



A comprehensive plan to innovate **democracy in Europe**

Civil society vision for the European
Democracy Action Plan





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TABLE OF CONTENTS

Executive summary	07
Introduction	09
<hr/>	
1. Civic space and active citizenship	12
1.1 Policy framework with guidelines on civic space	14
1.2 Anti-SLAPP directive	16
1.3 Whistleblowers protection	16
1.4 Space for youth	17
1.5 Financial support to CSOs	18
1.6 Conditionality related to the EU funds	20
1.7 Expanding the Rule of Law Mechanism	21
1.8 Stakeholder participation in strengthening democracy and the rule of law	22
1.9 Structured dialogue with Civil Society at EU and Member State level	22
1.10 Active citizenship fit for the 21st Century	24
1.11 European public sphere	26
1.12 Participation of underrepresented groups	27
1.13 Conference on the Future of Europe	28
<hr/>	
2. Elections	31
2.1 European electoral reform	32
2.2 Inclusiveness & equal suffrage rights	33
2.3 Accessibility of elections	34
2.4 European political parties' conduct, transparency & resilience	35
2.5 Online political advertising	37
2.6 Elections during a pandemic	41
2.7 Citizen election observation	43
2.8 Data Protection and elections	44
2.9 Election Infrastructure	45

3. Disinformation and online public sphere	46
3.1 Governing internet platforms	48
3.2 Transparency of dominant platforms	50
3.3 Addressing the online manipulation business model by enforcing data protection rules	52
3.4 Upholding fundamental rights in the EU approach to disinformation	53
3.5 Central coordination and decentralised cooperation on disinformation	54
3.6 Decentralised framework fund	55
3.7 Sustainable and transnational journalism and media to counter disinformation	56
3.8 Global coordination and knowledge-sharing around hybrid threats	57
3.9 Data access for public interest scrutiny	58
3.10 Elections and disinformation	59
4. Media pluralism and safety of journalists and media workers	60
4.1 Holistic approach to the media sector	62
4.2 Protection mechanism for journalists and media workers	63
4.3 Support and funding to media, including investigative, local and independent media	65
4.4 Regulation of market concentration & definition of media market failure	67
Resources	70
1. Civic space and active citizenship	70
2. Election integrity	71
3. Disinformation and online public sphere	71
4. Media pluralism and safety of journalists and media workers	72

EXECUTIVE SUMMARY

It is no secret that democracies around the world have been faced with a series of interrelated challenges in recent years and European democracies are no different. While events in 2020 have exacerbated many of the most troubling trends and continue to test different elements of democratic politics across the continent, the pandemic has also boosted many democratic reform efforts - within civil society, in certain administrations and various opposition forces. Amidst the immense socio-economic and political fallout from the COVID-19 pandemic, the EU commitment to and support of democracy is more important than ever.

In 2019, the European Commission set out plans for a new push for European democracy which included a European Democracy Action Plan. This paper underlines how the Action Plan can provide a comprehensive framework and vision to guide the EU and its Member States to strengthen and protect democracy in Europe. The Action Plan needs to be comprehensive in its scope in order to address both the challenges and opportunities for democracy, beyond a limited set of emerging threats. In other words, the EU *must* be ambitious.

The paper brings together contributions and recommendations from a wide range of 48 civil society and professional organisations to provide input into the Action Plan:

Civic space & active citizenship: Citizens, and the CSOs that represent them, need to be center stage of any EU action to reinvigorate democracy, including the European Democracy Action Plan. This includes creating an enabling environment for citizens to take up a proactive role in shaping inclusive decision-making, amongst others by conducting civic space impact assessments for all EU legislative proposals and developing a comprehensive policy framework on civic space. To this end, the Fundamental Rights Agency's mandate needs to be reviewed and expanded, and the rule of law mechanism needs to be broadened in scope. The Commission also needs to propose a directive against Strategic Lawsuit Against Public Participation (SLAPP) that covers media workers and civil society actors against whom abusive lawsuits are pursued. Finally, European actors must reinvigorate decision-making with new bottom-up participatory methods and reinforce existing channels of participation. To this end, an inter-institutional agreement on civil dialogue is needed, as is a reform of online consultations.

Election integrity: There is an urgent need to make elections more inclusive, representative and transparent in Europe. This includes endorsing the Spitzenkandidaten principle, ensuring the equality of suffrage rights, the right to vote and inclusiveness of persons with disabilities, improving the overall accessibility of elections, and reforming political party and campaign finance. In line with the EU's external election observation activities, the EU should establish and promote enabling mechanisms for citizen election observation of European and Member States' elections in line with international principles and regional commitments. As for the integrity of the democratic debate and political campaigning online, the main structural reform needed is universal transparency of all online advertising, from targeting criteria to the amount spent per campaign. Measures to limit microtargeting of political ads, preventing it from happening without a valid legal basis, are also crucial. The European Cooperation Network on Elections has an important role to play in coordinating between Member States on all of these issues.

Disinformation and online public sphere: The European Democracy Action Plan will need to set the framework for a rights-based Digital Services Act package, to address the power and information asymmetry from digital gatekeepers like Google and Facebook who have a major impact on democracy. The need for enhanced transparency is a basic precondition for any accountability. The recommendations include a variety of ideas for how to make platforms more accountable to government and citizens. In addition, the European Commission needs to set up a holistic decentralized cooperation framework on disinformation, that provides flexible, decentralised funding to CSOs and others working to tackle disinformation. Enhanced internal and international coordination on disinformation, with a special focus on moments of increased risk like elections is also vital.

Media pluralism and safety of journalists and media workers: It is unacceptable that journalists face threats, harassment and even violence simply because they exercise their essential democratic function. Measures to safeguard journalists in Europe are sorely needed, in particular an internal institutional alert mechanism and the full implementation of the Council of Europe recommendation on journalist protection. In addition to specific funding for journalism and public interest media, there is a clear need to address the decoupling of advertising revenue from news content production - something that is ripping apart the old business models of media actors. The European Democracy Action Plan can pave the way towards a new newsmarket based on independent journalism and pluralistic media, specifically by calling for systematic analysis and scrutiny of information market mechanisms.

To meet these ambitious demands, the European Democracy Action Plan will need to include all the tools at its disposal to implement the plan, including using existing legal frameworks, legislative proposals, commitments to internal reorganisation and inter-institutional coordination, well-funded programmes, and coordination between Member States. The breadth of experiences and successes it has amassed in support of democracy externally provides an excellent starting point for taking more ambitious strides internally.¹ In this light, it will be essential that the European Commission connects its internal and external affairs.

Civil society stands ready and united to serve as a resource and a partner to the European Commission in the development and implementation of the European Democracy Action Plan. This paper exemplifies the collective strength and vibrancy of European civil society. All 48 organisations have invested time and effort to collectively push for a more ambitious mission for a European Democracy Action Plan.

¹ European Partnership for Democracy (2019): *Louder than Words? Connecting the dots of European democracy support*. Available [here](#).
Godfrey, K. & Youngs, R. (2019): *Toward a new EU democracy strategy*. Carnegie Europe. Available [here](#).

INTRODUCTION

Democracies in Europe have been faced with numerous challenges over the past decade, including increasing political polarisation, closing democratic space, increased mass surveillance, a changing information ecosystem, popular disillusionment with representative politics and democratic institutions, and increasingly assertive authoritarian global players. There is widespread recognition of the fact that democracy is under pressure across the world.

In 2019, the European Union responded to these troubling trends with a promise for a new push for European democracy. This commitment placed democracy among the key European Commission priorities for the 2019-2024 term and set the tone for a new EU-wide political initiative to improve and protect European democracy: the European Democracy Action Plan.

Events in 2020 have exacerbated many of these trends and continue to test different elements of democratic politics across the continent. The COVID-19 pandemic has fostered a generalised frustration among citizens with national leaders and the European Union because of the way these governments dealt—or failed to deal—with the crisis.

On the other hand, the pandemic has also propelled many democratic reform efforts—in civil society, political opposition forces, and the digital sphere.² Communities across Europe galvanised to help, sometimes in partnership with governments,³ those most vulnerable to the virus and effects of lockdown measures,⁴ organise hackathons,⁵ create innovative tools and platforms to manage the health crisis, check facts and fight pandemic-related disinformation,⁶ monitor government responses,⁷ and call for broader EU action.⁸

Amidst the socio-economic and political fallout from the virus, the **EU commitment to democracy is more important than ever**. The democratic ramifications of the pandemic are likely to be broad, and expectations and the stakes are high. As the crisis evolves and Europe faces a long road to pandemic recovery ahead, it is important that the European Democracy Action Plan reflects the strengths and weaknesses European democracies, for a more robust democratic union tomorrow.

An opportunity for EU democratic ambition

The European Democracy Action Plan is an opportunity for the EU to articulate a vision and ambition for European democracies. The Action Plan should provide a **comprehensive framework to guide the EU and its Member States in enacting this vision for strengthening democracy in Europe**. The Action Plan needs to be comprehensive in its scope in order to address both the challenges and opportunities for democracy, beyond a limited set of emerging threats. The Action Plan should thus prioritise **reinvigorating democracy as much as protecting it**. This paper will detail a number of areas that the Action Plan should contribute to strengthening, with concrete actions:

- Help create the framework for an enabling environment for civil society, journalism and news media to flourish.
- Detail actions to promote freedom of expression, and a free, independent and diverse communications environment, including media pluralism and diversity.
- Carve out the necessary safeguards to ensure the transparency and inclusiveness of electoral processes - online and offline.

2 Youngs, R. (2020): How the coronavirus tests European democracy. Carnegie Europe. Available [here](#).

3 Open Government Partnership (2020): Collecting Open Government Approaches to COVID-19. Available [here](#).

4 Civil Society Europe (2020): Covid 19 : Civil Society at the forefront. Available [here](#).

5 Mann, G. (2020): Virtual hackathons can help you solve coronavirus problems without leaving your home. Available [here](#).

6 EU DisinfoLab (2020): COVID-19 Resource Hub. Available [here](#).

7 International Centre for Non-Profit Law (2020): COVID-19 Civic Freedom Tracker. Available [here](#).

8 Civic Space Watch (2020): Solidarity amid the COVID-19 crisis. Available [here](#).

- Support other forms of participation and transparency at the local, national and supranational level of government, including with deliberative democracy methods.
- Contribute to the debate around strengthening accountability measures, by underlining the need for a comprehensive mechanism to promote and safeguard the respect for Article 2 values.
- Commit to developing a decentralised framework for countering disinformation online, and clearly root upcoming legislative files for regulating the digital sphere within international human rights law.

The EU must be open to include in the Action Plan **all the tools at its disposal** to implement the plan, including using existing legal frameworks, legislative proposals, commitments to internal reorganisation and inter institutional coordination, well-funded programmes, and coordination between Member States. The Action Plan needs to be backed up with teeth, like legislative initiatives and financial resources from the upcoming Multiannual Financial Framework, and a strong political commitment across the Commission. Without such leverage, the Action Plan will be an important symbolic gesture, but ultimately only words on paper.

As one expert warned, “**one of the worst things the EU’s new leaders could do would be to launch grandiloquent initiatives that fail to deliver meaningful and tangible change.** Raising citizens’ expectations only to dash them would leave trust and faith in democratic norms even lower than before.”⁹ In other words, the stakes are high. The EU will be held to account for these commitments by civil society and citizens, who will seek follow-up beyond communications and other public gestures.

The EU does not have to start from scratch with developing this comprehensive vision for European democracy. The breadth of experiences and successes it has amassed in support of democracy externally provides an excellent starting point for taking more ambitious strides internally.¹⁰ In this light, it will be essential that the European Commission connects its internal and external affairs. Whether it is creating and supporting a free, independent and diverse communications environment, protecting and expanding civic space, implementing a rights-based approach or improving the inclusiveness and transparency in electoral processes, there are many lessons to be learned from the experience of other democracies around the world as well as the EU’s own external democracy support. The actions that the EU will take in the next months are likely to become a real example for many actors across the world.

In addition to concerted actions, the EDAP will also provide an opportunity to develop a **new, more positive narrative for democracy.** While the EU treaties and most official speeches mention democracy as a founding value and guiding principle for the Union, the challenge comes when translating this into successful action. For this, the EU needs to reflect on what democracy means to people and reconstruct a more positive vision and narrative for democracy that: resonates with its people; demonstrates the case for EU leadership on democracy at home; counterbalances emergent threats with experiences, explanation, hope, and solutions; and fosters democratic innovation.

This paper aims to provide civil society input to the EU’s new push for European democracy, in particular to the European Democracy Action Plan. With contributions from over 48 civil society and professional organisations, this paper offers recommendations along the three thematic pillars and one cross-cutting theme of the European Democracy Action Plan, as announced in the Commission’s June 2020 agenda and reiterated in the public consultation. First, the paper explores how the Action Plan can safeguard civic space and foster active citizenship and participation. Then, the paper looks at election integrity, including measures to protect and strengthen electoral integrity online and offline. The third section homes in on disinformation and offers guidelines for upcoming political and legislative initiatives around platform governance. Finally, the paper sets out which measures are needed to foster media pluralism and ensure the safety of journalists and media workers in Europe.

This paper exemplifies the collective strength and vibrancy of European civil society. All 48 organisations have invested time and effort to collectively push for a more ambitious mission for a European Democracy Action Plan.

A list of organisations who have contributed to the paper can be found below. **The organisations listed below do not necessarily endorse the paper in its entirety, but contributed to the paper with their ideas, insights, research, and recommendations.** The paper was coordinated by the European Partnership for Democracy in close cooperation with the following contributing organisations:

9 Richard Youngs, “Six Ideas for Rejuvenating European Democracy,” Carnegie Europe, December 2019.

10 European Partnership for Democracy (2019): *Louder than Words? Connecting the dots of European democracy support.* Available [here](#).

Godfrey, K. & Youngs, R. (2019): *Toward a new EU democracy strategy.* Carnegie Europe. Available [here](#).

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Demo Finland - Political Parties of Finland for Democracy

Democracy International

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Digital Action

ePanstwo Foundation

European Center for Not-for-Profit Law (ECNL)

European Centre for Press and Media Freedom (ECPMF)

European Citizen Action Service (ECAS)

European Digital Rights (EDRi)

European Disability Forum (EDF)

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Ossigeno.info

Philanthropy Advocacy, a joint Donors and Foundation Networks in Europe (DAFNE) & The European Foundation Centre (EFC) initiative

Reporters Without Borders (RSF)

Res Publica Foundation

Society of Journalists, Poland

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Thomson Foundation

wahlbeobachtung.org, Election-Watch.EU

Young European Federalists (JEF-Europe)

1. CIVIC SPACE AND ACTIVE CITIZENSHIP

Summary of key recommendations:

- » **Civic space impact assessments & policy framework:** Respect for freedom of expression, information, association and assembly should be part of all fundamental rights impact assessments for EU legislative proposals. Secondly, national law must be in line with these fundamental freedoms, and otherwise requires EU action. Third, there is a need for a comprehensive policy framework with guiding principles on civic space. Such a framework needs to be mindful of the specificities for particular population groups, such as the youth and vulnerable, racialised, at-risk, and marginalised groups.
- » **Fundamental Rights Agency:** Throughout various recommendations, it becomes apparent that the EU Agency for Fundamental Rights (FRA) has an essential role to play in strengthening democracy in Europe. In particular, FRA should contribute by mapping out the fundamental challenges to human rights across the EU and providing independent advice on EU fundamental rights legislation and policies. The mandate of the FRA should be reviewed to enable it to receive and investigate complaints, and carry out country specific assessments of Member States when negative trends are identified.
- » **Expanded Rule of Law mechanism and conditionality of funding:** The EU institutions need mechanisms to enforce the foundational principles and values set out in Article 2 of the Treaty of the European Union. An interinstitutional agreement on a European Mechanism on Democracy, Rule of Law and Fundamental Rights, as proposed by the European Parliament's Civil Liberties Committee, is the starting point.¹¹
- » **Inter-institutional agreement on civil dialogue:** Although Art. 11 (1) TEU provides a legislative framework for citizens' involvement and organised civil society in decision-making processes, existing forms for citizen participation in the EU have proven ineffective in bridging the democratic deficit for several reasons. In order to more effectively democratise civil society involvement and create a structured dialogue, the Commission should initiate an inter-institutional agreement on civil dialogue based on Article 11 TEU.
- » **More meaningful and inclusive participation:** Representative democracies fall short of being truly representative of all its population groups, while people ask for more participatory mechanisms. Both the EU and EU Member States need to reinvigorate decision-making with bottom-up participatory methods and tools, as well as enhancing the inclusiveness of existing participation channels. The Conference on the Future of Europe will be an important testing ground for new methods.
- » **Anti-SLAPP directive that protects victims of abusive lawsuits:** A directive against Strategic Lawsuit Against Public Participation (SLAPP) is needed to establish a Union-wide minimum standard of protection against SLAPPs, by introducing exemplary sanctions to be applied to claimants bringing abusive lawsuits, procedural safeguards for SLAPP victims and preventive measures. Such a directive needs to cover both media workers and civil society actors against whom abusive lawsuits are pursued.

