, Nigeria, Cambodia, Indonesia, Kyrgyzstan and Brazil) and three are "not free" (Ethiopia, Pakistan and Turkey). In terms of developments in the countries which were included in the first report, the two that are particularly noteworthy are France where the so-called Avia-law has been declared unconstitutional and Malaysia where the relevant law has been repealed. Thus, since the adoption of the NetzDG, 25 countries (Kenya, The Philippines, Malaysia, Vietnam, India, Singapore, Venezuela, Honduras, France, The United Kingdom, Russia, Belarus, Australia, Ethiopia, Egypt, Mali, Morocco, Nigeria, Cambodia, Indonesia, Kyrgyzstan, Pakistan, Brazil, Austria, Turkey) and the EU have adopted or proposed laws/bills which have directly or indirectly followed the NetzDG template. With the changes in France and Malaysia, the number comes down to 24 (including the EU). 14 of the total (including the EU) make an explicit reference to the NetzDG in the law or supporting documents/official statements (Kyrgyzstan, Austria, Belarus, Brazil, European Union, Honduras, France, Malaysia, Philippines, Russia, Singapore, Turkey, United Kingdom and Venezuela) 2 have an indirect link to the law, such as the use of another law which had originally relied on the NetzDG (Cambodia and Nigeria) while 10 have no link beyond the thematic and practical similarity of the laws (Australia, India, Kenya, Vietnam, Ethiopia, Egypt, Mali, Morocco, Indonesia and Pakistan). All of these developments suggest that the NetzDG continues to provide important impetus for, and legitimacy to, models of intermediary liability that violate freedom of expression as set out in Article 19 ICCPR, and the human rights-based framework for the moderation of user-generated online content, proposed by the Special Rapporteur on Freedom of Expression and Opinion. This development contributes significantly to the weakening of the already perilous state of Internet freedom across the world. These consequences were not intended by the German government, and the NetzDG provides rule of law safeguards and free speech protections absent from the most draconian laws identified in this report. Nonetheless, Germany's status as Europe's most influential democracy should prompt Germany as well as other liberal democracies and the European Commission to reconsider the current approach to the policing of online content. In a world where both online and offline speech is under systematic global attack, democracies have a special obligation to err on the side of free speech, rather than succumbing to the ever-present temptation of fighting illiberal ideas with illiberal laws. Once democracies cede the high ground, authoritarians will rush in creating a regulatory race to the bottom. This entails severe and negative consequences for free speech, independent media, vibrant civil society and political pluralism, without which authoritarianism cannot be defeated, nor democracy protected.

5. Appendix

Appendix 1: Overview of differences and similarities

Overview of differences and similarities

	Take-down window	Reasons for take-down	Who can request/order take-down	in force	NetzDG mention in proposal/debate	removal required without official notification
Australia	expeditiously	knowledge	-	yes	No	yes
Belarus	-	-	-	-	Yes	-
EU	1 hour	order	competent authority	no	Yes	no
France	24 hours	complaint	anyone	no	Yes	no
Honduras	24 hours	complaint	anyone	no	Yes	no
India	24 hours	order/knowledge	minister or court	no	No	yes
Kenya	24 hours	complaint	anyone	yes	No	no
Malaysia	Unspecified	order/knowledge	court	no	Yes	yes
Philippines	Unspecified	order	minister	no	Yes	no
Russia	24 hours	complaint	anyone	yes	Yes	no
Singapore	Unspecified	order	minister	yes	Yes	no
UK	-	-	-	-	Yes	-
Venezuela	6 hours	publication	-	yes	Yes	yes
Vietnam	24 hours	order	minister	yes	No	no

Appendix 1A: Overview of differences and similarities for new countries included in the second report

Overview of differences and similarities

	Take-down window	Reasons for take-down	Who can request/order take-down	in force	NetzDG mention in proposal/debate	removal required without official notification
Austria	24 hours	knowledge	user	yes	No	yes
Brazil	-	-	-	no	Yes	-
Cambodia	Unspecified	knowledge	-	no	No	-
Egypt	Unspecified	notification	authority	yes	No	no
Ethiopia	24 hours	knowledge	user	yes	No	yes
Indonesia	-	knowledge	-	no	No	yes
Kyrgyzstan	Unspecified	government notification	authorities	no	Yes	no
Mali	Unspecified	unspecified	unspecified	yes	No	unspecified
Morocco	24 hours	knowledge and order	governmental administrative body	no	no	yes
Nigeria	Unspecified	order	police	yes	no	no
Pakistan	24 hours (6 hours in emergencies)	notification by authority	competent authority	yes	no	no
Turkey	48 hours	order and knowledge	court and users	no	yes	yes

