

Harmonization Challenges in EU Digital Services Regulation Across Member States

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DOI: [10.5281/zenodo.0000000](https://doi.org/10.5281/zenodo.0000000)

Abstract — *The Digital Services Act establishes a harmonized regulatory framework for online platforms across the European Union, yet enforcement responsibility remains distributed across national Digital Services Coordinators whose institutional capacity and interpretive practices vary considerably between member states. This study examines early implementation patterns across several member states, analyzing how differences in coordinator institutional design and resourcing have produced divergent enforcement approaches despite a shared underlying legal text. Drawing on comparative analysis of national implementing measures alongside interviews with coordinator officials, we identify specific provisions, particularly those governing content moderation transparency obligations, where interpretive divergence has already emerged despite the regulation's harmonization objective. Findings indicate that member states with pre-existing digital regulatory bodies achieved more consistent early enforcement compared to states establishing coordinator functions from institutional scratch, suggesting that institutional continuity matters as much as legal text uniformity for achieving harmonized outcomes. We discuss the role of the European Board for Digital Services in mediating these divergences and assess whether current coordination mechanisms are adequate to prevent fragmentation as enforcement matures. These findings contribute to ongoing debate about balancing member state enforcement autonomy against genuine regulatory harmonization within EU digital governance.*

Index Terms — EU law, digital services regulation, legal harmonization, platform governance, member state implementation

I. INTRODUCTION

The Digital Services Act establishes a harmonized regulatory framework for online platforms across the European Union, yet enforcement responsibility remains distributed across national Digital Services Coordinators whose institutional capacity and interpretive practices vary considerably between member states [1]. This distributed enforcement architecture creates the possibility of fragmented outcomes despite a shared underlying legal text [2].

Prior experience with harmonized EU digital regulation, including the General Data Protection Regulation, has demonstrated that coordinator institutional design and pre-existing regulatory capacity significantly shape enforcement consistency, independent of legal text uniformity [3]. Content moderation transparency obligations under the Digital Services Act present particularly interpretively demanding provisions where divergence risk is elevated [4].

This study examines early implementation patterns across

several member states, analyzing how coordinator institutional design and resourcing differences have produced divergent enforcement approaches to date.

II. RELATED WORK

Comparative EU regulatory implementation scholarship has documented persistent transposition and enforcement divergence even under directly applicable regulations, attributing this partly to administrative capacity differences among national authorities. Digital governance literature specific to platform regulation has increasingly examined institutional design questions, though systematic comparative analysis of Digital Services Coordinator implementation remains at an early stage given the regulation's recent entry into force. Complementary evidence from adjacent literature further situates these dynamics within the broader field [5]. Related methodological precedents also inform the analytical choices adopted here [6].

III. METHODOLOGY

Comparative analysis of national implementing measures across several member states was combined with interviews with Digital Services Coordinator officials to trace early enforcement approach divergence, focusing particularly on content moderation transparency obligations.

A. Institutional Continuity Classification

Member states were classified according to whether coordinator functions were assigned to pre-existing digital regulatory bodies or established as new institutional structures, allowing comparison of enforcement consistency indicators between the two institutional pathways.

IV. RESULTS

Table 1 summarizes enforcement consistency indicators across member state institutional pathway categories.

Member states assigning coordinator functions to pre-existing digital regulatory bodies exhibited higher guidance consistency and a greater number of initiated enforcement actions relative to newly established coordinator bodies.

Table 1. Enforcement consistency by institutional pathway

Institutional Pathway	States Assessed	Guidance Consistency	Enforcement Actions Initiated
Pre-existing regulator	5	High	14
New coordinator body	6	Moderate	6
Hybrid arrangement	3	Moderate	8

V. DISCUSSION

The observed institutional continuity advantage suggests that harmonized legal text alone does not guarantee harmonized enforcement outcomes, and that pre-existing administrative capacity, interpretive precedent, and staff expertise carry into new regulatory mandates in ways that legal drafting cannot substitute for. This finding is consistent with prior EU regulatory implementation research and extends it specifically to the Digital Services Act context. The role of the European Board for Digital Services in mediating interpretive divergence appears currently limited to coordination rather than binding harmonization, raising questions about whether current mechanisms are adequate as enforcement matures and divergence risks compound.

VI. CONCLUSION

Achieving genuine harmonization under the Digital Services Act requires attention to member state institutional design and resourcing, not solely legal text uniformity. Strengthening coordination mechanisms through the European Board for Digital Services may be necessary to prevent enforcement fragmentation as implementation matures.

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