¹¹ Committee on Civil Liberties, Justice and Home Affairs (2020): Draft report on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights(2020/2072(INL)). Available [here](#).

1.1 POLICY FRAMEWORK WITH GUIDELINES ON CIVIC SPACE

A vibrant and diverse civil society is key to the proper functioning of a healthy democracy. They inform the public about political debates that may affect their rights and quality of life, so that the public can make informed decisions. They also uphold the rule of law and people's rights by making sure governments are accountable. Civil society organisations (CSOs) also put participatory democracy into practice by offering the public organised channels through which to speak to their representatives.

Governments as well as non-state actors are contributing to an increasingly restrictive environment for civil society. This is in some cases the result of deliberate attempts by authoritarian leaders to crack down on critical voices, in others the unintended consequence of short-sighted policies. Broadly speaking, the main problems facing civil society are:

- » Hostile rhetoric and smear campaigns by political figures and allied media outlets, designed to undermine public trust in and support for CSOs and human rights defenders;
- » Cuts in public funding and legislation to limit or ban private and foreign funding, designed to reduce the resources available to civil society and limit cross-border philanthropy;
- » Disproportionately burdensome administrative obligations or restrictive national regulatory frameworks, intended to drain civil society organisations' resources;
- » Harassment through legal channels such as audits and the threat of criminal sanctions, as an attempt to hamper them from carrying out their legitimate activities;
- » Physical violence against human rights defenders, activists or journalists and media workers;
- » Inadequacy of national regulatory frameworks which prevent the existence of a free and safe civic space for CSOs to thrive.

These phenomena of closing democratic space point to the dysfunctional relationship between the state and civil society, based on the lack of strategic thinking and vision for such partnerships. While interesting models of formal cooperation between government and civil society do exist, the general trend goes in the other direction.¹² There is a need to reimagine and invigorate this relationship so as to make it constructive and create an enabling environment for inclusive policy-making.

CSOs and human rights defenders need an enabling environment to operate, free from attacks and without unnecessary or arbitrary restrictions, both in Member States and at EU level. In the EU's recovery plans for the post-COVID-19 period, democracy, civil society and fundamental rights issues are conspicuously absent, despite the crucial role CSOs, human rights defenders and independent professional journalism will play in rebuilding resilience and restoring checks and balances in the rule of law. It is now of critical importance to make the right choices when fine-tuning the tools and instruments when upholding the EU's civil society and democracy at home, including in the negotiations on the MFF. The EDAP must actively recognise and support the role of CSOs in safeguarding and invigorating European democracies.

12 See this example of civil society - state cooperation in the Czech Republic [here](#). See also: EU Agency on Fundamental Rights (2018): Challenges facing civil society organisations working on human rights in the EU. Available [here](#).

Actions:

Civic space impact assessments: Respect for freedom of expression, information, association and assembly should be part of all fundamental rights impact assessments for EU legislative proposals, and part of the continued monitoring by the European Commission of existing EU and national legislation. Including civic space as an indicator in EU policy impact assessments is necessary to make sure that new policies do not result in further shrinking of civic space.

Guidance note: The Commission should develop a guidance note on freedom of association and assembly and how EU law can be used to protect civic space, including guidance on how to implement relevant EU legislation (for instance in the area of security and counterterrorism) fully in line with human rights standards.

Fundamental Rights Agency review: Documentation by civil society and FRA on civic space should feed into a continuous assessment of how EU values are upheld. The mandate of the FRA should be reviewed to enable it to receive and investigate complaints, and carry out country specific assessments of Member States when negative trends are identified.

Ensure any monitoring mechanism on Article 2 values includes civic space and freedoms as a key pillar and indicator: Include civic space among the key indicators of EU instruments and processes monitoring rule of law, democracy and fundamental rights, including by expanding the scope of the EU Rule of Law mechanism. See the recommendations on the rule of law mechanism in section 1.7 for more details.

Support litigation aimed at defending civic space and civil society organisations: The EU should support civil society and human rights defenders (HRDs) to litigate civic space restrictions at the national level, including through funding and capacity building.

EU wide rules: Adopt EU wide rules to fill gaps in the protection of civil society organisations and human rights defenders, such as rules to prevent abusive lawsuits (known as strategic litigation against public participation, or SLAPPs) or rules on the creation of a Statute for European Associations.

EU Guidelines on HRDs at risk: Develop Guidelines on the protection of human rights defenders at risk in the EU, similar to the EU Guidelines on human rights defenders for external action.

Implementation of EU law: Foster expert discussions among Member States on how to implement relevant EU law, such as rules on anti-money laundering and terrorist financing, in line with the rights to freedom of association and freedom of expression. Where laws in Member States limit civic space, in violation of European and international human rights standards EU law and the Charter of Fundamental Rights, then the EU should take legal action.

1.2 ANTI-SLAPP DIRECTIVE

Companies and powerful individuals use SLAPPs to legally harass NGOs, activists, human rights defenders, journalists and media workers, or academics they want to silence. Recently over 100 NGOs co signed a policy paper with concrete policy demands. We insist you take a look at the policy paper.¹³

A comprehensive anti-SLAPP directive that protects all the above-mentioned actors is needed to establish a Union-wide minimum standard of protection against SLAPPs, by introducing exemplary sanctions to be applied to claimants bringing abusive lawsuits, procedural safeguards for SLAPP victims, including special motions to contest the admissibility of certain claims and/or rules making the burden shifting to the plaintiff to demonstrate a reasonable probability of succeeding in such claims, as well as other types of preventive measures.

Actions:

Adopt an EU anti-SLAPP directive that protects everybody: Importantly, the scope of the Directive must cover any citizen or organisation, including journalists and media workers, activists, trade unionists, academics, digital security researchers, human rights defenders, media and civil society organisations, among others.

Brussels I Regulation (recast) must be amended to end forum shopping in defamation cases, which forces defendants to hire and pay for defence in countries whose legal systems are unknown to them and where they are not based.

Rome II Regulation also needs to be changed since at the moment it allows claimants to select the most favourable substantive law and therefore leads to a race to the bottom.

Funds are needed to morally and financially support all victims of SLAPPs, especially with legal defence. Justice Programme funds should be used to train judges and practitioners, and a system to publicly name and shame the companies that engage in SLAPPs, for example in an EU register, should be created.

1.3 WHISTLEBLOWERS PROTECTION

Whistleblowing is an essential element of free expression and right to information. From the Panama Papers to the Cambridge Analytica scandal, whistleblowers have in recent years played a key role in highlighting vulnerabilities in democracies' financial and tech sectors that foreign authoritarian states can exploit. A wide coalition of civil society organisations has written an open letter around whistleblower safety during COVID-19.¹⁴ Implementation of whistle-blower protection rules is essential.

Actions:

Evaluate the EU Directive on Whistleblowing: The EDAP should foresee a comprehensive evaluation of the implementation of the EU Directive on Whistleblowing as of 17 December 2021 (official transposition date), and launch infringement procedures against Member States which failed to ensure to implement their commitments in their national legislation.

¹³ See the policy paper: Ending gag lawsuits in Europe: protecting democracy and fundamental rights. Available [here](#).

¹⁴ Coalition to make whistleblowing safe during COVID-19. Available [here](#).

1.4 SPACE FOR YOUTH

While young people engage less in traditional politics compared to older generations, they are often at the forefront of protests, they participate in social movements, and take up volunteering. Youth organisations provide quality citizenship education and foster the development of vital competences for participation (e.g. critical thinking, media literacy, digital literacy, democratic awareness, public speaking, etc.) that enable young people to not only speak out for themselves but to stay active citizens in society also later on. Moreover, youth organisations, by working with and for youth, are also key advocates for youth rights, and play a key role in advancing young people's access to and enjoyment of their rights and freedoms. The shrinking of civic space, however, is affecting youth organisations too, placing an excessive burden on them in particular to fulfil these crucial roles.

The European Youth Forum's study on civic space for young people in Europe provides an overview of the main challenges that youth CSOs face in Europe, including the following striking findings:¹⁵

- » Youth organisations face major hurdles in obtaining information from government sources;
- » 1 out of 8 youth organisations experienced difficulties in organising or participating in public assemblies; 1 out of 5 experienced governmental interference in the functioning of their organisation; 1 out of 4 also reports undue restrictions, while one third experience barriers to acquiring foreign funding;
- » About 1/3 of youth organisations across Europe face difficulties when trying to participate in policy deliberation and decision-making processes, with about 1/10 of them almost excluded from those processes.

Closing civic space has had a disproportionately negative impact on young people's exercise of their basic civil rights and their well-being in general as well as the functioning of youth CSOs. Because of the importance of democratic youth civic spaces to young people's overall well-being and access to rights, and their contribution to the health of our democracies in general, safeguarding youth civic spaces should remain high on the agenda of activists and policy makers. An EU civic space approach needs to be rooted in a thorough understanding of the additional restrictions in youth organisations' operating space, as well as a recognition of youth organisations' essential role in strengthening democracy in Europe.

Actions:

Enabling environment: To safeguard and expand civic space, it is essential to include early learning of democratic principles, such as in school curricula, and the impact of efforts to change the terms of reference upon which they are established and reproduced.

Inclusion: strategies for reclaiming the civic space should be customised to the particular circumstances and needs of those affected, including the various organised youth groups. In addition to discussions about the importance of disaggregating youth groups, the classification of their civic engagement activities can also be useful in terms of identifying areas of strength or limiting factors.

Youth lenses: policymaking must be embedded with considerations of youth's particular psychosocial, physical, economic, cultural, and educational realities. Efforts to effectively determine and respond to the challenges, opportunities, needs, and wishes of any demographic group requires overt attention to the identities and cultures prevalent within that group.

15 European Youth Forum (2020): Safeguarding civic space for young people. Available [here](#).

1.5 FINANCIAL SUPPORT TO CSOS

Closing civic space also manifests itself through a shrinking of funding and restrictive legislation on funding for CSOs. Civil society organisations are facing restrictions in accessing public and private funding on national level, as national programmes are being cut, and financial and administrative burdens are put in place, including limitations on access to foreign funding. At the same time, it has become difficult for organisations working at national level to access EU funding. Indeed, requirements set out in most project calls make it challenging for national NGOs to apply for funding, the result being that very few organisations have been applying for the EU funding available through projects run by DG Justice and Consumers.

The main barriers to accessing EU funding at the moment are:

- » CSOs are often struggling to ensure their very basic operations, including service provision to the community. Current EU funding programmes – mostly aimed at supporting transnational projects – are not designed to support this work. Taking on transnational projects would add more work for the majority of organisations, at a moment in time when the burden placed on the finances and human resources of NGOs is quite high.
- » The 20% co-funding requirement in the EU grants is very high for most groups and organisations. With only a few exceptions, a significant portion of organisations in Europe operate without sustainable funding or flexible funding sources. Finding funds to meet the co-funding requirement is thus a huge undertaking for the majority of groups. Taking on an EU-funded project without having secured co-funding implies a significant financial risk for most organisations.
- » Most funding opportunities favour large transnational consortia, which require extensive project and financial management, and have large budgets (and hence high co-funding requirements). Even larger organisations often lack the financial and management resources to run such projects. This model of EU support, only partially compensated by the practice of re-granting, automatically disqualifies part of the national organisations that simply do not have the resources to take part in such international partnerships.

Compounding the problem of high barriers for accessing EU funding is the fact that there is only very limited funding for civil society in Europe to begin with. While the Rights and Values Programme proposed in the draft EU Budget post-2020 is greatly welcomed, the proposed budget withers in comparison with the magnitude of the challenge. Support to fundamental rights and values – a cornerstone of the EU – cannot be overlooked in the recovery after 2020.

Instead, it is essential for the EU to support a stronger civil society sector as a key pillar of a stable infrastructure for democracy, able to effectively promote and gather support for shared European values including freedom, pluralism and respect for fundamental rights. It is also essential to expand the classifications of organisations that belong to the civil society sector to include non-profit journalism organisations and human rights defenders.

Lastly, barriers to cross-border philanthropy need to be removed, as a clear commitment that foreign funding restrictions are not in line with EU law.

Actions:

To ensure **the sustainability of civil society's work** with EU funding and programmes, **CSOs** - especially small and medium-sized ones - crucially need long-term grants, and non-earmarked funding covering core and structural expenses, rather than short-term, project-based funding.¹⁶ Effective EU funding support, needs to include:

- » Low value grants with no or lower co-financing requirements (at most 5%).
- » Sub-granting schemes (or cascading funding) offer ways to ensure that larger organisations can carry the financial risk and management burden that comes with a large grant and then make small grants available to national organisations. The possibility for sub-granting is provided for in other funding programmes such as European Instrument for Democracy and Human Rights (EIDHR) and has been working well there in helping to reach national organisations and very often small community groups, but is not yet included in the Rights and Values Programme.
- » Both emergency and core (operational) funding, to allow both a rapid response to sudden deteriorations in civic space, and support the long-term development and operations of civil society. This may include foreseeing funding via negotiated procedure (without calls for proposals) for the CSOs, which could meet the local needs on the ground and respond to crises. It could also provide funds for advocacy at the local governments level.
- » Emergency grants for the protection of human rights defenders at risk should also be made available.

It is essential to **expand the EU's internal toolbox** and come up with fresh ideas for supporting civil society and reaching out to new actors and new parts of society, including by reacting flexibly and in a timely way to local contexts in Member States, which often requires tailor-made solutions to the complex challenges they face. The EU should take into consideration its previous experiences and best practices from its external engagement, namely the EIDHR and the European Endowment for Democracy, when designing an appropriate structure to allow the new tool to respond flexibly and rapidly to the situation on the ground. This includes:

- » combining short-term response (including emergency funding) with long-term strategic vision and investment;
- » increase the use of the model of the European Commission's framework partnership agreements, with well-established CSOs with strong regional networks, experiences, and toolboxes;
- » develop tools for the EU's internal toolbox taking inspiration from the EU's external instruments, including emergency support for human rights defenders, such as EIDHR and its Protectdefenders.eu programme.

In order to ensure EU funding provides **meaningful and effective support to organisations at national level**, it is very important to rethink the current focus on transnational projects and instead include more flexible funding instruments in programmes such as the Rights and Values Programme in the next MFF (Multiannual Financial Framework), that can help make sure money can actually reach local organisations experiencing the barriers listed above.

The estimated **funding allocated for the Rights and Values Programme** in the various MFF proposals currently would not enable CSOs to protect and promote the rights and values enshrined in the EU Treaties and in the EU Charter of Fundamental Rights. The EDAP should restate the Commission's commitment to sufficient funding in this envelope, in order to take pressure off CSOs and for them to continue the work in this area.

16 Reich, K., Milway, K., Cardona, C. (2019): What it really takes to influence funder practice. Ford Foundation. Available [here](#).

1.6 CONDITIONALITY RELATED TO THE EU FUNDS

In order to tackle democratic backsliding in EU Member States, the European Commission proposed a new financial conditionality in May 2018 that would allow the suspension of EU funds in cases of systematic rule of law infringements. Making EU structural and cohesion funds conditional on meeting certain benchmarks, including the quality of the rule of law, joining the European Prosecutor's Office, or following the European Anti-Fraud Office's recommendations, this would clearly increase the credibility of the Commission's enforcement action regarding EU fundamental values.

