

**ROUND**  
**TABLE**

# Legislative Support for the Work of Mass Media: Security and Freedom of Speech

**ROUND TABLE**

## **Legislative Support for the Work of Mass Media: Security and Freedom of Speech**

Freedom of speech is enshrined in the basic laws of many democratic countries as a fundamental freedom. However, the boundaries of this freedom are constantly changing due to the rapid change in technologies of producing and transferring information. Despite the fact that such technologies have already become a necessity for society, they can be used for destructive purposes. The two main components of media freedom - the right to freely disseminate information and opinions and the right to seek and receive information - can also be a threat to society when it comes to abusing the freedom of the media.

Studies around the world demonstrate a direct correlation between freedom of the press and democracy, and more than half of the world's population would like to live in countries where the exchange of information is free of censorship. People are sure that access to information is important for other civil rights, for monitoring public authorities, for choosing a rational strategy of behavior. At the same time, the majority of people find censorship permissible when the freedom of the press infringes on other civil rights, affects security or infringes on economic well-being. The same situation is present in Russian society.

Being fixed in the basic documents, not in all countries, media freedom is regulated by special legislation (the media law). But such laws are successfully applied in many countries. In federative states, the functioning of the media is often determined by special laws at the level of sub-federal regions. In addition, when assessing the freedom of information exchange, it is customary to take into account law enforcement practices, cases of misconduct with journalists and consumers of information, financial and political frameworks for media, public discourse.

According to estimates of public organizations, media freedom has been expanding since the 1970s. At the beginning of the 21st century, this process was significantly accelerated. States were confronted with the phenomenon of the exponential growth of information being spread via the Internet. A significant portion of the audience's attention switched from traditional media to online publications. For the first time, news became truly rapid and created a global information space, where anyone could author popular content. However, these same achievements simultaneously began to pose a threat insofar as exercising the freedom of speech on the Internet infringed upon other citizens' rights.

The proliferation of Internet media, social networks and information exchange platforms, as well as the creation of a global information space have led to the emergence of legislative restrictions in a large group of countries. These restrictions include:

- a more complicated procedure for registration of the media, especially for foreign individuals and organizations;
- new or stricter laws that prohibit defamation, personal insults, and insults of social groups;
- the emergence of special legislation designed to restrict information about extremist and terrorist organizations, etc.

The responsibility of professional journalists and amateur bloggers has risen. Cases of extra-judicial restrictions on the dissemination of information on the Internet have become more common. Similar trends are typical for Russia too.

Despite the fact that such restrictions are designed to increase public security from immediate threats, they raise concerns among the expert community and human rights organizations; a violation of the balance of rights and freedoms can become a threat in itself. Experts from several organizations have noticed a decrease in media freedom and worsening of the situation of journalists around the world over the past 10-15 years. This reduction in freedom is not always caused by legislative restrictions on the work of the media; in a number of cases, the concern is caused by the practice of law enforcement, statements of politicians, court decisions. Experts notice the same trend in regulation of the Internet space.

The phenomenon that has become most widespread recently is false information, "fake news." Intentional misinformation has been used for military and political purposes throughout history. Now fake news not only misinform citizens, but also weaken trust in the media, which is fraught with a massive feeling of "being lost" and disorientation of entire societies.

The increase in the use of fake news has recently been associated with the growing role of public opinion in politics (it affects the careers of politicians and the content of state measures) and the spread of new technologies (which make it possible to influence a wide audience quickly). However, disinformation with fake news is not always intentional.

Counteracting false news at the legislative level is complicated by the nature of the dissemination of such information and the slowness of the judicial system. Moreover, fake news can have effect in a matter of hours following publication. A number of countries, including Russia, are making efforts to create laws that impose liability for publishing such news. In the absence of such, citizens have to independently determine whether to trust each particular message.

### **Problems and Key Issues**

- ▶ Is it possible to talk about the relevance of legislation aimed at traditional media, given the growing popularity of new media?
- ▶ How broad are the opportunities for parliament officials to influence the parameters of media functioning?

#### **Areas of work:**

- legislative work - the conceptual and applied provision of a balance between the freedom of speech and the restriction of information exchange;
- political work, including at the international level - monitoring and analyzing trends for changes in legislation, joint work with civil society;
- the formation of discourse - opposing the language of hostility, creating theses that guide law enforcement practice.

- ▶ Formulating restrictions on the freedom of the media: difficulties with the legislative definition of "defamation," "insult," "propaganda," and other related concepts.
- ▶ Media that use foreign funding (including media that are foreign agents) in the global information space: Is it possible to protect citizens from the influence of media registered and working in other countries if citizens have access to these resources on the Internet?
- ▶ Creating "offshores information groups": zones of freedom of speech on the Internet.
- ▶ Other challenges of Internet space: anonymity, "cross-borderness," plasticity.
- ▶ Disinformation as a weapon of information wars of our time: how to defend and whether to attack?
- ▶ The world practice of countering false information: how effective is the fight against the spread of "fake news".
- ▶ "You are fake news": where does the fight against disinformation end, and where does the infringement of the freedom of speech begin?

## Ensuring freedom of the press as a necessary investment in democracy

### The interaction of freedom of the press and other human rights and freedoms

Modern international realities cannot be imagined outside the context of highly developed technologies and instant information exchange. Democratization and globalization processes have created the need to consolidate the freedom of speech, information and press in the state's basic documents, and the legal framework for the information policy continues to expand to meet new trends in global development. Let's consider the basic human rights and freedoms directly related to freedom of press and the points of overlap.

**Freedom of expression** can be divided into two components, corresponding to the transmitting and receiving ends of communication:

#### The right to freely disseminate information and opinions.

It is this principle that underlies the right to the freedom of the press. In the modern era, it is of great importance for all who use different media.

UNESCO documents, in particular the Windhoek Declaration of 1991, postulates that the freedom, pluralism, independence and security of the media are needed to implement the right to freedom of the press.



#### The right to seek and receive information.

It is this right that is one of the foundations of transparency and accountability which are critically important in the context of democracy.

**Freedom of expression often interacts with the right to privacy.** Journalists, using the right to non-disclosure of information sources, can hide information of great interest to society, including from the point of view of public security. Different states have found different solutions to the issue of observance of the right to privacy and its interaction with the two components of freedom of expression. Partial restrictions are in place on the use of confidential information.

**Freedom of speech and hate speech.** In international normative acts, the term "hate speech" refers to statements that include incitement to inflict damage on the basis of belonging to a particular social or demographic group. In other words, if someone insults another person on the basis of race or religion, what is more important: freedom of speech for the one or the fact of humiliation and the need to protect the other? Among other things, the answer to this question determines the legal relationship between the media, society and the state in each country.