Appendix 2: Types of illegal content

Kenya	Undesirable political content. Including political content written in a language that constitutes hate speech, ethnic contempt, incitement to violence, political content which spreads rumors, misleads or cannot be supported by facts or political content which is not honest or accurate.
Philippines	Information that is false or that would tend to mislead the public.
Malaysia	Any news, information, data or reports, which is or are wholly or partly false.
Vietnam	Propaganda against the Socialist Republic of Vietnam, including insulting the Vietnamese people, flag, emblem, leaders, famous people or national heroes. Content which incites riots, disrupts security or causes public disorder. Content which causes embarrassment or is slanderous. Content which violate economic management order, including invented or untruthful information about products, goods, money, bonds, bills and other valuable papers. Invented or untruthful content causing loss and damage to socio-economic activities, causing difficulties for the activities of State agencies or people performing their public duties.
India	Content which is against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. Additionally content that belongs to another person and to which the user does not have any right tois grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever, harm minors in any way; violates any law for the time being in force, deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature, impersonates another person; threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting any other nation, threatens public health or safety.

Singapore	Material containing wholly or partially false or misleading statements of fact, which has been communicated in Singapore and the Minister finds it in the public interest to remove.
Venezuela	Propaganda in favour of war or condoning national, racial, religious, political or other hatred.
Honduras	Hate speech, incitement to hate speech, discrimination, slander, cyberterrorism, incitement to discrimination, child pornography, threats and cyber bullying.
France	Content that clearly incites to hatred or discriminatory insults on the grounds of race, religion, gender, sexual orientation or disability.
UK	Agreed harmful and illegal content (not yet specified).
Russia	Content which aims to promote war, incites national, racial or religious hate, is unreliable or defamatory.
Belarus	False information.
EU	Terrorist content. Including inciting or advocating the commission of terrorist offences, thereby causing a danger that such acts be committed, encouraging the contribution to terrorist offences, instructing on methods or techniques to commit terrorist offences.
Australia	Abhorrent Violent Material. Including material with terrorist acts, murder, attempts to murder, torture, rape or kidnapping which is produced by the people responsible for the act or by people who aided, abetted or attempted to engage in the act.

Appendix 2A: Types of illegal content for new countries included in the second report (including Egypt)

Austria	Hate speech.
Brazil	False information.
Cambodia	Hate speech, manipulation, defamation, slander, content that hinders the sovereignty of the nation, publications that incite the population to generate anarchism.
Egypt	Content that threatens national security, disturbs the public peace, promotes discrimination, violence, racism, hatred or intolerance.
Ethiopia	Disinformation and hate speech.

Indonesia	Blasphemy, defamation, hate speech and false news.
Kyrgyzstan	Fake information.
Mali	Incitement, defamation, threats and insults made through an information system.
Morocco	False information, content that threatens security, public order or which would be likely to undermine the constants of the Kingdom, its sacredness and its symbols.
Nigeria	False statements of fact, statements that are likely to be prejudicial to the country's security, public health, public safety, public tranquillity or finance, prejudice to Nigeria's relations with other countries, influence the outcome of an election or referendum incite feelings of enmity, hatred towards a person, or ill will between a group of persons; or diminish public confidence in the performance or exercise of any duty, function or power by the government.
Pakistan	Terrorism, extremism, hate speech, defamation, fake news, incitement to violence and national security.
Turkey	Encouragement to suicide, sexual abuse of children, facilitating the use of drugs or stimulants, the supply of hazardous materials for health, obscenity, prostitution, providing a place and opportunity for gambling, any of the offences under the Law on Offences against Ataturk and protection of private life.