Upon a breach, funding would be suspended or redistributed beyond national government to civil society, independent media, local administrations, and other pro-EU actors. This was successful in some of the EU partner countries, including Moldova when applying a smart conditionality approach in 2018.

Compared to Article 7 of the Treaty of the European Union (TEU), the procedure proposed in the draft regulation poses much lower decision-making hurdles and, therefore, increases significantly the chances of application of EU measures against violations of EU fundamental values. While negotiations are still ongoing, the proposals coming out of Council are weak and unclear on the connection between fundamental values and funding.

Actions:

Insist on the importance to maintain the proposed conditionality of funding in the next MFF and Next Generation EU instruments;

For the **implementation** of conditionality of EU funds on the compliance with the rule of law, when adopted with reverse Qualified Majority voting or Qualified Majority voting, we recommend the following:

- » Ensure the effective implementation of the suspension mechanism, including considerable and immediate financial sanctions for repeated offenses;
 - » Link the procedure for suspending funding with an expanded rule of law mechanism (see below);
 - » Rule of Law conditionality should be backed up by **direct funding for end beneficiaries** to be granted by the Commission in the event that measures are taken against Member States where generalised deficiencies as regards the rule of law take place. These direct funds should aim to compensate the loss of funds resulting from the suspension or reduction of payments by the EU.
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1.7 EXPANDING THE RULE OF LAW MECHANISM

Democracy, fundamental rights and the rule of law are interconnected. This is clear from the wording of Article 2 of the TEU, which reaffirms the basic values on which the EU is founded. It is also reaffirmed in the preamble of the EU Charter of Fundamental Rights, according to which “the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.”

However, at the moment, a number of governments are undermining these basic values. The problematic policies that these Member States are implementing include: interfering with the independence of the judiciary, interfering with the independence and pluralism of the media, restricting the activities of CSOs and restricting the right to peaceful protest, as well as rhetorical attacks and restrictive policies targeting marginalised groups such as migrants, ethnic minorities, women and LGBTQI people. The public emergency caused by the coronavirus pandemic has also been used by some governments as an excuse to weaken checks and balances or introduce overly restrictive measures, well beyond a genuine and proportionate response to the outbreak. The EU has thus far had modest success in persuading governments to desist from and reverse these policies.

For the EDAP to have a concrete impact, it is crucial to use it as an opportunity to enhance coherence of existing legislative and policy tools aiming to promote and protect democracy, rule of law and fundamental rights in the EU Member States. It is also the opportunity for the EU to reinforce these tools and lead the way towards a more comprehensive and coherent policy allowing to more effectively prevent and respond to breaches by Member States of democracy, the rule of law and fundamental rights standards.

Actions:

Interinstitutional agreement on a European Mechanism on Democracy, Rule of Law and Fundamental Rights: Commit to engage in negotiations with the European Parliament and the Council with a view to reach an inter-institutional agreement on a European Mechanism on Democracy, Rule of Law and Fundamental Rights, as proposed by the Civil Liberties Committee,¹⁷ with a view to improving consistency, transparency, accountability and democratic legitimacy of the EU action to promote and protect EU values.

Expand the scope of existing EU Rule of Law mechanisms, including the Rule of Law framework and the Annual Rule of Law Review Cycle, to democracy and fundamental rights.¹⁸

Transparency of the process: Commit to ensure more transparency in the Commission's action to protect democracy, rule of law and fundamental rights, including by ensuring publicity of debates and contribution by Member States and stakeholders.

Commit **to cooperate with the European Parliament in triggering national debates in each Member State based on the findings** of the monitoring of respect of democracy, rule of law and fundamental rights, and ensuring a meaningful involvement of civil society organisations.

The Rights & Values programme should be used, among other things, to build a **rule of law culture in EU Member States**. To that effect, the values strand of the programme should be dedicated to building the capacity of CSOs to create grassroots support among the public for Article 2 values, including by improving, through value-based framing, the way they communicate with the public. Non-profit accountability journalism organisations are likewise key actors in garnering such grassroots support.

17 Committee on Civil Liberties, Justice and Home Affairs (2020): Draft report on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights(2020/2072(INL)). Available [here](#).

18 See Article 7 of the European Parliament resolution of 25 October with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (2015/2254(INL)). Available [here](#).

1.8 STAKEHOLDER PARTICIPATION IN STRENGTHENING DEMOCRACY AND THE RULE OF LAW

CSOs face restrictions to perform their advocacy/watchdog role which are essential to the rule of law in a democratic system. Some examples are restriction of freedom of assembly due to a disproportionate implementation of security rules or health concerns, excessive use of force, silencing NGOs that address deficiencies in the rule of law, corruption, criminalisation of support to groups such as migrants, role of digital technologies for surveillance. It is essential that any EU mechanism monitoring or promoting democracy in Europe should have widespread and meaningful stakeholder participation, including from civil society.

Actions:

Civil society must be recognised as a partner in the implementation of the EDAP and any other mechanisms and processes for the promotion and protection of democracy, rule of law and fundamental rights. It must be associated at all stages, from design, to consultation and feedback on outcomes and findings. A basic condition for such joint implementation is transparency of the process at all stages.

Support for engagement: The EDAP should foresee support, including financial support, for civil society organisations to meaningfully engage in such mechanisms and processes as information providers but also contributing to the follow-up of findings and implementation of recommendations at national level.

Include diverse sources in the shaping of the Annual Rule of Law Report: There is still time to make the content of the Annual Rule of Law Report inclusive of a diversity of sources, by setting out a publicly available communications plan for engaging a range of stakeholders, at local, national and European levels.

1.9 STRUCTURED DIALOGUE WITH CIVIL SOCIETY AT EU AND MEMBER STATE LEVEL

Participation plays a crucial role in the promotion of democracy. When we speak about civil participation, we are talking about democracy in action, about the various forms of activism used by citizens and civil society organisations. In order to normalise this form of participatory democracy throughout the European Union, a number of steps need to be taken and principles need to be internalised in the decision-making processes of the EU.

The following are necessary for effective and meaningful civil participation before, during and after political decision-making:

- » Openness and transparency of public decision-making processes;
- » Concrete and thorough mechanisms on global, regional and national level that allow for public participation, both online and accessible and inclusive to all, including marginalized individuals and groups;
- » Transparency and accountability in the follow up stage of the participative process towards citizens and civil society;
- » An enabling policy and legal environment for free association, assembly and expression;
- » Unobstructed and timely access to information, which are proactively disseminated, accessible, clear, and practical;
- » Financial and human resources and support for participation;
- » Civic Education, Media education and digital literacy programmes for general public, civil society and officials.

Concretely, this means that decision-making procedures should be transparent and citizens and civil society or-

organisations should be able to monitor and follow the whole process, including trilogue negotiations between the European Parliament, the Council and the European Commission. Such decision-making processes are currently too opaque and inaccessible for citizens and civil society alike.

Although Art. 11 (1) TEU provides a legislative framework for citizens' involvement in decision-making process, existing forms for citizen participation in the EU have proven ineffective in bridging the democratic deficit for several reasons.¹⁹ The online EU public consultations of the European Commission are highly technical and mainly used by organised interests. They are not user-friendly and accessible to the public and there is a general lack of awareness among citizens that this tool exists as a form of e-participation. Moreover, minimum standards of consultations are binding only for the European Commission in the policy-making process. Lastly, a common weak link of EU participatory processes has been the implementation and follow up, which is necessary for making engagement meaningful and gaining the trust of participating citizens.²⁰

This points to the need for **democratising online consultations, and for adopting a more structured process for civil dialogue** through an Inter Institutional Agreement on civil dialogue based on article 11 TEU. It also points to the need for better coordinating and following up on civil society dialogues, online consultations and other participatory methods.

The COVID-19 crisis cannot be used as an excuse to limit civil society and citizen participation in decision-making. The open government community has crowdsourced over 350 examples that show the multitude of tools and methods to ensure transparent and inclusive decision-making throughout the pandemic.²¹

Actions:

The European Commission should:

Develop **guidelines on structured dialogue with civil society** and initiate and promote the Inter Institutional Agreement on civil dialogue based on article 11 TEU.

- » All EU institutions must review their terms of engagement with CSOs in line with Article 11 to ensure an **open, transparent and regular dialogue** can take place. Such an agreement should include guidelines on the organisation of both transversal and sectoral dialogue with civil society organisations within all EU institutions as well as review of current practices.
- » In the organisation of such dialogue, or in any gathering of expertise in policy or legislative proposals, ensure the right **balance is struck between commercial or financial interests and public interests** as expressed by citizens and the civil society organisations representing them.

Review existing practices of online consultations on EU policy-making in order to make them more effective a tool for civic participation:

- » Review the **Better Regulation agenda**, so as to ensure that online consultations are adapted to civil society organisations and individual citizens, and not just to business or public authorities; as well as fully accessible to persons with disabilities.²²
- » The European Commission should consider **dividing the existing online consultations on EU policy-making into two parallel channels**: one which is designed to better gain the views of organised interests and one which is tailored to collect the insights of citizens through crowdsourcing mechanisms.
- » Institutions should avoid box-ticking, one-way and one-off consultations, and ensure that organisations can contribute in a timely and informed manner to EU policy making.

19 Lironi, E. (2016): Potential challenges of e-participation in the European Union. Study for the AFCO Committee, European Parliament. Available [here](#).

20 Stratulat, C. & Butcher, P. (2018): The European citizens' consultations: evaluation report. European Policy Centre and The Democratic Society. Available [here](#).

21 Open Government Partnership (2020): Collecting Open Government Approaches to COVID-19. Available [here](#).

22 Given that these processes are run digitally, in order to ensure their accessibility for persons with disabilities the Commission web and digital tools must comply with the European Standard EN 301 549 available [here](#).

Appoint a **focal point or unit on civil society** within each Directorate General that will be responsible for organising regular exchanges with civil society organisations and for information sharing.

Enhance transparency and accessibility of information of all EU institutions:

- » The **Council** should ensure that the position of Member States including during preparatory work is properly recorded in a timely manner in all documents, so as to ensure accountability of the government to their citizens and allow for public scrutiny and participation.
 - » Ensure that **information is available** to citizens on key EU legislative and policy files and people responsible for taking those decisions within government. Access to documents from EU institutions should be restricted only in exceptional cases and procedures should be simplified.
-

Encourage Member States to improve civic participation:

- » **FRA monitoring and assessments of Member States' civic engagement:** Encourage Member States to normalize meaningful civic participation before, during and after political decision-making and thereby fully and transparently implement the right to participate. To this end, task the Fundamental Rights Agency with assessing the extent to which Member States involve civil society and citizens in policy-making.
 - » **Guidelines for improving participation:** Based on this assessment, the Fundamental Rights Agency should develop guidelines for Member States to improve participation in policy-making. Another suggestion to this end is to make government representations towards the EU also a place for regular dialogue with civil society.
 - » **Best practice exchanges on online participation:** Encourage Member states to invest in accessible online participation opportunities by setting up a platform for best practice sharing and exchanges. The platform should explore the use of different online consultation tools such as surveys, questionnaires on the draft proposals, webcasting, videoconferencing, smart-phone applications, and chats, for engaging before, during and after public decision-making.
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1.10 ACTIVE CITIZENSHIP FIT FOR THE 21ST CENTURY

An important societal transformation is taking place throughout Europe and across the world. On the one hand, new deliberative-collaborative e-democracy models and direct democracy methods are emerging, and contributing to a more open and inclusive form of policy-making by involving citizens.²³ On the other hand, Europeans are confronted with threats such as populism and online disinformation that undermine the foundations and institutions of our democratic societies. Precisely those ICT tools and methods of direct and deliberative democracy are necessary for reducing the gap between political elites and citizens, and counter the erosion of democratic values and institutions.

Decision-makers at all levels should complement representative democracy with **collaborative elements of participatory democracy** in order to strengthen democracy and transform the relationship between citizens and decision-makers into one of partnership and co-creation. Such a shift to online spaces for meaningful participation requires the ICT tools to be widely available to the public and secure, in order to make participation fully inclusive.

In this regard, the **European Citizens' Initiative (ECI)** is a unique transnational supranational agenda-setting instrument of participatory democracy, which is gaining popularity in recent years. However, it is not for "every day" use and requires significant resources and mobilisation. So far, its impact on the EU legislation remains limited.

²³ See for instance the work by the European Citizen Action Service [here](#).

That being said, moving more towards an online participation also brings challenges of exclusion, as digital technology remains a privilege not enjoyed by all, in particular the poor and vulnerable who do not have the same level of access to the internet and needed technologies. Women and girls are particularly disproportionately affected.²⁴ Similar challenges affect migrants, refugees, internally displaced persons, older persons, young people, children, persons with disabilities, rural populations and indigenous peoples. It is therefore necessary **to facilitate inclusive and secure access to ICT** along with non-digital ways of participating, when possible.

Actions:

European citizens' initiative: Introduce **direct democratic measures** as a means of direct citizens' participation in EU decision-making or agenda-setting by fostering the European Citizens' Initiative and strengthening its implementation as the world's and the EU's first and only tool of transnational participatory democracy.

- » Considering the increase in online campaigning due to the social distancing measures, allow the Commission-run online collection system to be as campaigner-friendly and flexible as possible.
 - » Pledge to significantly improve the follow-up to successful initiatives by cultivating a multi-institutional approach and seriously considering to take up successful initiatives.
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Introduce innovative participatory and direct democracy practices into EU and Member State decision-making processes: There are initiatives that can be implemented as complementary to the current model of representative democracy in order to strengthen it, such as crowdsourcing citizens' ideas for policy and legislative solutions, participatory budgeting and citizen assemblies. Learning from the Member States such as Ireland²⁵ and France²⁶, the European Commission and Member States should introduce innovative practices of participation such as randomly-selected citizens' assemblies to propose recommendations on thematic issues or review certain pending legislation. This should be piloted both at the European Union level, but also encouraged through lessons-sharing at the EU Member States level.

Civic education: The EU and national governments should invest in formal, non-formal and informal civic education on active citizenship, democracy, European and national competencies, populism and online disinformation, news and media literacy, EU fundamental rights and values and, especially, respect for minorities and their role in an inclusive democratic society, which is being undermined by populists. This is essential for countering populism.

Blueprint of anti-populism strategy: The European Commission should lead the battle to counter populism, by providing a blueprint or strategic framework as a necessary basis for devising tailor-made strategies that work at local level.²⁷ While it seems difficult to articulate a concrete strategy for dealing with populism, there is a high level of recognition of its importance for sustaining democracy and of the need for a consistent and coordinated approach at all levels.

Digital divide: It is necessary to **facilitate inclusive and secure access to ICT** along with non-digital ways of participating, when possible. When creating avenues for online participation and feedback, the EU and countries should reach out to those most at risk and those most likely to be excluded and ensure that they are engaged and able to participate in policy-making on an equal basis. This is also where civil society, and more specifically grassroots movements, play a vital role as civil society works the closest to various groups and have a better understanding of their needs and can gather and translate information directly from those communities.

24 Find statistics on digital development by the International Telecommunications Union [here](#).

25 Find official information on Ireland's Citizen Assembly [here](#).

26 Find official information on France's Citizens' Convention on Climate [here](#). An analysis by Democracy International is available [here](#).

27 Lessenski, M. & Kavrakova, A. (2019): Societies outside Metropolises: the role of civil society organisations in facing populism. European Economic and Social Committee. Available [here](#).

1.11 EUROPEAN PUBLIC SPHERE

The collapse of structures for debates around social issues and social bonds in local communities, in combination with the passivity of the traditional parties in reaching out to rural areas, creates feelings of abandonment and disconnect among citizens, which are exploited by populists. Moreover, isolation works in populists' favour as it exploits fears of the unknown and of those who are different from us. Internationalisation and Europeanisation broadens horizons and fosters the acceptance of "others" through personal experience.²⁸ Filling the information void which is being exploited would be further ensured through an enhanced transnational approach and cross-media engagement.²⁹

Action:

Foster a European public sphere: The EU institutions and national and regional stakeholders should foster the development of a European public sphere and restore the public space of dialogue and debate in local communities, especially in non-metropolitan and rural areas in order to help overcome the feeling of abandonment and disconnect among citizens and reduce the scope for populism. This involves reinforcement of European political parties, civil society organisations and citizens networks, as the core foundation of representative democracy.

