

# THE ROLE OF THE MEMBER STATES' DIGITAL SERVICES COORDINATOR FOR ENSURING COORDINATED AND CONSISTENT ENFORCEMENT OF THE DIGITAL SERVICES ACT

**Mariya Yurukova, PhD**

*European studies department, Sofia University*

## ***Abstract***

*In 2020, European Commission proposed a legislative package (Digital Services Act and Digital Market Act) to reform the rules governing digital world and to achieve some of the goals set in the Digital Single Market strategy. The regulations aim to create a safer digital space where the fundamental rights of users are protected in the online environment. The Digital Services Act was published in the Official Journal of the EU on the 19th of October 2022. To ensure largely consistent enforcement of the Digital Services Act throughout the Member States, the Act contains extensive enforcement provisions and mechanisms and foresees Digital Service Coordinators to enforce its rules. By 17 February 2024, the Member States will need to communicate the names of their Digital Service Coordinators to the European Commission and to make sure that the appointed Digital Service Coordinators have the capacity to effectively implement the new EU regulation.*

*This article aims to compare the different approaches chosen by the Member States to ensure coordinated enforcement of the Digital Services Act. This paper argues that the decision for the appointment of the national DSCs is of high importance for building the countries' enforcement capacity and it is indicative for the way each Member State perceives the scope and the implementation of the DSA. Although the DSCs should fulfil specific requirements, the exact approach chosen by the Member States in the designation process will determine the consistent enforcement of the DSA in all EU countries. Something more, the paper argues that in all Member States is coming the time to debate how to regulate our information ecosystem because the mechanisms and the instruments that once were put in place to manage and to regulate the media and the information system, nowadays, are not well equipped to do so.*

**Key words:** Digital Services Coordinators, Digital Services Act, coordinated and consistent enforcement, regulatory authorities

## Introduction

The world is experiencing information crisis<sup>1</sup>. In this context, the European Union (EU) understands the need for change and what is at stake in our information society. EU is one of the first to point out the problems related to online disinformation and in general the crisis of trust in information in the democratic states. The EU's efforts to create a new adequate information system for today realities and a disinformation-proof media ecosystem are fundamental to Europe's digital future.

EU is not a passive on the matter of protecting freedom of expression in the digital age. On a contrary, it is quite active in the field of digital transformation. Many examples could be pointed out like the European Data Protection Regulation (GDPR) that is applicable as of 25th May 2018 in all Member States to harmonize data privacy laws across Europe. In 2022, European Commission (EC) adopted a legislative package (Digital Services Act (DSA)<sup>2</sup> and Digital Market Act (DMA)<sup>3</sup>) to reform the rules governing digital world and to achieve some of the goals set in the Digital Single Market strategy. The same year EC proposed European Media Freedom Act (EMFA) with the aim to protect media pluralism and independence in the EU. With the highly discussed EU Artificial Intelligence (AI) Act, the Union wants to regulate Artificial Intelligence in order to ensure better conditions for the development and use of this innovative technology.

These are just some of the many more European regulations and policies related to the digital world. All these ambitious and new regulations need effective institutional authorities to implement them at national and at supranational level. In addition, it is raising a debate related to the capacity of the regulatory bodies across the Member States to effectively implement the new regulations. National media regulation authorities are facing unprecedented challenges in recent years, notably due to the complexification of the media ecosystem and the changing nature of regulation<sup>4</sup>. The monopoly of some global market players and the changes in the policies managing digital services highlight the differences between the national regulatory authorities in the field of media and communication in Europe. In this context, the national media regulatory bodies must adapt to numerous technological, market-related, and legislative changes, taking over new tasks and responsibilities, and even develop new approaches to regulation, including self- and co-regulation, so that they remain relevant and effective in an online environment<sup>5</sup>. In the online environment the DSA point out the need for better cooperation and coordination not only among national sectoral regulators, but among regulators across the EU Member States, and between EU

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<sup>1</sup> Mansell, R., Livingstone, S., Beckett, C. Tambini, D. (2019). *Tackling the Information Crisis: A Policy Framework for Media System Resilience*. London School of Economics

<sup>2</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 (Digital Services Act)

<sup>3</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

<sup>4</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

<sup>5</sup> Ibidem.

and the regulatory bodies. DSA is extending the competences of the regulators in the media sector, both at national and at European level.

