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## OUTCOME OF PROCEEDINGS

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From:	General Secretariat of the Council
On:	14 June 2024
To:	Delegations

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Subject:	Council conclusions on enhancing and protecting free, open and informed democratic debate
	- Council conclusions (14 June 2024)

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Delegations will find in annex the Council conclusions on enhancing and protecting free, open and informed democratic debate as approved by the Council (Justice and Home Affairs) at its 4031<sup>st</sup> meeting held on 14 June 2024.

## **Council conclusions on enhancing and protecting free, open and informed democratic debate**

### **Preamble**

- a) **Recalling** Member States' obligation to guarantee the rights and freedoms enshrined in the Charter of Fundamental Rights of the European Union ('the Charter') and that those fundamental rights and freedoms are universal, indivisible, interdependent and interrelated, and apply both offline and online.
- b) **Reaffirming** the protection of the right to freedom of expression and information, as guaranteed by Article 11 of the Charter, which protects the freedom to hold opinions and to receive and impart information and ideas, without interference by any public authority and regardless of frontiers.
- c) **Recalling** that the exercise of the right to freedom of expression entails duties and responsibilities and that any limitation of that right and its exercise can only be made in accordance with the Charter and the European Convention on Human Rights and in line with the case-law of the Court of Justice of the European Union and the European Court of Human Rights. Member States remain free to adopt or maintain provisions that are more favourable in relation to the level of protection of those rights, based for example on constitutional rules relating to freedom of expression, in particular freedom of the press and freedom of expression in other media.
- d) **Recalling** Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, as amended by Directive (EU) 2018/1808 (Audiovisual Media Services Directive)<sup>1</sup>, which promotes media literacy skills, in particular by requiring Member States to ensure that video-sharing platforms under their jurisdiction provide for effective media literacy measures and tools, as appropriate.

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<sup>1</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, OJ L 303, 28.11.2018.

- e) **Recalling** the European Media Freedom Act (EMFA)<sup>2</sup>, which aims to uphold and strengthen democratic discourse and the principles of media freedom, pluralism, and independence across the European Union.
- f) **Recalling** EU Regulation 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC ('Digital Services Act' or 'DSA')<sup>3</sup>. **Stressing** in particular the provisions relating to the obligations on providers of very large online platforms and very large online search engines, notably on content moderation, transparency in algorithmic processes, risk assessments and risk mitigation measures regarding the systemic risks related to freedom of expression and information, any actual or foreseeable negative effects on democratic processes and the dissemination of illegal content, such as illegal hate speech.
- g) **Recalling** the EU Regulation<sup>4</sup> on transparency of political advertising and **stressing** that political advertising can be a vector of disinformation or manipulation of information especially where the advertising does not disclose its political nature, and where it is targeted.
- h) **Recalling** that counteracting illegal online hate speech requires a careful assessment of fundamental rights, notably regarding human dignity (Article 1 of the Charter), the right to respect for private and family life (Article 7 of the Charter), the right to freedom of expression and information (Article 11 of the Charter), the right to non-discrimination (Article 21 of the Charter) and the principle of legality and proportionality (Article 49 of the Charter).
- i) **Recalling** Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law<sup>5</sup>.
- j) **Recalling** the 2022 Council conclusions on combating racism and antisemitism, the 2023 Council conclusions on the role of the civic space in protecting and promoting fundamental rights in the EU, and the 2023 Council conclusions on digital empowerment to protect and enforce fundamental rights in the digital age.

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<sup>2</sup> Regulation (EU) 2024/1083 of the European Parliament and the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act), OJ L 1083, 17.4.2024.

<sup>3</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC, OJ L 277, 27.10.2022.

<sup>4</sup> Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising (OJ L, 2024/900, 20.03.2024).

<sup>5</sup> Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328, 6.12.2008.

- k) **Welcoming** the Declaration on Digital Rights and Principles for the Digital Decade of 26 January 2022 and **recalling** the Commission Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Democracy Action Plan of 3 December 2020<sup>6</sup>.
- l) **Welcoming** the work of the European Union Agency for Fundamental Rights (hereinafter ‘the Fundamental Rights Agency’), including its report of 22 September 2021 on protecting civic space in the EU and its annual updates, and its report of 29 November 2023 regarding online content moderation and the current challenges in detecting hate speech.