28 Lessenski, M. & Kavrakova, A. (2019): Societies outside Metropolises: the role of civil society organisations in facing populism. European Economic and Social Committee. Available [here](#).

29 Kovalcikova, N. (2020): Building transnational immunity to the COVID-19 infodemic. *Euractiv*. Available [here](#).

1.12 PARTICIPATION OF UNDERREPRESENTED GROUPS

Participation is central for empowering marginalised and vulnerable individuals and groups. It is essential that their voices, their specific needs and particular solutions are heard and considered when decisions are made about them. This helps to eliminate further marginalization and discrimination, but also ensure that the diversity of society is represented. Greater inclusion and participation also improves the quality of decision-making and strengthens the buy-in among all members of society.

Yet inequality remains even among men and women in the union. According to the latest statistics, only 31.3 % of parliamentarians in the EU Member States are women, meaning that for every woman MP there are two men MPs.³⁰ Similarly, women hold only 21.5 % of the leader and deputy leader posts of the major political parties in EU27. In addition, the European Network against Racism estimates that racial and ethnic minorities make up at least 10% of the European Union population, but make up only 4% of elected MEPs.³¹ This is a problem for both the inclusiveness and the quality of policy-making, and the legitimacy of decision-making.

Furthermore, traditional politics often fail to address the increasing challenges young people in Europe face. Politicians and political parties often apply a tokenistic approach to youth, and their unwillingness or inability to address young people's concerns and interests is one of the most cited barriers to their participation in elections. Furthermore, research shows that about 1/3 of youth orgs across Europe face difficulties when trying to participate in policy deliberation and decision-making processes.³²

Actions:

Develop guidance on political inclusion: The Commission should develop further guidance in relation to the political participation of individuals and groups that are marginalized or discriminated against, with a systematic integration of a gender perspective, and encourage Member States to do the same on the national level.

Accessible participation mechanisms: When it comes to persons with disabilities and their representative organisations, the Commission should ensure that the participation mechanisms put in place are accessible by respecting relevant accessibility standards, providing alternative means of communication (e.g. sign language, or easy-to-read formats), and taking into consideration disability-related costs (e.g. personal assistance) when necessary.

Youth must be included, or ideally be supported to lead discussions and negotiations on enabling factors for full democratic participation. People support what they help create.

Legislation on equal representation: Encourage Member States to adopt legislation ensuring equal representation of women and other under-represented groups in decision-making. This could be done through enhanced cooperation between women's wings in Parliaments and regular meetings between relevant authorities in Member States for sharing lessons on gender equality legislation and soft policies.

30 See statistics from the European Institute for Gender Equality [here](#).

31 European Network Against Racism (2019): ENAR's Election Analysis - Ethnic minorities in the new European Parliament 2019-2025. Available [here](#).

32 European Youth Forum (2020): Safeguarding civic space for young people. Available [here](#).

1.13 CONFERENCE ON THE FUTURE OF EUROPE

The Conference on the Future of Europe is an opportunity to strengthen the democratic quality of the discussions on the future of Europe and a possibility to unlock useful reforms of the EU. In order for the process to have the legitimacy to do that, wide participation and deep deliberation with citizens and civil society from across the Union, as well as accession candidates and eastern neighbourhood countries must be ensured.

The Conference setup must be geared towards concrete and relevant results, ready for adoption by the institutions. The EU institutions have to commit themselves to a proper follow-up by initiating legislative proposals, including treaty change or otherwise, if deemed relevant by citizens. The Conference will also be an opportunity for the EU to further digitalise its direct links with citizens, in particular for testing the combination of different innovative online and offline methods for debating thematic and structural issues, the results of which should be assessed and sustained.

If the Conference on the Future of Europe turns into a public relations exercise rather than a real and substantial attempt to bring citizens' closer to the EU, the Conference will feed the narrative of the EU's democratic deficit. The current health crisis will inevitably limit the opportunity for physical meetings and gatherings of civil society during the first part of the Conference. However, this should not be used as an excuse to not consult the public and organised civil society, but rather a reason to be creative in coming up with innovative ways of citizens participation.

Actions:

Meaningful & inclusive participation: The Conference on the Future of Europe should ensure meaningful and inclusive participation of both the citizens and the organized civil society in the conference deliberations and in follow up decisions. The EU could use this moment to set an example of how this should be done by Member States, using the conference to further entrench participatory democracy practices. The following actions are recommended:

- » Ensure complete democratic legitimacy by putting **citizens centre-stage** in the discussions at all phases, on all levels, make special efforts to involve minorities and youth, and firmly anchor civil society's role in the Conference's structure. Citizens must not only be consulted but also be participants, even through randomly selected Citizens' Assemblies.
- » **Pledge to follow-up** to any significant reforms recommended by the Conference, including the possibility of treaty change.
- » **Youth Agoras** must be established to ensure that young people's participation has an impact on the outcomes of the Conference. The highest standards of inclusiveness both in participation and facilitation methods must be ensured, engaging young people from the most diverse range of backgrounds for meaningful participation. A clear link between Youth Agora and other citizens' participation fora, and the institutional elements of the Conference should be established, in order to ensure feedback loops and dialogue in both directions.
- » The Conference should be run in an **accessible** manner (in an accessible venue and/or digital platform), including the provision of sign language interpretation and live subtitling.
- » During the Conference, attention should be paid to further **entrenching participatory democracy** by implementing the right to participate throughout both EU processes and within Member States, before, during and after political decision making, to endure beyond the scope of only the Conference. Include in the discussions on the future of Europe an assessment of the effectiveness of the existing Treaty, legislative and policy provisions on participatory democracy.

We recommend you to consult the following statements by informal civil society groups that call for this:

- » [Future of Europe CSO Network](#) - For a successful Conference on the Future of Europe
 - » [Citizens take over Europe](#) - an open letter with recommendations
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2. ELECTIONS

Summary of key recommendations:

- » **European electoral reform:** There is an urgent need to make elections more inclusive, representative and transparent. This includes endorsing the Spitzenkandidaten principle, the equality of suffrage rights, the right to vote and inclusiveness of persons with disabilities, the overall accessibility of elections, political party and campaign finance, election debates, and election observation.
- » **Online political advertising:** There is a need for enhanced transparency of online advertising standards and practices, including mandatory full ad libraries. Measures to limit microtargeting of political ads, preventing it from happening without a valid legal basis, are also crucial. In addition, the European Commission should support and provide guidance to Member States when modernising their national electoral and advertising laws, and develop a well-balanced approach to limit cross-border campaigning.
- » **European Cooperation Network on Elections:** A variety of recommendations point to the need to strengthen cooperation, lesson-sharing and capacity building through the European Cooperation Network on Elections. While the Member States retain the competence over election management, there is an important coordinating and capacity building role for the European Commission. The Network should share best practices on election infrastructure and new forms of digital campaigning, encourage reforms to allow for citizen monitoring, issue guidelines for election during a pandemic, and support coordination among data protection authorities to improve data protection in elections.
- » **Monitor national elections in the EU:** The EU should establish and promote enabling mechanisms for citizen election observation of European and Member States' elections in line with international principles and regional commitments. All EU Member States should include in their legislation provisions to explicitly allow for access and accreditation of international and national election observation.

2.1 EUROPEAN ELECTORAL REFORM

The 2019 European Parliament elections marked a robust exercise in democratic practice, with clear indications where improvements could be made. The diversity of electoral regulation and practices across the EU has demonstrated both the richness and complexity of the European electoral heritage, and that certain electoral processes would benefit from greater cohesion.

During its last term, a proposal for electoral reforms was developed in the European Parliament with the aim of highlighting the European significance of the electoral process and of further harmonising it across the Member States - but while a down-sized set of reforms obtained consent in Parliament the Council of the European Union adopted a less far-reaching Decision. Some EU Member States, however, have not ratified the amendment and it is therefore not yet in force. Further concerted efforts are required on the part of European institutions and EU Member States to continue the initiated electoral reforms. Past recommendations and long-standing issues and concerns need to be addressed.

Actions:

Inclusive and participatory reforms: Further electoral reforms at the EU level and in individual Member States would be best developed and adopted as part of an inclusive, consultative and participatory process, with the involvement of all stakeholders, including the civil society and citizen observer organisations.

The 'Spitzenkandidaten principle' should be reviewed to ensure greater cohesion among European institutions and Member States regarding its purpose and expected impact, and to enhance clarity for the electorate.

Take recommendations forward: A number of other recommendations were made by the Election-Watch. EU Election Assessment Mission of the European Parliament elections of 2019.³³ These recommendations concern the electoral system, suffrage rights, the right to vote and inclusiveness of persons with disabilities, the voter register, civic education, campaign finance, social media, and election observation. The Commission should take these recommendations forward in its proposed reforms for European elections.

Start now: The electoral reform process needs to commence as soon as possible, as there should not be any major changes to electoral regulation in the year before elections.

33 Election-Watch.EU (2019): Elections to the European Parliament 23-26 May 2019: Election Assessment Mission Final Report. Available [here](#).

2.2 INCLUSIVENESS & EQUAL SUFFRAGE RIGHTS

European citizens directly elect their representatives to the European Parliament for a five-year period. Conditions for electoral participation as a voter and as a candidate vary considerably across the EU Member States, including differing age, disability, legal capacity, residency, and registration requirements.³⁴ In many Member States, suffrage rights continue to be restricted based on criminal conviction, and no provisions for individual (independent) candidacy are made, at odds with international standards. Positively, a number of Member States have undertaken efforts in recent years to remove or narrow the scope of the remaining restrictions on suffrage rights.

Still 800,000 persons with disabilities could not exercise their right to vote in 16 Member States in the last EU elections, because of national laws depriving some persons with disabilities from their legal capacity. Detailed assessments of the disenfranchisement of persons with disabilities from their democratic rights can be found in the report by the European Economic and Social Committee (EESC) on the real right to vote for persons with disabilities,³⁵ as well as the FRA report “Who will (not) get to vote in the 2019 European Parliament elections”.³⁶ Furthermore, due to some national legislation, certain people cannot be candidates or hold office effectively, because of their disability, age or lack of legal capacity.

Actions:

Ensure the equal right to vote and be elected: The European Parliament should act on the suggestion by the EESC report to adopt a resolution to amend the European Electoral Law of 1976, so all EU countries ensure the equal right to vote and be elected in the next EU elections, and the Commission should support such an initiative.

Ensure equality of opportunity to vote: The European Parliament and Council of the EU should fully ensure the equality of opportunities in the exercise of the right to vote in and across Member States. Consideration could be given to adopting common minimum requirements for the administration of alternative and advance voting methods, in particular with regards to the uniformity of voter eligibility criteria.

34 A summary of the differences between Member States can be found here: Election-Watch.EU (2019): European Parliament Elections 2019: Election-Watch.EU EAM Final Report with 16 recommendations. Available [here](#). The slides from the Election-Watch.EU presentation to the Constitutional Affairs Committee can be found [here](#).

35 Pater, K. (2019): The real right of persons with disabilities to vote in the European Parliament elections (information report). European Economic and Social Committee. Available [here](#).

36 EU Agency for Fundamental Rights (2019): Who will (not) get to vote in the 2019 European Parliament elections? Available [here](#).

2.3 ACCESSIBILITY OF ELECTIONS

A series of reports and studies detail a number of problems with the accessibility of elections, including the reports by the European Economic and Social Committee,³⁷ the European Blind Union,³⁸ Election-Watch.EU,³⁹ or the 2014 FRA country reports in collaboration with the Academic Network of European Disability experts.⁴⁰ To enhance the opportunity of electoral participation of persons with disabilities, it is vital to conceptualise 'access' broader than physical access to polling stations and extend it to the entire electoral cycle. The following points have been emphasised throughout these studies as reoccurring issues that should be immediately addressed:

- » Remaining restrictions of the right to vote for persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities;⁴¹
- » The accessibility of the electoral process for persons with disabilities on and beyond election day (voter information, political party programmes, campaign events, polling stations, voting booths, ballots, results publication);
- » Insufficient safeguards against any lack or violation of secrecy of the vote;
- » Insufficient safeguards to respect the voter's choice in providing assistance at the vote;
- » Insufficient provision of materials in large font, easy-to-read materials and braille in voter information and inside polling stations; insufficient provision of audio and video features on Electoral Management Body websites to make them more accessible.

Actions:

Equality of opportunity: Remaining barriers to effective electoral participation of persons with disabilities should be removed, including those related to restrictions on suffrage rights based on mental/intellectual disability, to the lack of access to polling stations, and to barriers to accessible information. Measures aimed at supporting independent and informed voting and decision-making by persons with disabilities should be prioritised.

Minimum accessibility requirements: The European Commission should support a European Parliament resolution to amend the EU Electoral Law so that it includes a minimum set of accessibility requirements that all Member States must meet. The European Commission should also publish guidelines on how to achieve greater accessibility in election processes, and should monitor the accessibility of the next European elections.

37 Ibid 26

38 European Blind Union (2018): Accessible Voting Awareness. Available [here](#).

39 Election-Watch.EU (2019): Elections to the European Parliament 23-26 May 2019: Election Assessment Mission Final Report. Available [here](#).

40 EU Fundamental Rights Agency (2014): The right to political participation for persons with disabilities: human rights indicators. Available [here](#).

41 Find the Convention on the Rights of Persons with Disabilities [here](#).

2.4 EUROPEAN POLITICAL PARTIES' CONDUCT, TRANSPARENCY & RESILIENCE

Political parties play an essential role in representative democracy, not just for policy-development and in parliament, but also as a representative of democratic values and principles. However, political campaigns and communication are increasingly marked by negative campaigning and opaque outside financing. In addition, political parties - both at national and European level - are vulnerable to foreign interference in democratic processes, including through disruptive or destructive cyber-attacks, disinformation operations, social media campaigns and malign financial influence. This is exacerbated by the fact that campaigning staff is often voluntary and transient, with small budgets, which greatly weakens security.

Political parties thus need to increase their resilience to foreign interference tactics, but at the same time also create their own transparency and accountability measures. European political parties play a particularly important role here, as they provide the testing ground for new ways of enhancing transparency, data protection, and resilience to foreign interference of political parties across Europe. Because European political parties receive EU funding, the EU has greater oversight over their behavior and funding. These parties are also central points of contact for political parties across Europe, so improvements in transparency of party funding, cyber security, information management, data privacy, and fair campaigning practices at the European level can be transferred to affiliated parties on the member state level.

Actions:

Fair play pledge: The Commission should encourage all European political parties to sign and comply with a "fair play pledge" ahead of the next elections to the European Parliament. This fair play pledge includes self-commitments by European political parties to refrain from spreading disinformation, from doxing opponents, from using illegally received data on opponents or voters and from demobilizing. It also includes a commitment to ensure that their paid and unpaid communication with voters is transparent (i.e., ensuring that ads are clearly labeled and have an imprint; being open about the use of voters' personal behavioral data and targeting criteria of online ads), so that counter speech and public interest scrutiny by researchers, media and other citizens is possible. They should also commit to conducting data protection impact assessments, at least ahead of every election cycle.

Capacity building of European political parties: Through the European Cooperation Network on Elections, the Commission should support electoral management bodies and European political parties in reinforcing their capacity on the following issues:

- » Encourage European political parties to conduct data protection impact assessments, at least every election cycle;
- » Support European political parties with resources and training to limit their vulnerability to information manipulation and disinformation campaigns and to cyber-attacks. The resources given to these services should come with a mandate to further share these best practices with affiliated parties at the national level. Grant security companies the ability to provide reduced-rate cybersecurity services to campaigns, on the provision that these services apply to a wide range of programmes and tools rather than locking the party into a single cybersecurity product.
- » Support the updating of EU Member States' electoral law to safeguard campaigns in the digital age, building on Recommendation C(2018) 5949 final.⁴²
- » Encourage European political parties to run their campaigns in an accessible manner for persons with disabilities.⁴³

42 Commission recommendation of 12.09.2018 on election cooperation networks, online transparency, protection against cybersecurity incidents and fighting disinformation campaigns in the context of elections to the European Parliament. Available [here](#).

