# ABILITIES OF TECHNICAL AND LEGAL MECHANISMS TO COUNTER THE SPREAD OF FAKE INFORMATION THROUGH MASS COMMUNICATION TOOLS

# HABILIDADES DE MECANISMOS TÉCNICOS E LEGAIS PARA COMBATER A PROPAGAÇÃO DE INFORMAÇÕES FALSAS ATRAVÉS DE FERRAMENTAS DE COMUNICAÇÃO DE MASSA

# HABILIDADES DE LOS MECANISMOS TÉCNICOS Y JURÍDICOS PARA CONTRARRESTAR LA DIFUSIÓN DE INFORMACIÓN FALSA A TRAVÉS DE LAS HERRAMIENTAS DE COMUNICACIÓN MASIVA

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#### ABSTRACT

**Purpose:** The article examines the legal mechanisms of countering the spread of false, fake information in the media to manipulate public opinion. The purpose of this study is to analyze legal mechanisms countering the spread of fake information and the international practice of their application.

**Methods:** The authors conduct a review and critical analysis of the main legal decisions on countering the spread of fake news. The legal mechanism of countering the spread of fakes involves civil, administrative, and in some cases criminal liability.

**Results:** In this regard, the authors consider changes in Russian legislation in 2021-2022, reflecting a serious tightening of legal liability for the spread of fakes due to changes in the geopolitical situation.

**Conclusion:** Trying to evaluate these contradictory measures objectively, the authors conclude that, on the one hand, the application of criminal liability as a punishment is excessive and it seems to us that the consequences of the act do not correspond to the measure of punishment. On the other hand, based on the events of 2022, criminal liability for fake information is forced, but justified, and has a temporary character, as it is aimed at reducing the occurrence of panic among the population in the conditions of sharp socio-economic changes.

Keywords: Fake news; false information; dissemination; counteraction; legal liability.

#### RESUMO

**Objetivo:** O artigo examina os mecanismos legais de combate à disseminação de informações falsas e falsas na mídia para manipular a opinião pública. O objetivo deste estudo é analisar os mecanismos legais de combate à disseminação de informações falsas e a prática internacional de sua aplicação.

**Métodos:** Os autores realizam uma revisão e análise crítica das principais decisões judiciais no combate à disseminação de notícias falsas. O mecanismo legal de combate à disseminação de falsificações envolve responsabilidade civil, administrativa e, em alguns casos, criminal.

**Resultados:** A este respeito, os autores consideram as mudanças na legislação russa em 2021-2022, refletindo um sério endurecimento da responsabilidade legal pela disseminação de falsificações devido a mudanças na situação geopolítica.

**Conclusão:** Tentando avaliar objetivamente essas medidas contraditórias, os autores concluem que, por um lado, a aplicação da responsabilidade penal como punição é excessiva e nos parece que as consequências do ato não correspondem à medida de punição. Por outro lado, com base nos acontecimentos de 2022, a responsabilidade criminal por informações falsas é forçada, mas justificada, e tem caráter temporário,



pois visa reduzir a ocorrência de pânico entre a população em condições de acentuada crise socioeconômica. mudanças.

**Palavras-chave:** Fake news; informações falsas; divulgação; contra-ação; responsabilidade legal.

### RESUMEN

**Propósito:** El artículo examina los mecanismos legales para contrarrestar la difusión de información falsa y falsa en los medios para manipular la opinión pública. El propósito de este estudio es analizar los mecanismos legales que contrarrestan la difusión de información falsa y la práctica internacional de su aplicación.

**Métodos:** Los autores realizan una revisión y análisis crítico de las principales decisiones judiciales sobre cómo contrarrestar la difusión de noticias falsas. El mecanismo legal para contrarrestar la propagación de falsificaciones implica responsabilidad civil, administrativa y, en algunos casos, penal.

**Resultados:** En este sentido, los autores consideran cambios en la legislación rusa en 2021-2022, lo que refleja un grave endurecimiento de la responsabilidad legal por la difusión de falsificaciones debido a cambios en la situación geopolítica.

