

Threats and Opportunities of Digitalisation and the EU Policy Response

DEMOCRACY VERSUS AUTOCRACY. WHY THE DEMOCRATIC SYSTEM IS SUPERIOR AND HOW IT CAN DEFEAT AUTOCRACY

THREATS AND OPPORTUNITIES OF DIGITALISATION AND THE EU POLICY RESPONSE

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EXECUTIVE SUMMARY

This paper presents an analysis of the threats and opportunities of the digital transformation to democracy as well as a review of European Union (EU) policy in this regard. This paper, therefore, has two purposes: to reflect on how digitalisation can 1) be a threat and 2) an opportunity for democracy; and to reflect on the development of EU policies in the face of the above.

It does so by discussing the following trends or areas of development that intersect with digital transformation and democracy: online participation and communication, social media and more broadly ‘platforms’, and big data.

These three areas are analysed in conjunction with a review of the responding EU and regulatory frameworks. Following this, the policy and regulatory frameworks are reviewed in more detail, providing a more conclusive look at how the EU policy framework has evolved, notably since the adoption of the Digital Single Market strategy in 2015. Based on the review of the type of influence digitalisation is having on democracy and the trajectory of the EU policy framework, the paper delivers a series of recommendations pertaining to the future of EU policymaking.

Social Media summary

A review of EU Digital Policy in response to threats and opportunities of digitalisation

Keywords

#digitalisation #democracy #EUdigitalpolicy #democraticvalues

Short bio

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LIST OF ABBREVIATIONS

| | |
|------|---|
| AI | Artificial Intelligence |
| CSO | Civil Society Organisation |
| DMA | Digital Markets Act |
| DSA | Digital Services Act |
| DSM | Digital Single Market |
| EC | European Commission |
| EP | European Parliament |
| EU | European Union |
| GDPR | General Data Protection Regulation |
| ICT | Information and Communications Technology |
| IED | Institute of European Democrats |
| UN | United Nations |

1 INTRODUCTION

The digital transformation is rapidly transforming how societies function, driving societal change at a rate never seen before. The 21st century can be characterised by this change, and looking ahead, it is apparent that this digital transformation is just beginning. Societies are increasingly connected, and crises – economic, environmental and social are often global in nature. Inequality is rising (The Economist, 2022), while democracy is declining (V-Dem Institute, 2022). Good governance is, therefore, more critical than ever.

The European Union (EU) prides itself as a union of values built on common values of respect for human dignity, freedom, democracy, equality and the rule of law (Treaty of the EU, 2007). Recently, increasing emphasis has also been placed on the EU's role in the digital

"Given the speed of the digital transformation, it is not a matter of discussing if democracy or development come first: either they come hand in hand as part of the digital revolution, or digitalisation will further entrench inequalities and facilitate a further restriction of fundamental freedoms (EPD, 2021, p.4).

transformation. Navigating both is a complex task, due partly to the increasingly volatile and constantly transforming global markets, developments and trends as well as due to the unique policy framework the EU operates in, with power vested in it through specific competencies and governed through the multiple institutions and member states. Regardless, the EU has set ambitious goals for its role in the digital transformation and aims to "become a global role model for the digital economy, support developing economies in going digital and develop digital standards and promote them internationally (European Commission, 2022). Digital policy is arguably one of the areas that has developed the most radically in recent years, reflecting the pace of digitalisation.

In light of this, this paper seeks to reflect firstly on the intersection of democracy and digitalisation, setting the stage for a deeper discussion around how digitalisation can both take the form of threats but also opportunities for democracy, utilising an EU lens. This paper, therefore, has two purposes:

- to reflect on the way in which digitalisation can be both a threat and opportunity for democracy; and
- to reflect on the development of EU policies in the face of the above.

To set the stage, the paper initially identifies and informs on the conceptual definitions and sets the stage for further discussion around how digitalisation is

influencing democracy, by reflecting on changes that are influencing some of the underlying principles of democracy. Following this, the paper shifts to provide a more overarching analysis of how EU digitalisation policy has evolved between 2015 and 2022.

