

Romanian Government Emergency Ordinance on Presidential Elections Re: Contradictions with EU Law and Lack of TRIS Notification

18 February 2025

Ms Irene Roche Laguna

Head of Unit F.1. 'Coordination and Regulatory Compliance'
Directorate-General for Communications Networks, Content and Technology
European Commission

Mr Radek Maly

Head of Unit E.3 'Notification of Regulatory Barriers'
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
European Commission

Dear Ms Roche Laguna,
Dear Mr Maly,

I am writing to you on behalf of the Computer & Communications Industry Association (CCIA Europe), a trade association representing a broad cross-section of computer, communications, and internet industry firms.

I would like to draw your attention to a Government Emergency Ordinance (GEO) recently approved by the Romanian Parliament outlining the procedures for organising the presidential elections scheduled for 4 and 18 May 2025¹.

A key provision of this GEO addresses the handling of election-related complaints about political ads on very large online platforms (VLOPs). Notably, it requires VLOPs to remove allegedly illegal political advertisements within five hours of being notified by the Romanian Permanent Electoral Authority, or face fines ranging from 1% to 5% of their annual turnover. More specifically, the GEO:

- Establishes a mechanism for reporting political advertisements that violate Romania's electoral laws to the Central Electoral Bureau (BEC). If the BEC determines that an ad is unlawful, it can issue an order requiring the VLOP to remove it within five hours.
- Clarifies that such an order falls under Article 9(2)(a) of the Digital Services Act (DSA)².
- Mandates that VLOPs comply with these orders within the aforementioned five-hour timeframe.

¹ Ordonanță de urgență privind unele măsuri pentru organizarea și desfășurarea alegerilor pentru Președintele României din anul 2025 și a alegerilor locale parțiale din anul 2025, available [here](#).

² 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), available [here](#).

- Grants platforms the right to appeal decisions after complying with them while also imposing financial penalties for non-compliance.

As it stands, we believe that the GEO contradicts the DSA and the country-of-origin principle, as well as being in breach of the Technical Regulations Information System (TRIS) procedure set out in Directive 2015/1535³.

The DSA provides a fully harmonised framework for regulating intermediary services, including VLOPs across the EU, preventing Member States from imposing additional national rules on covered matters. Article 16(7) of the Romanian GEO conflicts with this framework, particularly with Article 9(1) DSA. Indeed, the **GEO mandates VLOPs** to remove political ads within five hours, whereas the DSA requires VLOPs to inform authorities of their action in response to the notification, without imposing a requirement to remove and without a fixed deadline for such a removal. This rigid timeframe risks undermining freedom of expression and due process, contrary to the objectives of the DSA.

Additionally, the five-hour deadline is inconsistent with Article 6 DSA, which protects online platforms from liability as long as they act “expeditiously” upon obtaining knowledge of illegal content. The DSA avoids rigid deadlines to allow for proper due diligence, while the Romanian GEO imposes stricter, non-harmonised obligations. By setting a stricter removal timeframe, the GEO disrupts the uniform application of the DSA and creates regulatory uncertainty, potentially fragmenting EU digital law.

The country-of-origin (COO) principle, established under Article 3 of the e-Commerce Directive⁴, and reaffirmed in the DSA (Recitals 9 & 38, Article 2(3)), **prevents Member States from imposing additional legal obligations on intermediary services, including VLOPs, established in other EU Member States.** Romania’s GEO contradicts this principle by mandating all VLOPs, regardless of their country of establishment, to remove allegedly illegal political advertisements within five hours.

Under Article 2(h) of the e-Commerce Directive, the Romanian GEO falls within the “coordinated field,” meaning Romania cannot impose stricter national rules restricting cross-border services. The Court of Justice of the EU recently confirmed that a similar national approach was contrary to EU law “which ensures the free movement of information society services through the principle of control in the Member State of origin of the service concerned”.⁵ Exceptions to the COO principle must be targeted and proportionate (Article 3(4) of the e-Commerce Directive), but the GEO fails both tests:

- The Ordinance lacks specificity, applying broadly to all VLOPs, rather than addressing a specific provider or issue.

³ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification), available [here](#).

⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (‘Directive on electronic commerce’), available [here](#).

⁵ CJEU, Press Release No 167/23, Luxembourg, 9 November 2023, Judgment of the Court in Case C-376/22 | Google Ireland and Others, Combating illegal content on the Internet: a Member State may not subject a communication platform provider established in another Member State to general and abstract obligations, available [here](#).

- It lacks justification, offering no explanation for why DSA measures are insufficient or why a rigid five-hour takedown period is necessary.

Furthermore, the recently adopted EU Regulation on the Transparency and Targeting of Political Advertising, which will come into effect in October 2025, imposes a turnaround time that applies in the period before an election. Given this field is already exhaustively regulated at EU level, and in line with the duty of loyal cooperation by Member States, Romania should refrain from adopting a strict turnaround time of five hours.

Finally, the **Romanian GEO qualifies as a technical regulation and should have been notified to the European Commission under the TRIS procedure.** As the GEO imposes the definition of rules on services, Romania should immediately communicate the draft to the Commission, as foreseen by articles 1 and 5 of Directive 2015/1535, even in urgent cases as set out by articles 5 and 6(7) of the same Directive. Without this mandatory notification, the **GEO can be declared inapplicable by the courts**, as established by case law.

We **urge the European Commission to contact the Romanian authorities to ensure that the GEO's problematic provision is withdrawn** as it overlaps and contradicts the DSA, the e-Commerce Directive and the Regulation on the Transparency and Targeting of Political Advertising, and **ask that any future draft GEO be submitted to the TRIS procedure.**

We thank you for your attention to this pressing matter and remain at your disposal should you have any questions.

Sincerely,

Mathilde Adjutor
European Parliament and Consumer Lead, CCIA Europe



About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

Visit ccianet.eu, x.com/CCIAEurope, or linkedin.com/showcase/cciaeurope to learn more.

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