## Freedom of the Press as a Necessary Investment in Democracy

In the 4th century BC in Athens, one of the most influential ideas in world history arose and consolidated: the Greeks thought that free public communication is the basis for a reasonable attitude to life and one of the most legitimate forms of government – democracy. The ancient Greeks were convinced that social support will only be given to laws that underwent public discussion during which all the pros and cons were carefully taken into account and analyzed. It was this concept that formed the foundation of the European Enlightenment in the 18th century, without which a modern democratic form of government could not exist. This historical phenomenon **created the idea of a modern legal state, basic civil rights and freedoms, including the freedom of speech, freedom of information and freedom of the press derives from them.**

Studies conducted around the world demonstrate a direct relationship between freedom of the press and democracy. In 2015, the Pew Research Center published a report containing the results of a survey of citizens of 38 countries on the state of civil rights and freedoms, as well as their values. According to the results of the study, the majority of respondents consider it important to live in a country where freedom of speech and freedom of the press are respected, and where there is freedom of the Internet space (Figure 1).

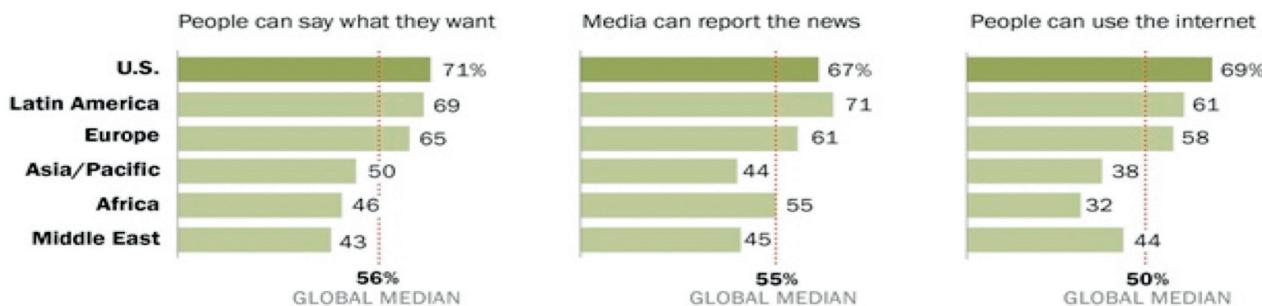
Despite the fact that democratic values in a broad sense remain popular on the whole, people in different countries determine the relationship and importance of different rights and freedoms differently. As a rule, respondents support the freedom of speech as such, but consider it necessary to limit certain ways of expressing it in favor of other rights and freedoms.

While about 80% of respondents think that people should be able to freely criticize the state policy, a much smaller part (35%) considers it acceptable to insult minorities or religious views. Even less people support sexually explicit statements and calls for violence (Figure 2,3).

Figure 1

## Support for Free Speech, Press Freedom and Internet Freedom

*Regional median saying it is very important that \_\_\_ without state/gov't censorship in our country*



Note: Global median of 38 countries. Russia and Ukraine not included in Europe median.

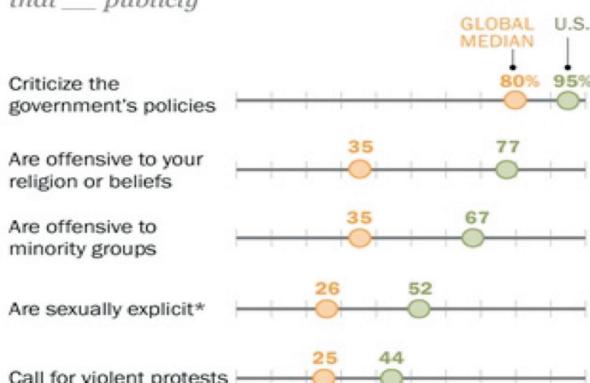
Source: Spring 2015 Global Attitudes survey. Q56b, d, f.

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Figure 2

### Americans More Supportive of All Forms of Freedom of Expression than Others Worldwide

*People should be able to make statements that \_\_\_ publicly*



\*Not asked in Malaysia.

Note: Global median of 38 countries.

Source: Spring 2015 Global Attitudes survey. Q30a-e.

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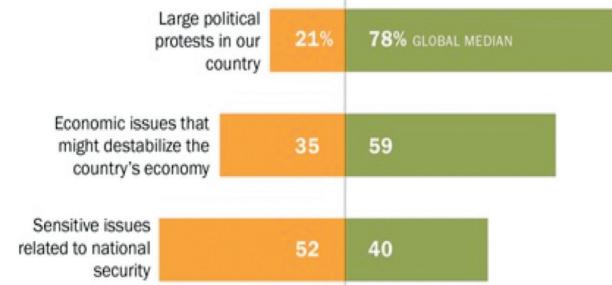
The attitude of the world community to state censorship of the media is ambiguous. While respondents generally oppose state censorship, they make an exception for national security issues. A fairly large number of respondents (about 35%) consider it necessary to block information that could destabilize the state economy.

One of the most popular democracy indices in the expert community of Freedom House analyzes the state of affairs with political rights and civil liberties in the world. Experts assess:

1. political rights, the possibility of free participation in choosing leaders and in the formation of decisions important for society;
2. civil liberties (the freedom of expression, the development of public institutions and personal autonomy from the state, in practice meaning the independence of the media and the reliable protection of minority rights).

Figure 3

Gov't should be able to prevent media organizations from publishing information  
Media organizations should be able to publish information



Note: Global median of 38 countries.

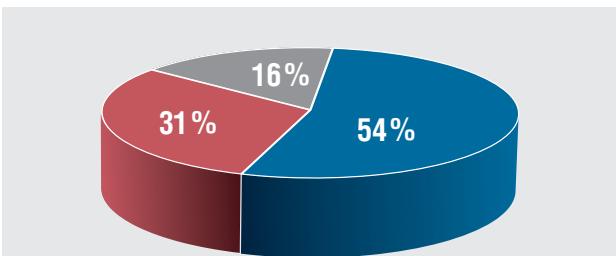
Source: Spring 2015 Global Attitudes survey. Q31a-c.

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omy from the state, in practice meaning the independence of the media and the reliable protection of minority rights).

To assess the level of public freedom and to compile the democracy indices, an indicator of press freedom is actively used as an indispensable attribute. Adopted in September 2015 by 193 UN member states, the 2030 Agenda for Sustainable Development mentions the contribution of free and high-quality journalism to the provision of effective public administration and development. Thus, freedom of the press is considered a necessary element of democracy by representatives of the political elite, the expert community and ordinary citizens.