43 The European Disability Forum prepared a basic manual for the 2019 Elections, available [here](#).

Reform of European political party and campaign finance: In the European electoral reform process, the rules for reporting and disclosure of campaign income and expenses should be reviewed and further enhanced. Consideration could be given to further define the type and nature of cooperation between the APPF, the Authorising Officer of the European Parliament and the competent Member States' political finance oversight bodies with regard to campaign finance supervision in order to enhance the effectiveness of the control carried out at the European and national levels. Further consideration might be given to spelling out the respective tasks and jurisdictions of each of these bodies to enhance the overall campaign spending accountability. In the review of party finance regulations, the European Commission should focus on eliminating foreign funding from outside the EU and strengthening the overall transparency of campaign spending in the EU Member States. Further recommendation in this regard can be found below, under the section 2.5 on political advertising.

Guidelines on election debates: Candidates' debates mark important milestone(s) in the election campaigns, allowing citizens to assess political programmes and competences of potential policy makers. However, these are not always organised in a suitable and useful way for citizens, but rather for the political parties. The European Parliament candidates' debates are often marked by constraints undermining a constructive discussion of policy proposals.

- » The Commission, along with the Parliament and the European political parties should develop guidelines on the organisation of Election debates in consultation with civil society organisations, to ensure the debates' impartiality, flexibility and usefulness for voters. EU political parties should commit to comply with these guidelines.
 - » As part of its wider work around European elections, the Commission should monitor that these guidelines are respected when EU candidates' debates are organised.
 - » These debates should include sign language interpretation and live subtitling. The Parliament should also provide interpretation in all EU official languages as within its committee or plenary meetings.
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2.5 ONLINE POLITICAL ADVERTISING

The political campaigning landscape has changed significantly with the digitalisation of our public sphere, which has created new opportunities for political participation, but also significant risks to the integrity of elections and the political debate. Unlike broadcast political ads shown to the wider public, online ads are tailored to specific homogenous groups of people, which can segment and polarise the voter base and distort the political debate. Advertisers can buy up exorbitant amounts of ads and flood people's social media feeds, thereby buying themselves space in public policy and political debates. The lack of transparency of which ads are shown to whom, why, and who's paid for them, further creates a situation where anyone - from a political party and interest group to political consulting firm like Cambridge Analytica - can distort the political debate and easily evade public scrutiny.

While most countries have very detailed regulations on the transparency of political finance and limitations on political campaigning, few European countries have adapted these rules to the digital age. Many European countries' electoral regulations include silence periods, dedicated ad space on broadcasters, restrictions on the design and content of political ads, and spending caps for political advertisers, but these measures are rarely adapted and don't equally apply to the new campaigning reality online. Updating national electoral and advertising legislation will thus provide an important first step, however, this will not suffice without complementary measures from internet platforms, imposed by the European Commission. Further recommendations regarding internet platforms' regulation - including organic content and amplification - can be found in section 3.

At the source of many of the problems cited above lies the lack of transparency on behalf of digital platforms such as social media sites, video portals and search engines. While platforms have found ways to provide some transparency on political ads (partly due to pressure by the European Commission), their voluntary commitments fall short of providing true transparency. One crucial weakness of the status quo is that it leaves platforms to decide what is and is not political (as well as issue-based) advertising - and thus, what advertising will and will not be included in platforms' transparency regimes. To avoid this issue and to recognise the kind of behavioral targeted advertising and algorithmic delivery that underlies all types of social media advertising, it is necessary to require privacy and data protection by design and by default (enforcing GDPR, adoption of the ePrivacy Regulation) and default transparency for all ads.

Actions:

Enhanced transparency of all advertising: Transparency of all advertising, including commercial advertising, is necessary first and foremost to allow for public scrutiny of advertising. As many studies on the implementation of the EU Code of Practice against Disinformation have shown, false negatives and false positives were rife in the political ad libraries of the signatories of the code.⁴⁴ The lack of a comprehensive repository of all ads made it impossible to verify whether all political ads were included in the libraries, and the political ad libraries and labelling failed to capture a major share of sponsored content. In a situation where it is difficult to police the labelling of political ads, it is ultimately necessary to ensure the transparency of all ads.

44 See: Márcio Silva, Lucas Santos de Oliveira, Athanasios Andreou, Pedro Olmo Vaz de Melo, Oana Goga, Fabrício Benevenuto, (2020): Facebook Ads Monitor: An Independent Auditing System for Political Ads on Facebook. Cornell University. Available [here](#). See: Privacy International (2019): Social media companies are failing to provide adequate advertising transparency to users globally. Available [here](#). See: European Partnership for Democracy (2020): Virtual Insanity: The need to guarantee transparency in digital political advertising. Available [here](#).

In addition, **any definition of political advertising that does not go alongside enhanced transparency for all ads will be problematic, as it will either miss important forms of political advertising or overregulate** and stifle actors who advertise in the public interest, rather than for a commercial goal. As the forms of political advertising online will undoubtedly evolve as the technology changes, full transparency creates enough flexibility to account for such changes. To some extent, full ad transparency even allows us to avoid the complex task of defining political ads, by creating the transparency necessary for holding any advertiser to account. A coalition of CSOs and experts have published a joint statement with details of what universal ad transparency by default may look like.⁴⁵

- » **Mandatory ad libraries:** The European Commission should develop and issue technical standards for advertisement libraries for digital platforms, covering both the design and functioning of ad libraries. Such ad libraries should become mandatory for platforms from a set number of users onwards, to be decided by a European-level regulator or a coordination task force between national regulators, and reviewed on a yearly basis. Such public advertising libraries, including commercial advertising, should must disclose the following information at minimum: close-range of spend in absolute and relative terms, identity of the advertiser (accounting for third parties who advertise on behalf of political advertisers), targeting mechanism (lookalike audiences, profiling based on imported datasets, etc), targeting and delivery criteria (with the same level of granularity as the advertiser can choose from), audience reached and engagement and reach in absolute and relative terms.
- » **Verification:** The platforms need to be held to account for verifying all advertisers' real identity, who's paying for the ads, contact details and for political advertisers a reference to their declaration to the electoral authorities (when applicable in the country context). Verification needs to be quick and mandatory for the large majority of advertisers, with some exceptions as detailed below. It also needs to be more closely monitored by national authorities, to ensure platforms perform better than they did as part of their efforts for the Code of Practice.
- » **Anonymity where needed to protect safety:** We encourage the Commission to issue guidelines for platforms to protect advertisers in high risk contexts. The Commission could make suggestions for a mechanism for advertisers to anonymise their identity on the basis of political threats and risk, for public interest actors such as human rights defenders and activists. Consideration should also be given to independent mechanisms to oversee the granting of anonymity.
- » **Defining political advertising** is a thorny issue that will only partly be solved by transparency of all advertising. The current practice of letting private companies define what political advertising is, is unacceptable. Such a definition should be the result of a participatory multistakeholder process. As different Member States have their own definitions of political advertising, the European Cooperation Network on Elections should come together to come up with a narrow yet flexible definition of political advertising, that doesn't stifle civil society advocating for the public good and human rights. Verification and additional measures restricting political microtargeting from the side of the platforms can then be enforced on the basis of this consensual European definition on political advertising. Even if such a discussion does not result in a shared definition, it is a worthwhile exercise to deepen the thinking around political campaigning in the digital era.

45 Joint statement: Universal Advertising Transparency by Default. Available [here](#).

Updating national electoral, campaigning and political party law is necessary to account for the changed nature of political campaigning, alongside increased efforts for transparency from the side of the platforms. The Commission can support this by encouraging the exchange of best practices and building capacity of electoral authorities in Member States through the European Cooperation Network on Elections. At minimum, electoral reforms should:

- » Adapt the rules to account for paid influencers and proxy advertisers, as they should fall under the same rules as other paid political campaigning.
- » Lower the spending thresholds on which political parties don't have to report, at least for social media, as most online ads cost less than 100 euros. The regulation could differentiate between a 'soft' reporting requirement for disclosing all donations between 100 and 1,000 euros that includes limited personal data; for donations above 1,000 euros, enhanced transparency and scrutiny are required.
- » Enhance and digitalise transparency and financial accountability reports required by political parties and other political advertisers in a usable online format that allows for analysis, rather than huge folders of PDFs or stamped originals in paper format in an archive.
- » Ensure transparency reports and electoral redress mechanisms have a short turnaround time, so that they can still result in meaningful actions. When violations of funding limitations are only addressed long after an election, such measures effectively become meaningless.

European Cooperation Network on Elections: More broadly, the European Commission should further strengthen the European Cooperation Network on Elections, providing capacity building and exchanging best practices on adapting national legislation to the reality of online campaigning. The Cooperation Network should also work more closely together with the European Data Protection Board. DG Justice should be provided with additional human resources to coordinate this work on a permanent basis.

Measures to limit the harmful impact of online advertising: As a basic precondition, all microtargeting must be subjected to data protection law. As long as microtargeting continues to take place with disregard to data protection law, our elections will continue being held based on a public debate that continuously infringes citizens' fundamental rights. Building on this, specific measures on political microtargeting are necessary to overcome the polarising effects of microtargeting, and these should be put in place at the European level. While there is no single consensus on what measures are needed and desirable to limit microtargeting, here are some options:

- » **Limitations on the data used for targeting:** Eliminating microtargeting based on inferred data, presumed attitudes and profiling based on imported datasets is a requirement.
- » **Counterspeech:** We propose a mechanism to allow political advertisers to target the same group as an ad in the ad library by a different political advertiser (e.g. one candidate being allowed to reach the same group as their opponent). Such a measure would allow for counterspeech, and apply only to political advertisers. This should be seen as an application of the right of reply, as established in international law and applied to news publishers already.⁴⁶ This would allow for overcoming the voter segmentation and polarisation linked to political microtargeting.
- » **Limitations in the number of targeted people:** in order to limit homogenous hyper-targeted groups, a minimum number of people to target could be fixed.
- » **Study the effects of microtargeting:** All citizens should have equal access to information on political participation and campaigning, and all campaigning should respect privacy and data protection law. Therefore, many have called for banning political microtargeting altogether. This would be most compliant with data protection law and greatly limit the harms of hyper-targeted messaging to homogenous groups. That being said, there are a number of negative repercussions to such a ban. Voter-registration campaigns and smaller political players who would not be able to reach their niche audience without some level of targeting. Likewise, for local elections it would become exceedingly hard for political advertisers to reach their constituencies without some level of location-based targeting. If a broad definition of political ads is applied that includes issue-advertising, a ban on microtargeting would also disproportionately affect local media, small grassroots organisations and transnational civic movements. An in-depth investigation must be conducted into the human rights implications of the microtargeting system – including the data processing and ad delivery algorithms – in order to assess whether banning all microtargeting or political microtargeting is the best way to safeguard fundamental freedoms and political rights in online campaigning.

Limitations on cross-border campaigns: The Commission together with the European Cooperation Network on Elections should adopt an approach on cross-border campaigns that serves to limit foreign (non-EU) interference in national political matters without stifling pan-European movements, civil society organisations, small and medium-sized enterprises and media outlets. At minimum, an obligation to report non-EU funding (be it from individuals or a government) should be put in place and reflected in the verification mechanism of the platforms, as part of the identity disclosure of political advertisers. At most, a ban could be put in place on non-EU contributions to political parties, including anything of value that originates from non-EU sources. This would go alongside reporting obligations on contact with anyone that might reasonably be believed to operate as an intermediary to a foreign power. The next European Parliament elections should set an example of a transparent and pan-European, yet sufficiently restrictive legislative framework to limit foreign interference through ads.

Data access to election observers: To enhance effective electoral campaign oversight and better detection and analysis of disinformation campaigns, social media platforms should give meaningful access to data to election observers and researchers in line with personal data protection rules.

46 See for instance the *Eker versus Turkey* case of the European Court of Human Rights. The requirement for a newspaper publisher to print a reply did not breach the Convention. More information [here](#).

2.6 ELECTIONS DURING A PANDEMIC

During the COVID-19 pandemic, it can be harder to ensure that election administration and voting are perceived as legitimate across the political spectrum with accurate, fair and transparent participation and results. Free and democratic elections are not only about casting a vote in fair conditions, but ensuring citizens are informed about candidates, parties, and their political platforms. In many countries, bans on holding events and attending public gatherings will prevent or severely limit the organisation of political events, and political candidates may not be able to undertake door-to-door canvassing, which can reduce their ability to communicate directly with voters.

International human rights law allows for the limitation of certain rights and provides an established framework to evaluate the measures put in place by governments to respond to the outbreak of COVID-19. Temporary restrictions to fundamental and other human rights with a direct impact on electoral processes might concern the freedom of expression and information, the freedom of assembly, the freedom of movement, the right to vote and be elected, the right to privacy, and due process rights. However, democratic oversight must be maintained, there must be a time limit, it has to be proportionate, and any restrictions must be prescribed in law. States can also introduce emergency laws when exceptional circumstances arise; these need to be proportionate and be in force for a limited time and in a supervised manner. Once the exceptional circumstances are over, governments must lift the emergency measures.

Deciding whether to go forward with an election or postpone it is a very difficult assessment to make between health risks and democratic rights. Such decisions need to be based on a transparent process that incorporates consultation with stakeholders, including in particular the electoral management body and all political parties.⁴⁷ An assessment of COVID-19 adaptations across Europe and further recommendations on organising elections during a pandemic can be found in the Election-Watch.EU Rapid Assessment of the impact of COVID-19 on elections in Europe.⁴⁸

In addition, it can be challenging to ensure that all eligible individuals have the opportunity to successfully cast a ballot, particularly for vulnerable groups of voters. The integrity of elections can be undermined by disinformation surrounding the methods for voting (in-person, online, or by mail). Voters may feel unsafe casting ballots for health reasons, or they may be confused by changing voting procedures and therefore fail to cast ballots. The present situation highlights the need for clear communication from public authorities on modalities of voting, the debunking of disinformation about voting procedures, and the provisions of a variety of voting options to ensure the inclusive and accessible conduct of elections.

47 ARTICLE 19 (2020): Free speech, elections and the coronavirus pandemic. Available [here](#).

48 Election-Watch.EU (2020): Rapid Assessment: COVID-19 & Elections in Europa. Available [here](#). Further recommendations: Levine & Well (2020): A comprehensive policy recommendations' paper with 20 ways to protect elections, based on the experience across the Atlantic (Levine & Weil, 2020).. Available [here](#).

Actions:

Framework on elections amid a pandemic: The European Commission needs to develop a comprehensive framework and could provide guidelines on how to conduct secure elections amid a pandemic. From determining whether to postpone an actual election to taking the steps to conduct a safe election that is perceived as legitimate. Here are some elements of such a framework:

- » The European Commission should support electoral authorities in Member States in ensuring the accessibility of voting procedures (including experience sharing on remote voting), improving public communication about elections in times of covid, and supporting fact-checking about modalities of voting.
 - » The Commission should publicly call on Member States to ensure that any restrictions on political campaigning (e.g. holding public rallies) are time-bound and regularly reviewed to ensure that they are still needed, and that no less restrictive measures would achieve the same public health objectives. Similarly, if elections are postponed, the delay should be short and agreed upon with input from the electoral management body and all political parties.
 - » The European Commission needs to ensure that democratic oversight is maintained in times of crisis. Emergency measures must be based in law, necessary, proportionate to the purpose, non-discriminatory, temporary, focused, subject to regular review, and should take the least intrusive approach possible. Observers and their accreditation should be included in electoral legislation.
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2.7 CITIZEN ELECTION OBSERVATION

The EU and its Member States conduct and promote election observation globally and have committed themselves to facilitate access for international and citizen election observers as OSCE participating states, including in the OSCE Copenhagen Document.⁴⁹ Citizen election observers play an important watchdog role for ensuring the transparency, integrity and inclusiveness of elections. However, we observe a number of shortcomings in this regard:

- » The EU does not foresee enabling conditions for election observation for European or Member States' elections while conducting and supporting election observation as part of its foreign policies;
- » Some EU countries do not permit citizen election observation for EP or other elections. At the time of the 2019 European elections, not all EU Member States had implemented the OSCE commitments through national law. Only eight Member States had legislation and accreditation systems in place for both international and national observers, and voting and counting processes were open to the public without limitations in five additional Member States;
- » Many citizen observer groups in the EU are not able to identify funding sources for their activities inside Europe, contrasting the EIDHR-type funding that is provided to counterparts outside of Europe. At the same time, few Member States provide funding for such activities.
- » Many citizens and observation groups have limited resources and capacity to monitor the cybersecurity and technological elements of an election.

