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COMMUNICATION TO THE COMMISSION

Approval of the content of a draft Commission recommendation on coordinating responses to incidents in particular arising from the dissemination of illegal content, ahead of the full entry into application of Regulation (EU) 2022/2065 (the ‘Digital Services Act’) ¹

¹ OJ L 277, 27.10.2022, p. 1.

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With Regulation (EU) 2022/2065 (the ‘Digital Services Act’), the Union has laid down ground-breaking rules to secure its online information environment, protect vital informational freedoms, especially in times of conflict, and it requires effective responses to the dissemination and amplification of illegal content online that can threaten civic discourse, elections and public security.

These rules are particularly important to be upheld in the extraordinary circumstances we are facing today that lead to serious threats to public security and public health in the Union. Taking swift and coordinated action in crisis situations is key to prevent illegal content, including terrorist content and illegal hate speech, from disseminating online virally.

While the Digital Services Act will only apply in full as from 17 February 2024, it already applies to the providers of online platforms and of online search engines which the Commission, on 25 April 2023, designated as very large online platforms and as very large online search engines².

The Member States are obliged to designate their Digital Services Coordinators and other national competent authorities responsible for the monitoring and enforcement of the Digital Services Act by 17 February 2024. Nonetheless, the effective monitoring and enforcement of this Regulation by the Commission in relation to those designated very large online platforms and very large online search engines requires the assistance of and active cooperation with relevant national authorities.

The Digital Services Act provides for coordination mechanisms to react to emergency situations. However, as recent events demonstrate, extraordinary circumstances are already occurring before 17 February 2024, affecting the European digital space. Such extraordinary circumstances, triggered by specific incidents in particular arising from the dissemination of illegal content, pose a clear risk of intimidating groups of population and destabilising political and social structures in the Union or parts thereof. This situation requires coordinated action at Union level now, well before the application date of the relevant provisions in the Digital Services Act (e.g. 17 February 2024).

In view of the unprecedented period of conflict and instability affecting the Union, this draft Recommendation encourages Member States to respond in a coordinated and consistent manner to incident, in particular arising from the dissemination of illegal content, posing a clear risk of intimidating groups of population and destabilising political and social structures in the Union or parts thereof, including those which risk leading to a serious threat to public

¹ OJ L 277, 27.10.2022, p. 1.

² The list of designated services was published in the Official Journal of the Union, pursuant to Article 33(6) of Regulation (EU) 2065: OJ C 249, 14.7.2023, p. 2.

security or public health in the Union or in significant parts of it. To that end, the draft Recommendation sets out mechanisms of preparedness, cooperation and coordination between the Commission and the Member States ahead of the full application of the Digital Services Act on 17 February 2024, in a spirit of sincere cooperation, to allow the swift action by the different actors at EU and national levels. It should also contribute to a speedy transition towards the application of that Regulation and to ensure its full effectiveness since inception. This draft Recommendation does not aim at replacing or supplementing the mechanisms of enforcement nor the framework of obligations laid down in the Digital Services Act. The Commission is therefore called upon to approve the content of this draft Commission Recommendation on coordinating responses to incidents in particular arising from the dissemination of illegal content, ahead of the full entry into application of Regulation (EU) 2022/2065 (the ‘Digital Services Act’).

The draft Commission Recommendation on coordinating responses to incidents in particular arising from the dissemination of illegal content, ahead of the full entry into application of Regulation (EU) 2022/2065 (the ‘Digital Services Act’) will be formally adopted by the Commission later, when all language versions are available. It is only from that moment that the Recommendation will be applicable. The intention is to adopt the Recommendation before 20 October 2023. The text of the draft Commission Recommendation is enclosed as Annex to this Communication.