The attitude of Russian society towards censorship is a little more forgiving: about half of the citizens are ready to implement it to protect against undesirable or illegal content (data from the Levada Center, 2014).



- On the Internet, there are many dangerous websites and materials, and therefore it is necessary to introduce censorship on the Internet
- The dangers of the Internet are overestimated, and it is unacceptable to introduce censorship on the Internet regardless of the circumstances
- Not sure

## International Legal Regulation of Media Activities

Basic human rights, including the freedom of thought and speech, freedom of information are the core of many international agreements. The following is a list of the founding acts and institutions that are basic for the functioning of the media.

At the international level, human rights, including the freedom of speech, are protected by the **United Nations** (the Human Rights Committee, the Human Rights Council, the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of the right to the freedom of opinion and expression).

At the international level, the following **documents** are valid:

1. **The Universal Declaration of Human Rights** proclaimed the right of everyone to freely distribute and receive information (1948) and has a recom-mendatory character.
2. **International Covenant on Civil and Political Rights (entered into force in 1976)**. This treaty, ratified by 166 states, introduced new elements that established permissible limits of freedom. Article 19, which contains the right of everyone to freely express their opinion, seek, receive and spread information, a rule was added on imposing certain duties to the use of the above rights and the possibility of restricting freedoms. Restrictions should be defined in national legislation and be sufficient to ensure respect for the rights of others, protection of state security, public order, health and the morality of the population.

## European System for the Protection of Human Rights

### Main organizations:

1. **Council of Europe**;
2. European Court of Human Rights;
3. **Organization for Security and Cooperation in Europe** (OSCE Representative on Freedom of the Press).

### Main documents:

1. **European Convention for the Protection of Human Rights and Fundamental Freedoms**. The Convention is mandatory for all member states

of the Council of Europe; in most countries it has a nearly constitutional status. It adds two important points to the Universal Declaration of Human Rights:

- the right to the freedom of expression doesn't exclude the existence of licensing mechanisms in the broadcasting sector;
- any restrictions on the freedom of speech must be provided for by law.

2. **The Charter of Fundamental Rights of the European Union (2000)** emphasizes the need to de-velop media pluralism and ensure equal access to the media for all.
3. **The OSCE Declaration entitled "Towards Free-dom and Security"** confirmed the importance of the freedom of media for all member states and the priority of human rights.

## American System for the Protection of Human Rights

### Main organizations:

1. **Organization of American States** (Special Rap-porteur of the Organization of American States on the Freedom of Expression);
2. **Inter-American Court of Human Rights**.

### Main documents:

1. **The American Convention on Human Rights (1969)**. Duplicating the provisions of the Interna-tional Covenant on Civil and Political Rights, the convention contains some new elements:
  - the prohibition of indirect harassment of the freedom of expression through control over the means of production and resources;
  - the possibility of preliminary censorship of pub-lic statements in order to determine the age of the viewers.

## African System for the Protection of Human Rights

### Main organizations:

1. **African Union**;
2. **African Commission on Human and Peoples' Rights** (Special Rapporteur on the freedom of ex-pression of the African Commission on Human and Peoples' Rights);

3. **African Court of Human and Peoples' Rights**.

### Main documents:

1. **African Charter on Human and Peoples' Rights (1981)**. Article 9 of the Charter is one of the most concise international norms on freedom of expres-sion, consisting of two points:
  - "Everyone has the right to access information";
  - "Everyone has the right to express and disseminate their views in accordance with the law."
2. **Declaration of the Principles of Freedom of Ex-pression (2002)**. It's an example of a modern view on the basic principles of media freedom outside the framework of the "Western paradigm":
  - the freedom of expression is an inalienable right and an indispensable component of democracy;
  - any restriction must be provided for by law and be necessary for a democratic community;
  - government bodies are obliged to promote me-dia development and pluralism;
  - everyone has the right to access information under the authority of the government bodies,

- as well as to information held by private individuals, if it's necessary to protect their rights;
- state and state-controlled media must be public and accountable;
  - no coercion to disclose sources of information, etc.

### National Legislation on the Media

From the point of view of civil rights and freedoms, the practice of European countries is indicative, since their overwhelming majority participate in the above-mentioned international treaties and agreements. Despite the norms of international law, the situation in the European regulation of the media and communication is ambiguous. In general, there were initially three basic approaches to statutory regulation of media activities.

- ▶ **The predominance of the market principle**, which is based on competition law. The state's goal is to create conditions for fair competition, and intervention is permissible only when an attempt is being made at creating a monopoly.
- ▶ **Non-Intervention**. Any public or state regulation creates restrictions for a self-regulating free market.
- ▶ **Observance of the interests of society as a whole**. Access to the media should be determined solely on the basis of public, rather than commercial or political interests.

The use of various combinations of these approaches determines the legislative basis for the functioning of the media (in the form of a special law that determines their work, or a set of provisions used, among other things, for regulation of the work of the media):

1. Some legal systems don't include a separate media law. Their activities are regulated by the rules of civil or other law, and individual laws may be contained in various codes (USA, Canada, Great Britain, Spain, Japan).
2. A number of countries that pay special attention to the freedom of information even in the constitution have separate media laws (Austria, the Netherlands, France, Finland, Sweden).

For example, in Germany, the main guarantor of freedom of the press and information is the fundamental law of the Federal Republic of Germany, Article 5 of which guarantees the right to disseminate one's opinion and receive information as well as prohibits censorship. Each of the federal states has its own laws on the media, which are quite similar to each other. Each of them sets the framework for regional broadcasting, establishes the organizational structure, the goals of television and radio broadcasting companies and licensing requirements. Most of the norms adopted in different lands coincide, but there are also local peculiarities, such as the duty of the editor to check the published information for criminal information, the distinction between editorial and advertising activities.

In Italy, the freedom of speech is established in the Constitution, Article 21 of which guarantees the right of everyone to freely express their thoughts; the prohibition of censorship; the confiscation of printed publications only in case of a reasoned conclusion of the court; the possibility to legally establish an obligation to provide information on sources of funding; printed works and representations "con-

trary to good morals" are prohibited. The law on press, mentioned in the Constitution, establishes responsibility for the dissemination of false and discrediting information; for violation of moral standards; for inciting to suicide and crimes; special responsibility lies with periodicals with children and young people in its audience.

The existence or absence of certain laws is not a guarantee of freedom of the press. Both the quality of existing norms of law and law enforcement practice are important. However, the very existence of the "rules of the game" approved by the national parliament simplifies the existence of the media. Throughout the world, from the 1970s to the beginning of the 21st century, the freedom of information exchange has been enshrined in legislative and law enforcement practice, including at the international level.

