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Veröffentlichungsversion / Published Version
Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:
Schlag, G. (2023). European Union's Regulating of Social Media: A Discourse Analysis of the Digital Services Act. *Politics and Governance*, *11*(3), 168-177. https://doi.org/10.17645/pag.v11i3.6735

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Politics and Governance (ISSN: 2183–2463)
2023, Volume 11, Issue 3, Pages 168–177
https://doi.org/10.17645/pag.v11i3.6735

Article

European Union's Regulating of Social Media: A Discourse Analysis of the Digital Services Act

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Submitted: 29 January 2023 | Accepted: 6 April 2023 | Published: 31 August 2023

Abstract
Traditional conceptions of democratic publics are changing due to the rise of social media as a global communication tool. While social media brings people together globally and creates new spaces for creativity and resistance, it is also a space of harassment, discrimination, and violence. As recent debates about hate speech and the distribution of "fake news" have shown, the political responsibilities and consequences of regulating online content remain unclear. More recently, the EU is increasingly paying attention to platform providers. How is the EU legitimizing its new approach to social media platform regulation and how will this legislation shape transnational publics? This article contributes to ongoing debates on platform regulation by governments and other political authorities (especially the EU as a transnational legislator) and discussions about the shape of online publics. By applying a discourse analytical perspective, key legitimation narratives can be explored. I argue that the EU claims political authority over corporate interests by introducing new legislation to regulate social media platforms with the Digital Services Act. On the one hand, the EU imagines an idealized democratic online public without harmful and illegal content. On the other hand, the new legislation serves the EU's agenda on digital sovereignty, taking back control from big and US-based enterprises. There is a strong consensus about four legitimation narratives: (a) "What is illegal offline has to be illegal online"; (b) the EU is "taking back control"; (c) the EU is "protecting small businesses, consumers, and our citizens against big tech"; (d) the EU is developing "a golden standard and rulebook beyond the EU." Held together by the idea of democratic procedures, authority, and sovereignty, these narratives are demanding more action from social media providers to act on harmful and illegal content.

Keywords
content moderation; Digital Services Act; EU regulation; freedom of expression; social media platforms

Issue
This article is part of the issue "Publics in Global Politics" edited by Janne Mende (Max Planck Institute for Comparative Public Law and International Law) and Thomas Müller (Bielefeld University).

1. Introduction

Love and hate, knowledge and disinformation, legitimate protest, and inflammatory agitation are only one click apart. Envisioned as an emancipatory project once, online communities increasingly reveal the dark side of user harassment, algorithmic policing, and state control. Surprisingly little is known about the political struggles that evolve around policies of online content regulation and their impact on the shape and characteristics of digital publics (DeNardis et al., 2020; Gorwa, 2019a; Van Dijck, 2021). In the light of online disinformation, harassment, and radicalization, calls within the EU are strong to revise the present model of self-regulation where primarily social media platforms define the rules and procedures of online content moderation. As European Parliament member Arba Kokalari (European People's Party) said, "The new rules will put an end to the digital Wild West where the big platforms set the rules themselves and criminal content goes viral" (EPP Group, 2022).

While the EU is not policing online content directly, it has formulated a more detailed position on platform responsibilities. The European Commission made two legislative proposals in December 2020, the Digital Services Act (DSA) and the Digital Markets Act (DMA).

On 23 April 2022, a political agreement was reached, and the European Parliament voted in favor of the Commission's proposals in July 2022. Executive Vice-President of the European Commission Margrethe Vestager tweeted: "Yes! Today @Europarl_EN adopted #DSA & #DMA regulations: 🇪🇺 strong, ambitious & global first rulebook of #online platforms. Now I'm looking forward to the adoption by @EUCouncil. Congratulations to all of us 🥳 https://europa.eu/!vcx4W8'' (Vestager, 2022).

How is the EU legitimizing its new approach to social media platform regulation and how will this legislation shape transnational publics? These two questions are entangled as the former is mainly empirical while the latter is reflecting on its implications for a public sphere, understood as an "ideal of unrestricted rational discussion of public matters" (Fraser, 1990, p. 59), and why we, as researchers, social media users, and citizens should pay attention to it.