This report is comparing the different approaches chosen by the Member States to ensure coordinated enforcement of the DSA by focusing on analysing the appointed Digital Service Coordinators (DSCs) and their capacity to implement effectively the new European regulation. Not all the Member State appointed their DSCs yet and these unknowns are considering as a limitation of the methodology used in this report.

This paper argues that the decision for the appointment of the national DSCs is of high importance for building the countries' enforcement capacity and it is indicative for the way each Member State perceives the scope and the implementation of the DSA. Although the DSCs should fulfil specific requirements, the exact authorities chosen by the Member States in the designation process will determine the consistent enforcement of the DSA in all EU countries. Something more, the paper argues that in all Member States is coming the time to debate how to regulate our information system because the mechanisms and the instruments that once were put in place to manage and to regulate the media and the information system, nowadays, are not well equipped to do it.

## **Digital Services Act and Digital Service Coordinators**

The DSA sets out a detailed regulatory framework to protect consumers' rights online. The Act regulates the obligations of digital services that act as intermediaries in their role of connecting consumers with goods, services, and content. The DSA is directly applicable in all the EU Member States, but in order the rules to be implemented in the counties there are many actions to be taken before that by the national governments. One of them is that by 17 February 2024, the Member States will need to appoint and to communicate the names of their DSCs to the EC. To ensure largely consistent enforcement of the DSA throughout the Member States, the Act contains extensive enforcement provisions and mechanisms and foresees DSCs to enforce its rules at national level. All the DSCs across the EU Member States will form the European Board for Digital Services, which should ensure consistent implementation at EU level. An oversight structure is trying to match the complexity of the online space. The Member States will have a major role, supported by this new coordinated European Board for Digital Services.<sup>6</sup> Each Member State will have a direct channel to report issues arising on their territory and will be able to request assistance from the competent DSC in the country where the online platform is established or has a legal representative. For

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<sup>6</sup> The tasks of the Board will be the following: support the coordination of joint investigations; support the competent authorities in the analysis of reports and results of audits of very large online platforms to be transmitted pursuant to the DSA; issue opinions, recommendations or advice to DSCs in accordance with the DSA; advise the Commission and, where requested by the Commission, adopt opinions on draft Commission measures concerning very large online platforms in accordance with the DSA; support and promote the development and implementation of European standards, guidelines, reports, templates and codes of conduct as provided for in the DSA, as well as the identification of emerging issues, with regard to matters covered by the DSA. Source: Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

violations of the very large online platforms (VLOPs), the EC can provide direct supervision and sanctions. In addition, day-to-day cooperation within the European Board for Digital Services is envisaged to play an important role in ensuring the flow of information between Member States and the EC so that they could learn from the experience of the others.

The new rules create mechanisms to coordinate the actions of the EC and the Member States and to ensure fair implementation across the EU, but still there are many challenges<sup>7</sup> in front of the consistent enforcement of the DSA.

First, under DSA the EC aim is to achieve a transparent environment by creating a clear framework for accountability of the online platforms. This is not an easy goal to achieve for a lot of reasons and one of them is because in many countries so far there is no responsible authority with such or even similar tasks. The regulatory framework is giving the rules but who is going to implement them rightfully is another question. The capacity of the stuff in some authorities to regulate the digital space are insufficient.

Second, the Regulation introduces a horizontal framework for all categories of content, products, services and activities related to intermediary services. It sets out horizontal rules that are trying to cover all services and all types of illegal content, and does not replace or amend, but complements sector-specific legislation. The complex approach is adequate for the realities but so far in many countries these sectors are regulated by sectoral regulatory bodies, not by a complex authority. In this regard, the need of efficient communication between these regulatory institutions is becoming crucial for the implementation of the DSA at national level.

