



## TIGHTENING UP THE EU'S POLICY TOWARDS LARGE PLATFORMS IN THE FIGHT AGAINST DISINFORMATION

CARLOS ESPALIÚ BERDUD <sup>1</sup>

<sup>1</sup> Universidad CEU Fernando III, Spain; Las Casas Institute, Blackfriars Hall, Oxford University, United Kingdom

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### ABSTRACT

*In recent years we have witnessed a tightening of EU policy in the fight against disinformation in relation to online platforms. There has been a shift from soft law policies where platforms did not assume strong obligations, to coregulatory measures where platforms, particularly large ones, assume stronger obligations. This is due to the limited effectiveness of initial policies in this area and the realisation of the seriousness of the disinformation challenge, such as the Covid pandemic and the use of disinformation by Russia against the interests of the EU and its member states.*

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## 1. Introduction

It is no news to anyone that disinformation is one of the great plagues of our contemporary societies, a truly global risk (Arcos et al., 2023, p. 1; Shao et al., 2018, p. 2). Indeed, we receive almost daily references to the constant disinformation campaigns that individuals, companies, institutions, states, as well as international organisations, including the European Union (EU), suffer all over the world. Before proceeding further, we must warn that, for us, this term should be understood as

[...] orchestrated dissemination of untruthful news or data through any type of communication channels, whether traditional –printed press, radio, television– or horizontal –social networks, etc.– with the intention of obtaining an economic, social, or strategic benefit, or of harming rivals, whether individuals, societies, institutions, or states. (Espaliú Berdud, 2023, p. 5; Olmo and Romero, 2019, p. 4).

Several causes of this monster of our digital age could be pointed out (Espaliú Berdud, 2022, p. 2). 2), such as, for example, firstly, its high level of effectiveness brought about by current technological capabilities, which has led, among other things, to the replacement of traditional media as sources of information by social networks, generating less control over the veracity of news and its origin, thus weakening the protection capacity of recipients (National Cryptologic Centre, 2021, pp. 5-9; Messing & Westwood, 2012, p. 1044; Wardle & Derakhshan, 2017, p. 12). Their effectiveness can also be explained by the fact that they usually impinge on already existing vulnerabilities in the targeted society; or because, like tares in the wheat, elements of illegitimate disinformation are inserted into the methods of legitimate social and political communication, which increases their plausibility. Secondly, their recurrence is motivated by the difficulty of attributing responsibility for the campaigns and of measuring their influence on the changes in public opinion of the entities that are the victims of the attacks. And thirdly, the scope and danger of disinformation campaigns lie in the intrinsic difficulty for democratic societies to legally prosecute these hostile actions (Spanish Department of National Security, 2022, p. 10), unlike other behaviours whose damage is more evident, such as armed attacks, terrorist actions or even computer attacks on systems or hacks. This is because it is difficult to counter disinformation without at the same time damaging basic principles of democratic societies, such as freedom of expression and opinion, which underpin fundamental individual rights of both nationals and foreigners.

Other consequences of misinformation include the contribution it makes to a growing relativism about facts and established information, and to the polarised nature of alternative views of reality and truth in relation to key issues like migration, climate change and health (Hameleers, 2024, p. 28). It is clear to everyone that in certain contexts, such as the electoral one, these effects can endanger the stability and security of the society that is the victim of the campaigns, and it is even possible to state, as Petros Isifidis does, that "[...] disinformation is as much a weapon of war as bombs" (Isifidis, 2024, p. 22). Consequently, both its member states and the EU itself have been arming themselves to deal with this scourge. As far as the EU is concerned, the starting point in this fight can be traced back to March 2015, when the European Council asked the High Representative of the Union for Foreign Affairs and Security Policy to prepare an action plan on strategic communication (European Council, 2015, point 13), which led to the creation of the East StratCom Task Force, operational since September 2015 and part of the European External Action Service (EEAS).

Since then, the EU has continued to adopt more or less effective strategies and measures, although one event stands out in this evolution because of the future influence it would have. This is the creation by the European Commission in January 2018 of a high-level expert group to advise on policy initiatives to counter fake news and disinformation circulating online. Its final report, published on 12 March 2018, reviewed practices based on basic principles and appropriate responses derived from these principles, suggesting to the European Commission a pluralistic approach to the problem (Renda, 2018, p.21), involving all stakeholders and highlighting the need for self-regulation. More specifically, the expert report called for, among other things: the promotion of media literacy among the population; the development of tools to enable consumers and journalists to combat the phenomenon of disinformation and to protect the diversity and sustainability of European media. And in relation to online platforms and social media, it recommended the development of a code of principles, including, for example, the

need to ensure transparency in explaining how their algorithms select the news presented and, in cooperation with the continent's media, to take effective measures to improve the visibility of reliable and trustworthy news and to facilitate access to it for users (European Commission, 2018a).