In this article, I argue that the EU claims political authority over corporate interests by introducing new legislation to regulate social media platforms. On the one hand, the EU imagines an idealized democratic online public without harmful and illegal content. On the other hand, the new legislation serves the EU's agenda on digital sovereignty, taking back control from big *and* US-based enterprises. There is a strong consensus about four legitimation narratives, articulated by members of the European Parliament: (a) "What is illegal offline has to be illegal online"; (b) the EU is "taking back control"; (c) the EU is "protecting small businesses, consumers, and our citizens against big tech"; and (d) it is developing "a golden standard and rulebook beyond the EU." Held together by the idea of democratic procedures and political sovereignty, these narratives are demanding more action from social media providers to act on harmful and illegal content.

The aim of this article is twofold. First, I show how the EU's approach to social media platform regulation evolved and how members of the European Parliament and the Commission are legitimizing new legislation, the DSA. After a brief contextualization of existing approaches in response to the spread of harmful and illegal social media content by governments and platform providers (Flew, 2022; Gorwa, 2019a, 2019b), I utilize a discourse analytical approach to reconstruct legitimation narratives articulated by members of the European Parliament. These narratives, I assume, contribute to the legitimation of the DSA by combining knowledge, ideas, and arguments to produce an intelligible rationale for supporting the legislation. While the DSA is the central focus of this article as it speaks to online content moderation and its implications for the shape of digital publics, the DMA is not discussed systematically. Second, this article is situated within the literature on the transforming and transformative site of publics and the public sphere (Castells, 2008; De Blasio et al., 2020; Nash, 2014; Papacharissi, 2002; Schlesinger, 2020; Staab & Thiel, 2022). Referring to the introduction of this thematic issue by Mende and Müller (2023), I understand publics as political communication spaces entangled with specific audiences, institutions, and interests. Although the EU is not directly policing harmful and illegal online activities, it is indirectly shaping digital publics through this legislation by setting the frames for the sayable and seeable.

2. Platform Regulation and Illegal Online Content: Who Is Responsible?

Platform governance defines a steadily growing interdisciplinary research field. Legal scholars investigate the policies of platforms and how new norms of internet regulation evolve (Kettemann, 2020; Klonick, 2017). International relations scholars discuss the impact of social media on diplomacy (Manor, 2019), how the mediatization of violent conflicts affects politics (Geis & Schlag, 2017), and the public communication strategies of international organizations (Ecker-Ehrhardt, 2020). Research from media and communication studies deepens our understanding, for example, of online communications' characteristics and user behavior regarding illegal and harmful content (Kunst et al., 2021; Porten-Cheé et al., 2020) and the regulation of media systems (Humprecht et al., 2022). More generally, scholars also investigate the polycentric nature of internet governance and critically reflect on new modes of platform governance (Gorwa, 2019b; Hofmann, 2020). At the intersection of political theory and digital politics, some researchers have recently called to describe and explain the digital transformation of knowledge orders more comprehensively to understand the changing nature of publics and democratic orders (Berg et al., 2020; Habermas, 2021).

I understand platforms as digital service providers that allow users to create and share content, interact with other users, and participate in online communities (Flew, 2022; Gorwa, 2019a, 2019b). While I am primarily interested in social media platforms that create a communicative space for discussing public and private matters, search engines like Google or marketplaces like Amazon present platforms too. As more people turn to social media platforms to communicate, share information, and consume news, the platform providers are becoming key gatekeepers of information and opinion, with significant influence over public discourses (Klonick, 2017). The "platformization" (Poell et al., 2019) of communication challenges traditional notions of the public sphere as a space for free debate and open deliberation. Through algorithms, digital platforms may prioritize content to (indirectly) shape user opinions and interests. The Cambridge Analytica scandal exemplified how gathered data can be used to manipulate the political choices of users (Aradau & Blanke, 2022; Bellanova, 2017). In general, there is a growing need to critically examine the role of digital, especially social media platforms in shaping

publics and thereby the sayable and seeable. It is necessary to understand the evolving rules, norms, and practices of moderating harmful and removing illegal content to evaluate their impact on fair and transparent procedures as well as on fundamental democratic norms, especially the freedom of expression. Therefore, platform governance directs attention to the legal, political, and economic sites of how platforms govern and are governed (Gorwa, 2019b; Klonick, 2017).