Third, there are serious concerns regarding the effectiveness of the DSA in all EU countries, related to the national legislators and regulators. In addition to the risk of limited enforcement of the DSA in some countries, the danger of over-enforcement, which may affect the right to freedom of expression of both users and platforms, should not be forgotten as well.

## **Requirements for Digital Services Coordinators**

The DSA provides that each Member State designates one or more competent authorities for the specific sectors covered by the regulation and introduces the figure of the DSC identified by each Member State among the competent national authorities, which is entrusted with the task of facilitating the coordinated application of the provisions of the regulation in the various States. One of these competent authorities will have to be designated as their Digital Services Coordinator, which should be responsible for all matters related to the application and the enforcement of the DSA in that Member State. The DSCs should be responsible for ensuring coordination at national level and for contributing to the effective and consistent application and enforcement of the DSA throughout the Union<sup>8</sup>. Their role will be important for the

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<sup>7</sup> This is not a full list of the challenges in front of the consistent enforcement of the DSA and this paper does not pretend to cover all the aspect of the implementations, but just some related to the DSCs.

<sup>8</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) Media regulatory authorities and the challenges of cooperation, IRIS Plus, European Audiovisual Observatory, Strasbourg

cross-sectoral and cross-border issues for administrative and coordination purposes<sup>9</sup>. It is a task of each Member States to choose its DSC, but in order to do so, the future DSCs should meet some mandatory requirements.

**First**, the DSC should be an independent body appointed by the EU Member States. In order to carry out their tasks and exercise their powers in accordance with the DSA, DSCs should act with **complete independence**. According to DSA, DSCs should remain fully independent in their decision-making, should remain free from any external influence and should not seek instructions from their governments, other authorities or the online platforms or in other words from any other public authority or any private party.

Second, Member States should ensure that their DSCs **perform their tasks** under this Regulation **in an impartial, transparent and timely manner**.

Third, EU countries will have to ensure that the DSC has **adequate financial, technical and human resources to carry out its tasks**.

Fourth, each country is left to choose by itself **one such authority, creating a new body or expanding the powers of the existing one, ensuring its independence and resources**. This is an important decision for the better implementation of the DSA.

Fifth, to carry out their tasks, DSCs should have some **specific powers** listed under DSA. DSCs should have a set of investigation and enforcement powers under the jurisdiction of their Member State.

The DSCs are obliged to draw up an annual report on their activities under DSA. These reports should be available to the public and should be communicate to the Commission and to the Board<sup>10</sup>. The principles for accountability and visibility of the work to the DSCs are foreseen in the DSA and this means that these principles should be respected as well by the appointed national authorities. The Member States must ensure that any exercise of their powers is subject to adequate safeguards laid down in the applicable national law in conformity with the Charter of Fundamental Rights of the European Union and with the general principles of Union law<sup>11</sup>.

### **Overview of the regulatory systems in media sector in Europe and DSA as an accelerator for the cross-sectoral cooperation between regulators**

Appearing in the 1980s the independent media regulatory authority is a success story and gradually became the default model to regulate audiovisual media in Europe. But still in Europe there are probably as many regulatory systems as there are countries,

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<sup>9</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) Media regulatory authorities and the challenges of cooperation, IRIS Plus, European Audiovisual Observatory, Strasbourg

<sup>10</sup> Guide to the Digital Services Act

<sup>11</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

depending on the legal system, democratic and cultural traditions and the economic and media situation.<sup>12</sup> Several comparative studies have already pointed out the diversity in their formal structure, competences, and powers, and also how differently they operate in practice<sup>13</sup>. Traditionally, in Europe the various sectors that make up „the media“ were regulated separately<sup>14</sup>. One authority could be responsible for the content monitoring and broadcasting regulation, another for the transmission and the spectrum, third for the Protection of Competition or for Consumers and Markets etc. In the last around fifty years the convergence has brought with it a review of the regulatory systems and some countries have therefore reviewed and adapted their regulatory regimes<sup>15</sup>. It is fair to point out that merging sectoral regulatory authorities is not a new phenomenon. But the creation of a new horizontal policies and laws necessary for regulating the digital space is demanding to think once more how to adapt the regulatory regimes and the authorities that should implement them. We are once more witnessing a trend of changing the way the regulatory bodies are functioning in the context of the rapidly changing media ecosystem in Europe and all over the world. The enforcement of the DSA is again raising the questions regarding the necessary process of rethinking media regulation so that it remains relevant and effective in an online environment.