The paper methodologically draws on secondary literature and uses a document mapping approach to analyse EU policy development between 2015 and 2022. It reviews EU policy development over time and draws on secondary data sources to triangulate. Doing so provides an up-to-date and relevant review that can inform both academic and policy discussions. Finally, the paper concludes with a summary discussion of its analysis and provides recommendations tailored to the development of the EU's high-level policy framework.

2 THE INTERSECTION OF DIGITALISATION AND DEMOCRACY

It is important to conceptually understand what democracy refers to, in order to further unravel how and why certain aspects of it can be considered threatened or at risk due to digital developments. Democracy commonly refers to a system of governance in which people participate in the ruling, either directly or through elected leaders. Beyond this, definitions of democracy take different forms and are often highly contested (Bartlett, 2018). However, commonly agreed upon across definitions is the idea of an underlying ideal or principle of popular equality – which gives all members of a collectivity an equal effective right to participate in democracy (Somerville, 2011). In most cases, this takes the form of representative democracy – through which elected representatives govern and make decisions.

While no democratic countries are exactly the same, underlying principles or values are usually what unites democracies. This sentiment is echoed in the United Nations approach to promoting democracy – with “democratic governance as a set of values and principles” that are embodied in the Universal Declaration of Human Rights and reaffirmed across commitments such as the 2030 Agenda for Sustainable Development (UN, n.d). While often primarily, and perhaps, simplistically viewed

through the lens of voting mechanisms and politics, it is important to note that democracy extends beyond formal mechanisms of voting and encompasses "media, civil society and habits of compromise" (Simon et al. 2017, p. 5). Democracy or the practice of democracy, therefore, also consists of multiple actors, institutions and participants. It is not stagnant but rather must be considered as "evolving and fluid" (Papacharassi, 2010, p. 2), which also aligns with the theoretical perspective of democracy as a project – and democratisation as a process which is occurring (Sartori, 1987, Gaventa, 2006). Conceptually, this paper does not seek to define democracy nor heavily focus on theoretical dimensions and underpinnings of what it is, but rather for the scope of the paper consider democracy in its broadest forms – consisting of values and principles.

The last decades have seen the introduction, development and adoption of digital tools, practices and applications that have shaped and largely changed the way the world operates. Digitalisation can be considered one of the altering phenomena of post-modernity, and the UN, notes that "digital technologies have advanced more rapidly than any innovation in our history" (UN, n.d). Despite the speed of its development, its definition remains ambiguous across the literature and in practice (Srai & Lorenz, Reis et al., 2020). Nysten et al. (2014) define digitalisation as "the transformation of socio-technical structures that were previously mediated by non-digital artefacts of relationships into ones that are mediated by digitised artefacts and relationships with newly embedded digital capabilities" (p. 55). The integration of digital tools and systems has arguably reformed several ways the world operates and influenced social norms and guiding structures, amongst them the core values of privacy, autonomy and democracy (Manheim & Kaplan, 2019). In light of this, new concepts have even been proposed – 'digital democracy' or 'e-democracy', which can be defined as the "the practice of democracy using digital tools and technologies" (Simon et al. 2017).

As a result of the evolution of digital technologies, a vast expanse of new opportunities to engage with citizens, promote participation, empower individuals and improve the relationships between citizens and governance structures have developed. However, simultaneously many have argued that the gap between citizens and the largely unchanged systematic structures of government institutions across the western world contributes to the decline in trust and confidence in democratic institutions (Simon et al., 2017). As per the latest results of the annual Democracy Index¹, the state of democracy has been at its lowest point since 2006

¹ The Economist Intelligence Group produces a 'Democracy Index' annually, in which the state of democracy across all countries is assessed.

(The Economist, 2022). Disinformation, micro-targeting, and online hacks represent various threats to the democratic functioning of countries and regions such as the EU. Therefore, the state of the world's democracy is a highly relevant policy issue in the 21st century. Citizens, policymakers, and theorists alike have raised concerns regarding how technology is used and how digital transformation is threatening the functioning of democracy (Dumbrava, 2021).

