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LEGAL AND POLICY ISSUES AROUND FAKE NEWS

In twenty first century, there are various rights and freedoms that all the people are accomplished with. One of the guaranteed essential rights is freedom of expression [1].

We need to admit that the more rights you grant the more responsibilities are coming with it. The freedom of expression includes the right to express your views loud through articles, media or internet freely. However, you need to respect the rights of the other people and one has a duty to behave responsibly according to their own views.

With the development of the telecommunications and the internet, the issue of irresponsible usage of freedom of expression became highly disputed. There are billions of different views about any issue in the internet and most likely none of them has a particular author and the key concept of internet media has evolved. Therefore, there is a huge scientific discussion according to the topic of violation of freedom of expression rights in a perspective of the newest legal concept – “fake news”.

“Fake news” concept in particular has appeared to media since the 2016 US presidential election. The Washington Post media columnist Margaret Sullivan wrote that "the era of fake news causing real trouble" [2]. Publishing the fake news has been known as a legal issue for many years. It is reasonable to mention the Alien and Sedition Act in USA that was enforced by the Congress in 1798 where spreading the misleading information (writing or publishing any false, scandalous and malicious writing or writings against the government of the United States) was considered as crime [3]. Fake news is not only about the United States. The impact of fake news is global. Especially with the development of Internet hundreds of media and news, resources have huge competition and each of them is trying to provide an exclusive and attractive material for the consumer. Therefore, some of them are trying to speculate the facts and topics to increase their popularity or to use media as an instrument to affect the particular sphere or even governmental or political reputation. Fake news and its legal definition

What is fake news? Firstly, we need to distinguish the concept of fake news beyond its legal and non-legal perspective. We need to admit that there is no unified definition. Therefore, the most highly disputed issue about the definition and key provisions of fake news is the legal side of usage of fake news and its consequences. If we want to define this term more narrowly, most of the scholars refer it to “a made-up story with an intention deceive, often with a goal

of raising public interest and engagement rate” [4].

Although, some journalist scholars at the University of Florida consider that fake news refer to “articles that provide, by both their general appearance and content, the conveyance of real facts, but also knowingly include at least/or one material factual assertion that is empirically verifiable as false and that is not otherwise protected by the fair report privilege” [5].

At the moment, there is no special regulation or legislation governing fake news in the United States. The issue of fake news beyond the legislators is considered too new and the establishment of legal responsibility for the information that one provide may gain more attention in some time. However, there are several countries where the issue of fake news is regulated and more or less government has an influence on the sources of fake information.

One of the first attempts in Western Europe to regulate the fake news and false information provided by media was made by French government. In 2018, the French parliament has passed a law, which gives the opportunity for the removal of the fake news during election campaigns [6]. The president of France believes that “internet must be regulated. Any candidates and political parties from the moment of empowerment of this law have an opportunity to appeal to the judge to help to stop “false information” during three months before the election. Moreover, according to this law French national broadcasting agency is allowed to render the authority to suspend any sources of information and television channels “controlled by a foreign state or under the influence” of that state in case if they “deliberately disseminate false information likely to affect the sincerity of the ballot” [7]. Therefore, we need to consider the fact that France has the power to take on any foreign TV station suspected of spreading “fake news”. Furthermore, this law obligates the media bodies to provide the users with the full information on how their personal data is being used. Anyone who violates the law could be sentenced for one year in jail and a fine of €75,000. It is reasonable to admit that this law in France is related to the political sphere.

On the other part of the world, there is one of the most relevant example of the country, which establishes the fake news law. Singapore is well-developed country with the high level of social wealth. On the other hand, according to the World Press Freedom Index, Singapore ranks 151 among 180 countries by the level of freedom of speech and media [8]. Fake news law that was established by the government of Singapore in 2018 is one of the main pillars of control of the media in the country. In contrary to the French fake news law, Singaporean one relates not only the political sphere before the elections, but also all the social media sources like Facebook to carry warnings on posts the government deems false and remove comments against the public interests. Therefore, provisions of the fake news law in Singapore regulates most of the spheres of the society. The violation of the law may occur a fine up to 1 million in a local currency (\$737,500) and up to 10 years of imprisonment.

There is a lot of criticism of fake news law in Singapore beyond the private individuals and legal scholars. However, the government of Singapore admits that these measures are necessary for the public interests. For example, one of the recent cases of argumentation of the necessity of this law are the announcements of the governmental officials of Singapore that “Fake news law is a weapon of Singapore to fight Coronavirus” [9]. We need to admit that the government is sorting the information in social media and removes the information that is against the public interests. There are several examples of fake news law in countries like Germany and Russia. The German law regulates mostly social media content that relates to the hate speech. The key concept of the NetzDG is establishing the governmental body that is reviewing the content in social media [10]. This law was made to ensure Germany’s tough prohibitions against hate speech, including pro-Nazi ideology, are enforced online by requiring sites to remove banned content. On the other hand, we have Russia, where the fake news law was established to provide a censorship in the country. Any information or statement that regards as fake news or who show disrespect for the state is considered illegal. The government may block any websites that do not meet requests to remove inaccurate information.

In conclusion, the topic of fake news legislation is controversial and there is no ultimate answer on the question of necessity of establishing of it. Most of the countries that have fake news law of any other adaptations admit the necessity of these measures by the defense of public interests and isolating of their own citizens from any fake information. However, we need to distinguish where the government officials are trying to regulate the political advertising before the elections from the total censorship and violating of freedom of speech like in Russia. My personal opinion is that in the internet society and the reality that is in the twenty-first century the internet should be regulated. Therefore, some of the spheres of media are in need to be sorted for the subject of false information. In the era of hype and monetization of media, some of the people are manipulating the facts and are trying to provide the information with the commercial interest. Consequently, these spheres are reasonable to have a legal argumentation. Although, we need to draw a line and be connected with the freedom of expression and do not disturb the activity of media.

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ТЕНДЕНЦІЇ РОЗВИТКУ СИСТЕМИ ДЖЕРЕЛ ПРАВА В УКРАЇНІ

Ефективність функціонування будь-якої правової системи значною мірою пов'язується з її нормативним комплексом – системою джерел права. Саме вона забезпечує належну нормативну регламентацію суспільних відносин, цілісність правової системи та правопорядок як необхідну передумову розвитку суспільства і є визначальною для юридичної практики, а відтак, потребує глибокого наукового аналізу.

Юридичні джерела (форми) права – вихідні від держави або визнані нею офіційно-документальні форми вираження і закріплення норм права, які надають їм юридичного, загальнообов'язкового значення. В теорії права виділяють сім видів форм (джерел) права, а саме: правовий звичай (акт – документ, що містить норми-звичаї, які санкціоновані державою і забезпечуються нею); нормативно-правовий акт (офіційний акт-документ компетентних органів, що містить норми права, забезпечувані державою);