Appendix 3: Timeline for implementation

27/3-2017: Germany: [NetzDG is introduced](#)

21/6-2017: The Philippines: [Act penalizing the malicious distribution of false news and other related violations is proposed](#)

1/7-2017: Kenya: [Guidelines on prevention of dissemination of undesirable bulk and premium rate political messages enters into force](#)

10/8-2017: Venezuela: [Law against violent/hateful messages is proposed](#)

1/10-2017: Germany: [NetzDG enters into force](#)

8/11-2017: Venezuela: [Law against violent/hateful messages is passed](#)

1/1-2018: Germany: [Transitional period ends](#)

8/2-2018: Honduras: [Law for Cybersecurity and Protection Acts of Hatred and Discrimination on the Internet and Social Networks is proposed](#)

11/4-2018: Malaysia: [Anti Fake News Act enters into force](#)

- 12/6-2018:** Vietnam: [Law on Cybersecurity passed](#)
- 14/7-2018:** Belarus: [Legislation against fake news passes](#)
- 12/9-2018:** EU: [Regulation on preventing the dissemination of terrorist content online is proposed](#)
- 12/12-2018:** Russia: [Fake news bills are tabled](#)
- 24/12-2018:** India: [Draft of the Information Technology \[Intermediaries Guidelines \(Amendment\) Rules\] published](#)
- 1/1-2019:** Vietnam: [Law on Cybersecurity enters into force](#)
- 18/2-2019:** The United Kingdom: [Final report on Disinformation and 'fake news' is published](#)
- 20/3-2019:** France: [Law against hate speech is tabled](#)
- 7/3-2019:** Russia: [Fake news bills are adopted in the lower house](#)
- 13/3-2019:** Russia: [Fake news bills are adopted in the upper house](#)
- 18/3-2019:** Russia: [Fake news bills are signed into law](#)
- 1/4-2019:** Singapore: [First read of Protections from online falsehood and manipulation bill](#)
- 4/4-2019:** Australia: [Sharing of Abhorrent Violent Material Bill passed](#)
- 8/4-2019:** The United Kingdom: [Online Harms White Paper is published](#)
- 8/5-2019:** Singapore: [Protections from online falsehood and manipulation bill passed](#)
- 1/7-2019:** The Philippines: [Anti-False Content Act is proposed](#)
- 9/7-2019:** France: [Law against hate speech passes in the national assembly](#)
- 9/10-2019:** Malaysia: [Vote to repeal Anti Fake News Act passes](#)

Appendix 3: Timeline for implementation for new countries included in the second report (including Egypt)

- 2010:** Cambodia: The Council of Ministers formed a working group to formulate a [draft Cybercrime Law](#)
- 14/7-2018: Egypt passes ['Law on the Organisation of Press, Media and the Supreme Council for Media No.180'](#)
- February 2019:** Indonesia: Bill proposed by the Indonesian Journalists Association, the Indonesian Television Journalist Association and the Press Council for social media regulation.
- November 2019:** Indonesia: [Digital Platform Law \(PP PSTE No. 71/2019\) on the Government Regulation on the Implementation of Electronic and Transaction Systems](#) promulgated by Indonesian government
- 10/4-2019:** Austria: [Start of the review period for The Austrian Federal Act for Diligence and Responsibility Online](#)

23/5-2019: Austria: [End of the review period for The Austrian Federal Act for Diligence and Responsibility Online](#)

8/7-2019: Cambodia: Ministers review draft [Cybercrime Law](#)

(approximately 20)/11-2020: Nigeria: '[The Protection from Internet Falsehood and Manipulation Bill 2019](#)' passes a second reading.

5/12-2019: Mali President of Mali promulgated [Law No. 2019-056 on the Suppression of Cybercrime](#)

19/3-2020: Morocco: The Government Council approved [draft Law No. 22.20 on the Use of Social Networks, Open Broadcasting Networks or Similar Networks](#)

23/3-2020: Ethiopia: Parliament adopts '[Hate Speech and Disinformation Prevention and Suppression Proclamation No. 1185/2020](#)'

March 2020: Nigeria: '[The Protection from Internet Falsehood and Manipulation Bill 2019](#)' is put to a public hearing

30/6-2019: Brazil, [Bill 2630/2020 Law on Freedom, Responsibility and Transparency on the Internet was approved by the Senate on the 30 June 2020.](#)

29/7-2020: Turkey: Parliament passed a [Law on regulating social media content.](#)

25/7-2020: Kyrgyzstan: Parliament approves [Law On the Manipulation of Information](#)

August 2020: Kyrgyzstan: Kyrgyz president sends [Law on the Manipulation of Information](#) back for review

21/1-2020: Pakistan: Government proposes '[Citizens Protection \(Against Online Harm\) Rules](#)'

15/12-2020: Austria: The draft Federal Act on Measures to protect users on communication platforms is under national consultation until this date



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