

Reviewing progress on the EDAP

Assessing one year of implementing the European Democracy Action Plan (EDAP)

One year after the adoption of the EDAP, the Commission's track record is impressive: out of the 30 action points it set out for itself, the Commission has completed 13 and made progress on 11. While some Commission proposals and initiatives are imperfect, this progress points to a clear prioritisation of democracy issues by the current Commission. Such progress is encouraging given the global crisis of democracy aggravated by the pandemic.

The further implementation of the EDAP in 2022 - and more broadly EU ambition on democracy in the next year - will be essential for the EU's legitimacy, resilience, and unity. This paper first provides an overall assessment of the state of implementation of the EDAP one year after adoption, before analysing the three pillars of the EDAP to assess the progress made on each of the commitments.

Quick wins

The Commission worked hard to push through a number of the commitments from the EDAP in its first year of implementation. In a single year, the Commission published a legislative proposal on the transparency of political ads, a recommendation on ensuring the safety of journalists, new guidance for the revamped Code of Practice on Disinformation, and published a number of calls for proposals aimed at bolstering civil society, media and youth in advancing civic participation and countering disinformation, as well as research

on topical democracy issues such as deliberative democracy. These achievements are impressive. Even if we are critical of some elements of these different initiatives - such as the lack of targeting limitations for political ads - we are also cognisant of the tremendous work the Commission has done within a 12 month period.

As the Commission has worked so fast, there are signs that some of these initiatives may have benefited from longer deliberation. Despite the EDAP's positive prose regarding civil society's important role in the rule of law reporting, the 2021 report was marked by an impossibly short deadline for the consultations - adding to an opaque consultation process for the country visits. Moreover, there is a lot to be said for slowing down the regulation on the transparency of online political advertising, as this is closely connected to the Digital Services Act (DSA) - a law which has not even entered trilogues yet.

Initial progress

Other processes experienced slight delays, owing to the [growing](#) number of stakeholders involved, such as the Code of Practice on Disinformation 2.0. Inclusive processes take time, and with the increased number of signatories to the code, it is only logical that the process requires sufficient time for discussion and buy-in. On disinformation, it is unclear whether any movement has been made regarding the harmonised methodology, coordination platform and protocol for analysing foreign interference. Yet the CSOs and experts consulted have questioned the use of methodologies and protocols, stressing the need for addressing disinformation in those communities engaged

in spreading and countering disinformation, and criticising the EU's approach of mischaracterising foreign interference, both as independent from EU domestic dynamics of disinformation and as a greater threat than homegrown disinformation communities. 2022 will prove pivotal for defining the EU's approach to disinformation on online platforms, with the adoption of the new Code of Practice and the DSA.

2022 will also be a key year for the EDAP implementation regarding media freedom and pluralism. The Commission will publish the legislative proposal on Strategic Lawsuits Against Public Participation (SLAPPs) in Q2. An ambitious regulation will be essential for protecting journalists and activists in Europe, yet certain measures to protect victims of SLAPPs and guarantee access to justice in both cross-border and national cases reportedly face the opposition of a number of Member States. With the Parliament adopting a very progressive report earlier in 2021, we expect to see intense trilogues. On top of this, a proposal for the Media Freedom Act is expected in July 2022.

Missed opportunities

While the EDAP was the first policy document to focus on strengthening democracy within the EU, a number of key democracy issues were left out. Namely, the EU is yet to commit to adopting a policy framework on civic space, despite this being supported by a wide range of non-state actors and the European Parliament. Moreover, the Commission's civil society engagement in 2021 remained ad-hoc and varied greatly across DGs, with no movement on calls for an Inter-Institutional Agreement on civil dialogue.

While some positive initiatives were taken to increase the inclusiveness of European elections - through measures to advance gender equality in European political parties and to ease access to the right to vote for EU citizens residing in other Member States - some major hurdles to inclusive elections are not being addressed. In particular, the disenfranchisement of the vote for the 800.000 European citizens with a disability.