### **Enhancing and protecting free, open and informed democratic debate**

#### **The Council of the European Union:**

1. **Recalls** that the Union is based on the values, common to the Member States, of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities<sup>7</sup>. **Emphasises** that the right to freedom of expression and information constitutes one of the essential foundations of a democratic and pluralist society.
2. **Highlights** the fundamental role played by citizens in European democracy and the need to ensure a society characterised by pluralism, tolerance, non-discrimination, inclusiveness and mutual respect, both online and offline, in particular by fostering a culture of understanding and by discouraging the use of conspiracy myths and stereotypical and misinformed negative representations of individuals and groups, for example on the basis of their gender, their real or perceived association with ethnic or religious groups or any other basis.
3. **Deplores** the recent alarming rise in hate incidents targeting women and individuals belonging to minorities, and **recalls** the European Council conclusions of 15 December 2023 condemning in the strongest possible terms all forms of antisemitism and hate, intolerance, racism and xenophobia, including anti-Muslim hatred<sup>8</sup>.

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<sup>6</sup> COM (2020) 790 final.

<sup>7</sup> Article 2, Treaty on European Union.

<sup>8</sup> European Council conclusions of 15 December 2023, §33.

4. **Notes with concern** that disinformation and especially online disinformation is spreading widely, causing a significant risk of erosion of trust in institutions and in the media<sup>9</sup>, hampering everyone's right to access reliable and pluralist information and their ability to take informed decisions, challenging democratic processes and contributing to social polarisation.
5. **Emphasises** the urgent need for action, as the destructive effects of hate and polarisation<sup>10</sup> challenge the foundations of democratic values, fundamental rights and freedoms, the rule of law and social cohesion<sup>11</sup>. Such destructive effects may lead to the incitement of violence and discrimination, and pose a substantial threat not only at an individual level but also to the broader social framework, the legitimacy of institutions and public order. **Recognises** the complexity of addressing the negative effects of hate and polarisation, and **emphasises** that comprehensive measures are needed to bridge social gaps, while taking into account different perspectives.
6. **Stresses** that actions should include a whole-of-society approach, with a specific focus on education, online media literacy and awareness-raising to combat the destructive effects of hate and polarisation.
7. **Recalls** that democracy cannot thrive without the freedom of expression that allows individuals, journalists, academics, artists, civil society organisations (CSO), human rights defenders and others, to express their views without interference, while taking into account people's fundamental right to obtain impartial information, as well as respect for the fundamental right to protect one's reputation, protection of personal data and privacy. **Emphasises** that the primary responsibility to protect freedom of expression and pluralism rests with the competent authorities of the Member States.
8. **Highlights** the importance of maintaining high professional standards<sup>12</sup> for public officials in the exercise of their public duties in order to promote public trust in and support for their institutional system.
9. **Acknowledges** the significant role played by civil society organisations and local communities in fostering dialogue and transparency, explaining institutional processes, or combating the destructive effects of hate and polarisation.

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<sup>9</sup> See for instance, World Economic Forum, [The Global Risks Report 2024](#), pp. 17, 18 and 98, highlighting the risk for such effects.

<sup>10</sup> Discrimination and racism are instances of harmful consequences arising from hate and polarisation.

<sup>11</sup> See for instance, JOIN (2023) 51.

<sup>12</sup> E.g. codes of conduct, etc.

10. **Recognises** that journalists and free, independent and pluralistic media play an important role in facilitating public debate and in the imparting and reception of information, opinions and ideas.
11. **Stresses** the opportunities offered by the digital environment, which gives individuals access to a plural and dynamic space for expression and information, but also the associated risks and challenges, which must be mitigated by effective online content moderation while respecting freedom of expression and information.
12. **Expresses** its willingness to continue its work on combating hate speech and hate crime at EU level.

**The Council of the European Union invites Member States to:**

13. **Promote** comprehensive awareness-raising campaigns, preventive measures and educational initiatives to equip individuals with civic competencies, as well as critical thinking skills, media literacy and the ability to discern reliable information. **Encourage** the development of media literacy and critical thinking skills as well as civic competencies in education.
14. Where appropriate, **encourage** the establishment of centralised platforms or resources for educational materials, toolkits and guidelines that can be used to develop and implement media literacy programmes like the one created by the European Digital Media Observatory<sup>13</sup>. These programmes could include approaches to combating stereotypes and promoting an understanding of diversity and inclusiveness in society, with the aim of fostering an environment where all voices can be heard.
15. Where appropriate, **allocate** funds for projects and initiatives that promote inclusive public discourse, critical thinking, fact-checking, media literacy and education on democracy and fundamental rights.
16. **Stimulate** understanding of the dynamics of hate and polarisation, **monitor** progress in mitigating the adverse effects of hate and polarisation and **adapt** policies and communications accordingly.
17. **Strengthen** initiatives to develop social cohesion and reduce social polarisation among individuals, regardless of gender, social or ethnic origin, religion or belief, disability, sexual orientation, age, political or other opinions, among other factors.

