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Answer given by Executive Vice-President Virkkunen

On behalf of the European Commission

(3.3.2025)

The Digital Services Act¹ (DSA) aims to enable a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the Charter of Fundamental Rights of the European Union, such as freedom of expression, are effectively respected and protected.

The DSA does not define ‘hate speech’ nor regulate what content is illegal. Illegal content remains defined by applicable EU and national laws. Instead, the DSA regulates the responsibility of intermediary services for the systems they have in place. It sets a series of due diligence obligations on hosting services, requiring them, for instance, to set up notice and action mechanisms to report illegal content and act effectively once they are notified that illegal content is accessible on their platform in the EU.

On 20 January 2025, the Commission adopted the Code of Conduct on Countering Illegal Hate Speech Online +². The integrated Code of conduct will facilitate compliance with and the effective enforcement of the DSA.

The 2008 Framework Decision requires Member States to consider as a criminal offence hate speech, defined as publicly inciting violence or hatred against individuals or groups based on race, colour, religion, descent, or national/ethnic origin.

Several Member States have extended the scope of hate speech as an offence with additional grounds, which is a possibility provided in the Framework Decision.

The Commission’s powers in relation to accessing technical interfaces under the DSA are strictly limited to data access requests and monitoring actions, under Articles 40 and 72 thereof, and they do not imply intervention in content moderation.

¹ 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).

² <https://digital-strategy.ec.europa.eu/en/library/code-conduct-countering-illegal-hate-speech-online>