It was therefore obvious to the expert authors of the report that the EU should adopt, in its fight against disinformation, a series of policies and measures of a soft law nature, highlighting the total absence of recommendations to EU bodies on the adoption of binding legal norms, or hard law, for member states, companies or citizens (Jiménez-Cruz et al., 2018). Let us clarify at this point that, although soft law in international law can generally be understood as “[...] a variety of nonbinding normatively worded instruments used in contemporary international relations by states and international organisations” (Boyle, 2019, p. 101), in the context of this article, we understand by soft law a process in which the rules governing the behaviour of the subjects of a given system are elaborated and applied by the governed themselves (Borz et al., p. 710; Latzer et al., 2013, p. 376) and do not impose solid legal obligations whose non-compliance can be sanctioned.

Along these lines, in application of the directives of the aforementioned report, with the encouragement of the European Commission, a “Working Group” was set up comprising the main online platforms and advertising industry associations which, with the advice of representatives of the media, academia and civil society, drafted the recommended code of principles and which, under the name of Code of Practice on Disinformation, was published on 26 September 2018 (European Commission, 2018b). This legal instrument responded to the soft nature recommended by the expert group report, emphasising the absence of binding obligations for entities adhering to it.

However, the EU has gradually changed its initial approach in its fight against disinformation and adopted tougher policies and measures, especially with regard to the most important online platforms.

For example, the signatories of the 2018 Code of Practice, together with some new entities, drafted a new instrument, which was published on 16 June 2022 as the 2022 Strengthened Code of Practice on Disinformation (European Commission, 2022b), containing more robust and detailed commitments and measures for signatories, in particular with regard to its governance and monitoring of its implementation. Overall, however, the new code remains broadly in line with the self-regulatory nature of the previous 2018 Code of Practice (Espaliú Berdud, 2024, p. 102).

As regards the implementation of the 2022 Strengthened Code of Practice on Disinformation, it should be noted that it is part of a broader regulatory framework, in combination with other legal instruments, such as the 2024 Regulation on the transparency and targeting of political advertising and the Digital Services Act 2022 (DSA). Thus, in terms of combating disinformation, in addition to the burdens assumed in compliance with the 2022 Strengthened Code of Practice on Disinformation, the DSA imposes tough obligations on large online platforms and search engines, which will be those corporations with more than 45 million users per month in the EU (European Parliament and Council of the European Union, 2022, Article 33). Among other obligations, large platforms and search engines will have to demonstrate a proactive profile in looking for systemic risks associated with their services in terms of illegal content, public safety, fundamental rights, etc. (ibid., articles 34-43). And, in order for these obligations to be implemented, the DSA provides that, in case of non-compliance, fines of up to 6% of annual global turnover or temporary suspension of the service may be imposed (ibid., articles 52, 73, 74 and 76). As can be seen, these are already clearly restrictive or hard law measures.

It is therefore of great interest to examine the scope of the EU's policy change in relation to large online platforms in the context of the fight against disinformation and to find out the causes of this new strategy. These are the objectives of this article.

The opportunity to carry out this research at this time is reinforced by the events that have been taking place in recent months, as we witness with amazement what appears to be a pitched battle between the European Commission, the large online platforms and the EU member states, in relation to the obligations outlined above imposed by the 2022 Strengthened Code of Practice on Disinformation and the DSA. Indeed, on 17 December 2024, Ursula Von der Leyen announced that the Commission had opened formal proceedings against TikTok for an alleged breach of the DSA in relation to the platform's obligation to adequately assess and mitigate systemic risks linked to the integrity of elections, especially in the context of the recent Romanian presidential elections of 24 November 2024 (European Commission, 2024j). In addition, in the first days of 2025, Meta announced its intention to end its third-party data verification programme in the United States and replace it with a system of user notes similar

to that of the X network, and was criticised for this by the European Commission (EFE, 2025) and by civil society sectors (Reporters without borders, 2025). A few weeks later, Google announced that it will not integrate fact-checking mechanisms directly into its search results and YouTube videos (Wolfestein, 2025). We can also see how, in these first weeks of 2025, several European leaders have more or less veiledly accused Elon Musk, the current owner of the X network, of intervening in the internal affairs of certain European states, among other things for having tried to influence national elections, as in the case of the German elections (Présidence de la République Française, 2025; The Guardian, 2025).

In order to achieve the objectives outlined above, we will divide our article into three further sections, in addition to this introduction. In the second, we will briefly review the period in which the EU adopted soft law policies and measures in relation to large online platforms in the early years of its fight against disinformation, following the recommendations of the 2018 report of the High-Level Group of Experts. In the third part, we will look at the main measures being taken by the EU in the current period in which the EU has changed course and pursued a tougher policy towards large online platforms in the fight against disinformation. Finally, we will present some conclusions.

