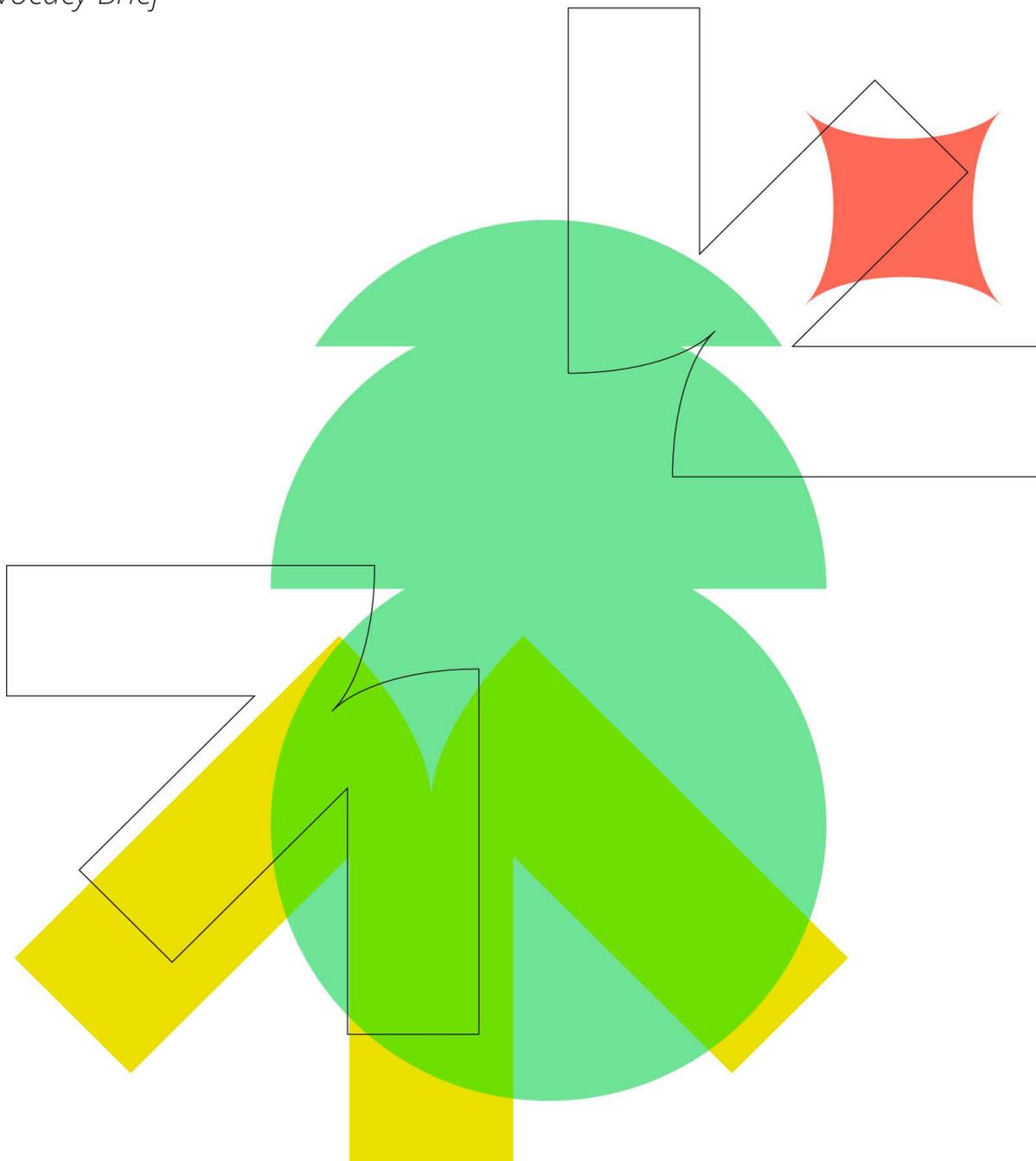


Expanding the reach and impact of the EU digital regulatory and co-regulatory framework relevant for improving the information integrity, media credibility and protection of human rights of citizens in the Western Balkans countries

Digital Services Act DSA and the Code of Practice on Disinformation

(2.) Very Large Online Platforms

Advocacy Brief





The citizens of the Western Balkan countries (WB6) are significantly exposed to illegal, harmful and fraudulent content online. The decline of media freedom and information integrity, as well as the growing impact of disinformation and external malign influences, continue to pose a serious threat to democratic processes, rule of law and European integration in the region.

