



ERGA report on the first year of the Strengthened Code of Practice on Disinformation

Since July 2022, ERGA has actively participated in all activities and meetings of the Permanent Task-force under the Strengthened Code of Practice on Disinformation (“the Code”). In previous years, ERGA was engaged with the other stakeholders in reviewing the previous Code (published in 2018) and was asked by the European Commission [to monitor](#) the effectiveness of the Code of Practice in the context of online disinformation about COVID-19. In this regard, in 2021, ERGA published its [position](#) on the next instalment of the Code and a [set of recommendations](#). ERGA welcomed publishing the Code, which now contains an enhanced monitoring framework and includes representatives from ERGA and the European Digital Media Observatory (EDMO) in the Permanent Task-force chaired by the Commission. ERGA believes that such a forum is needed to ensure that the Code can be further improved and issues related to the Code can be addressed more timely and collaboratively. The implementation of this new framework is particularly important as the Code of Practice is envisaged to become a Code of Conduct under the Digital Services Act (DSA) and could be taken into account when the European Commission will evaluate the actions taken by the designated very large online platforms and search engines (VLOPSEs) – that are signatories of the Code of Practice – to mitigate systemic risks on their services.

The aim of this report is to reflect on the first year since the publishing of the Code and the role of ERGA in the Permanent Task-force, to provide an evaluation of the Signatories’ baseline reports and to propose a set of specific recommendations to be taken into account by the Commission and the Code’s Signatories.

ERGA's role in the Strengthened Code of Practice on Disinformation

ERGA is participating in the Code of Practice Permanent Task-force chaired by the European Commission, which is dedicated to keep the Code future-proof and fit-for-purpose. ERGA was asked by the European Commission to act as a chair of the Monitoring and Reporting Subgroup, responsible for developing harmonised reporting templates, assisting thus to the reporting exercise, and, later, contributing to the monitoring of the Code. As a Subgroup chair, ERGA moved forward with the work on the harmonised reporting templates, which were developed for platform and

non-platform Signatories. Under the scope of the Subgroup, ERGA took the lead in negotiating the first set of Structural Indicators, together with EDMO, the European Commission and non-platform Signatories, representing civil society organisations, researchers and fact-checkers.

ERGA recommendations reflected in the Code

ERGA is pleased that several recommendations outlined in past ERGA reports and position papers on the previous Code have indeed been incorporated into the text of the Code. Among these successfully implemented recommendations is a significant improvement in providing **more granular and country-specific data**, allowing not only regulators to enhance monitoring of the implementation of Signatories' commitments at the Member State level. The implementation of this point can be seen in Chapter X., letter c of the Code¹ and also in the harmonised reporting templates² and Signatories' baseline reports.

Regarding the harmonised reporting templates, ERGA commended the **uniform, consistent and standardised form of Signatories' reports**. The need to submit data uniformly has been highlighted by ERGA in its positions and reports consistently since May 2021. That is why ERGA expresses its satisfaction with including this request in the Code itself.³ The Commission also acknowledged the importance of developing harmonised reporting templates. ERGA, as a chair of the Monitoring and Reporting Subgroup, was in charge of this crucial task.

ERGA further notes that its recommendation that **the provision of data on the use and performance of automated systems should be an explicit commitment within the Code** has been reflected under Commitment 15, measure 15.2, QRE 15.2. 1 accordingly: "Relevant Signatories will report on their policies and actions to ensure that the algorithms used for detection, moderation and sanctioning of impermissible conduct and content on their services are trustworthy, respect the rights of end-users and do not constitute prohibited manipulative practices in line with Union and Member States legislation".

ERGA is pleased to note and commend the **implementation of measurable KPIs in the Code**, which it has long emphasised. The monitoring framework in the previous Code only included commitments and actions, which made it very difficult to measure the applicability of the Code. However, the new Code includes both **Qualitative Reporting Elements (QREs)** and quantitative **Service Level Indicators (SLIs)**. ERGA believes that this form of monitoring framework can contribute to the effective measurement of implementation and impact of commitments and measures at an operational and structural level, while remaining open to future changes in the rapidly evolving information technology environment. Such procedures, if rigorously followed, will ensure consistency in monitoring and provide an important counterpoint to the metrics reported by the Signatories.

ERGA welcomes the presence of a **provision on cooperation between Signatories and competent authorities** in the Code. The requirement for increased cooperation between Signatories and the competent authorities, as well as between the Signatories themselves, is met in the Code by the

¹"Signatories acknowledge the importance of granular reporting and monitoring at EU and Member State level, to ensure the Code's efficient and consistent implementation throughout the EU."