The DSA is expected to have a positive effect in the process of changing the role of the regulators. The DSA is considered to act as an accelerator for the cross-sectoral cooperation between regulators. The implementation of the Act needs substantial structural collaboration between media regulators and authorities from adjacent regulatory sectors. The DSA puts special emphasis on cross-border cooperation between DSCs. Such a broad scope of rights and interests at stake will inevitably require gathering a broad range of expertise, traditionally residing in distinct regulatory actors<sup>16</sup>. Structural cooperation mechanisms are likely to be required for efficient enforcement of the regulation, to ensure a smooth channel of communication between competent authorities.<sup>17</sup> The role of the DSC would be to coordinate and ensure cooperation between all other competent national authorities, and to act as a single point of contact.<sup>18</sup> This is way the designation of certain authority that is lacking a capacity to do implement this task, in fact could threaten the whole implementation of the DSA.

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<sup>12</sup> Fell, J. (2008), *Media convergence and the implications for media regulation*, In: *Converging media - convergent regulators? The future of broadcasting regulatory authorities in South-Eastern Europe*. Printed at the Council of Europe.

<sup>13</sup> Cappello M. (ed.), (2019) *The independence of media regulatory authorities in Europe*, IRIS Special, European Audiovisual Observatory, Strasbourg

<sup>14</sup> Fell, J. (2008), *Media convergence and the implications for media regulation*, In: *Converging media - convergent regulators? The future of broadcasting regulatory authorities in South-Eastern Europe*. Printed at the Council of Europe.

<sup>15</sup> Ibidem.

<sup>16</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

<sup>17</sup> Ibidem.

<sup>18</sup> Ibidem.

## Classification of the appointed DSCs in the European countries

The Member States' approaches for ensuring coordinated and consistent enforcement of the DSA is determined by the national specifics including the performance and the characteristics of the national regulatory bodies appointed for DSCs. The countries are having different approaches for implementing DSA and the designation of the DSC confirms this trend. The approach of each country is the way it is for many reasons – the traditions and the culture in the country, the information and media policy in the country, the actual structure of the regulatory authority, the willingness of the country to govern their online environment etc.

This paper uses typology to create categories for systematisation of the authorities that will eventually serve as DSCs. In order to better analyse the Member States' approach in appointing the national DSCs and to compare the institutional bodies, in this paper it is used classification such as by their competences and by time of existence.

- **According to the competences** of the authority appointed to serve as DSCs two types of bodies are categorised – 1) **Complex institution** (like in Spain) or 2) **the regulator of a specific sector** – the media regulator (like in Ireland), the regulator of the telecommunications sector (like in Bulgaria), the authority responsible for Consumers and Markets (like in Netherlands), etc.

In some countries like Spain, the body chosen to play a relevant role in the application of the DSA is complex institution. In Spain prospectively as Coordinator of Digital Services is going to be the *Spanish National Markets and Competition Commission / La Comisión Nacional de los Mercados y la Competencia / (CNMC)*<sup>19</sup>. A Body that in 2013 integrated the functions of six pre-existing bodies. A big regulatory body with different directorates regulating sectors form energy to telecommunication market, National Postal Sector, Audiovisual Media and others. The CNMC is the body that promotes and ensures the proper operation of all markets in the interest of consumers and corporations. It is equipped with different regulatory, supervisory and instruction units that carry out their task of monitoring the markets from very different but complementary perspectives. It is a public body with its own legal personality. It is independent from the Government and subject to parliamentary oversight.