## **2. The era of EU soft law measures against online platforms to fight disinformation**

The 2018 report of the High-Level Group of Experts already acknowledged that online platforms are making efforts to respond to the distribution of disinformation from multiple approaches. For example, in terms of transparency and accountability, it highlighted, among these efforts, firstly, the adoption of measures to identify and remove illegitimate accounts. Secondly, the implementation of measures to integrate credibility and trustworthiness signals into ranking algorithms and to include alternative content recommendations to increase the ease of finding credible content. Thirdly, attempts to demonetise the for-profit production of false information were appreciated. And fourth, collaboration with independent sources and fact-checking organisations was appreciated (European Commission, 2018a, p. 14). However, it also noted that not all different online platforms had invested the same efforts and resources in containing disinformation; and, more importantly, that many of these initiatives were only taken in a small number of countries, leaving millions of users elsewhere more exposed to disinformation (*ibid.*).

The report also noted that, based on the results of fact-checking, online platforms had begun to address disinformation by altering the business model for its production and amplification within advertising networks, operated by the platforms themselves or by third parties. For example, among other tactics, ad networks were being encouraged to fight against placing ads on websites identified as purveyors of disinformation, which directly reduces their revenues. In the same vein, ad providers were encouraged not to accept ads from disinformation sources and to clearly mark political ads as sponsored content to increase transparency. Similarly, it was intended that advertising networks would not disburse revenue to sites and partners until they had been able to confirm that they were operating within the relevant terms and conditions (*ibid.*, p. 15).

In relation to trust-enhancing practices and changes to algorithms, it was acknowledged that online platforms had been experimenting with different ideas, such as partnering with publishers and independent fact-checkers and developing measures of trust (*ibid.*, p. 16).

With regard to media and information literacy, it was noted that while online platforms are not the main initiators of media literacy programmes, they have started to play a role in this area (*ibid.*, p. 17).

In response to the recommendations of the expert report, the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy developed an Action Plan against disinformation in March 2018, which was endorsed by the European Council in December 2018 (European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 2018). This instrument was based on the recognition of the need for political determination and unified action between EU institutions, member states, civil society and the private sector, in particular online platforms. Such unified action was to be based on four pillars: (i) improving the capacity of EU institutions to detect, analyse and expose disinformation; (ii) strengthening coordinated and joint responses to disinformation; (iii) mobilising the private sector to fight disinformation; and (iv) raising awareness and strengthening the resilience of society.

In the wake of the implementation of the 2018 Action Plan, the European Early Warning and Information Systems was set up between EU institutions and member states to facilitate the exchange of information on disinformation campaigns and coordinate responses. The Early Warning System is

based on open-source information, drawing on the expertise of academics, fact-checkers, international partners and online platforms.

In the same direction, in April 2018, the European Commission proposed drafting a code of practice (European Commission, 2018b) that would involve private actors (representatives of online platforms, leading technology companies and actors from the advertising industry) in a self-regulatory - or co-regulatory for some (Pagano, 2019, p. 20) - instrument to address the spread of online disinformation globally.

The proposal was well received, and the Commission convened a Multilateral Forum to draft the Code, consisting of a “Working Group” composed of leading online platforms and advertising industry associations, as well as a “Sounding Board” composed of representatives from the media, academia and civil society. Finally, thanks to the collaborative work of the member entities of the Multistakeholder Forum, the Code of Practice on Disinformation was launched on 26 September 2018 (European Commission, 2018b).

Thus, as we have already advanced, the 2018 Code can be considered a remarkable example of the growing self-regulatory or soft law trends in international (Sander, 1985, p.2) and European law; it can also be considered the first self-regulatory instrument in the world to combat disinformation (European Commission, 2022d). For Colin Scott (2019), this wave of elimination of regulatory burdens or deregulation has its origins in the “Better Lawmaking” policies implemented by the liberal governments of Reagan and Thatcher in the 1980s, and then gradually projected into international law, nesting particularly in EU law with the “better regulation” agenda (p. 13), whose scope is certainly difficult to circumscribe (Garben & Govaere, 2018, p. 12). Indeed, at least since the adoption of the 2003 Interinstitutional Agreement on Better Lawmaking (European Union, 2003), which proposes the use of alternative regulatory mechanisms, EU institutions, and in particular the Commission, have increasingly relied on codes of conduct to self-regulate or co-regulate through non-legislative or private acts (Borz et al., 2024, pp. 711-712). We emphasise that, as Carl Vander Maelen (2020) has pointed out, self-regulatory methods of standard-setting qualify the role of governmental institutions by involving private actors (such as NGOs, companies or industry associations) in all or some stages of the standard-setting process (p. 231).

