

TikTok - a catalyst for extremist views and breaching electoral legislation in Romania. Do we have a democratic process with DSA?

Open letter addressed to the European Commission, as coordinator of the EU DSA Regulation for Very Large Online Platforms (VLOPS), and to ANCOM, as Digital Services Coordinator in Romania, under the EU DSA Regulation and Law 50/2024.

The first round of the Romanian presidential elections and the effect of large platforms

After the first round of the presidential elections on November 24, 2024, we may note that among the factors that clearly influenced the electoral process in Romania - without minimizing other causes, such as the anti-system vote or the decoupling of political parties from ordinary citizens - includes the way social networks were used in the electoral campaign, especially TikTok - currently the most popular online social network in Romania. In the absence of measures to mitigate the risks, these networks were used as a catalyst for extremist views. Legislation on election campaigns have also clearly been breached.

TikTok [publicly claims](#) that it does not accept political advertising, but most candidates have used this online social network both for direct communication, but especially for indirect communication - through other accounts, sometimes marked as election advertising, sometimes not, [according to an Expert Forum Policy Brief published on November 23, 2024](#)).

One candidate in particular has managed an incredible “performance” in the last weeks of the campaign: to grow his audience on TikTok at a pace that seems artificial, mainly through 2 strategies: "(i) a coordinated network of account promoting the candidate directly, and (ii) a group of influencers indirectly promoting the politician, without marking their content as paid advertising in any way", [according to a Policy Brief by the Expert Forum, published on November 23, 2024](#). All of this at zero cost, according to their own claims (details in [Expert Forum's "Campaign Financing for Presidential Elections II", published on November 25, 2024](#)).

Basically, the TikTok platform, which has been the main online social network used by Romanians, operates an opaque algorithm that can lead to the propagation of extremist content. By not following its own rules and allowing any type of electoral content promoted by various dedicated, fake and intentionally coordinated accounts, as well as by not flagging election advertising, TikTok was one of the factors that influenced the electoral outcome in the first round of the presidential elections, thus promoting the candidate who did the most to speculate the potential of algorithms to amplify and prioritize highly engaging content. Such engagement can occur organically, sometimes with paid accounts or paid users, or it can be orchestrated using fake accounts. [The lack of any transparency on TikTok's part](#) fuels hypotheses such as the existence of hybrid Russian

disinformation campaigns in the area but also the possible impact of other geopolitical interests on the platform.

The electoral campaigns for the presidential and parliamentary elections are still ongoing until December 8, 2024, so non-compliance with these rules continues to impact this democratic process.

In fact, it is already known that content recommendation algorithms prioritize polarizing messages, as [studies of their own platforms by companies including Meta show](#). The Irish Council of Civil Liberties [has been calling](#) on the European Commission as early as 2023 to follow suit and require platforms that also host video content to disable recommendation systems based on user profiles.

Moreover, national online platforms have been used to find (micro)influencers on TikTok and promote election messages without requiring them to comply with election laws and publicly mark the message as paid (details in articles published by [Gândul on November 12](#) and [Adevărul on November 13](#)). Other online platforms - in Romania or other countries - may have been used in the same way to identify and pay influencers.

DSA and systemic risks to electoral processes

With the entry into force of the Digital Services Regulation (DSA), large online social networks (designated as VLOPS) have a legal obligation to be more accountable for their role as intermediaries in many online activities and, in particular, in the context of electoral processes. But without the firm involvement of European and national authorities, we cannot expect real progress in this respect.

In the context of [the European Commission's Guidelines to VLOPS on mitigating systemic risks to electoral processes under the DSA](#), published on April 26, 2024, these platforms knew and should have been prepared with these measures, the importance of which was reiterated by [the European Digital Services Committee in its Post-Election Report on the June 2024 European Elections](#).

Moreover, TikTok has recently been the focus of a European Commission [request for information](#) on the measures it has taken to avoid the manipulation of its service by malicious actors and to mitigate risks related to elections, media pluralism and civic discourse, which may be amplified by certain recommender systems. This request is in addition to the formal procedure started by the Commission [as early as February 2024](#) to investigate whether or not TikTok has breached the DSA Regulation related to open access to data for research and the lack of transparency regarding advertising on their platform.

De facto, in the context of the elections in Romania, TikTok has implemented almost none of the specific measures identified in chapter 3.2.1. of the European Commission's Guidelines mentioned above, even though these guidelines were published in order for platforms to play a more active role in preventing fraudulent use and influencing of democratic electoral processes. TikTok's lack of transparency, public outreach and accountability for its major role in the Romanian digital information ecosystem is unacceptable in the electoral context presented above and in the context of the DSA.

At the moment, we lack sufficient information to assess whether or not other relevant online platforms in Romania (Facebook, Instagram, Telegram, YouTube) have made real efforts to facilitate a fair electoral process, and what the outcome of these efforts has been.

As far as is publicly known, neither the European Commission nor the competent national institutions, together or separately, have even managed to engage with VLOPS on these systemic risks for the Romanian elections. Or, if they did, the information was not communicated publicly. Also missing was any information about the local online platforms that brokered such messages.