Actions:

Permit citizen election observation: The EU should mirror its international support to citizen election observations in EU-internal policies. Member State governments are encouraged to take measures to permit citizen election observation in European and other elections, in line with their OSCE commitments, and to provide access to all election-related documents and processes to such observer groups.

Funding: The EU should dedicate funding from the MFF cohesion budget or other sources to support citizen election observer groups in the EU MS as key stakeholders in the promotion of election integrity. Such funding should not take away from the already limited budget for the Rights and Values programme.

Knowledge sharing: The EU should encourage the sharing of knowledge of election monitoring among EU Member States. At a governmental level, the EU has the Rapid Response Mechanism, which can be useful for the coordination of findings and latest developments of electoral manipulation attempts among Member States. Fostering a network of citizen monitoring initiatives as well as working with existing networks would have the potential to further strengthen their capacities when it comes to tools and methodologies, but also an exchange on findings and possible steps to address rising trends. Such mechanisms of knowledge sharing among Member States should also reach beyond EU borders, with a structured mechanism for knowledge sharing among citizen observer groups globally, for example through the Global Network of Domestic Election Monitors.⁵⁰ EU support to citizen observers in external action could be informed by discussions among these citizen observers. This would serve to increase the capacity of citizen observer groups and improve internal-external coherence and knowledge sharing.

Cybersecurity & tech monitoring: European support to domestic observation groups could provide support for capacity building and tool development for improving and monitoring cybersecurity and digital election technologies.

49 Organization for Security and Cooperation in Europe (1990): Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. Available [here](#).

50 See [here](#) for more information on the Global Network of Domestic Election Monitors.

2.8 DATA PROTECTION AND ELECTIONS

Better guidance and more effective enforcement is needed from the European Data Protection Board (EDPB) and Data Protection Authorities (DPAs) on how political parties should comply with the General Data Protection Regulation (GDPR) in their campaigning.

Actions:

Recommendations on data protection and elections: The European Data Protection Board should further expand its recommendations on data protection around elections so as to provide better guidance to political parties on how to comply with GDPR and how to conduct impact assessments of their data processing.⁵¹

DPA coordination on elections: In addition, the European Cooperation Network on Elections should organise meetings with DPAs and the EDPB around the implementation of the GDPR when it comes to political advertising and political parties. Greater enforcement and exchange of best practices should be encouraged by the European Commission through this network.

51 European Data Protection Board (2019): Statement 2/2019 on the use of personal data in the course of political campaigns. Available [here](#).

2.9 ELECTION INFRASTRUCTURE

It is important to ensure that election infrastructure is protected from criminal or other malicious activity, including foreign disinformation or cyber interference. New technologies have further amplified the challenge of safeguarding the election infrastructure. The European Commission can help mitigate such threats at the Member State level by fostering coordination, learning, information exchange and cooperation among Member States.

Actions:

Facilitate exchange of best practices: The European Commission and EU Member States' Electoral Management Bodies, (EMBs), should ensure each in the scope of their competences that (new) electoral technologies serve to further the exercise of electoral rights, and their fairness, rather than hamper or endanger them, using existing international law and practices as a the guide and benchmark. The Commission should facilitate exchanges of best practices among the European Cooperation Network on Elections, in particular on the technological infrastructure for elections.

Technological election infrastructure needs to be secure and sustainable, in a reasonable and proportionate manner. Such infrastructure should be considered beyond the election period, to also cover voter registration and other processes critical to a secure vote. Secure infrastructure needs to be understood in the broadest sense, including updated virus software, auditing of the software, accessibility of this software, etc.⁵² Capacity building of Member States' electoral authorities should also involve political parties, who remain a weak link in cybersecurity and data protection. It is helpful for Member States to view election infrastructure through the framework of critical infrastructure. The European Commission can provide a common ground for national authorities to discuss best approaches for classifying election infrastructure and improving security.

52 See chapters 9, 10 and 11 of European Standard EN 301 549 on accessibility requirements for ICT products and services. Available [here](#).

3. DISINFORMATION AND ONLINE PUBLIC SPHERE

Summary of key recommendations:

- » **Rights-based DSA:** As the Digital Services Act provides an opportunity to address the power and information asymmetry from digital gatekeepers like Google and Facebook who have a major impact on democracy, the European Democracy Action Plan should serve to root the legislative package deeply in fundamental freedoms and human rights. The section includes two lists of measures that do not have a place in a democratic society, one on platform governance in general and one on disinformation. The European Democracy Action Plan will need to set the boundaries for the DSA.
- » **Transparency of dominant platforms:** Transparency is instrumental for accountability. While civil society organisations have a variety of ideas of how to make platforms more accountable to government and citizens, this is based on a shared belief in the need to address the information asymmetry and make platforms more transparent. A variety of ways to provide transparency is detailed in the paper, ranging from an independent auditing body to the labelling of content. Alongside this, enhanced access to platform data for public interest research is essential.
- » **Holistic and decentralised cooperation framework on disinformation:** Considering the decentralised nature of disinformation and the effectiveness of tackling disinformation through decentralised actors, a more flexible, decentralised funding scheme to support civil society organisations working to tackle disinformation across Europe is needed. For this, a fund needs to be set up to pool and channel financial resources.
- » **Strong internal and international coordination on disinformation:** Within the European Commission, a variety of services deal with disinformation using a diversity of terminology. Improved internal coordination through a senior-level coordinator, alongside strengthened international cooperation with NATO and the G7 is needed.
- » **Disinformation, media and elections:** As a complex problem, disinformation needs to be dealt with in a multifaceted way. This requires specific action plans around elections, and strengthened transnational and local media and journalism.

3.1 GOVERNING INTERNET PLATFORMS

While the European Democracy Action Plan will set out the political direction for dealing with disinformation and online political advertising, many of the fundamental changes will be anchored in the upcoming Digital Services Act. The Digital Services Act will mark a critical turning point for governance of internet platforms in the EU and beyond. Many internet platforms have created a number of challenges to democratic processes and institutions, as well as major concerns regarding the right to privacy, freedom of expression and information and media pluralism.

Thanks to their unprecedented power over great parts of the digital economy, dominant internet platforms such as Facebook and Google have effectively become the operating systems of our democracies and the arbiters of free speech online, without effective accountability. The EU's new regulatory framework must include all necessary accountability and enforcement mechanisms without inadvertently entrenching their political and market power any further.

Such regulation needs to be designed on the premise that it should work in both a democratic and authoritarian context with inbuilt limitations of political abuse to stifle speech and infringe on citizens' privacy. A new regulatory framework must apply to any internet platforms operating in Europe regardless of their geographical origin or financial links. This is not only because the EU's decisions will set a global precedent, but also because the EU's own democratic future cannot be taken for granted. Checks and balances based on fundamental freedoms and international human rights need to underlie the Digital Services Act.

The European Democracy Action Plan must reaffirm the universal human rights frameworks that must be the foundation of the Digital Services Act, and provide the political direction of what the Digital Services Act should aim to achieve. To this end, the EDAP must detail how fundamental rights in a democratic society leave no place for the measures detailed below.

Do not institute:

- » **A general monitoring obligation for digital platforms:** General monitoring obligations and filtering mechanisms endanger both the freedom to receive and impart information as well as data protection, and are incompatible with EU law, as determined by the CJEU on several occasions. Any new regulatory measures should not impose general monitoring obligations or incentivise the use of automated filtering systems.
- » **A privatisation of law enforcement activities** by outsourcing legality decisions to private companies without judicial oversight or redress for users. The threat of legal liability as a means to push internet platforms to "take more responsibility" for the content they host has often led to the systematic over removal of legitimate speech. The EU should use the DSA to improve access to the justice system, including through alternative, novel means of dispute resolution where appropriate to ensure it is never internet platforms who decide what content is illegal.⁵³
- » A legal definition and removal obligations for **harmful but legal content:** While harmful content such as disinformation can never be eliminated from online discourse, the EDAP can and should set out a plan designed to avoid legislating on harmful but legal content in the DSA. The EU should instead focus on mandating internet platforms to be transparent about how they moderate content, their terms of service and community guidelines, and their redress mechanisms. Access to data for fact checking and third party reviewers must be a priority too. Finally, the EU must focus on making the necessary legislative updates to the EU acquis to address the pervasive and problematic business models that encourage polarizing content for the sake of profit.

Actions:

Instead, the European Democracy Action Plan should set the unequivocal political backing for the following safeguards for fundamental freedoms and human rights to be cemented into the Digital Services Act:

The **process of creating new legislation** should be transparent and based on input from relevant stakeholders. The EU institutions must follow an efficient plan, with dedicated funding where necessary, to guarantee the involvement of civil society throughout the process. Special attention should be given to incorporating the concerns of those most negatively impacted by disinformation. To this end, civil society groups representing the voice of the most vulnerable, marginalised and racialised groups of people must be prioritised.

The DSA should be anchored on a foundation of transparency - a core principle of democracy that is instrumental to accountability. While transparency is in and of itself insufficient for ensuring accountability, it is a necessary first step to help enforce fundamental rights. Measures are needed to increase the transparency of internet platforms towards users, civil society, authorities, private sector, and governments. This will help overcome the information asymmetry that is currently obstructing accountability. Find recommendations on enhancing transparency below in section 3.2.

Dedicated measures are necessary to **address the power of digital gatekeepers**, particularly those with a direct impact on democratic processes and institutions. The EU regulatory framework must be detailed enough to recognise and address the different types of internet platforms and their differing roles towards platform participants. Additional rules are needed to monitor and address the market power of internet platforms that meet the criteria that qualify them as digital gatekeepers. By addressing the market power of such platforms, the EU should aim to protect democracy, restore competition in the market and enable innovation.

3.2 TRANSPARENCY OF DOMINANT PLATFORMS

The EU should continue to push for greater transparency of internet platforms such as Google and Facebook. Many of the major tech platforms' efforts to counter disinformation and foreign interference operations have at times been opaque and their policies inconsistently applied. The actions by the platforms in the context of the self-regulatory EU Code of Practice against Disinformation have failed to provide the promised transparency that was needed to adequately assess the platforms' efforts to comply with the Code. With a focus on content takedowns, insufficient information was provided on a number of other critical factors and processes, including information suppression, content curation, targeting mechanisms and ad delivery optimisation, amongst others.

There is an urgent need for platforms to be more transparent and for governments and non-governmental watchdogs to have oversight into the processes for countering disinformation in the platforms. Enhanced, meaningful transparency is a critical first step for platforms to be accountable to citizens and governments alike. The EU needs to pressure dominant platforms through a legislative instrument like the Digital Services Act to maximise transparency.

Transparency needs to be provided on various levels. Transparency is needed towards individual users, in order to avoid misleading advertisements and empower users with reliable information. In addition, there needs to be transparency towards civil society, academic and media researchers and the wider public in order to scrutinise platform policies and practices and hold them to account. On top of that, transparency towards national authorities is essential for oversight and accountability. It is important that platforms and regulators differentiate between those levels of transparency.

Transparency is required on:

- » the processes and policies companies have in place for tackling mis- and disinformation;
- » the algorithmic infrastructure that optimises content selection and presentation as well as advertising, including the criteria for determining what content is down ranked and up ranked, as well as information that is suppressed;
- » the targeting and delivery criteria, advertiser identity, data source, engagement and reach, amount spent and ad creative for all advertisements, visible in a mandatory public advertisement repository;
- » the policies and appeal mechanisms for reinstating paid and unpaid content that was wrongfully taken down;
- » the way content is treated, including demonetising, friction and warnings, geoblocking and counter-messaging;
- » the processes and practices for labelling content, including how "accurate" information is identified and displayed (e.g. on COVID-19 or elections);
- » the way data is collected, stored and used for targeting content – both paid and unpaid.

Actions:

There is a range of different options for enhancing transparency and oversight:

Independent auditing body: We stress the need for more oversight from European governments and institutions to better hold platforms accountable for systemic failures to deal with harms to democratic processes. To this end, an independent auditing body has been proposed by many organisations.⁵⁴ An independent auditing body could be an EU-level body made up of national oversight authorities, a new EU body for auditing social media platforms, or even an ad-hoc task force composed of member state bodies. A regulator would need to take into account the nature of emerging digital platforms like TikTok. Civil society ideas for an independent auditing body can be found here.⁵⁵

Online ad platforms should be required to deliver annual transparency reports, ideally to a designated, independent auditing authority. Annual transparency reports could include detailed information and explanations on policies and internal processes for tackling disinformation, down- and upranking criteria and content selection and presentation mechanisms as well as ad targeting and ad delivery policies, policies surrounding the display of “accurate” information (e.g. on COVID-19 and elections), and appeal mechanisms for wrongful content takedown.

Disclosures on why content is shown: Companies should provide more meaningful information on the origin of content and why it is being shown to users, as this context is key to evaluating information. This should include information on why certain ads are being presented, and what demographics those ads are targeting. Some platforms already do this on a voluntary basis, but standards for such disclosures should adhere to certain mandatory standards, ensuring they are easily accessible and understandable.

Labelling bots: Digital platforms should work to define and label bots. While many accounts employ a mixture of human activity and automation, platforms should inform users when an account is primarily automated. This information may be helpful for evaluating information, and inform users on whether they are interacting with a real person or not.

Labelling of state-controlled accounts and content: Social media companies should ensure that state-controlled content and accounts are accurately labelled as such. This context is important for users who are attempting to assess validity or bias in content. This could be done through a self-assessment system introduced by the platforms, which includes more rigorous transparency requirements for accounts above a certain threshold of reach and frequency.

Equal access to transparency tools: While several tools exist for digital platforms users to protect their privacy, to filter information and prevent amplification of manipulated information, they are not equally available within each EU member state. The Commission in cooperation with national Data Protection Authorities needs to pressure platforms to ensure equal access across the EU – and ideally across the globe.⁵⁶

Mandatory ad libraries: The European Commission should develop and issue technical standards for advertisement libraries for digital platforms, covering both the design and functioning of ad libraries. More recommendations of what these libraries should include is detailed in section 2.5 on political advertising.

54 Joint statement on algorithmic inspection, available [here](#).

55 Democracy Reporting International (2020): Report: civil society recommendations on how the EU should regulate online platforms. Available [here](#). See also this joint statement on algorithmic inspection, available [here](#).

56 European Commission (2019): Annual self-assessment reports of the signatories to the Code of Practice on Disinformation 2019. Available [here](#).

3.3 ADDRESSING THE ONLINE MANIPULATION BUSINESS MODEL BY ENFORCING DATA PROTECTION RULES

Rather than focusing on prohibiting content based on its validity, which carries risks for freedom of expression, policy makers should instead concentrate on neutralising the economic incentives and the impact of disinformation.

Focusing on transparency measures and revealing the source of online information only would result in missing an important root cause of the spread of disinformation on online platforms. Indeed, enhancing online accountability of platforms cannot work without understanding the economic and commercial interests and incentives the players in the ecosystem have in encouraging harmful behaviour. Hate speech, disinformation and other types of online content deemed problematic go viral and come out at the top of recommended content, as a result of the current “attention-seeking” profiling model of digital markets. Platforms, especially so-called social media, make profits by collecting, analysing and selling user data. Promoting controversial content that drives user engagement is key to the targeted advertisement-based business models of most of these platforms. Sensational, shocking or polarising content keeps people’s attention and maximises their screen time, which in turn generates more profiling data and time to show advertisements – which is what creates profit for the platforms. As long as this chain of incentives is left intact, no content removal or filter law in the world will be able to solve the problem and prevent damage from the spread of problematic online content.