In other countries, a **regulator for a specific sector** is chosen to be the DSC under DSA. In countries like Belgium, Hungary, Ireland, Slovakia, Ireland and other as DSC is going to be pointed out the **media regulator**. Other Member State like Bulgaria, Czechia, Germany, Greece, Italy, Poland, Slovenia and Sweden is more likely to choose for this purpose the **regulator of the telecommunications sector**. The **authority responsible for Consumers and Markets** is going to be appointed for DSCs in countries like Netherlands and Finland.

- **According to the time of existence** of the authority appointed to serve as DSCs three types of countries are categorised – 1) **appointing an existing**

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<sup>19</sup> CNMC (2023) *Plan de actuaciones de la CNMC 2023*, p. 51

**body** (Bulgaria, Spain, Germany, Slovakia, Netherlands); 2) **creating a new body** (Ireland); 3) **reforming existing body or bodies into a new one** (France and Slovakia did that but before DSA come into force).

Some of the appointed authorities are recently reformed ones. For example in France since the 1 January 2022 the *High Audiovisual Council / Conseil supérieur de l'audiovisuel (CSA)* and the *High Authority for the Distribution of Works and Protection of Rights on the Internet / Haute Autorité pour la diffusion des oeuvres et la protection des droits sur internet (Hadopi)* merged into *The Regulatory Authority for Audiovisual and Digital Communication / Autorité de régulation de la communication audiovisuelle et numérique (ARCOM)*. ARCOM is responsible for both audiovisual and digital communications.

The long-awaited systematic reform of Slovakia's media legislation was finally completed in 2022. The parliament approved a platform-neutral law on media services to replace the existing broadcasting law. Designed to adapt the state's regulatory instruments to a digital media ecosystem, it obliges anyone who uses content-sharing platforms for profit-making purposes, including influencers, to apply to a new Council for Media Services for authorisation<sup>20</sup>.

In Ireland last year, they established a new Media Commission so that to be responsible for regulating online intermediaries under the EU's DSA. *The Media Commission* (Coimisiún na Meán) assumed responsibility for regulating broadcast and online media in Ireland on 15 March 2023 when the Online Safety and Media Regulation Act 2022 took effect. Now the Irish government has confirmed that the regulator will take on the role of DSC for Ireland under the DSA.<sup>21</sup> In Ireland, the Media Commission is currently led by an executive chairperson and three other commissioners with responsibilities for broadcasting, media development and online safety respectively.<sup>22</sup> The Irish government has confirmed that a fifth commissioner responsible for overseeing the new digital services functions is to be appointed to the Commission.

In Italy Giacomo Lasorella, the president of the *Authority for Media and Communication / L'Autorità per le Garanzie nelle Comunicazioni (AGCOM)* stated that the independent Authority has all the credentials to be the Italian DSC.<sup>23</sup> As a „convergent“ authority, AGCOM „carries out regulatory and supervisory functions in the sectors of electronic communications, audiovisual, publishing, postal services and more recently online platforms. The profound changes brought about by the digitisation of the signal, which has standardized the transmission systems of audio (including voice), video (including television) and data (including Internet access), are at the

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<sup>20</sup> Hečková, A. and Smith, S. (Published on 14<sup>th</sup> June 2023) *Country report: Slovakia*. In Newman, N. et al. Reuters Institute Digital News Report 2023. University of Oxford. Available from: <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2023/slovakia>

<sup>21</sup> The Digital Services Bill 2023, p. 88

<sup>22</sup> Henry, A. (Published on 4 April 2021) *Media Commission to have Digital Services Act role in Ireland*, In: Pinsent Masons, Available from: <https://www.pinsentmasons.com/out-law/news/media-commission-digital-services-act-role-in-ireland>

<sup>23</sup> Meta, F. (Published on 15 June 2021) *Lasorella: „Agcom has the requirements to fill the role of Italian Digital Service Coordinator“*, In: CorCom, Available from: <https://www.corrierecomunicazioni.it/digital-economy/lasorella-agcom-ha-i-requisiti-per-ricoprire-il-ruolo-di-digital-service-coordinator-italiano/>



*basis of the choice of convergent model, adopted by the Italian legislator and shared by other sector Authorities at European and international level. Like the other Authorities envisaged by Italian law, AGCOM is answerable for its actions to Parliament, which established its powers, defined the statute and elected its members*<sup>24</sup>.