### Trends in Russian Legislation

In recent years, the legislative regulation of the Russian media and Internet resources has been developing as part of a trend towards strengthening public security.

For **traditional media**, this trend was embodied in the following changes:

- the introduction of legislative restrictions on the ability of non-residents to own, control or direct the Russian media from January 1, 2016; the adoption of amendments to the law on the media, making it possible to recognize individual media as foreign agents;
- an increase in the number of restrictions on publishing and distributing certain content in the media (in addition to bans on defamation, personal insults, insults of feelings of social groups were criminalized, and bans on publishing dangerous, propagandistic, part of advertising content were introduced);
- strengthening of control over network media;
- the adoption of laws on trade using insider information that circumvents confidentiality requirements;
- the ban on the use of obscene language on television and radio, providing for sanctions in the form of fines and the suspension of the registration of media if it doesn't comply with this requirement.

Russian business actively uses the right to protect honor and dignity. In 2010–2015, arbitration courts annually heard about 800 cases on protection of business reputation, honor and dignity.

For example, the Russian version of Forbes magazine published several articles about the head of Rosneft Oil Company Igor Sechin in 2013. Two of them talked about the incomes of the top manager, another contained observations and diagrams indicating that the quotations of the shares of the Russian-British company TNK-BP were influenced by statements of the Rosneft CEO. In so doing, he made them cheaper for a UCP fund to acquire, whose president, Ilya Scherbovich, is a member of the board of directors of Rosneft. In May 2014, Igor Sechin appealed to a court, demanding that these allegations be overturned. Savyolovsky Court of Moscow sided with the head of Rosneft, fully satisfying his demands and acknowledging the published materials as discrediting his honor and dignity. The court also concluded that all of this information is secret. As a result, a notice was posted in the magazine and on its website that some of the previously published information is untrue.

**For Internet resources:**

- Expansion of the authority of Roskomnadzor (Federal Service for Supervision of Communications, Information Technology and Mass Media) to block access to websites without a court decision (initially in connection with the protection of children's rights);
- creation of a Unified Register of Prohibited Websites;
- "The law on bloggers," according to which a register of popular bloggers was created (the article of the law was abolished in 2017), and the responsibility of the organizers of the dissemination of information was established.

Legislative measures were also taken to limit media freedom in favor of public security, which caused widespread discussion due to the high importance.

**Existing clusters of "acute subjects":**

- **Protection of childhood and family** - the introduction of age ratings for the media, a ban on the publication of personal information about juvenile victims of crime and criminals, a ban on publishing materials that promote non-traditional sexual relations.
- **Anti-terrorism and counteraction to extremism** - restrictions on covering anti-terrorist operations, prohibition of propaganda of extremist organizations.
- **The registration of the media** - the restriction on the ability of foreign citizens to register media in Russia, the need for bloggers to comply with media legislation.

The lack of restrictions on covering anti-terrorist operations in France has led to a threat to civilians' lives. Lawsuits against the media from the victims of terrorist attacks followed. The desire to fully cover the incident has come into conflict with the security of citizens.

For example, in April of 2015, six residents of France filed a lawsuit in court, who in January became hostages of the Islamic terrorist who had seized the Hyper Cacher store in Paris. They filed a complaint with BFM-TV, which broadcast live footage from the scene. According to the lawyer of the former hostages, the television channel, covering the events in real time, reported that a group of people, including two young children, were hiding from the terrorist in the refrigerating chamber of the store.

## World Trends in Legislation

Part of OSCE work is aimed at **monitoring and making comparative analysis of legislation that affects the media in the member states of the organization**. Recently, OSCE experts have noted inconsistent trends in this area. The following are viewed as **positive** (increasing media freedom):

- complete abolition of criminal penalties for defamation and insult in 11 countries and partial abolition in three others;
- decriminalization of insulting religious feelings in four countries;
- three countries have no penalties for defamation that restrict freedom;
- full or partial cancellation of laws on personal insults in three countries.

- The OSCE lists the following as **negative** (limiting the freedom of the press):
- the return of the article on defamation to the Criminal Code in Russia (2012);
- the emergence of laws that prosecute defamation and insult of the head of state in Tajikistan (2016);
- amendments to laws that prosecute online defamation and insult, as well as insulting the president in Azerbaijan (2013, 2016);
- introduction of a new concept of defamation/insult to the criminal code of Croatia (2013);
- the notion of a new crime consisting in the producing fake video and audio recordings with the aim of damaging someone's reputation in Hungary (2013).

The OSCE's review of the legal framework regarding laws on defamation, personal insults and insults of social groups shows that among the OSCE member states, Russia is one of the countries that slightly restrict the freedom of the press on these parameters. In Russia, there are no special punishments for insulting the state, authorities, foreign states and heads of states. In addition, only two offenses of this kind presuppose restriction of liberty as a measure of punishment. In most European countries, defamation laws are broader and provide for punishments that restrict freedom.

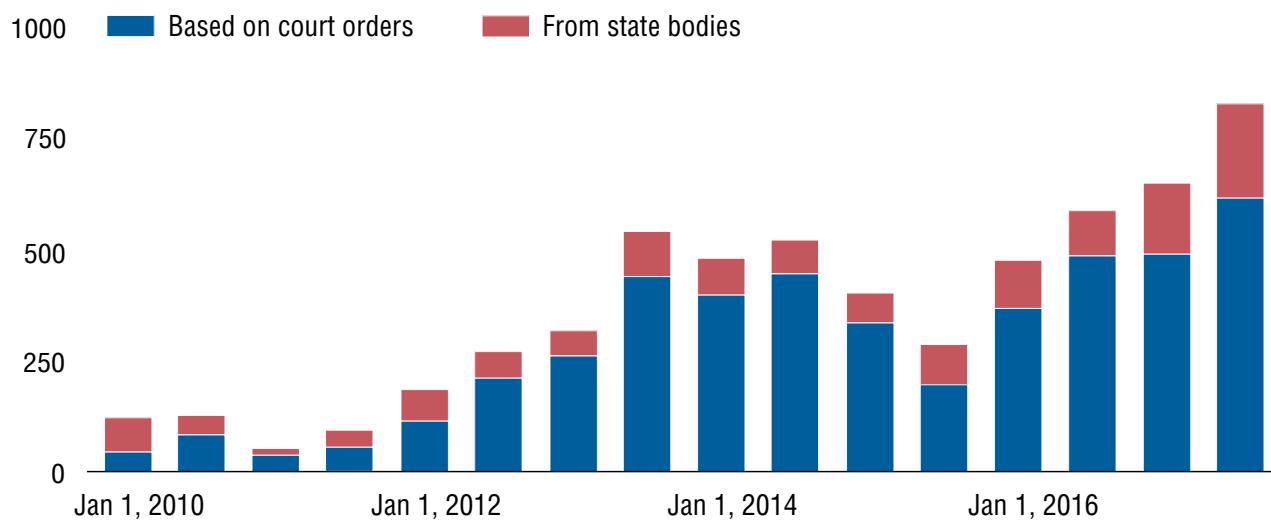
**Federal legislation in the US** is distinguished by the absence of norms that prescribe penalties for the dissemination of defamation, personal insults or insults to the feelings of social groups. However, at the level of individual states, there are legislative restrictions on defamation and insults in a broad sense, and defamation and insult cases are tried in courts. Recently, the number of such cases concerning publications on the Internet has increased.

