(English version)

Priority question for written answer P-002212/24
to the Commission
Alexander Jungbluth (ESN)
(22 October 2024)

Subject: Strong attack on freedom of speech in Germany

In Germany, the non-governmental organisation REspect! recently became the first NGO to be recognised by the German Federal Network Agency (*Bundesnetzagentur*) as a 'trusted flagger'. According to its president, this state-subsidised NGO is supposed to identify 'illegal content, hate and fake news' on social media, with reference to the Digital Services Act, and report it to the platforms responsible, for example X or Facebook ([1]). These platforms are 'obliged to respond immediately to reports from trusted flaggers' so that the content in question can be removed 'very quickly and without bureaucratic hurdles'.

Constitutional lawyers have criticised this as manifestly unconstitutional ([2]).

1. What is the Commission's assessment of these plans to censor content that is not punishable by law?

2. How does the Commission view the fact that, according to media reports, the director of REspect!, Ahmad Gaafar, has strong links to radical Islamists such as the Muslim Brotherhood or allies of Hamas ([3])?

3. When will the Commission present a draft revision of the Digital Services Act to prevent such attacks on freedom of expression based on this law?

Supporters ([4])

Submitted: 22.10.2024

Answer given by Executive Vice-President Vestager on behalf of the European Commission
(27 November 2024)

Freedom of expression and information are pillars of democracy and protected under the EU Charter of Fundamental Rights ([1]). The Digital Services Act (DSA) ([2]) aims to ensure that fundamental rights of users are protected online. The DSA defines platforms' responsibilities and mechanisms to mitigate risks, preventing over-removal of lawful content.

1. Under the DSA, the status of trusted flagger is awarded by national digital services coordinators. To obtain such status, the applicant must demonstrate that it meets the conditions of expertise, competence, independence, diligence, accuracy and objectivity as set out by the DSA. The DSA also allows the suspension and revocation of the trusted flagger status, should the entity no longer meet those conditions.

2. The DSA requires providers of online platforms to assess notices of potentially illegal content submitted by trusted flaggers, within their area of expertise, with priority and without undue delay. That provision does not cover lawful, but potentially harmful, content. Other entities and individuals can also notify potentially illegal content under Article 16 of the DSA. Notified content is not automatically removed. The providers of the services would process those notices and take subsequent decisions.

3. The Commission is required to evaluate the DSA by 17 November 2027, and report to the European Parliament, the Council and the European Economic and Social Committee. The report will *inter alia* address the impact on the respect for the right to freedom of expression and information.

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1 [1]https://www.nius.de/analyse/so-viel-staat-und-geheimdienst-stecken-in-der-neuen-zensur/e6a8bedc-dc70-4e64-be92-1f0d69f0889c.

2 [2]https://www.nius.de/articles/experten-warnen-vor-dsa-meldestelle-respect-eine-linke-vorfeldorganisation-die-staatlich-finanziert-wird-wird-dazu-genutzt-buerger-zu-kontrollieren/c1aea09a-a728-41d5-aba6-9db2e5c0c0c4#google_vignette.

3 [3]https://www.nius.de/news/trusted-flagger-oberzensor-ahmed-gaafar-loescht-profil-foto-mit-hamas-unterstuetzer/fc683778-98c4-4ee7-98b3-fcfe359d7df3.

4 [4]This question is supported by Members other than the author: Petra Steger (PfE), Markus Buchheit (ESN), Irmhild Boßdorf (ESN), Rada Laykova (ESN), Marc Jongen (ESN), Fernand Kartheiser (ECR), Milan Uhrík (ESN), René Aust (ESN), Tom Vandendriessche (PfE), Elisabeth Dieringer (PfE), Hans Neuhoff (ESN), Sebastian Tynkkynen (ECR), Alexander Sell (ESN), Sarah Knafo (ESN), Zsuzsanna Borvendég (ESN), Siegbert Frank Droese (ESN), Mary Khan (ESN), António Tânger Corrêa (PfE)

([1]) Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391-407.

([2]) 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), OJ L 277, 27.10.2022, p. 1-102.