The ways these dominant platforms use behavioural personal data remain opaque. While the GDPR provides tools to counter personal data abuse, its enforcement is only partial. Online disinformation can only have an impact if it reaches the audience it targets. Selecting and presenting polarizing content and disinformation to users based on what supposedly keeps them on the platforms longest, relies on massive-scale collection and analysis of personal behavioural data. Targeting and profiling is not possible without this personal data, which is why data protection rules offer an indirect route to combating online disinformation while preserving freedom of expression. The European Commission must work together with the EDPB and national Data Protection Authorities to prioritise the enforcement of the GDPR across the internet value chain, including severe sanctions where breaches are found.

Actions:

Enforce the GDPR: The European Commission should make sure that the GDPR is thoroughly enforced as a means to address surveillance and manipulation-based business models. For this to happen, national data protection authorities must be given, by their Member States, the political support and financial resources to investigate infringements of the ePrivacy directive and the GDPR, as stated in the Commission’s first GDPR review. In particular, the Commission should uphold the GDPR principles of data minimisation, data protection by design and by default. Users should opt in to tracking used for advertising and content curation, instead of platforms tracking users by default.

ePrivacy Regulation: The European Commission should work with the Council Presidency to rapidly adopt a strong and clear ePrivacy Regulation, especially with a view to empowering users to avoid being tracked, limiting online profiling and making it more transparent for users.

3.4 UPHOLDING FUNDAMENTAL RIGHTS IN THE EU APPROACH TO DISINFORMATION

While adopting new laws shows resolve to act and has laudable intentions, national governments should exercise caution when legislating against online information operations. EU policymakers must ensure freedom of speech principles are protected and be mindful that internet legislation has implications beyond their countries, including in authoritarian countries. In particular, the use of criminal law to fight disinformation at scale risks creating a dangerous space for human rights abuse in the form of state-sponsored intimidation and unjustified prosecution of critical voices.⁵⁷

Broad and vague provisions, especially related to content moderation, can be misused to curb free speech and target marginalised communities, human rights defenders and activists. In addition, putting a determination of truth solely in the hands of the state or in the hands of private companies and creating a legal penalty for that breach has been used by less consolidated democracies to crack down on free expression. While committed to the need for more concerted EU action to counter disinformation, we urge for caution when legislating in this space.

In this context, we reaffirm that a generalised ban on disinformation violates international law. The EU should promote a holistic approach with positive measures to address disinformation, such as investment in quality journalism, a plurality of information sources, the regulation of online manipulation business models, requirements for responsible platform design and support to fact checking organisations. Criminal operations that manipulate algorithms, use bots to fake audience numbers, create networks of fake accounts, commit fraud, or deliberately mislead with the aim to deceive and harm should be carefully addressed and deterred.

Actions:

DON'ts: The following set the boundaries within which the European Commission and EU Member States can act to counter disinformation:

1. Do not introduce a generalised ban on disinformation which would result in placing the determination of "truth" in the hands of the state or private companies, promoting instead democratic debate, free speech and media pluralism;
2. Refrain from introducing broad and vaguely defined terms or overly specific language that is difficult to implement in practice, in legislation on disinformation;
3. Do not use criminal law for speech acts, and do not create new criminal offense in order to tackle disinformation;
4. Do not meddle with end-to-end encryption, as this would force privacy-respecting companies to leave countries, thereby harming the open information environment of these countries;
5. Do not mandate real identities for personal accounts, thereby attacking anonymity and pseudonymity, with major consequences for privacy, inclusion, and tech giants' market power.

FRA assessment: We recommend to task the EU Agency for Fundamental Rights with assessing existing legislation against online operations in the EU Member States and their impact on freedom of expression and freedom to seek, receive and impart information.

⁵⁷ An article detailing the values and principles that should guide a democratic approach, the steps they should take to compete, and the ways in which democracies should structure themselves to effectively engage in this contest are further elaborated here: Rosenberger, L. & Gorman, L. (2020): How democracies can win the information contest. Available [here](#).

3.5 CENTRAL COORDINATION AND DECENTRALISED COOPERATION ON DISINFORMATION

The right balance needs to be struck between enhanced coherence and coordination at the EU level, and a decentralised cooperation model for tackling disinformation in practice. At present, disinformation – including but extending beyond foreign interference – is tracked and addressed by many different directorates general and institutions (for example, DG Home, DG Justice and Consumers, DG Digital Economy and Society, European External Action Service, European Commission, and European Parliament). There is also a wide range of terminology being used when describing manipulation in the information space, even within the European Commission.

At the same time, we also identify a lack of decentralised cooperation with civil society in the approach of the European Commission to tackle disinformation. However, disinformation grows rapidly through decentralised networks, and so far, the most effective response to tackling disinformation has been offered by decentralised actors.

Actions:

Decentralised cooperation framework: Adopt a holistic decentralised cooperation framework on tackling disinformation together with civil society. Ideas for such a framework have been drawn out by EU DisinfoLab and are detailed in section 3.6.⁵⁸

Senior-level EU coordinator: The EU should appoint a senior-level coordinator for tackling disinformation. Having a centralized coordinator or hub for questions of disinformation would allow the EU to better conceptualise the issue, ensure that various efforts across EU institutions are synched and working toward the same policy objectives, and respond more effectively.⁵⁹ This coordinator should not be in charge of defining disinformation or judging specific pieces of content (see “DONT’S” above), but be an administrative coordinator among different bureaucracies.

58 EU DisinfoLab (2020): EU DisinfoLab’s position on the joint communication on “tackling COVID-19 disinformation - getting the facts right.” Available [here](#).

59 Alliance for Securing Democracy (2019): European policy blueprint for countering authoritarian interference in democracies. Available [here](#).

3.6 DECENTRALISED FRAMEWORK FUND

Considering the decentralised nature of disinformation and the effectiveness of tackling disinformation through decentralised actors, the Commission should reflect on how it can support those independent actors to become more robust and resilient. This requires a more flexible, decentralised funding scheme to support civil society organisations working to tackle disinformation across Europe.

Currently, tech platforms are among the largest funders of decentralised actors and programmes that address disinformation.⁶⁰ Such funding risks coming with a particular goal. In addition, tech platforms are among those profiting from disinformation and hate speech.⁶¹ There is a need for a fund that pools and channels financial resources in an independent and pluralistic way, as suggested by the EU High Level Expert Group “Fake News”.⁶²

Actions:

Decentralised framework fund: The European Commission should support the setting up of an ambitious, decentralised framework fund for civil society, journalists, media workers, human rights defenders, and researchers across the EU working to tackle disinformation. This would ensure the healthy participation and empowerment of independent organisations to both counter disinformation and hold platforms accountable for upholding democratic principles. This framework should include smaller and more flexible funding in order to support organisational resilience and avoid the necessity for organisations to promise specific outcomes. In response to recurrent threats and abuse, we would urge that this EU framework additionally provides funding for both the physical and online security of human rights defenders, journalists, researchers and civil society organisations.

- » **Purpose:** A flexible funding scheme like this would also strengthen civil society, media and journalism organisations, and academia to serve as an external accountability mechanism to ensure that the community standards are being applied successfully. This accountability link could be reinforced by EU monitoring of how researchers’ findings lead to action by the companies in a timely manner.
- » **Beneficiaries:** Funding should be invested in supporting independent quality news media and journalism, empowering fact-checkers, disinformation monitoring, investing in media and digital news literacy for all ages, supporting civil society activities and academic research, but also in encryption tools and censorship-circumventing technologies. Important to note is that beneficiaries from the media sector should not be required to direct their focus solely to fact-checking and debunking, but retain their editorial independence.
- » **Financing:** The fund could be financed by a fraction of dominating ad platforms’ ad revenues to finance quality journalism and academic as well as civil society research and activities on disinformation, with programmatic and core funding (see section 1.5). The fund could also channel funding from other donors, so as to more effectively distribute different sizes of grants to the variety of actors involved. Such a clearing-house mechanism of funding was recommended by researchers and the High Level Expert Group on Fake News in their report.⁶³
- » **Example:** The example of the United States’ Open Technology Fund could be followed, with its support to an inclusive variety of independent actors working to counter disinformation in its diversity. By creating this body at the EU level, it could overcome some of the dangers of political meddling and problems of independence that the OTF has experienced.⁶⁴

60 See for instance: Ingram, M. (2018): Platform Patrons: How Facebook and Google became two of the biggest funders of journalism in the world. *Colombia Journalism Review*. Available [here](#).

61 See Global Disinformation Index [here](#) and the stop hate for profit campaign [here](#).

62 European Commission (2018): Final report of the High Level Expert Group on Fake News and Online Disinformation. Available [here](#). Page 29, paragraph 4.

63 European Commission (2018): Final report of the High Level Expert Group on Fake News and Online Disinformation. Available [here](#). Page 29, paragraph 4.

See also: Macpherson, L. (2020): Pandemic proves we need a “superfund” to clean up misinformation on the internet. *Public Knowledge*. Available [here](#).

Zuckerman, E. (2019): The case for a digital public infrastructure: the tech giants, monopoly power, and public discourse. *Columbia University*. Available [here](#).

64 Some information on the issues with the OTF in the US can be found listed [here](#).

3.7 SUSTAINABLE AND TRANSNATIONAL JOURNALISM AND MEDIA TO COUNTER DISINFORMATION

Disinformation works when there is an information vacuum. This makes media actors – from transnational news outlets to local journalism – critical allies for countering disinformation. Part of the effort to fill information vacuums is about **ensuring robust media outlets** remain solvent. To this end, find recommendations in section 4.3 on support and funding for media.

As malign actors are adapting their tactics to share more aggressive propaganda and spread disinformation to rewrite the present, the **lack of transnational news coverage** in Europe misses a valuable opportunity for a sustainable and cohesive European public sphere, and it creates a vulnerability for others to exploit.

Actions:

Transnational cross-media engagement: The Commission should foster media engagement of EU representatives across national borders, with funding and true commitment by EU representatives, in order to reach national audiences and prevent the geopolitical influence of authoritarian actors on European democracies' discourse. Transnational coverage of EU issues by high-level EU engagement with national media needs to be equally distributed across regions to be truly transnational and sustainable.⁶⁵

⁶⁵ Kovalcikova, N. (2020): Building transnational immunity to the COVID-19 infodemic. Euractiv. Available [here](#).

3.8 GLOBAL COORDINATION AND KNOWLEDGE-SHARING AROUND HYBRID THREATS

In order to effectively tackle foreign interference and hybrid threats, there is a need for more global cooperation, both through EU-NATO cooperation, the G7 and through civil society cooperation.

Firstly, EU-NATO joint declarations provide helpful political messaging and measures for countering various elements of the asymmetric toolkit that is used against Western democracies. Of the existing 74 proposals for EU-NATO cooperation listed in the joint declarations, those addressing hybrid threats and cybersecurity are most crucial for tackling foreign interference.

In addition, the EU should work with representatives from civil society for sharing threat assessments (open source) and to exchange best practices and responses to authoritarian interference in multi-stakeholder formats (like the emerging Track 1.5 formats with policy-makers and civil society). Regular contact between governments and experts from across the globe would allow all parties to view the asymmetric toolkit holistically and create society-wide norms to limit vulnerabilities.

Third, while exchanges between tech companies and governments on larger trends may be beneficial for identifying threats of foreign interference, information-sharing between governments and tech companies needs to be subject to checks and balances, and cannot involve the sharing of personal data, even if it's aggregated or anonymised. Any such information exchange should occur on a transparent platform for exchange, with active civil society participation and monitoring.⁶⁶

Actions:

EU-NATO cooperation: The EU and NATO should establish an information sharing joint task force to develop a common understanding of hybrid challenges and conduct a joint analysis of threats. This is a necessary baseline for building better defenses against authoritarian threats, as well as to ensure interoperability of defense capabilities to address these threats across the transatlantic community. A joint task force would allow the EU and NATO to better see the full range of issues in the asymmetric toolkit and remove stovepipes within and between the two organisations.⁶⁷ Such cooperation needs to be subjected to civil society oversight, and closely involve civil society actors in the process.

Credible threat of sanctions: The EU together with its NATO and G7 allies should make the threat of (joint) targeted sanctions more credible and frequent, thereby raising the cost of foreign influence operations and deterring interference. In this matter, the EDAP and the EU Security Union strategy must be aligned to prevent stove-piping.

Forum for cooperation: The EU should contribute to establishing or strengthening existing fora for cooperation that connect policy-makers, experts and civil society in Europe to exchange information and learnings on disinformation and foreign interference.

66 See here: Hadavas, C. (2020): The Future of Free Speech Online May Depend on this Database. Slate. Available [here](#).

67 Alliance for Securing Democracy (2019): European policy blueprint for countering authoritarian interference in democracies. Available [here](#).

3.9 DATA ACCESS FOR PUBLIC INTEREST SCRUTINY

Studying disinformation is made exceedingly difficult not only by insufficient opportunities for civil society involvement (see above) but also by a lack of data access from dominant platforms. Data is often much more readily available to advertisers than to academic and civil society researchers. GDPR-compliant data access is therefore a necessity to improve our understanding of digital disinformation. Claims by platforms and governments that such GDPR-compliant access is not possible are unfounded.⁶⁸

Actions:

Facilitate access to data: The European Commission should actively facilitate enhanced access to platform data for public interest scrutiny and research, taking into consideration existing work and proposals by civil society and academia.⁶⁹ Considering the difficulty of handling such large data-sets for many CSOs, data access should go alongside capacity building programmes to equip CSOs to securely analyse the data.

68 See the following research: Ausloos, J., Leerssen, P., & ten Thije, P. (2020): Operationalizing Research Access in Platform Governance What to Learn from Other Industries? Algorithm Watch. Available [here](#).
See also: European Data Protection Supervisor (2020): A Preliminary Opinion on data protection and scientific research. Available [here](#).

69 Ausloos, J., Leerssen, P., & ten Thije, P. (2020): Operationalizing Research Access in Platform Governance What to Learn from Other Industries? Algorithm Watch. Available [here](#).

3.10 ELECTIONS AND DISINFORMATION

Elections should be acknowledged as a more prevalent moment where public opinion manipulation happens through mis- and disinformation (as well as state of emergencies, etc). Connecting disinformation debate to a timely aspect is important to think of specific points of action around specific moments. Building on transparency requirements that should be in place all year long, the EU should encourage platforms to have a defined process and action plan for these moments in order to protect elections.

It is important to safeguard the fairness of elections and referendums. But there is a risk that measures to tackle disinformation will interfere with freedom of expression, which also damages democratic processes. One of the biggest challenges in countering online disinformation is being able to distinguish between misleading content, errors, parody and biased news. This makes it difficult to respond to disinformation simply by prohibiting offending content. This kind of approach carries a high risk of interfering with legitimate free speech.

Actions:

Action Plan for Elections: The European Commission, together with national electoral authorities and digital platforms, should develop an action plan for elections. This action plan could include actions such as a completion of ad library report databases, ad hoc country-based election teams at platforms to consistently monitor threats to elections, knowledge sharing between Member States on electoral manipulation, the reduction of virality of content and other similar measures. Such an action plan needs to be developed in cooperation with civil society.

Local platform offices: Dominant internet platforms need to establish local offices in all EU Member States to better cooperate and coordinate with national authorities and decentralised actors working to counter disinformation. This is desirable all year long, but specifically necessary for election periods.

4. MEDIA PLURALISM AND SAFETY OF JOURNALISTS AND MEDIA WORKERS

Summary of key recommendations:

- » **Safety of journalists and media workers:** It is unacceptable that journalists face threats, harassment and even violence simply because they exercise their essential democratic function. Recommendations to safeguard journalists in Europe include conducting a study on journalists' safety in Europe, developing an internal institutional alert mechanism, and facilitating the exchange of good practices. All Member States should fully implement the Recommendation of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors⁷⁰.
- » **Support and funding to media:** Without funding and new business models, independent professional journalism will wither away. Independent public service media is paramount within the fragile media ecosystem ever more dominated by the platforms' methodology to monetise content. A number of recommendations are made on how to provide such support and funding.
- » **Media market and sustainability:** At the source of the withering media sector lies the decoupling of advertising revenue from news content production. Legacy, advertising-driven, commercial media businesses have lost their unique position in the advertising market to online advertising platforms. The EDAP can pave the way towards a new newsmarket based on independent journalism and pluralistic media, specifically by calling for systematic analysis and scrutiny of information market mechanism- and failure-related challenges as well as new regulatory approaches.

