



4.7. DE – Germany⁷³

4.7.1. Key findings

Key regulations pertaining to the protection of minors can be found within three main pieces of legislation: the Interstate Treaty on the Protection of Minors in the Media (JMStV), the Protection of Young Persons Act (JuSchG), and the Network Enforcement Act (NetzDG). Under the JMStV, VSPs are obliged to implement adequate measures to protect children and adolescents from content deleterious to their development irrespective of the obligations per paragraph 4 and paragraph 5. In the JMStV, a fundamental difference is made between "content harmful to minors" and "content detrimental to development". The VSPs must have age verification systems in place to ensure that "content harmful to minors", such as pornography, is only accessible to adult users (closed user group). Furthermore, they must employ the necessary safeguards, such as parent-controlled filtering software, to prevent minors of varying age groups from encountering "content deleterious to their development".

NetzDG is intended to provide protection for users of social media network providers in general, including minors. The providers are obliged to provide complaints procedures about illegal content and to remove such content within 24 hours after receiving a complaint. Under Article 3b, introduced with the revision of NetzDG in 2021, providers are obliged to provide an effective and transparent procedure for reviewing decisions on the removal or blocking of access to content.

More comprehensive protection of minors on VSPs is provided with the amendments to the JuSchG. As telemedia providers, VSPs are required to adopt specific preventive measures. Examples include default settings that protect minors from risks, such as disabling chat functions with other users, settings that can only be altered by parents. The law also encourages the use of easy-to-understand, child-friendly language and presentation in the terms and conditions and the setting up of a help and complaints system that is easily accessible to children. Under the act, the Federal Review Board for Media Harmful to Minors (BPjM) has as its mission the protection of children and adolescents from media content that is harmful to minors. The legislative provisions outline that VSPs must appoint a Protection of Minors Officer if their content is publicly accessible and endangers minors or their development.

According to the guidelines of the Commission for the Protection of Minors in the Media (KJM), an adult verification system has two verification levels: identification as a person of age as well as authentication with each use. The KJM takes regulatory measures against providers based in Germany to implement its guidelines. As the central supervisory

⁷³ The summary on Germany incorporates feedback received from Michel Winkels, European Affairs Adviser at the Media Authority of North Rhine-Westphalia (*LFM NRW*) during the checking round with the national regulatory authorities.



board for the Internet, it decides on measures to be taken in a given case (e.g. objection, prohibition, blocking of providers, fines of up to EUR 500 000).

The Protection of Young Persons Act (JuSchG) obliges the Federal Agency for the Protection of Children and Young People in the Media (BzKJ) to keep a list of media harmful to young people. The legal enforcement of indexing websites, as stated by the JuSchG and the German Criminal Code, is not applicable to providers located abroad. As a response, the JuSchG encourages the use of user-driven filtering programs to manage these foreign websites. The Federal Review Board, in collaboration with the German Association for Voluntary Self-Regulation of Digital Media Service Providers (FSM), established the BPjM module to handle this task. While the module is not a standalone filter program, it can be incorporated as a blacklist within user-driven filters. The board offers this module to makers of such filters. Additionally, German search engine providers, under the auspices of the FSM, have committed to blocking websites indexed by the BPjM.

The Federal Review Board's department for "Advancement of the Protection of Minors in the Media, Prevention, Public Relations" works on devising sustainable measures to address current and future challenges in safeguarding minors. This involves fostering collaboration between government, industry, and civil society, by establishing networking structures that facilitate shared responsibility.

4.7.2. National transposition of Article 28b (1) AVMSD

Title and type of legislation	Key excerpts of legal measures	Link
Act to Improve Law Enforcement in Social Networks (Network Enforcement Act – NetzDG) consolidated 3 June 2021 (Article 1 (3))	Article 1 (3) Unlawful content means content for the purposes of subparagraph 1 which fulfils the criteria laid down in paragraphs 86, 86a, 89a, 91, 100a, 111, 126, 129 to 129b, 130, 131, 140, 166, 184b, 185 to 187, 201a, 241 or 269 of the Penal Code and is not justified. ...	Legislation
Telemedia Act consolidated 1 December 2021 Article 10a and 10b	Article 10a (1) If federal or federal-state legislation makes reference to this provision, and where a corresponding obligation does not already arise from the Network Enforcement Act of 1 September 2017 [NetzDG] (BGBl. I, p. 3352), as most recently amended by Article 274 of the Regulation of 19 June 2020 (BGBl. I, p. 1328), in its latest version, video-sharing platform providers shall be required to have in place a procedure for users to electronically submit complaints (user complaints) about unlawful audiovisual content provided on the video-sharing	Legislation



Title and type of legislation	Key excerpts of legal measures	Link
	platform service of the video-sharing platform provider. ...	
Interstate Treaty on the Protection of Minors in the Media (JMStV) consolidated 30 June 2022 Articles 4, 5, 5a, 5b and 6	Article 4 (1) Without prejudice to any liability under the German Criminal Code, content is illegal if it: 1. represents propaganda as defined in section 86 of the German Criminal Code whose content is directed against the liberal democratic basic order or the principles of international understanding; 2. uses the insignia of organisations that are prohibited under the German Constitution within the meaning of section 86a of the German Criminal Code; ...	Legislation
Protection of Young Persons Act (JuSchG)	Section 4 paragraph 17 Competent federal authority and management (1) The Federal Inspectorate for Media Harmful to Young Persons, as an independent higher federal authority, is responsible for carrying out the tasks that are carried out under federal administration in accordance with this act; ... Section 17a Tasks (1) The Federal Agency maintains a review body for media harmful to young people, which decides whether media are to be included in the list of media harmful to young people in accordance with Article 18 and whether they are deleted from this list. ...	Legislation

4.7.3. Types of measures put in place by VSPs

All of the larger VSPs featured in this report, and this includes many which are not under the jurisdiction of Germany but that can be accessed within the territory, have imposed a minimum age requirement of 13, with the exception of Vimeo (16 or above the minimum age required by law), BitChute (18) and Onlyfans (18). Age verification systems mostly require users to indicate their date of birth, without additional verifications, but other solutions include age verification by credit card, by the uploading of photo ID, or the use of age estimation technology. Various types of parental control measures responding to the specificities of each VSP can be found (blocking and filtering, recording of activities, limiting



time of use, viewing history). X (formerly Twitter) and Vimeo have no such measures, despite being accessible to minors. Neither do BitChute or OnlyFans, as they require users to be over 18. All of the larger VSPs featured in this report make use of flagging and reporting mechanisms as well as other content moderation tools. These are detailed in the tables in sections 3.2 and 3.3.

4.7.4. VSPs under the jurisdiction of the national regulatory media authority

N/A

4.7.5. Measures specific to adult VSPs in general

The most common age verification measures applied by adult VSPs accessible in Germany is self-declaration of age. Cases were found of adult VSPs that did not even require self-declaration of age for registration.

4.7.6. Additional rules referring especially to influencers

German legislation does not specifically define influencers. Instead, it focuses on the nature of the content they produce. The regulations a provider needs to adhere to depend on how the audiovisual communication is distributed. As such, individuals known as influencers could be classified as providers of audiovisual media services based on their content and its distribution. This legal perspective means that influencers are regulated under the same laws as traditional media and media service providers. Depending on the services provided, influencers may have different legal obligations.