On the other hand, in the specific framework of the fight against disinformation and its relationship with large online platforms, the doctrine has also advanced other reasons for favouring this type of soft regulation, including the complexity of holding digital companies accountable for the creation of disinformation (Borz et al., 2024, p.5), or the European Commission's reluctance to create a politically dictated “censorship” situation, indicating here a desire to avoid the controversies of previous so-called fake-news laws, for example in Germany (Hurcombe & Meese, 2022, p. 299).

The objectives of the 2018 Code were to identify measures that signatories could take to address the challenges posed by disinformation. Among other things, it specifically referred to: efforts to improve ad verification to reduce the revenues of disinformation providers; ensuring transparency of political and issue-based advertising; and increasing and demonstrating the effectiveness of efforts to shut down fake accounts (European Commission, 2018b, Purposes).

It was established that all actors in the digital world could join the Code, deciding to commit to all or part of the commitments contained therein and withdrawing at any time (ibid., Signatories). The first signatories were Facebook, Google, Mozilla and Twitter, as well as the trade association representing online platforms (EDIMA) and the trade associations representing the advertising industry and advertisers (the European Association of Communication Agencies (EACA), IAB Europe and the World Federation of Advertisers (WFA), as well as the Belgian national association of the WFA, the Union of Belgian Advertisers (European Commission, 2020, p. 3). Gradually, other signatories joined, bringing the total number of signatories to 41 who have now signed up to the strengthened version of 2022 (European Commission, 2022b and Code of Practice on Disinformation. Signatories).

In terms of monitoring mechanisms, it was agreed that the implementation of the Code would be regularly reviewed at meetings of the signatories and that an external body could verify compliance with the Code at regular intervals by producing reports. At the same time, the European Commission was given a complementary role in overseeing the implementation process, without being given the power to impose sanctions for omissions or non-compliance. Moreover, in line with the self-regulatory nature of the Code and the trend in international and European law, an interesting alternative mechanism for



the amicable resolution of disputes that may arise in the implementation of the Code was envisaged. Under the terms of the Code, any signatory was allowed to notify another party that it believed that the other signatory had breached any of the obligations to which it had committed itself. If no agreement could be reached, the problem could be dealt with in a plenary meeting of the signatories, the last resort being a decision to expel the non-compliant entity from the group of signatories to the Code (European Commission, 2018b, Measuring and Monitoring the Code's effectiveness, Assessment Period and Signatories).

After the entry into force of the 2018 Code, signatories started to implement their obligations and, after the first year, the first assessments of its effectiveness were carried out, including the one prepared by the European Commission (European Commission, 2020). The Commission's evaluation recognised that the 2018 Code had provided a framework for a structured dialogue between relevant industry stakeholders, the Commission and the authorities of the European Regulators' Group for Audiovisual Media Services (ERGA), and for greater transparency of platform policies against disinformation in the EU (European Commission, 2020, p. 4). Despite these achievements, the Commission identified a number of shortcomings in the implementation of the Code. These included inconsistent and incomplete implementation of the Code across platforms and member states, limitations inherent in the self-regulatory nature of the Code and gaps in the coverage of the Code's commitments. The evaluation also highlighted the lack of an adequate monitoring mechanism, including key performance indicators (KPIs); the lack of commitments on access to platform data for research on misinformation; and the limited involvement of stakeholders, in particular from the advertising industry (European Commission, 2021, p. 1). The Commission highlighted one area where the Code had not made sufficient progress, namely the demonetisation of disinformation, as online advertisements continued to incentivise the spread of disinformation (*ibid.*, p. 2).

It is interesting to note that the first experiences of codes of good practice, especially the 2018 EU one, which had been drafted following the indications of the 2018 report of the High-Level Expert Group to advise on policy initiatives to counter fake news and disinformation circulating online and trying not to encroach on press freedom and freedom of expression, did not prove to be very successful. Indeed, it is striking that, alongside the Commission's own perception of the lack of teeth and effectiveness of the 2018 Code of Practice on Disinformation, comparative doctrine also echoed widespread scepticism about the effectiveness of self-regulatory institutions in general and press councils in particular, even among journalists themselves (Cavaliere, 2020, p. 149). As a result, there were many voices in favour of implementing stricter measures channelled through hard law instruments, both at national and EU level (Kobernjuk & Kasper, 2021, pp. 186-195).

Thus, a process of reform of the 2018 Code was undertaken in which the Commission's 2021 document entitled "European Commission Guidance on Strengthening the Code of Practice on Disinformation" (European Commission, 2021) played an important role. Indeed, the signatories of the 2018 Code of Practice, together with some new entities, drafted a new instrument, which was published on 16 June 2022 under the name: "2022 Strengthened Code of Practice on Disinformation" (European Commission, 2022b) that is still in force today.