The activity of foreign media in the US is limited by the Foreign Agents Registration Act (FARA), which provides for the registration of foreign media in the Ministry of Justice, the submission of financial information and information on distributed materials to the Ministry and the publication of materials with a note that the information is disseminated on behalf of a foreign entity.

The case of the television channel "Russia Today" in the US demonstrates that FARA can pose a significant threat to the work of foreign media: the status of a "foreign agent" complicates the cooperation of the media with the disseminators of information and makes access to information difficult. After RT America was registered in the US as a foreign agent, the broadcasting provider of the channel in Washington, DC decided to cease cooperation with the channel (as well as with a number of other foreign media). RT was also deprived of accreditation in the US Congress. Some government officials made public statements that Russian media working in the US (like the media from China and Iran) are tools for propaganda. At the same time, not all foreign state-owned media working in the US received the status of a foreign agent: The British BBC, the Chinese CCTV, the French France 24, the German radio station Deutsche Welle are not registered this way. Recently, several bills have been submitted for the consideration of Congress aimed at tightening restrictions on foreign media.

The attention of public organizations in the US is also drawn to the law enforcement practice of norms

Figure 4



*Source: Google Transparency Report*

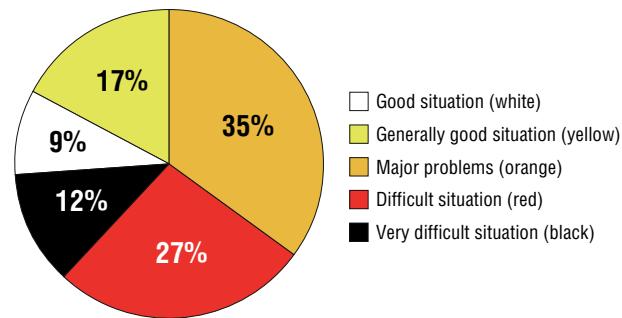
on the activities of state bodies on the Internet. Google statistics shows **an increase in requests to remove information from government agencies and on the basis of court decisions** (mainly in defamation and fraud cases) (Figure 4).

with different situations concerning freedom of speech fall into one group).

It's indicative that such a trend has been unfolding since the beginning of the 21st century at a time of the ever-increasing spread of Internet media, the growth of

## Expert Assessments of Trends in Media Freedom

Public organizations are considering existing trends (starting from the mid-2000s) as a threat to the freedom of speech. Reporters without Borders and Freedom House note a decrease in the level of freedom of the press in general across the world and in individual countries (these ratings are often criticized because of data based on subjective assessments of experts and journalists and also because there are no clear consensus criteria for rating when countries

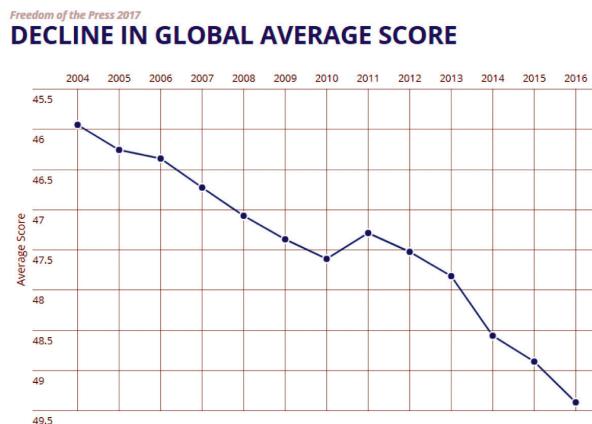


*Source: Reporters without Borders, 2016*

## Distribution of countries according to the level of freedom of the press



## Decrease in the general level of freedom of the press in the world – the assessment of Freedom House:



media content and the emergence of new media, including social networks and instant messengers.

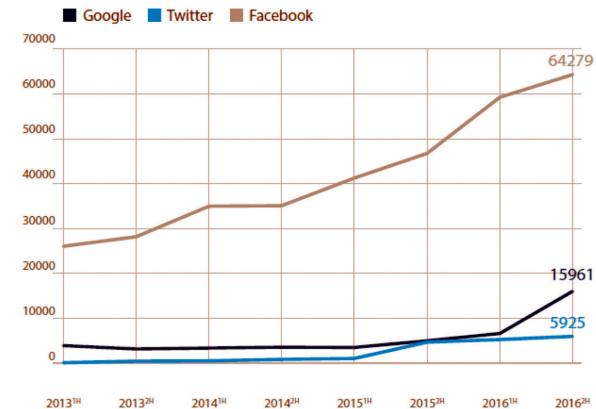
The methodology of both organizations takes into account various factors that affect the overall level of media freedom: legal regulation of the work of the media, law enforcement practice, economic and political context, the safety of journalists, the use of hate speech against the media and journalists, etc.

**Legal regulation of the work of the media is one of the fundamental factors.** It indirectly affects the degree of self-censorship: fearing a clash with the legal system, content producers impose restrictions on dubious or borderline cases themselves. The greatest concern of experts at the international level is for laws relating to defamation punishment (defamation laws), personal insults (*lèse majesté*) and insults to social groups, for example, religious feelings (blasphemy). A number of countries have adopted laws that, in fact, prohibit criticism of the highest levels of government, as well as social groups that are the backbone of power. The UN and UNESCO also highlight the problem of the quality of the legal environment related to the safety of journalists: a report of the Director-General of UNESCO on the security of journalists and the threat of impunity for 2016 provides information on the killing of 827 journalists and media employees. Only 8% of these crimes were solved.

A special trend is **the increase in restrictions on access to information in the Internet**. They include forcible closure of access to websites, applications and entire platforms, slowing Internet access for certain territories, filtering information.

