

ADDRESSING TERRORIST CONTENT
ONLINE, DATA REGULATION

Transparency report

According to Article 8 TCO-Regulation and
§ 4 TerrOIBG as well as Monitoring report
according to Article 21(1) TCO-Regulation
and § 3 TerrOIBG



Bundesnetzagentur

Transparency report according to Article 8 TCO-Regulation and § 4 TerrOIBG as well as Monitoring report according to Article 21(1) TCO- Regulation and § 3 TerrOIBG

Reporting year 2023

Last revised: March 2024

**Bundesnetzagentur für Elektrizität, Gas,
Telekommunikation, Post und Eisenbahnen**

Referat 125 Addressing Terrorist Content Online, Data Regulation

Tulpenfeld 4

53113 Bonn

Tel.: +49 228 14-0

Fax: +49 228 14-8872

E-Mail: info@bnetza.de

Table of contents

Table of contents.....	3
1. Foreword.....	4
2. Transparency/ Monitoring Report.....	6
3. Summary/ outlook.....	9
Publisher's details.....	11

1. Foreword

Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online ("Terrorist Content Online Regulation") entered into force on 7 June 2021. The Regulation aims to address the misuse of hosting services for terrorist purposes and thus contribute to public safety in the European Union. The regulation aims to prevent terrorists from using the internet to intimidate and radicalize people with their messages, recruit supporters and facilitate terrorist attacks. This is particularly relevant in times of conflict and instability.

Hosting service providers are providers that offer services for the storage and dissemination of information via technical means on the Internet and store and publicly disseminate content on behalf of a content provider. They connect companies and citizens with each other and enable public debates as well as the dissemination and preservation of information, opinions and ideas. They therefore play a central role on the Internet. However, hosting service providers are sometimes exploited by third parties for illegal activities on the internet. Of particular concern is the abuse of these services by terrorist groups and their supporters with the aim of disseminating terrorist content online and thus spreading their messages, radicalizing people and recruiting supporters, as well as enabling and directing terrorist activities.

For several years now, efforts have been made at EU level to establish voluntary cooperation between Member States and hosting service providers to combat terrorist content online. The TCO Regulation provides a clear legal framework for these efforts. This is intended to address the misuse of hosting services for terrorist purposes and further curb access to online terrorist content.

The TCO Regulation imposed obligations on hosting service providers and gave the competent authorities additional tools. The main tool is a removal order, which can be issued by a competent authority to a hosting service provider. Hosting service providers must remove terrorist content within one hour of receiving a removal order.

Hosting service providers are subject to further obligations if their services are used repeatedly to distribute terrorist content. In such cases the hosting service providers must take "specific measures" (content moderation) so that their platform/ service is better protected from terrorist content in the future. Hosting service providers are free to choose the measures to be taken and can therefore use both technical and organizational instruments. It is important that the measures to be taken or already taken are effective in counteracting the spread of terrorist content online. Both proactive moderation measures (e.g. automated filtering systems or content hashing algorithms) and reactive moderation measures (e.g. manual moderation or community-based moderation) can be used.

The "Act addressing terrorist content online" (Terroristische-Online-Inhalte-Bekämpfungs-Gesetz, TerrOIBG) was issued to fully comply with the European Regulation obligations throughout all of Germany. The Act assigned tasks to the Bundeskriminalamt and the Bundesnetzagentur for enforcing the Terrorist Content Online Regulation.

The Bundeskriminalamt is responsible for issuing removal orders and assessing cross-border removal orders. Removal orders can also be addressed directly to hosting service providers in other EU countries. As Part of its tasks, the Bundeskriminalamt involves the State Media Authority of North Rhine-Westphalia

(Landesmedienanstalt NRW) on behalf of all German State Media Authorities. Hazard warnings according to Art. 14 (5) TCO-Regulation are received and handled by the Bundeskriminalamt.

The responsibility of the Bundesnetzagentur under the TerrOIBG is limited to hosting service providers based in Germany. The Bundesnetzagentur is responsible for all fine proceedings under the TerrOIBG, e.g. if companies do not comply with removal orders issued by the Bundeskriminalamt. In addition, the Bundesnetzagentur decides whether a hosting service provider is considered exposed to terrorist online content in accordance with Art. 5 TCO Regulation. The Bundesnetzagentur then monitors the "specific measures" taken by the hosting service provider in question.