The EDAP set the wheels in motion of a number of important European policy processes. With good progress having been made in 2021, the coming year brings a series of challenges with critical elections taking place around Europe, rule of law troubles in many Member States and a series of key action points under the EDAP that will need to progress (see below). With democracy under stress across the continent, the EU and its Member States will need to continue to drive pro-democratic policy change and show the ambition required to ensure democracy is a core priority in the years ahead.

1. PROTECTING ELECTION INTEGRITY AND PROMOTING DEMOCRATIC PARTICIPATION

Transparent political campaigning

The European Commission issued a proposal for a [Regulation on the transparency and targeting of political advertising](#) in November 2021. The regulation defines what a political advertisement is, the information that has to be shared with the viewer of the ad in the ad and in a transparency notice, as well as information about targeting and amplification. It also includes guidelines for Member States to help them define dissuasive and proportionate sanctions.

EPD [reacted](#) to the publication highlighting its strengths and weaknesses. While the definition of political advertisement is sound, further guidance on the interpretation of the definition is needed to prevent arbitrary implementation. The transparency foreseen in the proposal will be very positive for the viewer of the ad, but fails to provide transparency on campaigns to society at large. The proposed transparency provisions for the viewer of the ad on the targeting and amplification techniques used are a step forward, but the use of inferred, sensitive data remains unaddressed. The proposal lays the foundations for a solid enforcement and sanctions regime, but it will take each and every Member State introducing dissuasive sanctions and [staffing and funding data protection](#) authorities appropriately to ensure the effectiveness of the regulation.

European elections and civic participation

The Commission also proposed a [regulation on the statute and funding of European political parties and European political foundations](#). The proposal includes obligations of gender equality - upon which funding is conditional - and extends the requirement to observe the values in Article 2 TEU to include (national) member parties. While ad transparency over a cross-party ad repository is also included in the proposal, this does not resolve the concerns for public-level transparency raised in the above

paragraph. In addition, the proposal includes a general update to the funding and auditing regime that closes loopholes and which would allow greater involvement in European political parties by political parties from countries that are part of the Council of Europe but not the EU.

Although not part of the EDAP, the Commission has also published two proposals for recasting the Directives on the right to vote and stand as candidates in elections to the [European Parliament](#) and [municipal elections](#) by Union citizens residing in a Member State of which they are not nationals. Ensuring the right to vote for all European citizens was a key demand by civil society in the drafting of the EDAP. This initiative acknowledges that EU citizens residing in a Member State of which they are not nationals face greater obstacles to participation in elections than the nationals of that Member State. The proposal also introduces obligations for Member States to provide these citizens with legal remedies and information on electoral rights, hence removing certain obstacles to their political participation. The initiative also ensures that citizens entering the electoral roll of their Member State of residence for the purpose of European Parliament or municipal elections are not removed from the electoral roll of their home Member State for other types of elections.

Upon the insistence of civil society, the EDAP included a section on democratic engagement and active participation beyond elections. A few of these commitments are hard to assess, such as the mainstreaming of gender equality in all Commission work and the encouragement of EU Member States to use structural funds for bolstering civic engagement. The Commission also promised, however, to allocate its own funds to promoting young people's democratic participation and research on deliberative democracy - a promise on which the Commission has delivered with a series of [Horizon Europe](#) calls focusing on deliberative democracy, democracy education, and the relationship of feminism, media, inequalities, AI and social media with democracy. In October 2021, the Commission launched a [Competence Centre on Participatory and Deliberative Democracy](#) in

its Joint Research Centre. The [Citizens, Equality, Rights and Values Programme](#) also saw in its first year a number of calls for proposals to strengthen democratic participation referencing the EDAP. Moreover, in February 2021, the Commission published a [roadmap](#), followed by a [communication](#) in December 2021, for extending the list of EU crimes to include hate crimes and hate speech.

Action points for 2022

The Commission is yet to take actions to strengthen cooperation in the EU to ensure free and fair elections by upgrading the European Cooperation Network on Elections (ECNE) and organising a high level event on EDAP challenges. The other remaining action points for the Commission include the preparation of a compendium on e-voting and the facilitation of cooperation between EU networks and international partners to counter electoral threats. A joint mechanism for electoral resilience - a tool to support Member States in capacity building for election process resilience to various threats - will be [available soon](#). Finally, the Commission will need to work on consolidating the capacity of EU election observation missions in third countries to observe and assess online election campaigns, something the [Election Observation and Democracy Support](#) project has been advancing with election experts in the past year.