The EU prides itself as a protector and promoter of democracy (Treaty of the European Union, 2007, Zamfir & Dobрева, 2019). Several values of democracy simultaneously form the values the EU is based upon (Treaty of the European Union, 2007). However, notable, is the increasingly discussed 'democratic deficit' that some consider the EU is facing – further emphasised by violations of civil liberties, limitations on fundamental principles such as freedom of expression and challenges to the rules of laws across select member states (Blockmans & Russack, 2018).

While the EU's relationship and policy regarding digitalisation can be traced back to before the turn of the century, recent years have seen a significant launch of initiatives and regulatory and policy developments. Furthermore, considering how the COVID-19 pandemic and associated developments changed circumstances and served as a driver for an increased demand for online services, it is no longer an option for governments and governance institutions not to incorporate digitalisation firmly on the agenda.

The domain of democracy and digitalisation are both notoriously large, and the paper, therefore, does not seek to address or respond to all how digitalisation and associated developments are changing aspects of democracy but rather exemplifies, through a few selected cases, how EU policy, in particular, is responding to these challenges. The discussion is therefore further framed by some of the values of democracy that developments threaten and are central to the EU's system of governance. These three underlying values of the EU and democracy are i) the right to political participation; ii) the right to free speech; iii) the right to privacy.

3 THE THREATS AND OPPORTUNITIES OF DIGITALISATION - AND THE EU POLICY RESPONSE

3.1 The New Frontier of Civic Participation

Digital technologies can widely be considered to support the accessibility of democratic practices. Not limited to voting, democratic principles rely on fair and transparent governance as well as the participation of citizens. Democracy relies on citizens' participation; the more people participate, the more democratic decisions can become, as well as increasing the trust and accountability of governments and decisions (World Bank, 2017). Digital developments – have revolutionised the way people communicate and how information is shared, which has had a great influence on democratic debates, discussions and forums, as well as on how information is disseminated between decision-makers and citizens.

Across the world, local, regional and national governments are trialling different mechanisms of engaging citizens, such as using mobile applications to disseminate information and gather feedback, online platforms for crowdsourcing ideas, and applying and using algorithms to reach and engage with the required audiences (Sgueo, 2020, Macintosh, 2008). Digital tools are being applied increasingly to increase citizen participation (Hovik & Giannoumis, 2022), in light of declining civic participation levels. Cities and urban areas, in particular, are using online platforms to engage citizens in participatory decision-making processes (Hammond, 2018). In France, Cap Collectif, a civil society organisation, launched 'Parliament et Citoyens', a website which brings together citizens and representatives to collaboratively discuss policy and draft legislation (Simon et al. 2017). On a larger scale, many countries and the European Union have adopted mechanisms through which citizen-led proposals can be submitted to Parliament for consideration. Simon et al. (2017) categorised these types of initiatives depending on the type of action they facilitate, which include i) informing citizens, ii) deliberation, ii) issue framing, iii) citizens developing proposals, iv) citizens providing information, v) citizens scrutinising proposals, vi) citizens providing ideas, vii) citizens making decisions, highlighting the variety of ways through which participation can be garnered.

Digital tools have allowed for more political communities to be created and allowed for more people to be involved in decision-making (Richard, 2018). Democracy, which rests on principles of participation, can, in this regard, flourish as people can easily and in a more accessible way access tools and opportunities to influence decision-making. Digitalisation, therefore, presents a much more accessible way for citizens to participate in a democracy which would not have been possible thirty years ago, thus being an opportunity for the principle of participation, as enshrined in Articles 10 and 11 of the Treaty of the EU (Treaty of the European Union, 2007).

*"Article 8A:
3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly as closely as possible to the citizen."
(Treaty of the European Union, 2007)*

Arguably, the adoption of digital tools and innovations has facilitated changes to what constitutes civic space and engagement and has therefore been heralded for its "democratising potential" (Sissel & Giannoumis, 2022, p.2), amongst policymakers, academics and industry leaders. Regardless, some voices remain sceptical, concerned that if left completely unquestioned, "the building blocks of democracy itself" may be eroded (Sgueo, 2020, p.1). Despite its highly recognised potential, it is therefore also important to consider the limitations and risks associated with this new way of engagement. While often heralded as inclusive and broad, e-participation mechanisms may still be impacted by similar limitations as conventional forms – particularly regarding the exclusion of politically marginalised groups. With digital mechanisms, this may be heightened, as the digital divide is a major factor in play – as evidence has shown that almost all marginalised groups (across various social characteristics) face unequal access to ICT. This gap is widening in many places (Sissel & Giannoumis, 2022). Thus, the participation gap may emerge – which refers to the gap between people of different socioeconomic statuses and their participation (Dalton, 2017), which threatens the equality of participation.