Such restrictions are imposed by many countries. Non-governmental organizations, in turn, launched several monitoring projects for such trends. According to them, the main reasons for restricting access to the Internet are the fight against terrorism, the protection of state power, ensuring national security, reducing tensions between social groups, supporting national business and the state economy and fighting plagiarism.

Large Internet platforms also monitor the requirements for the withdrawal of content or limiting access to it. **The total number of requests from government authorities to remove information from Facebook, Google and Twitter** in the world:



**Source:** Google. Transparency Report – Government requests to remove content; Twitter. Twitter transparency report – Removal requests

The UN position on this issue was clearly articulated in the UNESCO Concept Paper on the World Press Freedom Day in 2016: *"Expansion of practice of regulating Internet content by blocking websites and communication media has serious consequences and goes beyond accepted international norms [...] Such measures limit the ability of society to make informed decisions on issues related to development and democracy [...] They may also represent a form of "early deterrence", suggesting a priori to treat any act of communication as an unlawful act, instead of making appropriate assessment in court after the view was expressed."*

## The Fake News Phenomenon<sup>1</sup>

**The fake news phenomenon is based on the concept of disinformation.** Disinformation as a communication process is characterized by the following features:

- deliberately false (distorted or erroneous) information that the communicator transmits to the recipient;
- the communicator's goal is to mislead the recipient of the information.

Now misinformation is also understood as misleading someone by providing incomplete or complete but surplus information, distorting the context, distorting some of the information.

## Background and Causes of Mass Distribution in Recent Years

The phenomenon of disinformation exists as much as there is communication between people itself. The history of mankind has seen numerous cases when intentional or erroneous distortion of information has entailed significant consequences. This was especially true for military operations. The most ancient such case goes back to the times of Ancient Greece and the legendary story of the famous Trojan Horse. Even if the historical authenticity of this operation remains unclear, it's obvious that the author of the Iliad was aware of such ways of using disinformation for military and tactical purposes.

In political history, including Russia, there are also many examples of the dissemination of deliberately false information for personal purposes. The 16th century of Russian history was marked as a "rebellious century", when

<sup>1</sup> On the economic aspects of the phenomenon, see p. 110

national unrest was flaring up in the country, especially in the capital: Salt Riot, Copper Riot, Streltsy and Cossack Up-risings. The deliberate spread of false rumors played an important role in this. For example, in 1662, after the monetary reform of the government of Tsar Aleksey Mikhailovich, when the silver coin was replaced by a copper coin, the "Copper Riot" happened in Moscow. The reason for the outbreak of civil commotion was a leaflet posted by unknown people at Lubyanka, where two Miloslavskys princes, Fyodor Ritshev and merchant Vasily Shorin, were accused of illegally producing copper coins, as well as of connections with the Polish-Lithuanian Commonwealth. These accusations had nothing to do with reality, but in the country devastated by the Time of Troubles and the protracted war, such information served as an impetus to the uprising.

A current example of political misinformation on the international scale, which led to tragic consequences, is related to US actions.

In 2002-2003, the United States of America accused Saddam Hussein of developing weapons of mass destruction (WMD). American intelligence did not confirm these charges and found no evidence of work on the creation of WMDs in Iraq. However, the presidential administration was standing firm and trying to convince the US Congress and the UN Security Council of the opposite.

The culmination was the speech of US Secretary of State Colin Powell at a meeting of the UN Security Council, in which he demonstrated a model of an ampoule with anthrax bacilli, which the Iraqis allegedly used to create biological weapons. Later, in 2004, Powell confessed that the information he had published was unreliable.

In addition, the American Center for Civil Liability, in conjunction with the Foundation for the Independence of Journalism, conducted a study in which it was estimated that from September 2001 to September 2003, the US leadership made 935 statements on Iraq that did not correspond to reality.

However, by that time the fact of Washington disinforming the whole world had led to irreversible consequences: The United States, supported by the United Kingdom, without having received a UN mandate, began the invasion of Iraq. Many experts consider the invasion of Iraq to be one of the main reasons for the long period of political instability in the entire Middle East.

**The more developed mass media become, the wider the use of fake news is.** The "concept note" of UNESCO for the World Press Freedom Day 2017 recognized disinformation as a key problem in the work of the media.

#### How can the spread of fake news in the modern world be explained?

1. Public opinion plays an increasingly important role both for the actions of national elites and for international politics. With the help of tools for manipulating public opinion, today one can "make" a political leader from a little-known person, destroy the career of an authoritative politician, provoke a coup d'état and influence the behavior of entire states on various issues of their international agenda. Interested players actively use this, not hesitating to use "prohibited methods" of intentional misinformation of the public.
2. Sharply increased with the advent of the Internet, the speed of information transfer creates oppor-

tunities to quickly achieve the desired effect by "information attack". Often, well presented fake news take root in the mass consciousness much faster than subsequent refutations of this information.

3. The 21st century is the era of information wars. Today, information has become one of the main tools of world politics.

### Classification of Fake News

The concept of fake news describes a number of phenomena and practices of communication. Some of them have been known for a long time and are well studied, and some turned out to be specific "mutations" that arose from the digital revolution.

Traditionally, the description of the concept of fake news uses the classification developed by the non-governmental organization FirstDraft: The forms of disinformation that are most dangerous from the point of view of the recipients' interests are on the right side of the spectrum (Figure 5).

However, any form of false information involves a significant danger. Even an incorrectly understood joke, or a joke taken at face value, can lead to equally serious consequences, as well as conscious, "aggressive" disinformation.