⁷⁰ Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors. Available [here](#).

4.1 HOLISTIC APPROACH TO THE MEDIA SECTOR

Safeguarding media freedom and media pluralism requires a holistic approach. This includes effective mechanisms to protect journalists and media workers, editorial independence, diversity in the newsroom, sustainable funding, innovation, media literacy, an enabling environment ensuring sustainability of the sector and good working conditions for journalists.

We welcome the EU's commitment to come up with a Media Action Plan, in order to support the viability of the media sector. Likewise, a dedicated chapter to media freedom in the EU Rule of Law Annual Report is also a strong opportunity to ensure protection of journalists and media workers in EU Member States and to uphold media freedom and pluralism, and independent public service broadcasting. Lastly, the DSA will also create opportunities for the media sector for better regulation.

For these instruments to have a concrete impact, their implementation should be made coherent and lead towards a consistent approach of the EU to support sustainability and independence of journalism and the media sector. The European Commission will need to be more ambitious in protecting media and advertising markets that are being bought up by governments of certain EU Member States. This will require the European Commission to enforce financial transparency of public service broadcasting, and use competition rules to enforce media market pluralism. A cross-sectoral, holistic approach will be needed to ensure all the European Commission's tools - including the DSA, EDAP, Media Action Plan and EU Rule of Law Mechanism - will coherently contribute to supporting media freedom and pluralism.

4.2 PROTECTION MECHANISM FOR JOURNALISTS AND MEDIA WORKERS

Democracy cannot exist without a free press and media. Yet around Europe, journalists and other media actors are threatened, harassed, subjected to surveillance, intimidated, physically attacked, and even, though rarely, killed because of their work, the expression of their opinions or their critical reporting. Still today, journalists and media workers in Europe face prison sentences as a result of their journalistic work and carrying out their essential democratic function. At particular risk are journalists and media workers whose work focuses on the misuse of power, corruption, human rights violations, criminal activities, terrorism and fundamentalism. These threats are multiple and complex and are taking place in a rapidly changing media environment.

According to the EU Human Rights Guidelines on Freedom of Expression Online and Offline: “By facilitating the free flow of information and ideas on matters of general interest, and by ensuring transparency and accountability, independent media constitute one of the cornerstones of a democratic society. Without freedom of expression and freedom of the media, an informed, active and engaged citizenry is impossible.”

To protect the values of the Treaty of the European Union, the internal market and the functioning of the institutions themselves, journalists and media workers need to be protected. If EU institutions cannot take action and journalism continues to be undermined, it will leave European denizens less able to play an active and informed part in the political process and European democracies less resilient to internal and external threats including disinformation.⁷¹

The global COVID-19 pandemic has further exacerbated threats to safe and free journalism. We call for urgent scrutiny of action taken by governments to claim extraordinary powers related to freedom of expression and media freedom including access to information under emergency legislation that are not strictly necessary and proportionate in response to the pandemic. Uncontrolled and unlimited state of emergency laws have had a severe chilling effect on the ability of the media to report and scrutinise the actions of state authorities.

In tandem with strong recommendations from the Rule of Law Mechanism, the EU institutions should be able to hold Member States to account, including asking them to take all steps and measures to create and secure a favourable environment for the safety and protection of journalists and media workers, including those enshrined in the EU Guidelines on Freedom of Expression Online and Offline. Such obligations should be upheld by the executive, legislative and judicial branches of governments of Member States, including agencies concerned with maintaining public order and national security, and at all levels – federal, national, regional and local.

71 Reuters Institute (2019): What can be done? Digital Media Policy Options for Europe (and beyond). Available [here](#).

Actions:

Conduct a study on journalist safety: EU institutions must conduct a study to review their competency with a view to developing more enhanced powers to be able to push Member States to:

- » review relevant domestic laws and practice relating to the protection of journalists and journalism and revise them, as necessary, to ensure their conformity with States' commitments to the values laid out in the Treaty of the European Union.
- » take all necessary policy, legislative and financial support measures to promote protective press freedom measures at the national level in Member States; and take all the measures necessary for EU institutions to be able to fully engage and co-operate with all interested parties to achieve those goals, and in full partnership with the Member State.
- » ensure that Member States' legal systems provide adequate and effective guarantees for the protection of journalists and media workers that can be properly enforced, including with scrutiny from EU institutions;
- » Fully implement the Council of Europe Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors, all EU Member states have endorsed.⁷²

The EU must develop its own **institutional internal alert system**, with full consultation with a range of stakeholders, to be able to rapidly condemn and respond to acts of intimidation and violence against journalists, and media actors. Such a mechanism must include the enhanced competencies for the institutions to call on Member States, through targeted recommendations, to take active steps to provide immediate full remedy to the individual(s) concerns for the violation, including the full prosecution of potential perpetrators, and demonstrable commitments to prevent further similar acts of violence and or intimidation and to promote a safe environment for journalists and other media actors. EU institutions should guarantee that all journalists and media workers in Member States can securely, and in full privacy, access all national, or EU-managed, early-warning and rapid-response mechanisms.

Create spaces for dialogue, including through the Rule of Law Mechanism, to **facilitate exchange of good practices for the safety of journalists and media workers with government officials**, including members of the judiciary, prosecution and law enforcement. This should include the continual assessment and development of comprehensive legislative and policy frameworks by Member States that enable journalists and other media actors to contribute to public debate effectively and without fear. Such dialogue should be framed in terms of assessing Member State's compliance with all provisions set out in the Recommendation of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors.⁷³

72 Find the Council of Europe Recommendation [here](#).

73 Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors. Available [here](#).

4.3 SUPPORT AND FUNDING TO MEDIA, INCLUDING INVESTIGATIVE, LOCAL AND INDEPENDENT MEDIA

The COVID-19 crisis has confirmed that free and independent media are an essential service crucial for a functioning democracy and resilient societies. However, even before the crisis, the media ecosystem was already fragile and media pluralism and diversity were declining. The insufficiently funded news media sector, including television, radio, print and digital media, is now facing an existential threat due to the abrupt loss of advertising revenues. Regional and local media, freelance and investigative journalists and new digital journalism start-ups are in a particularly fragile situation. Many media outlets are closing down, staff have been laid off, salaries cut and investments halted.

The COVID-19 outbreak has amplified already existing issues, including changes in media consumption habits and shifts in revenue streams, further increasing the unsustainability of traditional business models of the sector. Without urgent funding and innovation, this will lead to a rapid decrease of media pluralism. In some Member States the circulation of the print media fell drastically due to the lockdowns, and media organisations are swiftly moving towards digital subscriptions.

At the same time, the need to scale up and consolidate is also crucial for the media sector to be able to compete with the global online players that during the crisis have strengthened their positions, including those acting as gatekeepers to the content of news media. The crisis is significantly speeding up the shift to a digital future and the need for digital investment and innovations at present are crucial for the news media sector to survive. Press freedom, media development, and journalists' organisations have called on Member States to adopt an ambitious EU budget for independent journalism and recovery of the media sector.⁷⁴

It is important to recognise that lesser alternatives to independent and sustainable local and investigative journalism intrinsically risk media freedom, access to information, and freedom of expression since not all information is created equally. While someone can create an informative, ten-minute-long YouTube video in a few hours that receives a million views, an investigative report running for the same duration needs time, resources, and much more to produce a serious piece of journalism. If journalism and news media organisations cannot meet their basic financial needs or must increasingly redirect precious resources to safeguard themselves from troll farms, botnets, platform algorithms, and content demonetization, it is an even greater lift to address the countless other concerns journalists and media workers face — from safety to muzzling press freedom.

Without funding and new business models, independent professional journalism will wither away. Independent public service media is paramount within the fragile media ecosystem ever more dominated by the platforms' methodology to monetise content. Funding in and by itself can alleviate the most pressing issues. Nevertheless, media viability is more than money and requires a comprehensive approach to avoid efforts petering out. High thresholds to access, production and distribution structures, restrictive legal environments, lack of audience trust, and a lack of business acumen, amongst others, can act as obstacles which are not solved by funding alone. In order to achieve the maximum potential of funding, the thresholds for independent media operating in a country need to be assessed and taken into account in media development programmes and projects.

74 Find the joint letter on this [here](#).

Actions:

Next EU budget: Within the next Multiannual Financial Framework 2021-2027 and the Next Generation EU, the Commission should secure financing for the news media sector (including for independent public service media) and media literacy. Support should focus on support for independent journalistic start-ups, to enable journalists and media workers to restart and re-cultivate the media landscape according to professional and ethical standards (especially in so-called “journalistic deserts”).

Justice, Rights & Values Instrument: Support within the context of the Justice, Rights and Values Fund should focus on the safety of journalists and media workers, with special attention to gender and racial minorities. The news media sector should also benefit from other programmes, for example, Horizon Europe, InvestEU, and ERDF (local media).

Local media mechanism: The Commission should set up a mechanism for funding local independent media and journalistic start-ups, which is government-funded but run independently. It could follow the example of the BBC’s Local Democracy Foundation, or Canada’s local journalism initiative. At the Member State level, tax cuts could also help support smaller media organisations with a focus on quality, and notably local, journalism.

Support for innovation: There is currently low capacity to innovate within the media sector. In order to foster innovation, support should be holistic, with an emphasis on long-term core funding which is coupled with room to innovate and allows for broad implementation (in contrast with only focusing on content). Capacity building for media and journalists to keep up with international trends in terms of storytelling, standards, and audience engagement drives innovation further.

Financial sustainability: The Commission should set up a support scheme to boost the financial sustainability of media organisations from the perspective of short-term liquidity and support local, investigative, and innovative digital journalistic start-ups. Such a scheme should ensure it cannot selectively favour only certain broadcasters and thereby distort or threaten to distort competition, as it has allegedly done in Hungary.⁷⁵

Awareness-raising and training: Within the media sector, awareness raising on the importance and benefits of business and technical skills is necessary to solidify a forward-looking mindset. Training for media to stay innovative as well as network and community building are two ways forward which can yield results in the short-term.

Support to Member States: The Commission should also support Member States in reforms and expansion of existing forms of public/private support for media and journalism projects to better support innovation in the digital future; this should include a rapid reform to ease the creation and funding of non-profit news media including community media.

75 See this article about the case on Hungarian media state aid from the European Commission. Stolton, S. (2020): Commission still assessing 2016 complaint into Hungarian media state aid. Euractiv. Available [here](#).

4.4 REGULATION OF MARKET CONCENTRATION & DEFINITION OF MEDIA MARKET FAILURE

Given the reality of today's online environment and what it means for conveying accurate, high-quality information, it is important to address underlying mechanisms that have enabled the manipulation of online information spaces in the first place. By also addressing how information is created and disseminated from a market viewpoint, not simply a content viewpoint, it paints a more holistic picture of the challenges faced in keeping a citizenry informed. Digitalisation and the increase in online sources of news and media content have highlighted how the current sector-specific approach to media regulation is inadequate. Thus any serious effort to address the mounting problems plaguing digital platforms — from misinformation and hate speech, to content takedowns and violent and extremist content — must also prioritize their impact on and the challenges faced by journalism and the news media sector. In other words, content-related issues must also be seen within the wider context of market-related challenges, while clearly distinguishing content regulation from market regulation.

Journalism as a public good needs public support. Commercial media business model based on subsidising production of content by advertisement revenues is no longer sustainable; the digital media market has shifted advertisement revenues to big tech companies who control up to 80% of market share in some of the markets. Furthermore, the regulatory disparity between digital platforms and heavily-regulated media businesses are leading to market advantages that these platforms often abuse because they operate under fewer regulatory restraints and have lower regulatory compliance costs. In addition, platform revenues are driven by programmatic advertising with economy of scale principles that favour companies that are not news driven that tend to be click-bait driven and thus not public service oriented. There is no market to support local/regional or investigative journalism. Media concentration in digital markets threatens the diversity in media supply and does not provide much needed guarantees for diversity of ownership, media plurality, and open access to information of public interest. It can restrict people's chances of receiving information on public matters, and restrict people's access to the media.

As the Media Pluralism Monitor of the Center for Media Pluralism and Media Freedom states: Media ownership concentration remains one of the most significant risks to media pluralism and is seen as creating barriers to diversity of information and viewpoints. However, given the changing hybrid news environment, understanding a "whole picture of pluralism" in hybrid media systems requires a closer look at media use and changing news consumption habits, and linking these with other structural and regulatory considerations.⁷⁶

EDAP can set an important roadmap by calling for systematic analysis and scrutiny of information market mechanism- and failure-related challenges, as well as new regulatory approaches to information flow challenges in digital environments. In order to foster a pluralistic media ecosystem that detects disinformation and produces high-quality, fact-based news, media sustainability must be considered a significant priority.

76 Center for Media Pluralism and Media Freedom(2020): "Media Pluralism Monitor 2020". Available [here](#).

Actions:

Definitions of the market and new systems of monitoring media plurality and market failure for public interest content:

There are many conceptual distinctions and approaches in measuring media plurality but most of them, if not all, consider the concentration of ownership in media markets. However, the conditions and the composition of players in media markets have seen profound changes over the last decades in ways that potentially affect plurality and diversity. Thus, the understanding of what the media market is and which are the measures to assess its plurality should be re-considered. So far, the results of the media plurality monitor show that most countries in the EU, within their media policy, have enacted certain limits or thresholds on horizontal concentration in traditional media markets to ensure sufficient plurality and diversity. Specific safeguards to prevent cross-media concentration are less common, but in those cases general competition laws (antitrust and merger control) may also apply and take sufficient account of media plurality. Market positions of digital intermediaries and platforms that do not produce content of their own but serve as delivery channels, have currently not been taken into account with the same approach.

- » **One of the matters that needs monitoring is the concentration of distribution networks and the (dominant) (new) intermediaries which increasingly influence or determine the conditions for access to, and the nature of, the media and content.** To assess the levels of market concentration of traditional media companies without considering the role and impact of other players, would be discrepant to the current realities and would further exacerbate unsustainable market and regulatory positions of credible media and journalism organisations.
- » **The EDAP should call for the EU to advance its understanding of who the players operating in the media markets are, which safeguards and conditions are inevitable for pluralism, and which are the methods to evaluate this news setting and power relations.** This is necessary because the old measures were designed without consideration for the logic and motivations of the largest technology platforms which are not competing within the market but rather for the market.⁷⁷ This means that it could be not only about the number of companies and their ownership, but also about number of marketplaces and the way relationships within those are arranged (e.g. first to understand how news is being delivered to them via online intermediaries, and then to be able to choose or to shape the algorithm of their news feed/recommendation system).

'Affirmative action' for visibility and diversity and must-carry logic for the digital environment: While analogue must-carry rules were addressing the scarcity of distribution, this is no longer an issue today. Instead the scarcity of attention must be considered as the decisive factor. Following those ancient models (must-carry rules for broadcasting) and more recent examples of EPG prominence or the AVMS Directive promoting European works, a similar mechanism should be stipulated to recognise, feature, and promote European/authoritative/credible/ethical self-regulated sources of content online.⁷⁸ This objective could be pursued through a quota, a bonus 'boost' in indexation of content or a mix thereof in news feeds and products, search and recommendation features. Accountability journalism must be considered of public interest and thus receive priority by intermediaries in terms of visibility, searchability, and monetisation.

Co-regulatory approach: Monetisation of journalism, either through investments of the private sector, like advertising, or subsidies from the public sector, must be safeguarded by transparency and compliance with professional norms. This is required both on the end of the media outlets and, where applicable, of intermediaries like distributors, platforms and ad exchanges. In accordance with existing single market policies, the EDAP should make a direct or indirect reference for the specific usage of the self-regulatory quality/ethical standards of journalism and media organisations.

77 Nenadic, I. & Milosavljevic, M. (2019): Adapting the Understanding of Media Market Plurality to the New Digital Realities. Available [here](#).

78 Neither internet platforms nor governments should have the power to determine which news-sources are authoritative or trust-worthy.

Independence of regulators: The independence, accountability, transparency and efficiency of media regulators should be guaranteed taking into account the above-mentioned premises.

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