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<sup>13</sup> <https://edmo.eu/resources/repositories/mapping-the-media-literacy-sector/>

18. **Commit** to fostering informed, respectful and inclusive discussions both in real life and online to counter the destructive effects of hate and polarising narratives. **Design** and **implement** targeted preventive or awareness-raising measures on the destructive effects of hate and polarisation, emphasising the importance of diverse perspectives, the balancing of interests and the promotion of constructive dialogue. **Collaborate**, where relevant, with local communities, civil society organisations, media actors and the tech industry to ensure that the campaigns are context-relevant and accessible.
19. **Support** community-building programmes and intercultural initiatives that facilitate dialogue, understanding, collaboration and social cohesion among diverse real or perceived groups.
20. **Design, implement** and **promote** citizen participation and deliberation exercises to tackle hate and polarisation and their destructive effects on democracy and to **support** the promotion of a safe and enabling civic space and the participation of individuals and civil society organisations in deliberative and participative policy-making processes at both local and national levels.
21. **Support** and **empower** civil society organisations through funding and collaborative initiatives, recognising their pivotal role in combating the destructive effects of hate and polarisation, both online and offline. **Ensure** cooperation with a wide array of civil society organisations aiming to foster inclusion and reflecting the diversity of society<sup>14</sup>.
22. **Promote** the role of National Human Rights Institutions and Equality Bodies in fostering a free and informed democratic debate, by monitoring fundamental rights compliance at national level, conducting research on fundamental-rights-related topics at national level, or by fulfilling any other additional tasks that may fall within their mandate as defined at national level, such as supporting and empowering individual victims of rights violations.
23. **Foster** free, independent and pluralistic media by adopting suitable measures that promote media diversity and representation. This could include supporting pluralistic, independent and diverse media outlets, ensuring equitable access to information for all segments of society, protecting journalists and their sources, taking adequate measures to ensure free access to a diversity of sources and perspectives, or facilitating media innovation.

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<sup>14</sup> To be understood in the whole text in line with Article 21 of the Charter, i.e. "sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation".

24. **Strengthen** the capacity of and coordination between relevant national regulatory and law enforcement authorities to monitor and address, in accordance with applicable law, instances of illegal content inciting discrimination, racism, or hate, in accordance with fundamental principles relating to freedom of the press and freedom of expression. **Provide** those authorities with the tools and mechanisms needed to support judicial authorities in investigating and, if appropriate, in taking action, in accordance with applicable law, against individuals or entities spreading illegal content inciting discrimination, racism or hate, while safeguarding fundamental freedoms and the principles of lawfulness, necessity and proportionality.
25. **Establish**, in accordance with the DSA, the necessary channels between the competent national authorities and the Digital Services Coordinator so that information relevant for the enforcement of the DSA can be communicated.
26. **Encourage** appropriate allocation of resources for research projects focusing on understanding the dynamics of the dissemination of disinformation inciting discrimination or hate. **Encourage** collaboration between academics, fact-checkers, civil society organisations, technology experts and media professionals to develop innovative solutions, early detection mechanisms and other tools, such as the 2022 Code of Practice on Disinformation.
27. **Integrate** approaches to countering the specific harmful effects of online-rooted hate and polarisation into policy-making by investing in understanding the dynamics behind them. **Tailor** policies and communications to address these issues effectively, while still safeguarding the freedom of expression and information.
28. **Promote** training for law enforcement agencies and other competent authorities –to ensure comprehensive coverage, identification, reporting or removal of content on online platforms only where provided for by law and where such action is necessary and proportionate. Where relevant, **collaborate** with very large online platforms to develop online content-moderation IT tools to assist those authorities in monitoring and analysing online content, after thoroughly testing the extent to which the tools are fit for purpose and do not undermine fundamental rights and freedoms.



## **The Council of the European Union:**

29. **Recalling** the Joint Communication of the Commission and of the High Representative for Foreign Affairs and Security Policy of 6 December 2023, ‘No place for hate: a Europe united against hatred’<sup>15</sup>, which aims to step up EU efforts to fight hatred in all forms, by reinforcing action across a variety of policy areas, focusing in particular on protecting people and public spaces by engaging society as a whole.
30. **Recalling** Commission Recommendation (EU) 2023/2836 of 12 December 2023 on civic engagement<sup>16</sup>, Commission Recommendation (EU) 2023/2829 of 12 December 2023 on inclusive and resilient elections<sup>17</sup>, Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union<sup>18</sup>, Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings<sup>19</sup>, and the Directive<sup>20</sup> on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings.
31. **Welcoming** the work of the Commission and **taking note** of the various strategies which the Commission has developed in recent years to address the particular situations and challenges encountered by individuals facing discrimination<sup>21</sup>.