2.1. Defining Online Content as Harmful and Illegal

The internet is experienced as a digital space which fundamentally transforms private and public life. On the one hand, digital communication technologies and infrastructures make it possible that people can share private moments and discuss public matters despite geographical, social, and cultural distances. On the other hand, increasing online interaction and easy access to information do not enhance political participation and social progress automatically. In 2020, 55% of citizens in the EU-28 used social media networks (Statista, 2020), facing the risk to be directly confronted with offensive content that is graphic, pornographic, racist, xenophobic, or misogynist (Hoffmann, 2019). While some people perceive this content as a violation of rights and a source of insecurity, others believe that much of it is and should be protected by the freedom of expression.

Discussions about harmful and illegal online content are nothing new (Wall, 2001). However, what counts as such is not naturally given, but socially and relationally constructed. The assessment of harmful and illegal content highly depends on the context and often requires case-by-case decisions (DeCook et al., 2022; Monsees, 2021). Most intermediaries invest in artificial intelligence and are designing algorithms that remove content automatically without further inspection (Beer, 2017; Hoffmann, 2019; Katzenbach & Ulbricht, 2019). Most social networking services nowadays publish transparency reports on their moderation policies and practices. Content acted upon due to its assessment as hate speech, for example, increased on Facebook from 9.6 million (January to March 2020) to 22.5 million pieces (April to June 2020; Facebook Transparency Center, 2020). From July to September 2022, Facebook acted on 10.6 million pieces (Facebook Transparency Center, 2022). Twitter has acted upon 1.1 million accounts due to hateful conduct between January and June 2021 (Twitter Transparency Center, 2021).

The designations "illegal" and "harmful" are often used in combination for characterizing problematic online content. While the latter is sometimes narrowly defined as content that is harmful to minors, it can refer to offensive and inflammatory content more generally. What "illegal" actually means varies between states due to national laws and jurisdiction (e.g., protection of personality and privacy rights, insult and defamation of public servants and foreign heads of state). Even within the EU, a comment shared on Twitter might be prosecuted due to national (criminal) law in Germany but tolerable in France or Portugal (Delcker, 2020; Rosemain, 2020). Facebook and YouTube, for example, respond to these different national demands by blocking content for a specific geographical community.

2.2. Actors, Types, and Practices of Regulation

The fact that both platform providers and governments respond to harmful and illegal online content illustrates the complexities and polycentric nature of internet governance (DeNardis et al., 2020; Hofmann et al., 2017; Scholte, 2017). Regulating social media content has been a new terrain for platforms and legislators. Scholars have shown that US political and corporate interests of minimal and slight regulations remain powerful in shaping the practices and policies of platforms (Carr, 2015, p. 642; Hofmann, 2020). Because Meta, Alphabet/Google, and Twitter are not defined as publishers but as intermediaries, they are not liable for the content shared by users. The so-called "safe harbors legislation" was first introduced in 1996 by the US Congress with the Communications Decency Act. The e-Commerce Directive of the EU in 2000 reiterated this opinion. If illegal content is shared, platforms are not liable but may police such content due to their terms of service.

In the last two decades, non-legal regulations like codes of conduct or terms of service have been the dominant and preferred mode applied by social media platforms to monitor user-generated and shared content (Gorwa, 2019a; Schlag, 2022). Most providers have created applications where users (and law enforcement agencies) can report violations of these terms (Beer, 2017; Hoffmann, 2019; Kunst et al., 2021; Porten-Cheé et al., 2020) and algorithms support the automatic detection of forbidden content (Katzenbach & Ulbricht, 2019). Moderators review content and decide whether it must be removed or stays online. Reports show how distressful this work can be for moderators located around the world (Beetz et al., 2018; Roberts, 2019). It is, however, trending that social media platforms are constantly revising their policies towards more specific rules, increasingly investing in human and algorithmic moderation, and creating appeal bodies to review decisions (Katzenbach & Ulbricht, 2019; Kettemann, 2020; Klonick, 2019).