**Conclusión:** Tratando de evaluar objetivamente estas medidas contradictorias, los autores concluyen que, por un lado, la aplicación de la responsabilidad penal como castigo es excesiva y nos parece que las consecuencias del hecho no se corresponden con la medida de castigo. Por otro lado, con base en los hechos de 2022, la responsabilidad penal por información falsa es forzosa, pero justificada, y tiene un carácter temporal, ya que está dirigida a reducir la ocurrencia de pánico entre la población en condiciones de fuerte crisis socioeconómica. cambios.

**Palabras clave:** Fake news; información falsa; difusión; contraataque; responsabilidad legal.

### 1 INTRODUCTION

Information today is becoming an increasingly important tool for influencing human consciousness, it can control this consciousness, deform it, determine the behavior model (Prozumentov, 2009; Avdeev et al., 2021). That is why the distortion of information can (not always directly) cause not only psychological but also physical harm (Kryukova et al., 2021). Today, most of the more or less "major players" on the



world stage seek to extend their sovereignty to the information space, which every year is increasingly becoming an arena for the clash of national interests of sovereign states and other actors of the political process (Vakhovskii, 2019; Kirillova et al., 2021).

The problems of manipulation of consciousness in cyberspace and, as a result, distortion of the true goals of the development of the information environment have acquired particular significance (Kryukova et al., 2021). To date, the variety of information sources, the increase in information flows "has not led to an increase in general education, nor an improvement in health, especially in terms of its neuropsychic aspects" (Gapanovich, Levchenko, 2017). Grachev and Melnik (1999) proceed from the fact that the basis for such an impact is the purposeful transformation and change of information considering the methods of informational and psychological impact on a person to change their behavior. The widespread distribution of these processes has led to the problem of fake information or fakes that negatively affect the normal functioning of the information sphere of the state and society.

The public dissemination of fakes has the potential to have and is already having a seriously destructive impact on many areas of public life – primarily economic and political. There is a steady trend towards improving technologies for creating and distributing fake information, as well as increasing their availability. We state that in practice the problem is moving from the category of issues of journalistic ethics and reputation to the category of national security issues. In this regard, there is a need to counter the spread of fake information at the state level, which can be done only through the creation and implementation of an effective system of legal regulation of the fight against fake information, which will subsequently act as a starting point for the development of specific technological and management solutions.

The above circumstances have led to a huge interest in the problem of countering fakes, especially those that are intended to influence significant groups of society. Researchers consider the problems of both technical counteraction to the spread of fake news (Xu et al., 2022) and legal (Kalishuk, 2021), evaluate their effectiveness. Several works raise problems of violation of the principle of freedom of speech (Roudik, 2019), excessive criminalization of this act (Dubovichenko, Karlov, 2020). Despite the broad development of the topic, the rapidly changing geopolitical



situation in recent years, in which fake news plays a significant role, requires new scientific research, the results of which will make it possible to more effectively combat fakes, reduce their harmful impact on public consciousness. The purpose of the presented work is to search for effective legal solutions in countering the spread of fakes through information channels used by the media.

Research hypothesis. The effectiveness of legal means of countering fakes distributed through the media depends on the comprehensive application of legal and technical means to find specific perpetrators and prevent total blocking of information, infringement of the principles of freedom of speech.

## 2 METHODS

Systematic and integrated approaches were used in the presented study, which ensured the use of methods of general scientific and special scientific analysis. Analysis, synthesis, comparison, generalization were used to study literary sources related to the research problem. The formal legal method was used to solve the issues of justification of criminalization of the act expressed in the dissemination of fakes. The comparative legal method made it possible to present various approaches to the legal regulation of fakes used in international practice, to correlate the Russian experience with it. The following information materials were used to prove the research hypothesis: legal acts published scientific papers, which set out the opinions of scholars on various aspects of the fake phenomenon, official statistics, and other information on the topic available on the Internet. Special research methods were identified based on the proposed hypothesis: a questionnaire and an expert survey on ways to effectively counter fakes.

We proceeded from the task of conducting a pilot study when choosing methods for collecting information and tools. We considered the choice of the pilot form of conducting the study to be the most optimal based on the research problem, even though this form is the simplest type of concrete sociological analysis. Therefore, in a situation of drastic social changes associated with limiting the receipt of information



and the fight against fakes, a pilot study will help to obtain information, on the one hand, the most prompt, relevant in terms of the minimum time gap between the development of the study, the collection of information, processing, and publication of the results of the study. In addition, the information obtained will help to develop tools for large-scale research, as well as to identify difficulties that may occur during the further study of this problem.