²as per The Commission's Guidance on Strengthening the Code of Practice on Disinformation

³Namely Chapter X., Measure 40.4 and Commitment 43 of the Code.

creation of the Permanent Task-force, whose members are Signatories, the Commission, the European External Action Service (EEAS), ERGA and EDMO. ERGA appreciates the work of the Permanent Task-force and welcomes deepening of the cooperation between Signatories and the competent authorities, particularly during crisis and election periods.

Assessment of the baseline reports

The Code Signatories published the baseline reports in the newly established [Transparency Centre](#) at the beginning of February 2023. Based on this first set of reports, aimed to present how Signatories have implemented their commitments under the Code and how they stand one month after the end of the implementation period, ERGA presents the following conclusions.

ERGA **acknowledges the active participation of the Code Signatories within the Permanent Task-force and Subgroups**. ERGA welcomes the fact that some platform representatives have taken the lead in some of the Subgroups and have thus contributed to proposing solutions to the issues that the Code has left to the Permanent Task-force. Since the Code is a self-regulatory mechanism, the Signatories should ensure that the Code can be further evolved and issues related to the Code can be addressed in a timely manner and collaboratively. Additionally, ERGA **considers the current strong involvement of non-platform Signatories important**, which contributes to the discussions and helps to find solutions with their expertise in research of disinformation or fact-checking and, at the same time, **serve as a watchdog of this self-regulatory framework**.

ERGA similarly **welcomes the establishment of the Transparency Centre with a publicly available centralised database** where all Signatories can publish reports on how they implemented the commitments under the Code. The Transparency Centre is available in all EU official languages, which significantly increases transparency and accessibility to the public. ERGA also acknowledges the cooperation and timely submission of baseline reports from the Signatories.

Although ERGA appreciates that progress on the reporting of the Code has been made, several shortcomings and weaknesses that should be overcome in the next reporting period need to be highlighted. **The Monitoring and Reporting Subgroup, chaired by ERGA, provided Signatories with guidelines to complete the reports under the Code. Nonetheless, it appears that in several cases, platform Signatories did not fully observe these.**

First, the recommended reporting period to be covered in the baseline reports was from 16 December 2022 to 16 January 2023. However, several platform Signatories did not comply with this and provided data, for example, for the whole quarter of the year. **Therefore, a comprehensive evaluation of the success of the implementation of the measures from the Code is not yet possible on the basis of these baseline reports.**

For the baseline reports to be uncluttered, the Monitoring and Reporting Subgroup encouraged the Signatories to stick to the target character limit as much as possible, which was, in many instances of platform Signatories, not met. The Signatories were also advised to use bullet points and short sentences to achieve more clarity and better readability of reports. However, this was rarely seen. In this context, especially **the reports of the VLOPSEs seemed to be focused on quantity rather than the quality of provided information, often making very general remarks and using long descriptions and statements when asked for specifics**. Besides, the provided information seemed, in

some instances, redundant. In addition, ERGA reminds the Signatories that, as per guidelines, the links to webpages should only be used to provide examples or to illustrate the point, and they should not refer to terms of service in general, rather explain the relevant policies in clear and short terms. ERGA therefore invites the platform Signatories to apply more concise and to the point information in the reports, observing wherever possible, the suggested character limits.

Furthermore, when reporting on the SLIs, the Signatories were asked to contextualise all data as much as possible, which was not always observed. Therefore, **ERGA encourages the platforms to do so, i.e. include baseline quantitative information**, such as the number of pieces of content labelled out of what volume of content. Additionally, ERGA stresses that reports should not include only platforms' policies in general but, where relevant, are **expected to highlight comparisons between the measures put in place under the previous reporting period to the measures taken in the current period**.

ERGA is very concerned about the missing data on the Member State level in several reports and for several measures. Access to this kind of data is crucial for regulators and the research community, and detailed country-specific information is also overall a necessary pre-condition for effective monitoring of the Code across the EU. ERGA further highlights that in case there is no data available, the data is insufficient, or the methodology is lacking, platforms were asked to outline in the dedicated field how this will be specifically addressed over the upcoming six months. However, the answers were often inadequate and vague, without clear indications of what platforms are planning to do to provide data in the next reports.

Lastly, while acknowledging efforts, ERGA wants to emphasise the commitment of relevant Signatories to work towards developing Structural Indicators, which aim to assess the effectiveness of the Code in reducing the spread of online disinformation for the entire online ecosystem in the EU. The datasets and data points that have been tabled so far by platform Signatories do not allow a satisfactory cross-platform evaluation and that is why a third-party solution was selected for the pilot measurement. ERGA urges platform Signatories to **provide necessary resources to ensure long-term, and independent evaluation of Structural Indicators** in cooperation with non-platform Signatories, EDMO, ERGA, and relevant third-party experts.