The EU has mainstreamed participation across its policies and programmes. Citizen engagement was recognised and further strengthened in the Treaty of the European Union through the European Citizens' Initiative (Treaty of the European Union, 2007) and is further put into practice through various programmes and initiatives. The EU commits to ensuring citizen engagement in its policy, strategy and regulatory processes as well as the official governance and institutional structures. Digital participation, on the other hand, is a more recent addition to policy frameworks. The EU has proposed and adopted several instruments that seek to link the two – the European Democracy Action Plan (2020) and the proposed Declaration on European Digital Rights and Principles (2022) are two examples. The Declaration

on European Digital Rights and Principles (2022), outlines that the EU will support efforts to ensure all citizens can “take an active part in the economy, society and democratic processes” (p. 3) and commits the EU to “supporting the development and best use of digital technologies to stimulate citizen engagement and democratic participation” (p.5). The European Democracy Action Plan (2020) on the other hand, places digitalisation central to the future of democracy.

Box 2: EU Policy and Regulatory Frameworks regarding Digital Participation in Democratic Processes

- European Democracy Action Plan (2020)
- Declaration on European Digital Rights and Principles (2022)

3.2 Social Media and the rise of 'Platforms'

Social media and the increase in communication channels have opened a whole new avenue for disseminating free speech, activism, and information. Information is not solely in the hands of formal media producers, but rather anybody has the power to share and disseminate. Based on this, social media was frequently, particularly in its early days, seen as one of the "great enablers of democracy" (Dumbrava, 2021, p. 2); however, it is increasingly criticised for how they are used for sowing misinformation, manipulating citizens and undermining democratic institutions and processes.

Democracy arguably relies on citizens' abilities to gain, understand and deliberate information on public matters (Dumbrava, 2021). When this is undermined, through disinformation, fake news and manipulation, people may question the underlying principles of democracy. Search engines and social media run largely on algorithms – algorithms that can nudge, be bought and be used to manipulate social, economic and political decisions. Users of social media platforms frequently encounter disinformation. Despite the commitment across the board to improve media literacy, there is general agreement that basic digital literacy is insufficient in response to how extensively algorithms can be used to manipulate. In many countries, these types of platforms may have a dominant market share (Helbing et al., 2017). Furthermore, many of these platforms are headquartered in the US and governed by US laws, which allow them to control – through self-regulation, to delete and remove content considered illegal or harmful, thus enabling them to act as gatekeepers of free speech.

In the EU, free speech is enshrined as a right in the European Charter of Fundamental Rights (2012). To a certain extent, global online giants have gained the power to control and monitor free speech, which is an issue considering that in democratic countries the practice of the rule of law also guarantees the right to free speech (Kucina, 2021). The European Declaration on Digital Rights also protects the right to free speech online, noting that "everyone has the right to freedom of expression in the online environment, without fear of being censored or intimidated (2022, p. 5). Despite this, the considerable power that social media and technology giants wield is considered an increasingly big problem. As a result of a lack of regulation, these companies act as gatekeepers of democracy and have significant control over public discourse.

Article 11: Freedom of Expression and Information

*1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.,
2) The freedom and pluralism of the media shall be respected (EU Charter of Fundamental Rights, 2012)*

In December 2020, the European Commission proposed the Digital Services Act (DSA) and Digital Markets Act (DMA) to create an "environment where EU business can thrive" while also ensuring that "users are treated fairly" (European Commission, 2022). When implemented, the DSA, in particular, will force companies such as Facebook, Youtube, and other online services to combat misinformation actively, police the content posted online, and stop targeting ads based on certain socio-demographic characteristics. Lauded as a landmark act, it aims to end the largely self-regulated control social platforms have had online. The DSA places the responsibility for the removal of illegal content on the provider. However, this carries important implications for the principle of free speech as well as questions around what is deemed illegal and the boundaries between censoring and protection (Kucina, 2021). Notable is the power vested into the European Commission – allowing it to fine platforms up to 6 per cent of global turnover in response to non-compliance (Digital Services Act, 2022).