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<sup>15</sup> JOIN (2023) 51.

<sup>16</sup> Commission Recommendation (EU) 2023/2836 of 12 December 2023 on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes, OJ L 2836, 20.12.2023.

<sup>17</sup> Commission Recommendation (EU) 2023/2829 of 12 December 2023 on inclusive and resilient electoral processes in the Union and enhancing the European nature and efficient conduct of the elections to the European Parliament, OJ L 2829, 20.12.2023.

<sup>18</sup> Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, OJ L 331, 20.9.2021.

<sup>19</sup> Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’), OJ L 138, 17.5.2022.

<sup>20</sup> Directive (EU) 2024/1069 of the European Parliament and the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (‘Strategic lawsuits against public participation’), OJ L 1069, 16.4.2024.

<sup>21</sup> The [EU Anti-racism Action Plan 2020-2025](#), the [EU Strategy on combating antisemitism and fostering Jewish life \(2021-2030\)](#), as well as the [Gender Equality Strategy 2020–2025](#), the [LGBTIQ Equality Strategy 2020–2025](#), the [Strategy for the rights of persons with disabilities 2021–2030](#), the [EU Roma strategic framework for equality, inclusion and participation 2020–2030](#) and the EU Strategy on the Rights of the Child.

32. **Recognising** the important work in qualitative and quantitative data collection done by the Fundamental Rights Agency and **encouraging** the Agency to work on new challenges in the field of fundamental rights, hate speech and online content moderation, especially in the context of understanding the fundamental rights implications of systemic risks involving the spread of illegal hate speech and polarisation.

**Invites the Commission to:**

33. **Follow up** on the Joint Communication of 6 December 2023 from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy ‘No place for hate: a Europe united against hatred’.
34. **Provide** the Council with an overview of the state of implementation of the initiatives undertaken in the area of combating the destructive effects of polarisation, hate speech and disinformation, as set out in the Joint Communication of 6 December 2023, while identifying areas that may still require specific actions or that may benefit from a coordinated approach.
35. **Continue to provide**, within the existing financial support from the current Multiannual Financial Framework, adequate and accessible funding to programmes on media literacy and on civic competences, to projects in support of civil society organisations’ capacity-building to foster digital abilities, and to community-driven projects that foster dialogue, cooperation and understanding. When allocating this financial support, **prioritise** initiatives that bring together diverse groups to strengthen social cohesion and counter divisive forces.
36. **Raise awareness** of shared European values, including respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities<sup>22</sup>, encouraging individuals to participate actively in an inclusive public debate.
37. **Continue** to protect, support and empower civil society organisations, media and journalists and human rights defenders, and to encourage them to collaborate with each other to address issues – including conflicting issues – from an integrated perspective, and, where appropriate, to participate in policy and decision-making processes.

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<sup>22</sup> Article 2, Treaty on European Union.

38. **Foster** an inclusive and pluralistic public discourse to discuss solutions to common problems, by supporting online and offline environments where individuals feel comfortable expressing their opinions, including dissenting ones. **Foster** collaborative channels, including citizens' panels to promote a more balanced representation of diverse perspectives within the broader narrative.
39. In the context of the implementation of the DSA, **enforce** the obligations regarding very large online platforms and very large online search engines, inter alia by **collaborating** with national governments to support trusted flaggers, leveraging the involvement of civil society organisations in order to identify various forms of illegal online hate speech with a view to addressing the destructive effects of online-rooted hate and polarisation. **Continue** to work with the signatories of the 2016 Code of Conduct on countering illegal hate speech online and of the 2022 Code of Practice on Disinformation to reap the full benefits of these codes with regard to reducing the spread of hate speech and disinformation with its measures fully upholding freedom of expression and information.
40. **Promote** the use of the EU Rapid Alert System (RAS) to facilitate the sharing of insights relating to disinformation campaigns, and coordinate responses among the EU institutions and Member States. **Encourage** enhanced coordination between the RAS and the European Digital Media Observatory and its regional hubs, and encourage those bodies to focus on the impact of disinformation regarding the spread of hateful content and polarisation.
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