These efforts to specify rules and procedures are accompanied by national legislation to define the responsibilities of social media platforms what and how to (not) regulate content (Flew, 2022; Gorwa, 2019a, 2019b). National governments and parliaments increasingly adopt regulations for platforms, however in different ways. The project Freedom on the Net (Freedom House, 2021, 2022) detects a worldwide trend to restrict freedoms for the sake of national security. While many authoritarian regimes implement control and command mechanisms with a centralized agency to regulate

internet access and available content (Flonk, 2021; Flonk et al., 2020), most democracies have advocated a free, less monitored internet (Haggart et al., 2021). Several national legislators within the EU have problematized the exposure of extremely violent and pornographic content, hate speech, "fake news," extremism, and propaganda as cases from France, Germany, Ireland, Italy, and Austria indicate. They agree that content regulation should not be exclusively in the hands of platforms taking decisions mainly in compliance with their private terms of service. Some member states of the EU already apply a more coercive approach towards social media platforms within their jurisdiction. Notably, in 2017 the German Parliament approved the Network Enforcement Act which defines compliance rules and time frames for social networking services to remove content that is illegal in Germany (Delcker, 2020; Echikson & Knodt, 2018). In France, a similar legislative proposal (Avia Law) has been drafted but was rejected by the Constitutional Court (Rosemain, 2020). Ireland, Italy, Austria, and the UK have launched initiatives or already passed laws (Schlesinger, 2022). All these acts by national legislators to define responsibilities and liabilities, though, have provoked intensive criticism by various groups like the former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (Kaye, 2019).

The transnational and international image of social media platform governance and online content regulation is even more fragmented as policies, jurisdiction, and scopes of social media do not overlap automatically. Internationally, the UN World Summits on the Information Society created an arena for public–private negotiations in 2003 (Dany, 2012), followed by institutions like the Internet Corporation for Assigned Names and Numbers, Internet Governance Forum, and International Telecommunication Union which assure minimal standards, interoperability, and the infrastructure of the world wide web (Musiani et al., 2016; Scholte, 2017). These bodies, though, do neither identify intermediaries' responsibilities nor implement policies of online content regulation.

As a transnational political actor, it is the EU with the European Parliament and Commission who are outlining a more vocal profile to regulate platforms of different kinds. Since its implementation of the e-Commerce Directive, the EU is supplementing public–private voluntary initiatives with a legally binding approach to platform regulation. In 2018, the EU revised its Audio-Visual Media Services Directive and approved four additional directives that tackle "illegal and harmful content" (i.e., Counter-Terrorism Directive, Child Sexual Abuse and Exploitation Directive, Counter-Racism Framework Decision, Copyright in Digital Single Market Directive). The adoption of a new Directive on Copyrights in the Digital Single Market already caused major public attention. In October 2018, YouTube's CEO Susan Wojcicki warned in an open letter to users that parts of this legislation are "a threat to both your livelihood and your ability to share your voice with the world" (Wojcicki, 2018). Europe-wide demonstrations followed with a campaign on #SaveYourInternet.

With the adoption of the DSA in 2022, the EU is revising the self-regulatory model where social media platforms were free to define rules and procedures of online content moderation and moderation practices on their own terms (Hofmann, 2020; Rone, 2021). While many recent publications focus on the policies and practices of social media platforms (Gorwa, 2019a; Riesewieck & Block, 2018; Roberts, 2019), I will zoom in on the EU's approach to platform regulation by utilizing a discourse theoretical perspective (Lynggaard, 2019). How do members of the European Parliament and Commission legitimize a new legislative proposal? How does the discourse function, according to its key narratives? Looking at the EU has two advantages. First, it is possible to investigate the most noticeable transnational initiative to define the terms of platform and online content regulation by a political authority. Second, zooming in only on the EU discourse makes visible the specific legitimation narratives to regulate social media platforms and provides a starting point for a more systematic comparison of policies by national and international actors.

3. The Evolution of the Digital Services Act: Legitimation Narratives of the European Parliament and Commission

3.1. Contextualizing the Digital Services Act

Since the e-Commerce Directive was adopted in 2000, the EU is paying increasing attention to how platform providers are shaping digital markets and services. Accordingly, the EU established the East StratCom Task Force to act against Russian disinformation in 2015 (Argomaniz, 2015) and agreed upon an EU Code of Conduct on Countering Illegal Hate Speech Online in 2016 (Assimakopoulos et al., 2017). In 2017, the European Parliament published a Resolution on Online Platforms and the Digital Single Market, followed by an EU Code of Practice on Disinformation and Action Plan in 2018. Finally, in 2020, the first proposal of legislation in the European Parliament appeared which aimed at harmonizing the existing policies into one framework. The negotiations between Commission and Parliament were twofold, including legislation on digital services (becoming the DSA) and digital markets (becoming the DMA). The Committee on Internal Market and Consumer Protection (IMCO) drafted the Parliament's position. Other associated committees were the Civil Liberties Committee (LIBE), Legal Affairs Committee (JURI), Industry, Research, and Energy Committee (ITRE), Women's Rights and Gender Equality Committee (FEMM), Culture and Education Committee (CULT), Transport and Tourism Committee (TRAN), and the Economic Committee (ECON) which provided