We contacted 30 experts who have experience in processing news information distributed through media channels – information analysts, editors of news agencies who agreed to answer questions on the problems of fakes. The criteria for the selection of experts were the presence of articles on this topic published in journals included in the Scopus or Web of Science citation databases in the amount of at least three. Experts were sent e-mails with questions about the effectiveness of legal and technical restrictions preventing the spread of fakes. Question 1. "Are restrictions on the dissemination of information necessary in the interests of public policy?" Question 2. "Which restrictions on the spread of fakes are more effective: legal or technical?". Respondents were notified that their answers would be used in this study in a general way.

#### 3 RESULTS

Today, by manipulating such properties of information as reliability (correspondence of information to the true state of affairs), completeness (sufficiency for decision-making), relevance (timeliness), clarity (accessibility for understanding by the recipient), value (importance for solving the problem), the subject of politics in the information society can achieve their goals or hinder the achievement of goals by competitors. fake information was more dangerous for economic and business processes than for social and political ones at the initial stages of development. However, as the number of the Internet audience grew, fake news began to integrate more and more into the strategies of information wars between the subjects of the political process. In addition to the very specific goals and reasons for the



dissemination of false information in the information space – discrediting political opponents, a way of expressing dissatisfaction with the political regime (the actions of its representatives) – some factors enhance the dissemination of false information (Vakhovskii, 2021). Thus, today the mass media, referring to each other, often broadcast unreliable, dangerous information for society, and this primarily concerns the Internet media, since information exchange is most dynamic in the global information network. The world community was faced with the need for the legal regulation of unreliable (fake) information publicly distributed by media companies (Mishchenko et al., 2020).

The problem of the spread of fake information is becoming more and more urgent, even despite the introduction of technologies for tracking and filtering false information by many large Internet media. Therefore, initiatives for the non-proliferation of false information are currently being implemented not only by media companies but also by States. Conditionally, two groups of methods of combating fake news can be designated: technical and legal. Technical methods, as a rule, are adopted by the Internet media and represent various options of algorithmization of computer processing of unverified information. The detection of false information was carried out manually before the development of big data and machine learning technologies in the editorial offices of large media: editors checked the facts before publication (Cazalens et al., 2018). The generation and dissemination of information through social networks has significantly increased the volume of such work and many online media have begun to use various labeling systems, however, a significant amount of work is still done manually by moderators, which does not significantly reduce the volume of fakes broadcast through the corresponding Internet platform.

The results of the expert surveys presented (Table 1) show the distribution of expert opinions on the issue under consideration.



 Table 1. The need to limit the dissemination of information

Question	Answers	
Are restrictions on the dissemination of information necessary in the	Yes	No
interests of public policy?	90%	10%
Which restrictions on the spread of fakes are more effective: legal or	Legal	Technical
technical?		51%

According to the results of the survey, there is a need for restrictions on the dissemination of information of national importance, while opinions were divided on the choice of a means of restriction.

These results correlate with the conclusions of similar studies conducted in Russia in other countries. To date, a large number of countries have recognized the danger of fakes and tried to counteract them at the legal level. Examples include Singapore, Malaysia, the Russian Federation, Argentina, China, Egypt, France, Germany, and Israel (Roudik, 2019).

At the moment, researchers (Roudik, 2019) distinguish two models of legal regulation of countering fake information in the media, which are conveniently presented in the form of a comparative table.

Examples of countries	Method of formation of legal regulation of liability for the spread of fakes	Features of the implementation of the model of legal regulation	
Brazil, France, Japan, Nicaragua	Implementation of regulatory measures in the existing general industry legislation	Introduction of administrative, civil, criminal, and (or) other liability for culpable acts related to the dissemination and creation of fake information.	
Russian Federation, Germany, Egypt, China	Creation of special legislation with parallel implementation into the general	Adoption of special regulations aimed at countering the dissemination and creation of fake information in combination with the introduction of administrative, civil, criminal, and (or) other liability	

Table 2	Experience	of lenal	regulation	of liability for	r the spread of fakes
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These tables show that there is still no unified structured legal system focused on countering fake news at the present stage. This problem is caused by certain



difficulties in measuring the level of unreliability of information, as well as in creating adequate legal norms that do not violate the principles of freedom of speech.