The next year will also be crucial for the Conference on the Future of Europe, as the proposals from this innovative citizen engagement process have to be turned into concrete actions and commitments by the EU institutions. Furthermore, the EDAP's stated commitment to civil society involvement in the Rule of Law reports proved faulty in the 2021 report, in which civic space featured only sporadically and the Commission's tight deadline and intransparent engagement process highlighted its [own struggle with meaningful civil society involvement](#). The Commission thus has plenty of work ahead in order to meet its objectives on election integrity and civic participation for the year to come.

2. STRENGTHENING MEDIA FREEDOM AND MEDIA PLURALISM

Anti-SLAPP

Following the creation of the [expert group against SLAPPs](#) in December 2020, the Commission has started a public consultation in parallel with a targeted consultation with key stakeholders. The Commission plans to adopt the proposal in the second quarter of 2022. The initiative aims to support those facing SLAPPs, to raise awareness among legal professionals and those targeted by SLAPPs, and to provide legal professionals with a 'procedural toolbox' to deal with SLAPPs and to have the means to protect those facing them.

To achieve these goals, the initiative will have a legislative leg and a non-legislative leg. The legislative intervention will *inter alia* provide targeted procedural safeguards against SLAPPs in cross-border situations, through an early dismissal motion, covering legal costs, providing legal aid and third-party interventions in proceedings to support targets of SLAPPs. The non-legislative initiative will include a recommendation focused on training, awareness raising, support and monitoring. The training could include training to judges on relevant European Court of Human Rights (ECtHR) jurisprudence on freedom of expression. The Coalition Against SLAPPs in Europe (CASE) is closely following and feeding into the Commission's work, to make sure that the upcoming initiative is as wide and ambitious as possible so as to provide effective protection against the wide range of tactics used by SLAPP litigants. Such initiative should prompt Member States to introduce strong protective measures extending to all public watchdogs (such as journalists, rights defenders, NGOs and academics) and put forward harmonised safeguards applicable to cases filed either on a domestic or a cross-border level, in line with the EU anti-SLAPP model Directive [drafted](#) by the Coalition.

Vice President Jourová has remarked that, while roughly half of the Council welcomes the initiative,

half of the Ministers in the Council remain skeptical about it, bringing forward concerns about access to justice.¹ These concerns have been [refuted](#) by the [European Parliament](#), who adopted an own-initiative report on SLAPPs in October 2021 that calls for ambitious anti-SLAPP measures as a means to better protect genuine access to justice from abuses.

Safety of journalists

The Commission issued a [Recommendation](#) on the protection, safety and empowerment of journalists, aimed at ensuring safer working conditions for all media professionals, free from fear and intimidation, whether online or offline with special attention to female journalists. These non-binding recommendations greatly mirror those from the Council of Europe, which are considered a [best practice](#) by many journalists associations. The European Federation of Journalists also [welcomed](#) the Recommendation, but regretted that the Commission did not establish a mechanism to evaluate the implementation of the recommendations by Member States.

The Commission also continued to support structured dialogue with Member States and stakeholders under the European News Media Forum. A meeting was held in March 2021 on the topic of the safety of journalists, and a second event was organised in November 2021 on industry transformation. Lastly, to foster the safety of journalists, the Commission co-funded the [Media Rapid Response Mechanism](#) with [€1.950.000](#), which was [welcomed](#) by various CSOs as a promising initiative to deter attacks against the media. The Commission has also set up an emergency support fund of [€1.800.000](#) for investigative journalists and media organisations endowed. The International Press Institute (IPI), which is part of the coalition managing the Media Rapid Response Mechanism, indicates that the mechanism has already had a significant impact by revealing the extent of media freedom violations across the EU. That being said, the programme suffered funding cuts of 13% for the 2022 programme.

Journalistic partnerships and standards

¹ These remarks were made towards stakeholders present at the [European News Media Forum](#) on 29 November 2021.