In fact, the Romanian authorities involved in the electoral process seem to have focused only on the bare-bones application of the rules on advertising in the physical media, radio and TV, but completely ignored concerted and non-compliant campaigns online. Instead, the day before the elections (on the day when electoral campaigning is banned), police raided the homes of ordinary online social network users who posted personal electoral opinions, that were easily [identifiable as such](#) (details in [the Free Europe articles](#)).

Using problem-solving as a political tool, circumventing the DSA

At the same time, during this election campaign, it became clear that national authorities are overwhelmed by the issue of regulating large online social networks and do not understand the role of the competent authorities, nor the specific powers and levers they should have developed in order to have effective regulation. Moreover, some authorities seem to arrogate to themselves, without any legal basis, various powers to regulate online content.

For example, several presidential candidates have taken a stand against "troll farms" attacking their content posted on various online social networks and have asked a wide range of institutions - the National Cyber Security Directorate, the Romanian Intelligence Service, the Ministry of Digitalization, the Romanian Government, the Permanent Electoral Authority, the Supreme Council for National Defence, the National Audiovisual Council, the National Authority for Administration and Regulation in Communications - "to check the situation". Instead, no one has invoked the DSA Regulation and the liability of online intermediaries as large platforms (VLOPS).

What's more, the Minister of Digitization (also personally involved in the electoral campaign) said that [he had received a report from Meta and that dozens of accounts](#) had been identified representing several organized networks trying "to obtain illegitimate content to promote a particular candidate". He also said that they had all been blocked by Meta and TikTok (even though the Ministry had no legal authority to make such an investigation or demand the blocking of an account). At the same time, he exonerated his own party from any such liability. A journalistic investigation published a few days later [showed that his own party had used exactly the same system of fake Facebook accounts](#).

The same ministry, together with the Permanent Electoral Authority, seems to become competent and were nominated by an Electoral Bureau (according to [a decision that is only public on the website of the Ministry of Foreign Affairs](#)) to ask TikTok to remove certain audio content that is declared illegal for using trivial words against a party. The DSA regulation is not mentioned here either.

All these public reactions and measures restricting fundamental rights, in the absence of a clear and precise legal framework and in the absence of any minimum necessary transparency measures, lead to growing distrust in a rule of law, based on the authority of the law.

In this context, the signatory organizations make a public appeal to the European Commission and ANCOM, the main institutions responsible at EU and Romanian level for the implementation of the DSA Regulation, for a rapid reaction to mitigate the risks related to the electoral process. We call on the European Commission and ANCOM to start investigations, in accordance with their legal powers, into the way in which the large online platforms (VLOPS) have complied with the rules of the DSA in the electoral process in Romania. Thus:

- **Given that Romania is in the midst of an electoral process until December 8, 2024**, we consider that **a swift reaction is needed from the European Commission as DSA coordinator in relation with VLOPS to warn them** on how the DSA Regulation, including the above mentioned Commission Guidelines, should be complied with in the electoral process in Romania, in light of the preliminary information received. In particular, the Commission should encourage **TikTok to fairly and impartially apply its own rules for the use of the platform** and to identify coordinated processes of creating fake accounts with the sole purpose of promoting a political candidate.
- **We encourage the Commission to investigate all VLOPS on their concrete measures to mitigate the risks related to the electoral processes in Romania** ([CNA has also gone in much the same direction according to a press info sent on this day](#)) Beyond the complex aspects of such an investigation there are also minimal aspects that should be immediately

- published by VLOPS - e.g. the number of Romanian speaking people who were hired additionally during the election campaign period to analyze the incoming reports.
- **ANCOM should document and analyse how certain VLOPS have seriously affected the recipients of their services in Romania** and submit, to the European Commission, a request to examine the matter in accordance with Article 65 paragraph 2 of the DSA Regulation, through the information exchange system referred to in Article 85.
 - **ANCOM should investigate the online intermediaries in Romania that have hosted** such illegal election advertising messages, including the actions that these intermediaries have taken after being informed (directly or indirectly through the media) of them. In case of identification of online intermediaries in other EU Member States, ANCOM should cooperate with the relevant institutions in those countries.
 - **TikTok and Meta (Facebook and Instagram) should grant access to data**, in accordance with Article 40 paragraph 1, to be reviewed by academic or independent researchers or NGOs for independent analysis, as per Article 40 paragraph 4.
 - In this context we also reiterate older opinions **on the real need for proper implementation of the DSA in Romania**, in particular through:
 - Creating transparent hybrid mechanisms for information, discussion and implementation of the DSA involving the private sector, academia and non-governmental organizations, in particular in relation to VLOPS.
 - **Making the role and scope of activity of the competent authorities transparent and clear, as well as correcting measures that fall outside their area of competence.**
 - An active role for ANCOM in identifying relevant intermediaries according to risk, instead of a mandatory notification process for Romanian actors.

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