



## The Citizens' Right to Freedom of Expression Versus the Necessity of Combating Disinformation

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**Abstract:** *The paper analyzes freedom of expression as a fundamental right and a pillar of democracy, balancing it against the increasing threat of disinformation in the digital environment. Freedom of expression, enshrined in the Romanian Constitution and internationally recognized, includes expressing thoughts, opinions, or beliefs by any means of public communication. This right is not absolute and entails the obligation to respect the rights of others and not to affect national security or public order. Prohibited acts include, among others, defamation, incitement to national/racial/religious hatred, discrimination, public violence, and prejudice to a person's dignity or honour. Exceeding these limits entails legal liability (civil and criminal). Disinformation is defined by the European Union (EU) as a series of false or misleading information, deliberately disseminated to obtain economic gain or to mislead the public, potentially causing public harm. In the context of digital media expansion, disinformation spreads faster and deeper than the truth. Combating disinformation, considered a major challenge for Europe and democracy, requires a strategic, comprehensive approach based on three main directions: accountability of online platforms, education and resilience, and strategic communication.*

**Keywords:** *right to free expression; EU; disinformation; democracy*

### 1. Introduction - Freedom of Expression and its Limits

Freedom of expression was declared by the UN General Assembly back in 1946 as “a fundamental human right and the cornerstone of all freedoms...”, being recognized at both national and international levels. It represents the human ability to express, verbally or in writing, through images, sounds, or other means of public

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communication, their thoughts, opinions, religious, or spiritual beliefs of any kind, while respecting the legal provisions in force (Muraru & Tănăsescu, 2022; Tomescu, 2024). National and international regulations state that the exercise of freedom of expression implies the obligation to respect the rights of others and not to affect national security, public order, public health, or morality (Mazilu, 2008).

The Romanian Constitution enshrines the freedom of expression in Article 30, as follows:

“(1) The freedom to express thoughts, opinions, or beliefs, and the freedom of creations of any kind, verbally, in writing, through images, sounds, or other means of public communication, are inviolable. (2) Censorship of any kind is prohibited. (3) The freedom of the press also implies the freedom to establish publications. (4) No publication may be suppressed. (5) The law may impose on mass media the obligation to make public the source of their financing. (6) Freedom of expression shall not prejudice the dignity, honour, private life of the person, nor the right to one's own image. (7) The law prohibits the defamation of the country and the nation, the incitement to aggressive war, to national, racial, class, or religious hatred, the incitement to discrimination, to territorial separatism or public violence, as well as obscene manifestations contrary to good morals. (8) Civil liability for the information or creation brought to public knowledge shall rest with the editor or producer, the author, the organizer of the artistic event, the owner of the means of multiplication, of the radio or television station, under the conditions of the law. Press offenses shall be established by law” (Romanian Constitution, 1991/2003).

Freedom of expression implies individual freedom and freedom of the press, as well as the prohibition of censorship and responsibility for the ideas expressed. The protection of freedom of expression is an essential condition for guaranteeing a democratic political system and for the development of every person (Safta, 2018). Freedom of expression cannot be absolute, as it is subject to limitations that must be provided for in legislation and that are necessary for the defense of human, political, social, and economic values, in order to prevent abuse in the exercise of freedom of expression. Constitutional provisions protect the dignity, honour, private life of the person, and the right to one's own image. Expressions that defame the country and the nation, incite aggressive war, national, racial, class, or religious hatred, incite discrimination, territorial separatism, or public violence, as well as obscene manifestations contrary to good morals, are prohibited (Safta, 2018).

The existence of a legal framework within which freedom of expression must be exercised also implies legal liability for exceeding these limits, both civil and

criminal. The constitutional phrase “under the conditions of the law” grants the legislator the possibility to regulate the conditions for establishing liability. Furthermore, Article 57 of the Constitution stipulates the obligation of Romanian citizens, foreigners, and stateless persons to exercise their constitutional rights in good faith, without violating the rights and freedoms of others.

The evolution of communication means raises new issues regarding the limits of freedom of expression, as the risk of infringing on fundamental rights is much greater for information circulated on the Internet compared to that in the written press (Safta, 2018). Therefore, legal regulations will also be distinct, taking into account technological developments and the need to truly ensure the protection and promotion of rights and freedoms.

## **2. The Concept of Disinformation and Ways to Combat the Phenomenon of Disinformation**

Due to the expansion of digital media and the development of social networks, at least in terms of perception, disinformation represents one of the major concerns of individuals. 85% of European citizens believe that the existence of news that misrepresents reality or is outright false is a problem for their country, according to the “Flash Eurobarometer 464 - Fake news and disinformation online” survey, published by the European Commission, while 83% state that it is a problem for democracy in general (European Commission, 2018a; Oprea, 2021). On social networks, disinformation spreads further, faster, deeper, and across a wider spectrum than the truth (Vosoughi et al., 2018).

Newspapers, magazines, radio, television, and the Internet are channels through which public opinion, people's interests and motivations, and consciousness are influenced, oriented, and directed. We are increasingly dependent on this global network to keep up with what is happening in the world. That is why we rely heavily on the credibility and integrity of the media. The growing dependence of people on what the mass media offers them also provides a suitable opportunity for information manipulation. Through this, it is possible to change people's attitudes, beliefs, feelings, and behavior without resorting to violent means (Volkoff, 2002).