The Commission's work on journalistic partnerships and standards has mostly been limited to issuing calls for proposals to stimulate such work. For instance, the Commission has issued a call for proposals for [€ 7.600.000](#) in the area of journalistic partnerships in Europe. The call seeks to unleash the untapped potential of partnerships among media organisations across borders that would ensure media viability and media pluralism. The approach of the Commission in this regard is to support EU cooperation between national media councils, other media self-regulatory bodies, independent media regulators and networks of journalists to favour the development of these partnerships.

The Commission is also supporting the development of journalistic standards by funding a project to develop journalism standards ([Journalism Trust Initiative](#)) led by Reporters Without Borders with EUR 422.000 since 2020. The aim of the project is to foster quality, trustworthy journalism through the use of indicators for media outlets to self-assess and comply with. The Commission's work on journalistic partnerships and standards is expected to increase and take shape following the adoption of the European Media Freedom Act.

Additional measures to support media pluralism

The Commission is [initiating](#) work on a proposal for a European Media Freedom Act. The scope and issues that the initiative will address are not defined yet, but it is expected that the initiative includes actions covered by the EDAP, namely, measures on the allocation of state advertising and the support of media diversity in Europe. The European Media Freedom Act might also further develop the Audiovisual Media Directive to guarantee the independence of regulators and prevent interference in public service media. In this context, the Commission has issued calls related to the Media Ownership Monitor: one for the [pilot](#) and one for its [technical infrastructure](#). The purpose of the Media Ownership Monitor is to improve the understanding and public availability of media ownership information, building upon the work of the [Media Pluralism Monitor](#). The Media Ownership Monitor should be fully operationalised and its

role should be clarified following the adoption of the European Media Freedom Act, for the latter will include provisions on media ownership transparency. The outcomes of the pilot of the Media Ownership Monitor should also feed into the drafting of the European Media Freedom Act.

Action points for 2022

The Commission will draft the proposal for an anti-SLAPPs initiative as well as a European Media Freedom Act next year.

Once these initiatives are adopted, there will be a clearly defined policy framework for EU action in the area of media freedom and journalism. Both ambitious legislation and adequate funding of programmes will be needed to provide European solutions to the existing threats to free media and safety of journalists in Europe. However, the Commission's capacity and willingness to act are not enough on their own, as it will take Member States in the Council and in their own national policies to acknowledge and respond to the problems identified in the EDAP.

3. COUNTERING DISINFORMATION

Improving EU and Member State capacity to counter disinformation

The Commission is currently working alongside the EEAS to develop an EU toolbox for countering foreign interference and influence operations. In May 2021, Vice-President Jourová [stressed](#) that the toolbox must allow the EU to impose costs on perpetrators. The EEAS is expected to strengthen its strategic communications and task forces but there are no tangible outcomes yet. In the draft report [on foreign interference in all democratic processes in the European Union, including disinformation](#), the INGE Committee in the European Parliament called for the development of the EU toolbox of risk-mitigating measures for the new generation of technologies, such as 5G and 6G.

Consulted CSOs indicate that efforts and progress in improving capacity to counter disinformation are asymmetric across the Union. This is partially due to the fact that Member States have different perceptions of the threats posed by disinformation, including their importance and the specific risks associated with them. Whereas some Member States approach disinformation primarily from a national security perspective, others tend to regard it as an issue impacting civic discourse mostly.

More obligations and accountability for online platforms

The EDAP rightly acknowledged the major role online platforms play in amplifying disinformation and curating people's information diet, and revealed that the DSA would serve as a "co-regulatory backstop" for measures introduced in the Code of Practice on Disinformation. The DSA later showed how it could add teeth to the Code of Practice with sanctions in case of non-compliance with risk assessments and mitigation measures, as disinformation issues will feature in the risk assessments. This could mean platforms are obliged to downrank disinformation as a result of risk assessments. Moreover, the obligations

for enhancing advertising transparency and independent audits will also go some way towards tackling disinformation. Some worrying language in the EDAP - on "trustworthiness indicators" and the prioritisation of "reliable information of public interest" - has not found its way into the DSA. In sum, the DSA is expected to have a major impact on making platforms much more accountable in their role of reducing the spread of disinformation.