*The Communications Regulation Commission (CRC) / Комисия за регулиране на съобщенията* is expected to be the DSC under DSA for Bulgaria. CRC is a specialized independent state authority that is set up to regulate and control the electronic communications and postal services. It is the national regulator of the telecommunications sector and is empowered to enforce the laws governing the development of electronic communications (Electronic Communications Law, Law on Electronic Document and Electronic Signature Act etc.). CRC plays a decisive role in shaping the markets of mobile and fixed telephony, Internet access, broadcasting of radio and television programs, as well as postal services.

Some countries propose new ideas. To make the national law fit for the DSA, Germany proposed an advisory board that monitors the EU regulation's implementation and enforcement. According to the German Digital and Transport Ministry's draft amendment bill, the advisory board will consist of „ten representatives of science, civil society, including consumer associations, and business representatives.“<sup>25</sup> The idea is this advisory board to serve as a coordinating body for enforcing the regulation, raising scientific questions and ensuring the effective and uniform implementation of the DSA. According to the bill, the board should also assist the DSC. This role will likely be entrusted to the Germany's telecom regulator – *Federal Network Agency* (BNetzA).

By contrast of the majorities of the EU Member States, Germany already have legislation that regulates the online space (the Network Enforcement Act (NetzDG)). Many in Germany perceive the DSA as a softer version of the NetzDG. The German law allowed direct supervision of all providers, including the big online giants based in Ireland. By contrast, under the DSA, German regulators will not be able to issue fines directly. They will have to initiate cooperation with the DSC of the country where the company has its European headquarters or the EU Commission if the company is a very large online platform.<sup>26</sup>

In some countries the establishment of the DSC has been put on hold until possible for political reasons. For example, in Poland they are waiting until the parliamentary elections that will be held on 15 October 2023.

The different by nature authorities expected to become DSCs attest that the approach of the individual Member States in the appointing process differs. The lack of constructive discussion about the reformation of the regulatory framework in some EU countries raises concerns. Again, the Member States could be divided into groups. One of them are more active in preparing the right approach for implement DSA in their country (Germany,

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<sup>24</sup> Official site of The Communications Regulatory Authority, Italy, Available from: <https://www.agcom.it/che-cos-e-l-autorita>

<sup>25</sup> Clasen, A. (published on May 9, 2023; updated: on May 11, 2023) *Digital Services Act: Germany proposes creation of advisory board*, In: Euroactive.de, Available from: <https://www.euractiv.com/section/platforms/news/digital-services-act-germany-proposes-creation-of-advisory-board/>

<sup>26</sup> Ibidem.

Ireland, France) and other are choosing without any further thinking or public debate a DSC among the existing regulatory authorities (Bulgaria). In fact, it's not only a matter of appointing the DSCs, but to create a structure with capacity to fully implement the DSA.

## **Risks and opportunities**

Many of the appointed regulators in some of the countries have no experience in regulating the digital space. The lack of expertise, knowledge and capacity of the appointed authorities is rising concerns about the effective implementation of DSA. The Requirements for the DSCs under the DSA are stating what it is needed but the realities diverge from the actual capabilities of the appointed regulators.

First, at the national level, some countries are introducing ambitious legal reforms to tackle harmful content online and envisage granting new responsibilities to media or other sectoral regulators in order for example to protect children and vulnerable people when they are online. However, there is a lack of adequate financial and more importantly human resources among the future DSCs. Indeed, a national regulatory authority that regulates with old tools and mindsets and ensures compliance strictly of domestic and traditional broadcasters is doomed to become useless and not respected.<sup>27</sup> The regulatory authorities will need to adapt to new tasks and responsibilities and develop new approaches to regulation. This process requires the development of new tools, as well as the hiring or training of staff<sup>28</sup>. In this regard, the DSA creates an opportunity to train qualified staff who understand how digital services work.