The new code is intended to cover a broader spectrum of entities than the previous 2018 instrument, which mainly included large online platforms as well as the main trade associations of the European advertising industry. The new code therefore brings together a wide range of actors, including players in the advertising ecosystem, ad tech companies, fact-checkers, emerging or specialised platforms, civil society and third-party organisations with specific expertise in disinformation (European Commission, 2022c).

The Strengthened Code aims to address the shortcomings of the previous code through more robust and detailed commitments and measures, which are based on operational lessons learned in recent years. These lessons included the Covid pandemic and Russia's use of disinformation for military purposes as part of its plan to invade Ukraine, as Věra Jourová, Vice-President for Values and Transparency, pointed out during the Commission's presentation of the new Code of Practice (European Commission, 2022d).

Indeed, these two factors, which are so important in the lives of Europeans because of their seriousness, are behind the EU's policy change in the fight against disinformation.

By way of illustration, although it is not necessary, let us recall that the Covid-19 pandemic was accompanied by powerful disinformation campaigns, with the World Health Organisation describing the situation as “infodemic” (World Health Organisation, 2018, p. 34).

For its part, in relation to Russia, the EU has for years detected its intervention in the internal affairs of member states, as well as its attempts to destabilise the EU itself. Thus, among many other examples that could be cited, the European Parliament has even considered certain disinformation campaigns as security threats in its resolution of 9 March 2022 on foreign interference in all EU democratic processes, including disinformation, pointing directly to Russia and China, among others. Indeed, the European Parliament stated that the aforementioned acts of information manipulation and other tactics of interference in democratic processes in the EU are part of a “hybrid warfare strategy” and, among other things, concludes by bluntly stating that they constitute “[...]a serious threat to EU security and sovereignty” (European Parliament, 2022, paragraph E). For its part, the Council of the European Union has also established a link between disinformation campaigns and security threats. Thus, in its Strategic Security and Defence Compass it clearly underlines that Russia threatens the European order when it comes to the security and protection of European citizens, not only through armed aggression, but also through the use of information manipulation campaigns (Council of the European Union, 2022, p. 5).

Faced with these violations by Russia of the rights of the Union and its member states, the EU has reacted in various ways, even imposing sanctions on Kremlin-friendly media outlets, as was the case in 2022 with Russia Today or Sputnik (European Commission, 2022a), or more recently with Voice of Europe in 2024. In relation to Voice of Europe, it should be recalled that restrictive measures have been imposed on it for having orchestrated a campaign of media manipulation and disinformation aimed at destabilising Ukraine, the EU and its member states, and for having served as a vehicle for channelling financial resources for the remuneration of propagandists and the creation of a network that exerts influence over representatives of political parties in Europe (Council of the European Union, 2024b).

Having outlined some of the reasons for the toughening of EU measures in the fight against disinformation, let us continue with the presentation of its main characteristics. In this regard, it should be noted that it contains a greater number of obligations than that of 2018, although it generally retains the characteristics of soft law instruments. However, among the shortcomings of the 2018 Code that the new 2022 version seeks to remedy, we will highlight those relating to the control and enforcement mechanisms. In this direction, the creation of a Transparency Centre, accessible to all citizens, was envisaged to provide an overview of the implementation of the Code's measures, generating greater transparency (European Commission, 2022b, Commitments 34-36). A Task Force composed of representatives of the signatories, ERGA, EDMO and EEAS, and chaired by the Commission, was also set up (ibid., Commitment 37). In my view, the fact that this Task Force includes representatives of various EU bodies, even if the Code remains self-regulatory in nature, is an additional guarantee for its implementation.

### **3. Towards a time of tough EU action against online platforms to combat disinformation?**

In the previous section we noted a shift in the EU's hard law policies in the fight against disinformation, prompted by the ineffectiveness of several of its earlier measures and the increasing seriousness of the threats posed by disinformation campaigns, as evidenced by the Covid pandemic and the recent and growing attacks from Russia.

One manifestation of this shift is palpable with regard to the Strengthened Code of Practice on Disinformation, which, as we have already stressed, included improved aspects compared to the 2018 version, especially in terms of control and monitoring mechanisms, which allow us to appreciate characteristics that are already closer to hard law, which is why we bring them up in this section.

Thus, as regards the monitoring framework, it should be noted that the new Code includes service level indicators to measure the implementation of the Code in the member states and in the EU. In this context, it was foreseen that, in early 2023, the signatories would provide the Commission with the first baseline reports on their implementation of the Code. Thereafter, large online platforms, as defined in the DSA (European Parliament and Council of the European Union, 2022, Article 33), would report every six months, while other signatories would report annually.