opinions on the legislation. Christel Schaldemose (Group of the Progressive Alliance of Socialists and Democrats in the European Parliament) acted as the rapporteur for the IMCO Committee. On the side of the commission, Executive Vice-President and Commissioner for Competition Margrethe Vestager and Commissioner for the Internal Market Thierry Breton headed the negotiations. After the European Parliament voted in favor of the first IMCO report on 20 January 2022, so-called trilogue negotiations between Parliament, Council, and Commission started. After five months of various meetings, the members of the European Parliament voted on the consolidated text on 5 July 2022.

Schaldemose (2021) explained that the DSA intends to set a new "golden standard" of online content and platform regulation characterized by "transparency, accountability, better protection and democratic control." As European Commission President von der Leyen announced that "it will ensure that the online environment remains a safe space, safeguarding freedom of expression and opportunities for digital businesses" (European Commission, 2022a). The Commission states on its homepage that the DSA and DMA "form a single set of new rules that will be applicable across the whole EU to create a safer and more open digital space" (European Commission, 2022b).

While some experts believe that the EU policy "has shifted from a liberal economic perspective to a constitutional approach aimed to protect fundamental rights and democratic values" (De Gregorio, 2021, p. 41), economic interests remain a key issue. On the one hand, it was reported that big tech companies lobbied at the late stage of the trilogue to secure their business model (Goujard, 2022). On the other hand, key legitimation narratives articulated by members of the European Parliament are referring to the protection of small, European businesses and consumers, particularly (and not surprisingly) in relation to the DMA. In addition, it was the IMCO Committee that technically led the legislation process. Given this context, I ask how the EU is legitimizing its new approach to social media platform regulation.

3.2. Legitimation Narratives of the European Parliament and Commission

Taking a closer look at the political discourse, I illustrate how members of the European Parliament and Commission shaped four narratives that legitimized a new regulation. I utilize a discourse theoretical approach to reconstruct legitimation narratives articulated by members of the European Parliament. These narratives, I argue, contribute to the legitimation of the DSA by combining knowledge, ideas, and arguments to produce an intelligible rationale for supporting the legislation. In general, a discourse represents a system of meaning-making practices, power relations, and institutions. Thus, discourses shape what is perceived as intelligible, normal, and legitimate. Therefore, discourse analysis equips us with a methodological perspective to understand the contingent processes and outcomes of policymaking in the EU (Lynggaard, 2019).

Reconstructing legitimation narratives is a practical device to empirically explore the meaning-making practices of political agents. In the case of the DSA, the "stories" political decision-makers tell contribute to the legitimation (or critique) of the proposed legislation. These narratives state a problem, outline how it can be solved, fix contingent meaning, and thus enable political action. A nodal point, then, is a site of signification around which discourse is constructed and through which power relations manifest (Laclau & Mouffe, 1985; Nabers, 2015). Given the fluidity of meaning, nodal points symbolize temporal fixations. They hold together a range of narratives and re-produce a temporarily uncontested meaningful center of the discourse. These points limit the productivity and fluidity of discursive practices and "make predication possible" (Laclau & Mouffe, 1985, p. 99). They tie together a number of narratives, for example, by establishing "democracy" as the connecting point to overcome political struggles by temporarily stabilizing an assumed shared meaning.

The European Parliament met two times to publicly debate the proposals, on 19 January 2022 and 4 July 2022. Video documentation of the parliament's sitting is the main source for the analysis (European Parliament, 2022a, 2022b). As the accessible data is limited, the findings cannot be generalized. Divisions between parties and groups were minimal, and substantial critique was only voiced by members of the right-wing group Identity and Democracy (e.g. Roman Haider, Freedom Party of Austria; Alessandra Basso, Lega; Markus Buchheit, Alternative for Germany). Thus, the scale of political struggles was modest and probably contributed to a relatively fast legislation process.