### Countering Fake News

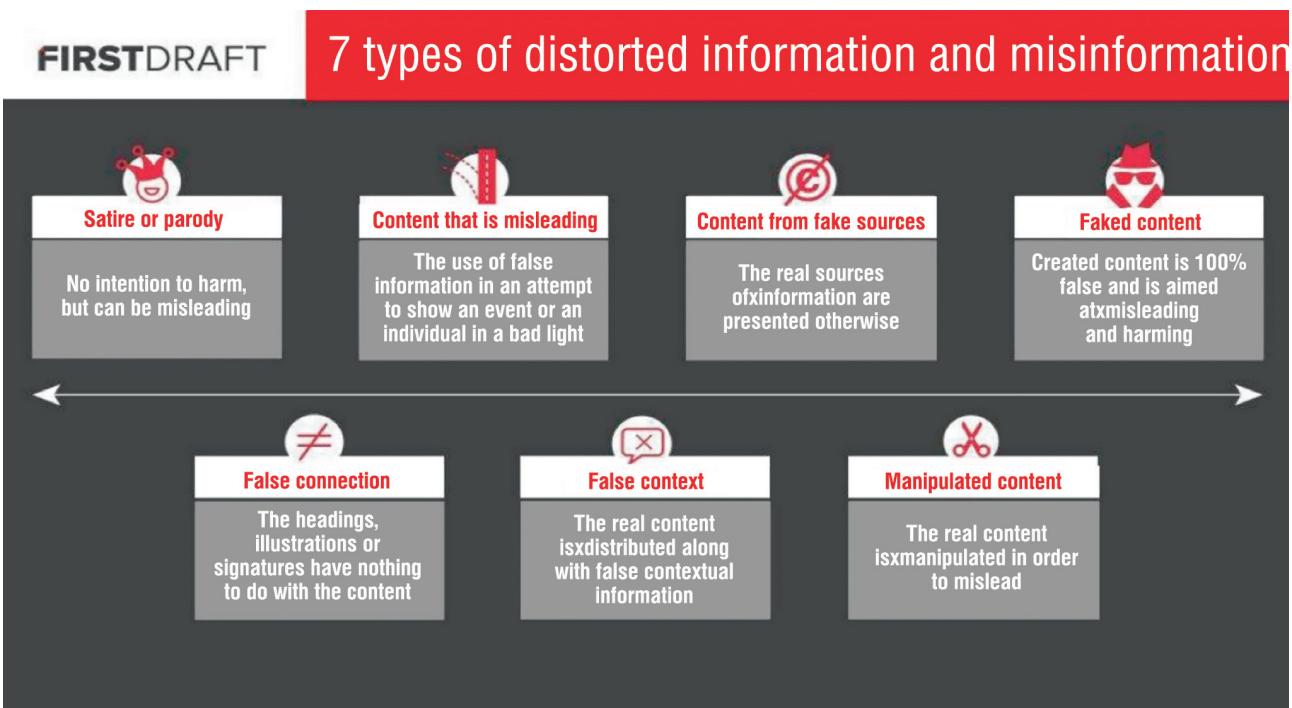
**From a legal point of view, fake news is defined as defamation. However, due to the complexity of the mass media, a number of problems of regulation of this sphere appear.**

- The authorship of fake news is unclear.
- The main effect of fake news, as a rule, is the rapid spread of false information in the information space. Even if subsequently such news were disproved, and the authors were brought to justice, the effect of distorted information would still have been achieved.
- The bureaucratic nature and slowness of the judicial system at the moment don't correspond to the speed of the information space. Mechanisms are needed to reply promptly and proactively to fake news.
- Social networks blur the boundaries between a person's private opinion and deliberate dissemination of false information.

**Nevertheless, a number of countries have begun to work on adapting legislative regulation in this sphere to modern conditions.**

A law that criminalizes the publication of fake news was passed in **Malaysia**. The maximum penalty is 6 years in prison. The law defines fake news as "news, information, data and reports that are wholly or partly composed of false information." The law's actions extend not only to journalists and the media, but also to social networks. The first person has been already prosecuted under the new law. It was a citizen of Denmark who published a post in social networks in which he stated that he was a victim of a shooting incident and criticized the actions of law enforcement bodies of Malaysia. The police categorically denied the accusations of the tourist. As a result of the trial, the tourist was sentenced to a week imprisonment and a fine of about USD 6,500.

Figure 5



**Source:** FirstDraft

A law to combat fake news has been drafted **in France**. It was developed by experts of the Ministry of Culture and will be submitted to the lower house of Parliament of France for discussion. With its help, the authorities will be able to track the channels for disseminating information via the Internet, social networks, as well as through the media, which are "under foreign influence."

**In Russia** in April this year, the State Duma passed the first reading of the draft law "On Amendments to the Federal Law on Information, Information Technologies and Information Protection," which should facilitate the removal of inaccurate information from the Internet. The draft law states that in case of dissemination of unreliable publicly significant information in the Internet, the authorized body may apply to Roskomnadzor with a request to take measures to stop the dissemination of such information and to remove it. The draft law also introduces the concept of "owner of a public network", which is recognized as the organizer of the dissemination of information on the Internet.

### How to Detect Fake News

#### ► Verification of the Primary Source

Any news has its own source. As a rule, it's an information agency. A lack of reference to the source indicates that this information is highly likely to be fake news.

#### ► Distrusting Anonymous Sources

The favorite practice of an "informational attack" is to do it by referencing the information to some anonymous source of some periodical of the government. Such news turn out to be true only in rare cases; more often it's a sign of manipulative information. Often, a journalist can be a victim of unreliable information when their source wants to achieve their own goals this way.

#### ► Evaluation of the Title Corresponding to the Content

A classical method of carefully distorting meaning is manipulating headings. The author can distort the title in a way that completely changes the view of the reader about the content of the article. One should read the entire material and pay attention to the correspondence of the title to the content. A title which does not fit the content is indicative of manipulative material.

#### ► Attention to Illustrations

One can detect fake news by its illustrations. Because of the haste during preparing such informational material, the authors make mistakes. For example, an illustration may not correspond to the content of the material. In case of such mistakes, you should take a closer look at this news.

#### ► Validity of Quotations

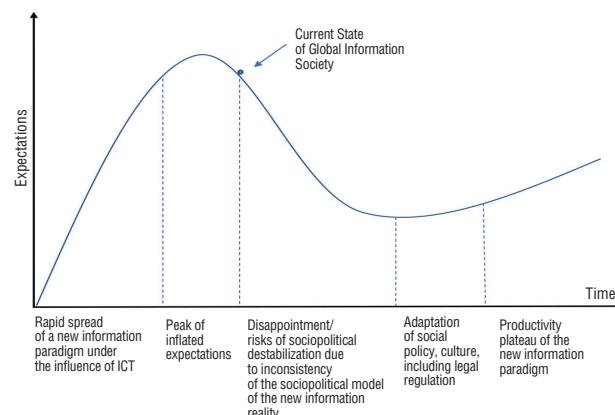
For greater persuasiveness, fake news are added with citations that are specifically fabricated by fakewriters. One should pay attention to any quotes. There are several rules for authenticating quotes. First, the quotation should contain information referring to a specific event (date, surname, name of the settlement, any details confirming that the quote refers specifically to the event in question). Secondly, the style and meaning of the speech should be peculiar to the author of the quotation. Thirdly, quotations must be verifiable: genuine statements are contained in many open sources.

#### ► Content of Comments

It's often the case that other readers have already exposed fake news or noticed suspicious details and have written about it in the comments to the article. Always look at the comments left on the article by other readers.