The 2022 Strengthened Code also contains a clear commitment to work towards establishing structural indicators to measure the overall impact of the Code on misinformation (European Commission, 2022b, Commitments 38-42).

Similarly, as mentioned in the introduction, in terms of the implementation of the Code, it is worth mentioning that it is part of a broader regulatory framework, in combination with legislation on transparency and targeting of political advertising and the DSA. On the other hand, the European Commission is already announcing on its website to inform about the 2022 Strengthened Code of Practice that, for signatories that are very large online platforms, the Code is intended to become a mitigating measure and a recognised Code of Conduct in the co-regulatory framework of the DSA (European Commission, 2025b). This would imply that adherence to the Code will be a way of demonstrating that they are mitigating the risks required by the DSA, which would not only contribute to transparency, but may also help them to avoid legal sanctions. However, it is not clear what transforming from a code of good practice to a code of conduct would contribute, although perhaps the response would be to strengthen the guarantees of its effective implementation through external monitoring mechanisms and regular evaluations, as is the case with the codes of conduct provided for by Article 40 of the General Data Protection Regulation (European Parliament and Council of the European Union, 2016), which would certainly demonstrate the consolidation of the aforementioned trend of tightening EU policies in this area.

In relation to legislation on transparency and targeting of political advertising, it should be noted that the European Parliament and the Council have recently adopted a new regulation in this area, Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising (European Parliament and Council of the European Union, 2024), which aims to counter information manipulation and foreign interference in elections (Council of the European Union, 2024a).

The new Regulation on the transparency and targeting of political advertising recognises that while political advertising can be disseminated or published both online and through traditional channels, it is increasingly carried out through online platforms, websites, mobile applications, computer games and other digital interfaces (European Parliament and Council of the European Union, 2024, recital (2)), which multiplies the risk of the presence of the tares of disinformation. For the purposes of this article, it should be stressed that the Regulation on the transparency and targeting of political advertising stipulates that political advertising service providers must comply with transparency and due diligence obligations, ensuring that information on political advertisements is accessible and verifiable (*ibid.*, Articles 11 and 12). Also, in order to avoid external influences, the provision of advertising services to third country sponsors is prohibited during the three months preceding an EU election or referendum (*ibid.*, Article 5).

It is very interesting to note that Article 25 provides for penalties for sponsors or political advertising service providers for breaches of their main obligations, which can amount to up to 6% of the total annual revenue or budget of the sponsor or political advertising service provider or 6% of the worldwide turnover of the sponsor or political advertising service provider in the preceding financial year (*ibid.*, Article 25).

As regards the DSA, it should be noted that it imposes heavy obligations on large online platforms and search engines. As announced earlier, the Regulation classifies platforms or search engines with more than 45 million users per month in the EU as very large online platforms (VLOPs) or very large online search engines (VLOSE) (European Parliament and Council of the European Union, 2022, Article 33). These companies must, among other things, report criminal offences; have user-friendly terms and conditions; be transparent about advertising, recommendation systems or content moderation decisions; and demonstrate a proactive profile in looking for systemic risks associated with their services in terms of illegal content, public safety, fundamental rights, etc. (*ibid.*, Articles 34-43). And, importantly for the effectiveness of the obligations imposed, in case of non-compliance with the key obligations included in its articles, fines of up to 6% of the annual worldwide turnover or temporary suspension of the service can be imposed (*ibid.*, Articles 52, 73, 74 and 76).

Let us now review the level of compliance and enforcement of the 2022 Strengthened Code of Practice.



In this regard, we should start by noting that the Permanent Task Force has already been established, the Transparency Centre has been set up<sup>1</sup> and work is underway to develop structural indicators, as required by Commitment 41 of the Code, to assess the effectiveness of the Code in reducing the spread of disinformation online for each relevant signatory and for the entire online ecosystem at EU and member state level (Nenadić et al., 2023/2024; TrustLab, 2023).

On the other hand, the European Commission designated, as required by Article 33 of the DSA, very large online platforms and very large search engines, which have at least 45 million monthly active users (European Commission, 2023a), with a total of 20 entities currently qualifying under the aforementioned provision (European Commission, 2025a).

Similarly, since January 2023, the signatories have been issuing their compliance reports in relation to the 2022 Strengthened Code of Practice as a whole and to each of the commitments they have made by signing up to it<sup>2</sup>. Thus, in January 2023, although most of them did so (27 out of 34), it is worth noting the lack of compliance of a good number of them already. Among the signatories that submitted their reports, Google, for example, indicated that in the first half of 2023 it prevented more than 31 million euros in advertising from going to disinformation actors in the EU and that it rejected 141,823 political advertisements for not complying with identity verification procedures (European Commission, 2023b). In the same vein, we should note that TikTok, for example, highlighted that in the same period, 140,635 videos with more than 1 billion views were removed from the platform for violating its disinformation policy (ibid.). Google's July 2023 report is of particular interest as it includes data on the Russian government's use of disinformation for war purposes even before the invasion of Ukraine and NATO member states (Google, 2023a, Section 1, Government-backed attackers; Google, 2023b).