At the same time, there is no systematic, adequate and functional cooperation with the major online platforms. Stakeholders point to numerous shortcomings with regard to effectiveness of content moderation and availability of mechanisms that would allow users to report illegal content or effectively appeal content moderation decisions. Online platforms are also not seen taking accountability for allowing and incentivizing dissemination of harmful content which further deepens the disinformation disorder.

Countries of the Western Balkans are enlargement countries. As part of the accession process, they are on the path to align their national legislation with the DSA, as well as the Digital Markets Act (DMA). These processes are not without risks, given the political, social, and economic instability and fragile institutions in the region. In addition, lack of transparency and inclusiveness of the legislative process poses a particular risk for adopting new legislation that might negatively impact freedom of expression. Currently, there are regulatory and media policy initiatives that have demonstrated precisely this tendency.

As part of the overall efforts of civil society organizations from the WB6 in this field, and based on extensive consultations with various regional and EU-based organizations, stakeholders and individual experts, we are advocating for an appropriate, meaningful and enforceable level of alignment with the EU digital services package and a closer involvement of the European Commission in this process.

A stronger commitment of the very large online platforms with significant presence in WB6 to adequately address key issues in the regional context is needed. Cooperation with regional stakeholders and implementation of some of the measures envisaged under the DSA, are key to ensuring not only that future national laws are properly implemented, but also that the alignment process itself does not depart from the DSA principles of systemic and multistakeholder approach to online platforms regulation.

This commitment should be demonstrated through:

1. Ensuring due diligence in key priority areas

We believe that transitory regimes legally diverging from the DSA, including national regulation of VLOPSEs, should be strongly discouraged in WB6. Interim solutions applying to the period before the accession might be misused in a way that is not respectful of fundamental rights or democratic processes, or in order to control information and censor critical voices online.

However, if VLOPSEs neglect to demonstrate more transparency and accountability in a way that would adequately address local contexts and issues, national legislations across WB6 will likely try to compensate for the lack of these safeguards. Conversely, extended compliance with some of the DSA due diligence requirements might address some of the key problems that could be restrictively legislated down the line, such as online hate speech. For example, a functioning notice-and-action mechanism might disincentivize attempts to prescribe notice-and-takedown obligations in national legislation.



Priority areas to be addressed by VLOPSEs include:

- Appointment of legal representative and points of contact
- Safeguards against illegal content, such as a functioning notice-and-action mechanism, as well as recognizing the full-fledged status of trusted flaggers as envisaged under the DSA
- Access to data for vetted researchers
- Transparency of content moderation through publishing statements of reasons
- Protection of minors

2. Applying regional approach for the Western Balkans

Diverging national laws could lead to fragmented and inconsistent regulatory landscapes in the region. Applying common policies for all WB6 countries by VLOPSEs would encourage coordinated approach to alignment and legal harmonization.

3. Extending risk mitigation efforts to fight disinformation

VLOPSEs should extend their risk mitigation obligations to some of the most pressing risks in WB6, such as disinformation and other negative effects on democratic and electoral processes, through compliance with commitments under the Code of Practice on Disinformation. Again, such efforts might discourage restrictive legislation aiming at regulating disinformation.

Furthermore, it could be argued that the unhindered spreading of narratives such as geopolitically motivated disinformation challenging EU credibility presents a systemic risk affecting the EU and its citizens and not only this region. In that sense, any effort to mitigate risks originating from the Western Balkans could be counted towards platforms' overall compliance efforts on fulfilling the risk mitigation obligations and thus contributing to DSA's overall effectiveness.

4. Establishing structured cooperation with CSOs and other stakeholders from the region

These stakeholders can bring valuable insights into the local context and facilitate deeper understanding of its linguistic, social, cultural and political dimensions.

Closer and structured cooperation with representatives of groups impacted by their services, civil society organisations, independent experts and coalitions will not only help online platforms to understand the content moderation needs and the nature of risks that exist in the region, but will also inform the development of policies and contribute to their better implementation, including by collecting and providing evidence related to risk assessment and mitigation obligations.

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