In May 2021, Vice President Jourova issued a [Guidance to strengthen the Code of Practice on Disinformation](#), following a multistakeholder process for gathering input in February 2021. The Guidance sets out how the Code 2.0 will address the [shortcomings](#) of its predecessor with a focus on demonetising disinformation, amongst others, and includes commitments to a robust monitoring framework with Key Performance Indicators and regular reporting. The Commission has also significantly increased the number of signatories to the Code with 26 new signatories in 2021, including Vimeo, Clubhouse, Avaaz, Globsec and WhoTargetsMe. With weekly meetings among all signatories, a strengthened Code is expected to be adopted in March 2022, and will serve to bridge the gap before the DSA comes into force.

Finally, the EDAP also committed to advancing data sharing by platforms for public interest research, led by the European Digital Media Observatory (EDMO). In 2020-2021, the [EDMO funded 8 research hubs](#) on disinformation with more than €11 million. However, civil society organisations from across Europe have criticised the EDMO for being disconnected with the reality of fact-checking organisations, with impossible eligibility criteria for funding and a research focus irrelevant to those on the frontline.

Empowering citizens to make informed decisions

The Commission's work advancing media literacy has mostly taken the form of increased funding for media literacy projects, while the progress of the Media Literacy Expert Group remains opaque. The EDAP foresees actions to support projects to fight disinformation by improving media literacy. The funding for media literacy projects has increased

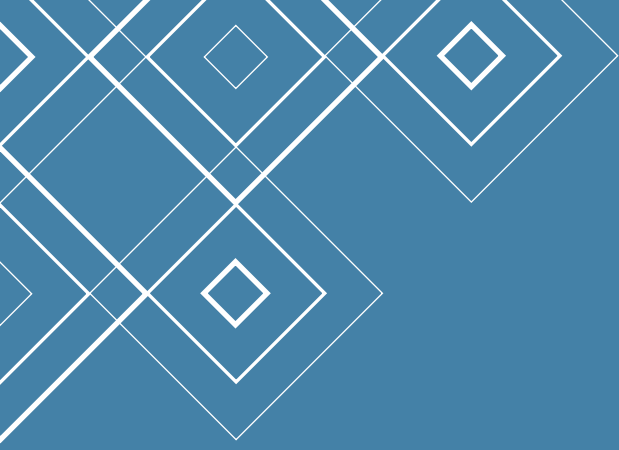
substantially in 2021. The endowment of the Preparatory Action on Media Literacy for All has more than quadrupled with EUR 2.25 million in 2021, up from EUR 500 000 in 2020. pose risks to civil and political rights.

The [Media Literacy Expert Group](#), which is composed of national authorities, UNESCO, and the Council of Europe, held two meetings in 2021 after three years without activity, but conclusions of the meetings are not publicly available. The European Parliament's [draft report](#) on foreign interference calls for further support towards media literacy and fact-checking, as well as better coordination and the development of a joint definition and methodology on disinformation among the European Commission and Member States.

Actions points for 2022

In 2022, the strengthened version of the Code of Practice on Disinformation will be published and implemented and the DSA should be adopted. Member States and the EU institutions should be able to demonstrate progress in aligning and coordinating their actions in the fight against disinformation. In the case of the Code of Practice against Disinformation, the Commission will need to strike a balance between the inclusiveness of the Code with an increased number of signatories on the one hand, and the level of ambition on the other hand.

Beyond 2022, the DSA is expected to evolve in its implementation, as risk assessment exercises and risk mitigation actions are carried out. Again, the European institutions' pressure to use the DSA to protect civic space, as well as Member States' adequate implementation will determine the ultimate success of the legislation. Should the implementation of the DSA remain at the national level, then the DSA's success in countering disinformation will depend on Member States' staffing and funding of the enforcement and monitoring agencies, which has been a key problem in the [GDPR](#). Member States will only successfully counter disinformation if they manage to coordinate their policies and [avoid](#) legislative approaches that



European Partnership for Democracy
No. d'entreprise: 0648.708.779

Rue Froissart 123-133B-1040
Brussels, Belgium

info@epd.eu | www.epd.eu