Penalties may be imposed to enforce the orders of the Bundeskriminalamt and the Bundesnetzagentur.

On 3. Juli 2023 the transaction processing and communication system PERCI, which is used for transmitting removal orders and referrals between national authorities, Europol and hosting service providers, was launched.

2. Transparency/ Monitoring Report

Nach Art. 21 Abs. 1 TCO-VO und § 3 TerrOBIG erheben die Mitgliedsstaaten von ihren zuständigen Behörden

Pursuant to Article 21(1) of the Terrorist Content Online Regulation and section 3 of the Act addressing terrorist content online, member states collect information from their competent authorities and the hosting service providers under their jurisdiction about the actions they took in accordance with this Regulation in the previous calendar year and send the information to the Commission by 31 March each year.

In addition, the competent authorities publish annual transparency reports in accordance with Art. 8(1) TCO Regulation and § 4 TerrOIBG on their activities under the TCO Regulation.

As set out in Article 8(1) sentence 2 and 21(1) sentence 2 of the Terrorist Content Online Regulation, the information should include:

- The number of removal orders issued under Article 3 of the TCO Regulation, which determines the number of removal orders issued under Article 4(1) of the TCO Regulation, the number of removal orders reviewed under Article 4 and the level of compliance with those orders by the hosting service providers concerned, including the number of cases where terrorist content was removed or blocked and the number of cases where it was not, as well as the speed of removal or blocking;
- Number of decisions pursuant to Article 5(4), (6) and (7) and the extent to which hosting service providers have complied with these decisions;
- specific measures referred to in Article 5, including the number of items with terrorist content removed or blocked and how quickly the removal or blocking took place;
- Number of accesses requested by competent authorities to content stored by hosting service providers in accordance with Article 6;
- Number of complaints procedures initiated and actions taken by hosting service providers under Article 10;
- Number of administrative or judicial review proceedings initiated against removal orders or decisions pursuant to Article 5(4) and (6) and decisions on such proceedings issued by the competent authority in accordance with national law;
- Number of decisions imposing sanctions pursuant to Art. 18, including a description of the type of sanctions imposed.

2.1 Activities of the Bundeskriminalamt

Removal Orders

In 2023 the Bundeskriminalamt issued 249 removal orders on the basis on the TCO Regulation. All removal orders were issued against hosting services providers located / with their main establishment outside of Germany via the PERCI system. In all cases the hosting service providers complied with the orders immediately.

The Bundeskriminalamt received and scrutinised two cross border removal orders against hosting services providers located in Germany in 2023. The removal orders were not objected by the Bundeskriminalamt. The German hosting service providers complied with the orders immediately.

In 2023 no administrative or judicial review proceedings were initiated against issued removal orders.

Referrals

The Bundeskriminalamt uses a legal instrument called a referral request prior to issuing a removal order. A referral request is a request to scrutinise for the deletion of criminal content. Therefore referral requests go beyond mere terrorist content. In 2023 the Bundeskriminalamt transmitted a total of 7.240 referral requests to hosting service providers to remove or disable content voluntarily. In 5.762 cases the provider responded by removing or disabling the content in question, which corresponds to a deletion rate of 79,6%.

Referrals can be issued by the Bundeskriminalamt or other police departments. There is no obligation to process referrals requests 24/7. However, if the reported content contains terrorist online content, the Bundeskriminalamt will review the deletion/ blocking of the content after two working days and issue a removal order if necessary. Apart from this standard procedure, removal orders can also be issued directly without a prior referral request. In some cases, a removal order may not be issued following a referral request. For example, in these cases the referral request refers to content that has criminal implications but does not constitute terrorist content, or the hosting service provider is based outside the EU, which makes it more difficult to apply the Regulation.