However, it even appears that the reporting trend is downward (Mündges & Park, 2024, p. 15), as in January 2025, only 26 of the 41 signatories are recorded as having submitted the third report for March 2024, and as of 16 January 2025, only 14 of 41 have submitted the fourth report for September 2024, although it is possible that, although they have been submitted, they have not yet been uploaded<sup>3</sup>.

For its part, the ERGA issued a report in November 2024 on the progress and challenges of the 2022 Code of Practice on Disinformation. It noted that an assessment conducted in spring 2024 by nine National Regulatory Authorities (NRAs) of the quality of reporting by Code signatories highlighted that, in certain areas, platform reporting remained deficient, especially in areas such as political advertising, access to data by researchers, and support for fact-checking and media literacy initiatives (ERGA, 2024). Alongside this, ERGA warned that, in its view, platforms need to invest more resources at the national level to better deliver on their commitments. This includes increased support for fact-checking organisations and media literacy initiatives (ibid.).

In parallel, let us note that Maldita.es, a Spanish media outlet specialising in fact-checking, with legal personality as a foundation, which is a signatory to the 2022 Strengthened Code of Practice, advanced in its September 2024 report, in relation to the June 2024 European Parliament elections, that the five major online platforms analysed (Facebook, Instagram, TikTok, X and YouTube) had failed to act against half of the content discredited by independent fact-checking organisations across Europe prior to the elections (over 1,300 posts). It also warned that visible action had been taken against 75% of disinformative content on YouTube and 70% on X, while Facebook had responded to 88% of discredited posts, Instagram to 70% and TikTok to 40%. In this regard, it noted that the 20 most viral posts or videos that did not receive any action from the platforms that hosted them accumulated more than 1.5 million views each (Maldita.es, 2024).

With regard to the procedures foreseen in the DSA in view of the possible adoption of decisions under Articles 73 and 74 of the Regulation in respect of the conduct in question by very large online platforms or search engines suspected by the Commission of having infringed any of the provisions of the Regulation, it should be noted that, as of January 2025, the Commission has opened a total of 8 infringement procedures (European Commission, 2023c and European Commission, 2024a-j). So far, among them, in one case, the Commission informed TikTok of its intention to impose interim measures consisting in the suspension of the TikTok Lite rewards programme in the EU pending the assessment of its safety (European Commission, 2024c). In response to these assessments, TikTok stated a few

<sup>1</sup> Transparency Centre. <https://disinfocode.eu/>

<sup>2</sup> Transparency Centre. Report Archive. <https://disinfocode.eu/reports-archive/?years=2024>.

<sup>3</sup> Transparency Centre. Report Archive. <https://disinfocode.eu/reports-archive/?years=2024>.

months later that it was committed to permanently withdrawing the TikTok Lite Rewards programme from the EU in order to comply with the DSA (European Commission, 2024g). Similarly, on another occasion in the framework of these 8 infringement proceedings initiated, the Commission issued a “restraint order” to TikTok under the DSA, ordering the platform to freeze and preserve data related to the actual or foreseeable systemic risks that its service could pose to electoral processes and civic discourse in the EU, with the intention of preserving information and evidence available in the framework of the Commission's investigation in the infringement proceedings opened against the platform (European Commission, 2024i). And, in one case out of these 8 open proceedings, the Commission has already issued its preliminary infringement opinion on the DSA, specifically to the X platform, in areas related to dark patterns, advertising transparency and access to data for researchers (European Commission, 2024f).

So far, the Commission has never reached the stage of deciding on non-compliance and imposing the fines provided for in Articles 52, 73, 74 and 76 of the DSA on very large online search engines or platforms.

To these more or less official findings on the level of compliance by the large platforms with the 2022 Strengthened Code, we can add, going into the heart of the controversy raised in the first weeks of 2025, that, from our point of view, it is obvious that Twitter's exit in 2023 from the 2022 Strengthened Code of Practice does not give a good impression in terms of compliance with it and in terms of the commitment of this platform in the fight against disinformation (RTVE, 2023). Nor is Meta's decision to abandon its third-party fact-checking programme starting in the United States of America, when, moreover, the company's CEO has linked fact-checking to censorship (Meta, 2025), something that has already been harshly criticised by the European fact-checking network EFCSN (EFCSN, 2025), or to the excessive regulatory emphasis typical of the EU or Europe in general (Meta, 2025), going in the right direction.