3.2.1. Narrative I: "What Is Illegal Offline Has to Be Illegal Online (and What Is Legal Offline Is Legal Online)''

Already mentioned in the European Parliament's Resolution on Online Platforms and the Digital Single Market from 2017, a key story within the debate is that on- and offline worlds are equal and should be harmonized. If content is illegal offline, it is illegal online, too. However, realities are complicated by the fact that norms apply differently within the EU. First, the legislators of members states and (national) courts finally decide about legality, taking EU law as well as national laws into account. Second, the EU has no competence over criminal law, which is primarily a matter of national legislation and jurisdiction. For example, Germany, France, Austria, Belgium, the Czech Republic, Romania, Lithuania, and Slovakia have laws against Holocaust denial. However, some countries have no specific laws about this matter, and it would be up to the general laws about incitement to violence to tackle Holocaust denial legally. It should

also be mentioned that Roman Haider used the counter-argument "what is lawful offline should be lawful online" during the January sitting to mainly voice critique.

3.2.2. Narrative II: "Taking Back Control''

A recurring story in the parliamentary debates is that the EU is taking back control by adopting the DSA and DMA. big tech companies have become too powerful, exploiting citizens and consumers by collecting data, the story goes. For members of the European Parliament, legislation, then, serves as a tool to prioritize politics and the common good over business interests. They are putting "democracy over profits," as Alexandra Geese (Group of the Greens/European Free Alliance) said in the debate on 4 July 2022 (Geese, 2022). The EU, however, is not defining legal/illegal content itself which leaves room for interpretation by the platform providers. It is a meta-regulatory and procedural approach that certainly intends to balance corporate interests and user protection.

3.2.3. Narrative III: "Protecting Small Businesses, Consumers, and Our Citizens Against Big Tech''

The aim to take back control is closely related to size and implicitly the provenance of platform providers. It is about controlling big companies like Meta and Google to protect small(er) businesses, consumers, and citizens within the EU. Not mentioned by most members of the European Parliament and Commission is the geopolitical side of the story: Meta, Google, and Twitter are US-based companies. The DSA and DMA, thus, might also indicate protectionist aims within the EU's initiative to "digital sovereignty." However, this narrative is not only about the proception of businesses but the people, imagined twice, as consumers and citizens. While the former subjectivation iterates the economic interests, the latter is pointing to political rights (e.g., freedom of expression and anti-discrimination). By safeguarding the people, the EU becomes the heroic figure fighting against "Goliath," bringing an end to the "Wild West online," while defending fundamental civil rights, as some politicians argued.

3.2.4. Narrative IV: "A Golden Standard and Rulebook Beyond the European Union''

Not all members of the European Parliament are happy with the DSA (and DMA). Some wished for more, and some wished for less precise rules. Substantial critique is voiced by members of the right-wing Identity and Democracy Group, referring to "censorship," an "attack on the freedom of opinion," and the establishment of a "surveillance state." Only Patrick Breyer and Mikuláš Peksa (both part of the Group of the Greens/European Free Alliance) understand the DSA and DMA as a "missed opportunity" to constrain the power of platforms. In the debate on 4 July 2022, Breyer concluded that "we failed" and Peksa demands that "the fight for digital civil rights continues" (European Parliament, 2022b). Most politicians, however, are highly enthusiastic and understand the DSA as a "rulebook" for others and a "new gold standard for digital regulation around the world" as Vestager and Schaldemose argued in the parliament's session on 19 January 2022 (Schaldemose, 2022). While some EU member states already had similar laws in place, globally applicable rules and procedures to moderate illegal online content remain the exception. Imagining itself as a role model, "leading by example," as Commissioner for the Internal Market Thierry Breton claimed in the July session (European Parliament, 2022b), has been a common narrative of the EU, especially when norms and expectations of the normal are diffused globally (Manners, 2006).