Box 1: EU policies regarding social media and Online Platforms

- Communication on Online Platforms (2016)
- General Data Protection Regulation (GDPR) (2016)
- Tackling Online Disinformation: A European Approach (2017)
- EU Code of Practice on Disinformation (2018)
- Directive on the European Electronic Communications Code (2018)
- European Commission Guidance on Strengthening the Code of Practice on Disinformation (2021)

- Strengthened Code of Practice on Disinformation (2022)
- Proposal for an EU Digital Services Act (2022)
- Proposal for an EU Digital Markets Act (2022)
- Declaration of Digital Rights and Principle (2022)

3.3 The Changing Dimensions of Data

All these new developments have led to an incredible increase in the type of data that is generated as well as ways in which to use this data. Often referred to rather generally with the term ‘big data’, the term covers this newfound conceptualisation of data availability - massive amounts of complex unstructured or structured data, that traditional data analysis methods can’t process. This data is frequently cited as a challenge and threat to democracy – due to the way it has been used to manipulate, influence and alter social relations, voting behaviour, personal interests and so forth. The amount of data that exists is staggering, as in 2016, the world "produced as much data as in the entire history of humankind through 2015" (Helbing et al. 2017). Three Vs can characterise big data – the volume, in terms of the amount of data available, the velocity, in terms of the speed at which data is processed, and finally variety, in terms of the diversity of it all (Kucina, 2021). This data emergence is changing our world – algorithms and artificial intelligence (AI) are developing at an alarming pace, threatening how society is organised. Arguably, the evolution of this new type of data and analytics have brought to light new types of ethical dilemmas around how data should and can be regulated.

Data is constantly being collected during any kind of online or virtual engagement, and it is therefore almost impossible to retain any type of privacy (Kucina, 2021). Companies can then use this data to label and micro-target people as per their desires. Digital surveillance, tracking, or collecting extensive amounts of data on individual behaviour, together with algorithms, are used to monitor, predict and target individuals. Privacy, which is enshrined in Article 8 of the EU Charter of Fundamental Rights (2012), is threatened by how modern data is produced and used. Furthermore, the

Article 8: Protection of Personal Data

1) Everyone has the right to the protection of personal data concerning him or her.

2) Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

3) Compliance with these rules shall be subject to control by an independent authority (EU Charter of Fundamental Rights, 2012)

extent to which the data can be used to influence social, economic and political decisions is tremendous.

Recent developments make it evident that the EU has moved on from the debate around whether regulation is necessary and is committed to action. Traditional data protection mechanisms and even the established General Data Protection Regulation (GDPR) (2018) are insufficient to protect privacy and free speech in the digital age. The European Data Strategy (2020) seeks to make the EU “a role model for a society empowered by data” (2020, p. 1). The Data Governance Act, approved in May 2022, sets out a harmonised framework for data exchanges, basic requirements for data governance and facilitating cooperation between member states, however, it will only be applicable 15 months after the entry into force of the act (Council of the EU, 2022).

In April 2021, the European Commission published a proposed Artificial Intelligence Act, which outlines how the EU would regulate AI with the vision of ensuring a "well-functioning internal market for artificial intelligence systems" based on "EU values and fundamental rights" (2021, p.1). In addition to the proposed act, the Commission presented a Communication on fostering a European approach to artificial intelligence and updated the Coordinated Plan on Artificial Intelligence (2018).