2.2 Activities of the Bundesnetzagentur

In 2023 one German hosting service provider was obliged to take "specific measures" in accordance with Art. 5 TCO Regulation as a result of being classified as a hosting service provider exposed to terrorist content. The decision was preceded by a large number of referral requests from the Bundeskriminalamt and by two cross boarder removal orders. The hosting service provider has reported on the measures taken in accordance with Article 5 (5) of the TCO Regulation to the Bundesnetzagentur.

The hosting service provider concerned is cooperative and complied with the referrals and removal orders immediately. Technical and organizational measures are now being taken to a greater extent to address the dissemination of terrorist content online.

In terms of technical measures, automated systems are used to check user-generated content for terrorist content using keyword lists, text, image and audio analysis methods. Content is automatically subjected to a risk classification. Proactive real-time scans and retroactive scans are carried out across the entire existing content catalogue. Once terrorist content has been flagged, repeated uploads it will be automatically recognized via hash value mechanisms. New/ previously unknown terrorist content is added to the system manually after identification. Self-learning filter systems are currently used for text and image content.

In addition, a moderation team consisting of internal and external employees checking the content that has been automatically classified with a high risk rating.

In the opinion of the Bundesnetzagentur and the Bundeskriminalamt the taken measures are appropriate to curb the dissemination of terrorist content online on the platform of the hosting service provider concerned. For the time being, both agencies are currently on exchange with the hosting service provider to increase the effectiveness of the implemented measures.

2.3 Hosting services provider information

Pursuant to § 3 (2) TerrOIBG in conjunction with Articles 6, 10 and 21 (1) sentence 2 letters c and d TCO Regulation, hosting service providers are also subject to a reporting obligation to the Bundesnetzagentur.

In the period from January 1, 2023 to December 31, 2023, hosting service providers received a total of 139 requests from competent authorities for access to user data in connection with terrorist content or activities. The hosting service providers complied with all requests.

Pursuant to Art. 10 TCO Regulation, hosting service providers shall set up complaint mechanisms. Under these mechanisms, content providers whose content has been removed or blocked due to specific measures in accordance with Article 5 TCO Regulation can lodge a complaint against the removal or blocking and request the restoration or unblocking of the content.

In the period from January 1, 2023 to December 31, 2023, a total of 15.766 contents were removed due to specific measures taken in accordance with Article 5 of the TCO Regulation. During the same period, hosting service providers received 100 complaints from users against the removal of their content. As a result of these complaints, the content concerned was restored in a total of 9 cases following a review of the original decision.

3. Summary/ outlook

To summarize, the Bundeskriminalamt and the Bundesnetzagentur identified a significant amount of terrorist content online on the platforms of hosting service providers and intervened as a result. A large volume of illegal content distributed on the internet via hosting services has recently been identified, particularly in relation to the Hamas attack on Israel. The respective hosting service providers cooperated with the Bundeskriminalamt and in the majority of cases already responded on Referrals from the Bundeskriminalamt and deleted or blocked the content voluntarily. The transmission of the removal orders from the Bundeskriminalamt via the PERCI-Tool from Europol to hosting service providers works flawlessly.

The Bundesnetzagentur had to start only one administrative procedure according to Article 5(4) TCO Regulation against one German hosting service provider. Enforcement or fine proceedings were not necessary yet. Hosting service providers are implementing effective measures to address the dissemination of terrorist content online and to cooperate with the competent authorities. It can therefore be concluded that the application of the TCO Regulation has a positive effect on curbing the dissemination of terrorist content online.

The Bundeskriminalamt and the Bundesnetzagentur are supporting German hosting service providers in implementing the regulation. This was done in 2023, among other things, through a study on specific measures commissioned and published by the Bundesnetzagentur as well as through transparent communication and joint information events.

Publisher's details

Publisher

Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen
Tulpenfeld 4
53113 Bonn

Ordering address | Contact

Referat 125 Addressing Terrorist Content Online, Data Regulation
Tulpenfeld 4
53113 Bonn
terroristische-onlineinhalte@bnetza.de
www.bundesnetzagentur.de
Tel. +49 228 14-0

Last revised

March 2024

Text

Referat 125 Addressing Terrorist Content Online, Data Regulation



bundesnetzagentur.de

-  x.com/BNetzA
-  social.bund.de/@bnetza
-  youtube.com/BNetzA