### 4 DISCUSSIONS

Based on the results obtained, we concluded that a promising direction to minimize the negative effects of disinformation is the use of automated news analysis systems, which, as a rule, work according to one of three principles (Mishchenko et al., 2020). Firstly, the analysis of the text style is carried out. This is since there are certain stylistic features in fake texts that are not always noticeable to a person. Secondly, an analysis based on the construction of information dissemination models can be used to predict how disinformation will spread, and therefore, it becomes possible to take measures to block the most critical information channels (Xu et al., 2022). The third principle is related to the analysis of user activity when the participation of users in the creation and dissemination of false information is evaluated. This is how ordinary users who spread fake news and the attackers themselves unintentionally are identified (Vakhovskii, 2019). Thus, having the technical capabilities to check and prevent the spread of fake news, the media that allowed their placement on the relevant resources should bear legal responsibility.

Legal decisions in the fight against the dissemination of false information, as a rule, are implemented in the process of adoption and execution of relevant regulations. One of the most effective and widespread ways of suppressing disinformation is to establish administrative (and in some countries criminal) responsibility for the spread of fakes.

Federal Law No. 31-FL (March 18, 2019) "On Amendments to Article 15-3 of the Federal Law "On Information, Information Technologies and Information Protection" and Federal Law No. 27-FL (March 18, 2019) "On Amendments to the Code of Administrative Offences of the Russian Federation" were adopted in the Russian Federation" In March 2019. According to the new legislative norms, it is prohibited to distribute "unscrupulous socially significant information distributed under



the guise of conscientious messages that poses a threat of harm to the life and (or) health of citizens, property, a threat of mass disruption of public order and (or) public safety or a threat of interference with the functioning or termination of the functioning of life support facilities, transport or social infrastructure, credit organizations, energy, industry or communications facilities" (Federal Law No. 31-FL, March 18, 2019). An Internet resource that has published such information may be blocked by Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications if the editorial staff of the resource did not delete the information from the publication's website "immediately from the moment of receipt of a notification from the federal executive authority exercising control and supervision functions in the field of mass media, mass communications, information technologies and communications" (Federal Law No. 31-FL, March 18, 2019). In addition, the penalty liability for officials and legal entities (it is obvious that the media are also included in them), depending on the severity, varies from 1,500,000 to 10,000,000 rubles (Article 13.15 of the Administrative Code of the Russian Federation) (Code of the Russian Federation on Administrative Offenses N 195-FL, December 30, 2001).

Not only the Russian Federation, but the world community as a whole is trying to solve the problem of the spread of fakes at the legal level. Germany was one of the first countries to use this method. The Bundestag adopted the law "On improving law enforcement in social networks" in June 2017 (Netzwerkdurchsetzungsgesetz, 2017). The law obliges social networks with more than 2 million registered users, as well as online media, to monitor their content and remove fake information promptly. Media outlets can be fined up to 5 million euros for the systematic violation of the rule of timely removal of fake news from the Internet portal (Plattformen bei Hate & Fake in die Pflicht statt in Richterrolle nehmen, 2017).

France is also forming a regulatory framework regulating measures aimed at countering the spread of fake news. The Digital, Culture, Media, and Sport Committee emphasizes the need for liability for the dissemination of knowingly false and illegal information in the Disinformation and Fake News report. The new legislation (LOI № 2018-1202, 2018) requires operators of large websites to take measures to prevent the dissemination of false information. Website operators should also create visible



and easily accessible means for users to flag fake information, and provide an annual report to the Supreme Council for Audiovisual Media (CSA), a detailed description of the measures they have taken to combat the spread of fake information on the Internet. Modern legislation allows the CSA to suspend the operation of broadcasting services that are controlled or influenced by a foreign government if it discovers that these services intentionally transmit false information during the three months preceding the national elections (LOI № 2018-1202, 2018).