Box 3: EU Policy, Regulatory and Strategy Approach to Big Data

- General Data Protection Regulation (GDPR), 2016
- The Data Protection Law Enforcement Directive, 2016
- Data Governance Act, 2018
- Communication: Coordinated Plan on Artificial Intelligence, 2018
- Communication: A European Strategy for Data, 2020
- Proposal for an Artificial Intelligence Act, 2021
- Data Governance Act, 2022
- Declaration of Digital Rights and Principles, 2022

4 A TRAJECTORY OF EU DIGITAL POLICY

As made evident by these cases is the intersecting nature of all these developments. Innovations bring challenges and opportunities, and the EU has developed a variety of policies and strategies in response. Some are broad and cross-cutting, while others focus on smaller dimensions of action. In the early ages of digital transformation, much effort went into formulating governance mechanisms and applying laws and norms to govern the online world, largely seen as a separate domain (Sida, 2019). Assessing the digital landscape now, it is evident that the online and offline spheres are becoming increasingly overlapping, highlighting that digitalisation and the risks and opportunities that come with it are here to stay. Digital policy can, therefore, no longer be considered a stand-alone field but rather is intrinsically related to wider economic, social and political policies and strategies. This can also be seen in how EU policy has evolved, going from sector-specific and siloed policies and mechanisms to being integrated and mainstreamed across all policy dimensions. While the rights, principles and values of the EU are protected in stand-alone charters and treaties, they are increasingly integrated with digital aspects to create a modern policy framework that adequately considers and reflects the interaction of the two. This section, therefore, reflects more thoroughly on the different key policies and regulations adopted in recent years and reviews them in conjunction to analyse their trajectory and how EU policy has evolved.

The 2010s can be characterised by a renewed focus on the Digital Single Market through the “Digital Agenda for Europe” Programme (2010). However, it was in 2015, with the adoption of the Digital Single Market Strategy, that the EU policy approach significantly kicked off – introduction of transparency obligations for online platforms (Regulation on promoting fairness and transparency for business users of online intermediation services, 2019), updating copyright rules in relation to the digital environment (Directive on copyright and related rights in the Digital Single Market, 2019), through the end of roaming charges, geo-blocking regulation (Regulation on Removing barriers for e-commerce, 2018), improved online data protection (Regulation on Cooperation of Consumer Protection, 2017) and so on. The Commission launched the Digital Single Market Strategy as one of the von der Leyen Commission’s key priorities, with the vision of a digital single market “in which the free movement of goods, persons, services and capital is ensured and where individuals and businesses can seamlessly access and exercise online activities” in order to “ensure that Europe maintains its position as a world leader in the digital economy” (A Digital Single Market Strategy for Europe, 2015, p.1).

In 2018, Carnegie Europe noted that the EU "can and should be doing more to harness digital innovation and channel it in a positive, pro-democratic direction" (Lironi, 2018) and suggested that the EU approach so far has been driven by a fear of digital tools and that spending on digital democracy was not at a sufficient level. Reflecting on this, it becomes evident that since 2018, the EU has significantly invested in the digitalisation agenda and made it a priority across its policy framework, as seen most remarkably with the emphasis on digital strategies, increased investment into research and innovation, and an increased focus on establishing high-level regulatory frameworks that respond to the digital environment. Notable is the commitment to "Europe fit for a digital age" as one of the key priorities for the Commission (von der Leyen, 2019), which has arguably seen the Commission further integrate focus and investment into the various aspects of digitalisation.

2020 and 2021 have seen an increased focus on all aspects digital across European policy. In the European Democracy Action Plan (2020), the 'digital transformation of our democracies' was placed as the first point of discussion, evidencing the recognition of the interaction between the two. In 2021, President of the Commission, Ursula von der Leyen, announced the European Digital Decade in the State of the European Union speech in 2021 (State of the Union 2021), signifying an even more high-level formal commitment to this. In conjunction with the Digital Decade, the Commission presented what is known as the Digital Compass, which sets out targets for fostering digitalisation in the EU by 2030 and which includes a proposition on establishing A Path to the Digital Decade policy programme, which establishes monitoring and cooperation mechanisms for achieving the goals. The Council and the European Parliament reached a provisional agreement on the programme which was achieved in July 2022 (Council of the EU, 2022). The objective of the Digital Decade is to "empower business and people in a human-centred, sustainable and more prosperous digital future", to be achieved across four compass points: 1) a digitally skilled population and highly skilled digital professionals, 2) secure and sustainable digital infrastructures, 3) digital transformation of business and 4) digitalisation of public services. This Digital Decade forms a central part of EU policy – to which other policies, strategies and regulations are aligned.