In my reading, the key nodal point that ties together the four narratives and fixes the discourse is the idea of democratic procedures and political sovereignty embodied by the EU itself. On the one hand, the EU imagines an idealized democratic online public without harmful and illegal content. This is how the European Parliament and the Commission want to see it: Democratically legitimized politics prevail over corporate interests and safeguard civilized online communication and civil rights. On the other hand, the new legislation serves the EU's agenda on digital sovereignty, taking back control from big *and* US-based enterprises. It may contribute to strengthening the EU's position in the global competition over technology, businesses, and infrastructure (Monsees & Lambach, 2022). Indeed, enhancing authority over and through all aspects of digital life is a key project for the current Commission (Bellanova et al., 2022).

4. Conclusion: How European Union Policies Are Affecting the Shape of Public Spheres

EU's legislation on social media platforms is not only a matter of policy-making. It finally leads to questions about the normative qualities of digital publics as well as the actors and practices that should define the sayable and seeable. Many scholars represent the public sphere in ideal and normative terms. Referencing Habermas, it is closely related to deliberation and democracy (Bernholz et al., 2021; Staab & Thiel, 2022). The public sphere refers to a space in which individuals come together to discuss issues of public concern openly and freely. This space is typically considered to be independent of governmental control and should be accessible to all members of society (Fraser, 1990; Habermas, 1989). Publics and the public sphere are frequently used interchangeably although the latter does signal a stronger normative interpretation. In conclusion, I primarily refer to publics shaped by social media (and its regulation) in empirical terms. However, these spaces affect our theoretical understanding of a public sphere as an idealized foundation of deliberate democracy. Therefore, we should be

highly attentive when public and private actors advocate a stronger regulation of such communicative spaces.

Many scholars have argued that changes in communication technologies will affect the publics, claiming that the internet is defining a "new public sphere" (Castells, 2008; De Blasio et al., 2020; Habermas, 2021; Papacharissi, 2002). However, platforms are not truly independent of government control and corporate influence, as they are privately owned and can be subject to censorship and manipulation. Additionally, these platforms can be seen as echo chambers (Habermas, 2021), where individuals are only exposed to information and perspectives that align with their own beliefs, rather than a diverse set of perspectives. Either way, social media has pluralized virtual publics by shaping audiences, denoting institutions and infrastructures, and providing a space for the formulation of common interests (Napoli, 2019). Therefore, how social media platforms are (not) regulated affects the normative foundations of democratic order. Who can participate how in public spheres is essential, as Fraser (1990) already argued three decades ago. The political discourses and policies of the EU are thus a test case that makes visible how digital publics are reshaped by both governments and platform providers (Mende & Müller, 2023). Three conclusions can be outlined that show avenues for further research at the intersection of politics, governance, and global publics to close gaps of empirical knowledge and theoretical reflection.

First, the EU's meta-approach to social media platform regulation shows how the distinction between public and private matters is frequently re-written. How users are communicating online is not a private matter any longer but has moved into the spotlight of legislators. The EU intends to strengthen authentic and trustworthy communication by demanding platforms take down harmful and illegal content. Second, technological designs and devices define such online communication. Whether it is a pointed statement in up to 280 characters or a meme, forms and types of communication are changing. Public spheres are thus much more diverse in terms of content, interaction, and participation than they used to be. EU politics are responding to this diversity with a meta-regulatory and procedural approach to balance conflicting norms and interests. Hence, some content might be "lawful, but awful" (Keller, 2022), as a common saying goes. Third, as rules and procedures are revised by public and private actors alike, the degree of transparency is renegotiated. The EU itself is demanding more transparency from platforms on how they actually apply algorithms, delete content, or process complaints. While Meta, for example, has founded an appeal body, other platforms remain less transparent when it comes to their moderation practices and procedures (Klonick, 2019). Finally, policies of content regulation, either by public or private actors, direct more attention to legitimacy problems and legitimation strategies. Who has the authority and responsibility to control what is said and seen in public (Schlag, 2022)? How do public and private actors justify regulations (differently)? Therefore, online content regulation and moderation tremendously affect the normative foundations of democratic order. It is a struggle for the "best possible democratic governance *of* platforms in a society that is governed *by* platforms" (Gollatz, 2016).

Acknowledgments

I am very thankful for constructive critique and supportive comments by the anonymous reviewers, the editors of this thematic issue, the participants in the joint online workshop "Global Publics," organized by Jane Mende and Thomas Müller, as well as Jaakko Heiskanen who discussed a draft of this article at the ISA Conference 2023 in Montreal.

Conflict of Interests

The author declares no conflict of interests.

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