At the moment, bringing to justice by imposing fines for the dissemination of fake news is the most common way. However, tougher versions of legal liability for the dissemination of false information are also known in the Malaysian legal system: in addition to fines, imprisonment for up to 6 years is also provided (Federal Law No. 31-FL, March 18, 2019). Here it seems necessary to return to the legislation of the Russian Federation, which has recently undergone significant changes.

Since April 1, 2020, two new elements of crimes have been introduced in the Criminal Code of the Russian Federation, providing for criminal liability for the public dissemination of deliberately false information – these are the norms of Articles 207.1 and 207.2 of the Criminal Code of the Russian Federation. The prerequisite for their adoption was the spread of coronavirus infection on the territory of the Russian Federation, which led to a violation of the normal, habitual conditions for the existence of society and set a difficult but very important task for the legislator: to quickly respond and establish a ban on the mass dissemination of knowingly false information that could harm public interests because the so-called infodemic began to spread rapidly around the world along with the pandemic (Pkheshkhova, 2021).

In addition, in the very recent past, namely March 4, 2022, Article 207.3 was introduced in the Criminal Code of the Russian Federation, which provides for criminal liability up to 15 years in prison for " Public dissemination under the guise of reliable reports of knowingly false information containing data on the use of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its citizens, maintaining international peace and security...". These norms can also be applied against guilty officials and other media workers.



Researchers (Kalishuk, 2021) note some problems that arise within the framework of legal regulation of countering fake information. There are almost no international mechanisms of legal regulation, and conflict situations arising from the intentional or accidental dissemination of fake information are resolved at the political level. The vagueness and inaccuracy of the wording of special legislation also create many problems in the framework of law enforcement. This is due not only to the novelty of the problem but also to its complexity, as well as dynamism, i.e. it is difficult to establish such a subject and the limits of legal regulation and to develop such norms that will be sufficiently broad and universal (Kalishuk, 2021).

The main problem is that countering the spread of fake information borders on such a fundamental human right as freedom of speech and attempts to adopt and develop regulations on countering fakes, as a rule, cause serious public and international resonance, as they are perceived as limiting this right. For example, in Malaysia, where, in 2018 the aforementioned Law "On Countering Fake News" was first adopted, and then it was canceled due to public discontent.

The actions of the Russian legislator also continue to confuse practicing lawyers and the journalistic community (Law on criminal punishment for fakes..., 2022). The legislator did not have enough time to determine which branch of law to attribute this act to, administrative or criminal. Currently, until the situation has stabilized, it is difficult to say how appropriate it is to have norms in the criminal law that prohibit the dissemination of deliberately false information, it is difficult to distinguish what is certainly criminal and what should be considered an offense. However, the social conditionality of the norms regulating information flows in modern conditions is indisputable, in addition, most researchers understand their meaning and purpose. It is hardly necessary to agree with the classification of this act as a criminal one, especially if it did not entail negative consequences. This opinion seems to be the most appropriate. In particular, this point of view is reflected in the work of Dubovichenko and Karlov (2020), who write about the lack of confidence in the effectiveness of criminal law mechanisms, considering it sufficient to use administrative and legal means of control over the dissemination of false information.



The norms providing for criminal liability under Articles 207.1, 207.2, and 207.3 of the Criminal Code of the Russian Federation should be temporary since they will effectively combat those challenges that the country faces only at a certain stage, after which they should cease to be effective.

In the current scientific dispute, the opinion of Prozumentov (2009) that "ideally, almost every criminal law norm should correspond to a norm similar to it, providing for administrative responsibility for a similar act with a lesser degree of danger" seems fair. This conclusion seems appropriate since the basis for establishing a criminal prohibition is an increased (rather high) degree of public danger of the prohibited act.

## 5 CONCLUSIONS

Today, the world community has realized the true danger of fake news, and all legislative acts adopted in recent years contribute to preventing the dissemination of false information. From this point of view of state management structures, these norms are justified and have a positive impact on the regulation of public relations connected with modern media. However, in our opinion, when forming the legislative framework, one should not follow the path of total control over them but try, using new technologies, to create such a comprehensive system that will help to identify and block false information in a timely and precise manner. Thus, the research hypothesis has been proven. We see the prospects for the continuation of this research in the analysis of the possibilities of forming a legal culture in the information space.

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