The proposed Digital Markets Act (DMA) and Digital Services Act (DSA) represent a turnaround in the EU's approach to regulation. Recently passed, in March and April 2022, respectively, the DSA and DMA can be seen as ground-breaking due to the way they will shape the global digital economy for years to come – with the DSA regulating the responsibility of platforms for illegal content, products and services whilst the DMA will open up markets, increasing consumer choice and promoting

competition (Schwab, 2022). These are particularly noteworthy considering the largely unregulated approach to the internet that the EU had previously followed (Savin, 2020) – developed based on ideas of 'intermediaries not being liable for the content itself and the information society not being sector specific. Initial EU policy approach towards new innovations such as the internet was largely based on four principles; no regulation for regulation's sake, all regulation based on Single Market freedoms, all regulation to take account of business realities, and all interests to be reached effectively and objectively (Slavin, 2020, p. 95). However, as technology and the internet developed in the 21st century, these notions of freedoms became increasingly challenged. Digital developments were driving change at an unexpected pace, and the way the information sector, the online world and the immense production and use of data triggered significant changes in the EU's regulatory approach to digitalisation. As a result, the EU can be considered to be increasingly seeking to improve its regulatory framework; developing competition measures and regulations, which can ensure that digital companies do not further monopolise within their sectors, improving data protection and digital privacy laws to ensure safeguards to prevent abuses of personal data, while also increasing the transparency and accountability of online platforms (Dumbrava, 2021).

While the DSA and DMA represent landmark acts, they have been criticised for not ambitiously responding to some of the challenges digitalisation drives. The DSA while proposing improved regulation around content, did not go so far as to include a ban or regulation around profiling or micro-targeting beyond Art 29, which stipulates a specific obligation in case of very large online platforms to specify in their terms how they use this data (Kucina, 2021).

The political agreement on the DSA and DMA has been considered a 'watershed moment' (Amnesty, 2022) for regulation worldwide. It represents an opportunity for Europe to lead the way into the digital future. Furthermore, proactively managing and responding to the digital transformation can enhance the EU's position and influence in the global world order, as highlighted with the way the EU's GDPR regulation – which shifted the duty of compliance to organisations through the adoption of a risk-based approach (Quelle, 2018) and has served as a model for several laws around the world. The DSA and DMA arguably have similar potential, being considered ground-breaking by both media, policymakers and companies alike (Amnesty International, 2022, de Graaf, 2021, McGowran, 2022). At a high level, this represents an increased commitment to ensuring that all policies integrate digitalisation rather than siloed approaches.

The European Democracy Action Plan 2020-2024 (2020) is the most recent instrument outlining the EU action required to protect democracy and places digitalisation centrally on the agenda. As stated in the European Democracy Action Plan, “democracy cannot be taken for granted” (European Commission, 2020, p. 1), but rather must be proactively defended. This is even more critical due to the rapid transformation of societies due to digital developments. Across many of its digital policies, the European values but also underlying dimensions and principles of democracy are critically emphasised. The European Strategy for Data, proposed in 2020, centres on “people first in developing technology” and specifically outlines its goal of promoting European values and rights in the digital world” (EU Data Strategy 2020).

Furthermore, in early 2022, the European Commission proposed a Declaration of Digital Rights and Principles that places Digital Rights (2022) at the centre of the EU human rights frameworks – and highlights that the objective of which is to “spell out how its values and fundamental rights should be applied in the online world” (p. 1). Across EU policy, a key goal is to ensure that its principles and values are respected online and offline (European Commission, 2022), which suggests that, to an extent, the online and offline are still viewed as separate dimensions.

In addition, digitalisation has gained significant prominence across the EUs external action agenda (EPD, 2021), highlighting the links between global developments, EUs global ambitions, and internal policies. The EU Digitalisation and Democracy Handbook (2022), developed to inform EU staff on the challenges and opportunities of digitalisation in international cooperation and development projects, notes that “understanding that digitalisation is an opportunity to improve governance, build stronger institutions and promote human rights is an important lesson” (European Commission, 2022, p. 2022) emphasising even more strongly the opportunities associated with digitalisation and the possibilities the European Union in both its internal and external policies.