## 4. Conclusions

In the war waged by the EU in recent years against disinformation, parallel to the one fought by all its member states, institutions, companies or European citizens, a relevant variation can be seen in the nature of the policies and measures it is implementing and promoting. In the first years of this path, the EU leaned towards self-regulatory and soft law policies and measures, in line with the trends of the times in international and European law, derived from the “better lawmaking” current, and, above all, advocated by a key instrument in this area, as was the report of the High-Level Expert Group on Fake News and Disinformation, published in 2018.

Following the recommendations of these experts, the European Commission encouraged online platforms and other players in the digital world to draw up a Code of Practice on Disinformation, which came out a few months later and was the first in the world in this field. This instrument responded to the characteristics of soft law, such as not including binding obligations on the signatories and coming from private actors, who, moreover, were the parties obliged to implement it.

Significant gaps in compliance were soon detected. For this reason, together with the realisation that disinformation was becoming increasingly serious in the context of the Covid pandemic and Russia's use of disinformation as a hybrid tactic to destabilise the EU or its member states, together with its invasion of Crimea and later of the whole of Ukraine, the Commission decided to promote a reform of the Code. Thus, the signatories of the old Code drafted and adopted a new instrument called the 2022 Strengthened Code of Practice on Disinformation (European Commission, 2022b).

However, having learned their lesson, it was decided to surround the new Code of Practice with more stringent elements, such as monitoring and control mechanisms and a greater number of obligations for signatories, although it cannot be said that the Strengthened 2022 Code is no longer a self-regulatory soft law instrument. On the other hand, we doubt that the adoption of hard law policies or measures will bear the expected fruit in the fight against disinformation. Indeed, given the complexity of this scourge, only a multidisciplinary, scientific, economic, political and legal approach is possible (Espaliú Berdud, 2024, p. 105; Lund, 2012, pp. 170-186; Mezei & Szentgáli-Tóth, 2023, p. 47). This means, for example, an approach that takes into account, on the one hand, the protection of fundamental freedoms of expression and information (Kuczerawy, 2021, p. 301; Monti, 2020, p. 219) and, on the other hand, the flexibility required by the online communications sector (Spanish Department of

National Security, 2022, p. 71). And such an approach can only be ensured by the joint efforts of the main private players in the digital sector and the public authorities at national, European and international level.

As regards the control and monitoring mechanisms for the implementation of the 2022 Strengthened Code of Practice, it is important to highlight the fact that it is part of a broader regulatory framework, in combination with, among others, two key instruments, the 2022 DSA and the 2024 Regulation on transparency and targeting in political advertising. In this way, the large online platforms and search engines combine the weak disinformation obligations they assume under the 2022 Strengthened Code of Practice with the strong obligations they assume under these two hard law instruments. And let us remember that these two instruments provide for significant fines for non-compliance.

The European Commission has also announced that the 2022 Code of Practice will be converted into a Code of Conduct in the framework of the DSA, which would reinforce its strictness and transform it into an instrument of co-regulation rather than self-regulation (Mündges & Park, 2024, p. 7).

However, since the entry into force of the 2022 Strengthened Code of Practice and the DSA, there is no evidence of an increased level of compliance by large online platforms - quite the contrary. However, although the Commission has already initiated several sanctioning procedures in the framework of the obligations included in the DSA on the load of large platforms and search engines, none of them have been concluded so far, so the fines referred to above have not yet been imposed. We therefore have no official evidence of serious non-compliance, only indications for the time being.

But the mood in the air is very pessimistic. In fact, in recent weeks we have witnessed a real battle between the Commission and the EU member states on the one hand, and on the other hand, the big online platforms, such as Meta, X and Google, regarding several obligations included in these instruments, such as fact-checking by third parties. As we know, Meta has announced, through its CEO, that it is abandoning the third-party fact-checking system, calling it “censorship”, and several European leaders have accused Elon Musk, CEO of X, who had already decided to abandon the 2022 Strengthened Code of Practice, of meddling in the internal affairs of their states. And a few days later, Google has also announced that it will not integrate fact-checking mechanisms directly into its search results and YouTube videos. This rarefied situation is undoubtedly being helped by the fact that Trump, whom Elon Musk has helped in the campaign and, predictably, in the government of the United States of America, is taking office at the beginning of his new term in office in the White House.

We can only wait and see whether this turn of the screw in the EU's policies in the fight against disinformation, by tightening the obligations on large online platforms and search engines, will be effective or not. What seems obvious to us is that the current climate of tension between the various actors involved does not contribute to a good implementation of the multidisciplinary and balanced approach that we advocate in the fight against disinformation.

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