Second, the regulatory authorities have to cope with a lack of accessible data from online actors, a heterogeneous legal framework, the cross-border nature of content and, depending on the national context, a potential lack of financial resources. In this sense the cooperation, both formal and informal, and the sharing of experience between regulatory authorities is crucial if they want to adapt to the changed environment while remaining relevant and coherent. The opportunity to overcome not only the cross-border challenges but also the cross-sectoral ones should be a priority in EU.

All these factors listed earlier in the text explain why cooperation between regulators is vital. The DSA provides a reliable and secure information-sharing system supporting communications between DSCs, the Board and the Commission. So far, the European Regulators Group for Audiovisual Media Services (ERGA) is the example for cooperation between the national independent regulatory bodies in the field of audiovisual media services aiming to advise the EC on the implementation of the Audiovisual Media Services Directive (AVMSD). How to enforce effective compliance in the online sphere will be a major challenge for the DSA. Cooperation

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<sup>27</sup> 44<sup>th</sup> EPRA meeting, Keynote speech for the plenary session on Compliance & Enforcement, Policies, Strategies & Methods of NRAs put to test by Jean-François Furnémont, 2016, <https://www.epra.org/attachments/yerevan-plenary-ii-compliance-enforcement-policies-strategies-methodsof-nras-put-to-test-part-ii-keynote-jean-francois-furnemont>.

<sup>28</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

mechanisms will play a key role. For the effectiveness of rules and ultimately the benefit of consumers and citizens, it is key that the authorities in charge cooperate with each other in an effective manner. A failure to effectively cooperate can lead not only to an inability to develop effective governance but also an inability to effectively enforce the rules<sup>29</sup>.

Third, on the matter of independence of media regulatory authorities in Europe it is concluded in recent papers that de jure independence does not always coincide with de facto independence<sup>30</sup>. Some regulatory authorities have politicised appointment procedures, which can expose the authority to a degree of political influence. Some regulatory authorities receive their budgets from the government. The resources of regulatory authorities in terms of staffing and budget, as well as funding sources, also vary greatly across Europe. The majority of media regulators in Europe are small to middle-sized organisations, predominantly funded by state budget<sup>31</sup>. In this term, it is truth that the core requirement for the DSC under DSA is to be independent body, but the problem in some country and the legally banded independence is compromised in practice. For the DSCs is going to be a primary task to guarantee its independence in enforcing the DSA.

Fourth, the different approach to the Member States in appointing the DSCs and in reforming the way the designated authority performs its duties could lead to a difficult cross-border cooperation and in this manner could undermine the effectiveness of the act.

## Conclusion

The understanding in DSA and EMFA, that we need better cooperation between the national sectoral regulators and between the Member States and the national regularity authorities, is a step in the right direction, but it is primarily in the hands of the EU Member States to equip their regulators with capacity, tools and instrument, in a way to be adequate in the digital world. If the Member States do not reform their regulatory bodies in order to be possible for them to effectively implement the DSA, even the coordinated EU approach will not help to win the fight for quality information, and it will get more difficult to protect freedom of expression in the digital age and to fights phenomena as disinformation.

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<sup>29</sup> Cabrera Blázquez F.J., Denis G., Machet E., McNulty B. (2021) *Media regulatory authorities and the challenges of cooperation*, IRIS Plus, European Audiovisual Observatory, Strasbourg

<sup>30</sup> Cappello M. (ed.), (2019) *The independence of media regulatory authorities in Europe*, IRIS Special, European Audiovisual Observatory, Strasbourg

<sup>31</sup> Ibidem.

- 44<sup>th</sup> EPRA meeting, Keynote speech for the plenary session on Compliance & Enforcement, Policies, Strategies & Methods of NRAs put to test by Jean-François Furnémont, 2016, Available from: <https://www.epra.org/attachments/yerevan-plenary-ii-compliance-enforcement-policies-strategies-methodsof-nras-put-to-test-part-ii-keynote-jean-francois-furnemont>.
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