5 CONCLUSION

While the changes and innovations driven by digitalisation, particularly in communication, were initially heralded as facilitating increased participation in the democratic processes, they have increasingly come under query as threatening the fundamental practices of democracy. Underlying principles of democracy and human rights are being threatened by the changes the digital transformation has brought. More so, they will continue to do so, unless action is taken. The EU, as a protector of democracy and established upon principles and values must therefore ensure that the policy frameworks are relevant, responsive and appropriate to the challenges that the evolving nature of digitalisation is bringing. Arguably, if democracies cannot adapt and proactively capitalise on digital tools to respond to the flaws and weaknesses that have been covered, the threat to democracy during the digital age will be severe and continuous (Gardels, 2021). As noted by Ursula von der Leyen, President of the European Commission, "digital is the make-or-break issue" (State of the Union, 2021), which the policy and regulatory framework must reflect.

6 POLICY RECOMMENDATIONS

The following recommendations are proposed based on the above analysis. These are informed by the above review and are therefore broad and do not seek to discuss specificities or technicalities of specific policies or regulations but rather highlight good practices and opportunities based on how the EU policy has evolved over time and the type of challenges digitalisation has so far brought forward. Furthermore, this paper has not reviewed the amount of funding, programming or initiatives that seek to support the formal policy and regulatory framework and thus is limited in that regard.

I. Ensure a proactive, forward-looking and timely approach to policy development

The digital sector is constantly evolving. Ensuring that the policy and regulatory frameworks consider this should be a priority for the EU. This can be done through increased investment into research, and innovation and adopting a forward-looking approach to policymaking. This is particularly relevant considering the speed at which digital developments occur and the time required to develop, adopt and implement EU-wide policies, reflecting one of the challenges of policymaking at an EU level. Bearing this in mind, it is therefore incredibly important for the EU to stay

up to date on digital changes to ensure that policies and regulations are designed promptly so that they can be implemented without much delay.

II. Continue to mainstream and centre digitalisation across all sectoral policies

Digitalisation needs to be continuously mainstreamed across all policies. The digital can no longer be considered its subarea, with distinct rules and regulations, but arguably intersects across all policies. The EU should therefore continue placing digitalisation within all policies, strategies and programmes and seek to build synergies between them all, as demonstrated by the central role of the Digital Decade Policy.

III. Address digitalisation and its challenges through multiple policy angles

In addition to establishing synergies between policies, programmes and regulation is the need to approach the challenges that digitalisation brings from multiple angles. While this paper has focused on the policy and regulatory framework, it is important to recognise that the challenges can and need to be addressed through different channels. It is important to continue investing in all citizens' digital skills and capabilities. Media literacy can no longer be considered sufficient, but an EU-wide emphasis on 'critical technology literacy' needs to be ensured (Vahti, 2021). Digitalisation is here to stay, and thus, digital literacy is of utmost importance. This is reflected in EU strategies as well, in which upskilling citizens and ensuring the relevant investment is emphasised increasingly across its policies.

IV. Ensure sufficient evidence generation, information sharing and dissemination around e-democracy initiatives, approaches and practices across the EU and further afield

It is critical to continue building the evidence base on what works. While the EU leads on regional policies and programmes, synergising and capacitating national initiatives across the region can further strengthen the region's position as a whole. This is particularly relevant for an institution such as the EU, where regional and local collaboration can be facilitated. Continuing to use the various member states' capacity and initiatives is important to strengthen the combined synergies of multi-level governance and innovation at various levels.

V. Continue placing people and protection of their fundamental at the centre of all policies

Despite this, the EU must continue to prioritise its fundamental values across the digitalisation agenda. Digital development is important in terms of its economic

potential. However, it is imperative that development is rights-based and does not come at the risk of infringement of rights, values and equality. Furthermore, considering the role the EU seeks to have worldwide, ensuring digital transformation while retaining and protecting human rights and dignity is the only way the EU can be the player it seeks to be. The commitment the EU must make to ensure that the digital future – both within the EU and externally aligns to the democratic and rights-based principles cannot be understated. The people are the future of the EU and policy needs to reflect this.

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