## GENERALIZING CONCLUSION

- One of the key topics of the modern political agenda is the issue of regulating the information sphere.
- The production, distribution and consumption of information content are of key importance for the rights of citizens, the increase in life quality and human capital, as well as for ensuring sociopolitical stability and sustainable economic development.
- The political significance of the informational factor has significantly increased with the exponential jump in the amounts of content produced, the speed of its distribution, and, most importantly, the inclusive involvement of all social groups in the society of leading countries in the production and consumption of information content. As a result, the key sociopolitical drivers and risks have shifted to the information sphere.
- Thus, a new configuration of sociopolitical reality has formed, which is characterized by more dynamic processes, a more complicated and intricate system of interrelations and a proportionally greater vulnerability to destabilization.
- From the point of view of democracy, broad inclusive involvement of the public in the informational dimension of social and political life has a fundamentally positive significance.
- At the same time, the rapidity of the transition to a new information paradigm under the influence of objective technological factors (ICTs) against the customary backdrop of longer social and political development cycles in societies has created fluctuation characterized by the unpreparedness of social and political systems to function in a new information reality.
- To describe the dynamics of the process of sociopolitical adaptation to the new information reality, the model proposed by the Gartner research company in 1995 seems to be a good fit – it's a hype cycle, graphically representing the stages through which the technological innovation passes in the course of its development.
- This regularity can be observed when any new significant technology appears and it can serve as a tool for analyzing and predicting the impact of a new, ICT-based information paradigm on sociopolitical processes.



- The flip side of the processes described above is the number of vulnerabilities and risks associated with the increased susceptibility of members of society to information impulses that may bias or distort reality, arise spontaneously, or be intentionally generated for the purpose of manipulation or misinformation.
- The susceptibility of modern society to this new information paradigm and to the possibilities of ICT have opened a wide channel of influence on the models of sociopolitical and economic behavior of people.
- The number of actors developing the toolkit of such influence is steadily growing, covering the spectrum from individuals, social groups to political associations, states and transnational corporations.
- In the new paradigm, the techniques and methods of informational work are improving. At the same time, in the pursuit of the effectiveness of information impact, players usually neglect the factors of sustainability, thus not providing a comprehensive assessment of the consequences.
- The prospect of achieving a rapid information effect, on the one hand, and the lack of a full-fledged and adequate new information paradigm of the communication culture, and in some cases, the corresponding legal regulation, on the other, create the prerequisites for dangerous destructive tendencies such as the dissemination of fake news, misinformation, manipulation, interference in the internal affairs of states, including with the aim of destabilizing them up to the change of the ruling regimes.
- Very popular in the information and communication environment, irresponsible and unsustainable practices such as manipulative information technologies and fake news in terms of the level of its technological maturity can be compared with the primitive ancient system of slash-and-burn farming, which was common in Europe from the Neolithic to the middle of the 19th century and which still exists today in some of the world's poorest countries.



The technology was based on burning the forest in order to plant agricultural crops directly into the ash, which is a good fertilizer, resulting in a short-term effect of extremely high yields.

However, in a few years, new forests had to be burned, which quickly led to the deforestation of Europe.

- Taking into account the global context of aggravating competition in the political and economic spheres, the information policy/work/strategy itself in the emerging conditions has a pronounced tendency to transform into an information confrontation.

- Although the very phenomenon of information impact as a tool of fighting is far from new, in the conditions of the emerging new information paradigm under the influence of ICT, the cumulative volume of directed information, including manipulative information attacks, misinformation, fake news, etc has found its way into all layers of the inclusive multilayered information space and scaled to critical dimensions.
- Against the backdrop of the international legal crisis, the increase in conflict potential at the regional and global levels, and the reduction in the threshold for the use of force, the danger of fake news can become a direct threat to peace.



A recent example: the rapidly debunked staging by the White Helmets organization, which falsified a story about a chemical attack in East Ghouta, Syria.

The fake event, which received broad coverage in the West, resulted in a US-led coalition inflicting massive missile and bomb strikes on Syria that were carried out without the approval of the UN Security Council and in violation of international law.

- It should be recognized that the problem of fake news is not the main one among the issues of interstate contradictions, conflicts and other manifestations of the international relations crisis. At the same time, building a systemic counteraction to information fakes today will certainly increase stability in the social, political, and international dimensions.
- Along with fake news, a significant threat of destabilization is the variety of directed information impact in the form of calls for committing direct acts of aggression, unfriendly actions or restrictive measures, incitement to interethnic, interreligious discord, xenophobia, etc.
- An example of such abuse of the freedom of speech was a recent publication in the Washington Examiner, a weekly American periodical, where the author urged the Ukrainian authorities to launch an air strike on the Crimean bridge, recently opened for motor traffic across the Kerch Strait. At the same time, the journalist gives de-

tailed instructions on how to carry out the attack best and calls on the US to support this act of aggression.

With a circulation of 45 thousand and 10.5 m monthly visits to the website, the Washington Examiner can not be considered to be marginal media. The author of the article is also regularly published in leading US media and speaks on the main TV channels of the country.

Despite this, in being anti-Russian, the American periodical is infringing not only on professional ethics, but also on international norms concerning the ban on the propaganda of terrorism and aggressive war.

The conclusion is that such information attacks are not related to the freedom of speech: they are incompatible with the concept of responsible behavior in the information space. Their prevention and suppression require strict legislative regulation.

In connection with the above, **three questions** can be considered in practical terms:

1. What should be the main elements of the strategy for countering disinformation?
2. What tools should parliamentarians use?
3. What is the political meaning for the parliaments themselves of activating their role in efforts to improve the information environment?

#### **Systemic work of parliamentarians in this area should be inclusive and have the following main components:**

- Improvement of national legislation (based on the exchange of best practices), including norms that establish responsibility for intentionally false information, as well as calls for unlawful acts, unleashing armed conflicts, inciting interethnic, and interreligious discord, etc.
- Broad application of parliamentary control tools towards actions of the executive branch (including foreign policy or military actions), undertaken based on information from unofficial sources distributed in the media. It is possible to develop legal norms governing verification procedures for unofficial information that precedes executive bodies' adopting of executive decisions.
- The use of international parliamentary structures to draw attention to the risks of taking foreign policy and, especially, military decisions on the basis of unofficial information that has not been properly verified.
- Involving civil society institutions, scientific and expert and media communities, including at the international level, to implement an active policy of forming and promoting a culture of responsible behavior in the information space at all stages of content life cycle, from its production to distribution and consumption.

The focusing of joint efforts of parliamentarians on achieving the priority goal of improving the information environment meets the key demands and expectations of society and the economy; it also contributes to social and political stability at all levels.

By responding to this challenge of our time, parliaments will strengthen their authority and legitimacy, as well as increase their role in the modern world.