Recommendations

ERGA is generally satisfied with the implementation of some of its recommendations regarding the content of the Code. While the reports provide more insight than ever into the platforms' disinformation related actions, the **reports submitted by Signatories fall short of quality, comprehensiveness and comparability on the actions taken** to tackle the problem of disinformation in the Member States. There is a clear space for improvement, and ERGA is ready to contribute to the process with a list of recommendations, which implementation could greatly contribute to the transparency and efficiency of the Code in the fight against disinformation.

Concerning the Transparency Centre website, in accordance with Measure 36.1 of the Code, Signatories shall provide updates about relevant policy changes and implementation actions in a timely manner (no later than 30 days after changes are announced or implemented). ERGA considers the current implementation of this measure to be inadequate. Thus, ERGA recommends **setting up a**

central repository for relevant mis- or disinformation policies within the Transparency Centre that contains information about all platform Signatories and their services in a centralised manner.

ERGA appreciates the efforts to empower the research community set out in the Code and specifically Commitment 27.⁴ However, ERGA continues to believe that its recommendation that **access to data for independent research should be binding under the Code has not been sufficiently implemented by all platforms**, as access to data is only available to vetted researchers affiliated with universities. ERGA thus, also in light of the DSA, continues to maintain its recommendation – that all platforms should build a research ecosystem based on the access to application programming interface (APIs) for research purposes. Also, platforms should continue to develop internal procedures to allow identification and access to relevant data to young and independent researchers **from non-university-affiliated institutions and organisations**.⁵ ERGA recognises and appreciates the work of EDMO Working Group on Platform-To-Researcher Data Access⁶ and establishment of EDMO Working Group for the Creation of an Independent Intermediary Body to Support Research on Digital Platforms, announced in May 2023⁷.

Regarding the reports, ERGA recommends the Signatories **improve their adherence to the guidelines provided by the Monitoring and Reporting Subgroup**. For example, ERGA advises complying with the reporting period and providing relevant consistent data. In addition, ERGA would welcome Signatories using bullet points and short sentences and relinquishing the long general statements and descriptions when asked for specifics. It would be also appreciated if Signatories would avoid repeating unnecessary information and provide links not to refer to terms of service in general but only to provide an example or illustrate the point.

ERGA further stresses the **importance of the contextualisation of data** and, where relevant, comparisons between the measures put in place under the previous reporting period to the measures taken in the current period. Furthermore, with the rapid development of new technologies for content generation using AI, ERGA sees a clear need for more granular reporting on all types of content created with generative AI⁸ that Signatories acted upon in the reporting period in order to gain knowledge on what type of content hosted on platforms contributes to the spread of disinformation. Last but not least, ERGA strongly encourages Signatories to **provide granular and complete data on the Member State level** in the next reports, which is a crucial pre-condition for effective country-based monitoring.

⁴ “Relevant Signatories commit to provide vetted researchers with access to data necessary to undertake research on Disinformation by developing, funding, and cooperating with an independent, third-party body that can vet researchers and research proposals.”

⁵ ERGA (2021). Improving the relationships between Code of practice signatories and researchers, <https://erga-online.eu/wp-content/uploads/2022/02/ERGA-Report-Improving-the-relationships-between-Code-of-Practice-signatories-and-researchers-June-2021.pdf>

⁶ EDMO (2022). Report of the European Digital Media Observatory’s Working Group on Platform-to-Researcher Data Access <https://edmo.eu/wp-content/uploads/2022/02/Report-of-the-European-Digital-Media-Observatorys-Working-Group-on-Platform-to-Researcher-Data-Access-2022.pdf>

⁷ EDMO (2023). Launch of the EDMO Working Group for the Creation of an Independent Intermediary Body to Support Research on Digital Platforms. <https://edmo.eu/2023/05/15/launch-of-the-edmo-working-group-for-the-creation-of-an-independent-intermediary-body-to-support-research-on-digital-platforms/>

⁸ comments, messages in the messaging applications, videos, pictures, sound recordings etc.

However, even though the **Signatories within the Code** have significant room for improvement in terms of reporting, they **are subject to greater scrutiny compared to non-Signatory platforms**. This is particularly true for platforms designated as VLOPSEs by the European Commission, who are obligated to implement measures to mitigate the risks of disinformation under the DSA. Consequently, ERGA strongly encourages other platforms, especially those recently designated as VLOPSEs by the European Commission, to become part of the Code.

ERGA shall continue in its active contribution to the work of the Permanent Task-force, both in the Subgroup under its coordination and in other Subgroups dedicated to specific areas of the Code, and monitor the following reporting rounds under the Code.