The term disinformation first appeared in Russian (*dezinformatsiya*) after the Second World War, according to Vladimir Volkoff, “with the role of designating exclusively capitalist practices aimed at enslaving the popular masses.” This true Soviet weapon was borrowed from the Chinese military thinker and general Sun Tzu (545-470 BC),

considered the author of a work that is still a reference today, *The Art of War* (Volkoff, 2002).

Michel Heller, a survivor of the Soviet camps and one of the most relevant observers of totalitarian reality, quoted by Vladimir Volkoff, notes that the term disinformation first appears in a Soviet dictionary, *The Dictionary of the Russian Language*, in a volume signed by Sergei Ivanovich Ozhegov, in 1949, with the following definition: “disinformation: the action of misleading by means of false information,” and, as an example, the author speaks about the “disinformation of public opinion in capitalist countries.” The new face of disinformation was inaugurated in 1957, with the establishment of Department D within the First Chief Directorate of the KGB (Committee for State Security, the political police agency of the Soviet Union). Disinformation was conceptualized and then operationalized by the Soviets through the GRU (Main Intelligence Directorate), the Soviet Army's intelligence service, and the Spetsnaz, the Soviet special forces. Disinformation was then studied in all military schools on the eastern side of the Iron Curtain and practiced by the USSR's satellites (Oprea, 2021).

One of the theoreticians extensively concerned with the issue of disinformation, Henri-Pierre Cathala (1991), links the concept of disinformation to that of manipulation and considers that it represents “the set of dialectical procedures intentionally employed to achieve the perfidious 'manipulation' of individuals, groups, or an entire society in order to deviate their political conduct, dominate their thinking, or even subjugate them. It involves the concealment of real sources and purposes, as well as the intent to cause harm through a distorted representation or a tendentious interpretation of reality. It is a form of aggression that seeks to go unnoticed. It falls within the scope of subversive psychological actions” (Oprea, 2021).

Vladimir Volkoff relates disinformation to both intoxication (intoxication being used in the sense of 'misinformation/deception') and influence. Thus, disinformation “is situated halfway between intoxication and influence. While intoxication proper is punctual, tolerates amateurism, uses any available intermediary, and strives to make certain people believe certain things, disinformation is systematic, professionally done, always resorts to the press, and addresses world opinion...” (Oprea, 2021).

On the other hand, we find a series of conceptualizations of the term disinformation within organizations and state structures, which have recently become increasingly concerned about the phenomenon of disinformation. The most relevant is the definition provided by the European Union, which, in recent years, has paid

particular attention to this phenomenon by funding studies, creating legislation, and establishing structures with the declared aim of understanding how online disinformation and manipulation mechanisms work and combating this phenomenon. In a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 26.04.2018, it is stated that: “The exposure of citizens to large-scale disinformation, including misleading or clearly false information, is a major challenge for Europe” (European Commission, 2018a). Here, we find a definition of disinformation: “Disinformation is understood as verifiably false or misleading information that is created, presented and disseminated for profit or to intentionally deceive the public, and which may cause public harm.”

It is specified that “the spread of disinformation takes place in the context of a profound transformation of the mass media sector. The rise of platforms active in the mass media sector has profoundly affected professional journalists and news media, who are generally still trying to adapt their business models and find new ways to monetize content” (European Commission, 2018a). Furthermore, “some platforms have taken over functions traditionally associated with press organs, entering the field of news production as aggregators and distributors of content without necessarily having the editorial frameworks and capacities of these organs” (European Commission, 2018a). Social media technologies are being manipulated for the purpose of spreading disinformation.

Disinformation is “a powerful, inexpensive, and often economically profitable tool for influence.” Until now, the most known cases have involved written articles, sometimes supplemented with authentic photos or audiovisual content taken out of context. However, new, accessible, and easy-to-use technologies are currently available to create fake images and audiovisual content (so-called “deep fakes”), offering more powerful means for manipulating public opinion (European Commission, 2018a).

The mechanisms for the proliferation of disinformation are (European Commission, 2018a):

- **Algorithm-based:** The criteria used by algorithms to prioritize information display are determined by the platform's business model and how it prioritizes personalized and sensational content, which normally has the highest probability of attracting attention and being redistributed by users. By facilitating the exchange of personalized content among like-minded

users, algorithms indirectly exacerbate polarization and reinforce the effects of disinformation;

- **Advertising-based:** The current digital advertising model is often based on the number of clicks, which rewards viral and sensational content.
- **Technology-supported:** Online technologies, such as automated services (called “bots”), artificially amplify the spread of disinformation. These mechanisms can be facilitated through simulated profiles (fake accounts) that do not have any authentic user behind them, sometimes orchestrated on a massive scale (called “troll factories”).

The mechanisms that enable the creation, amplification, and spread of disinformation are based on a lack of transparency and traceability in the existing platform ecosystem, as well as on the impact of algorithms and online advertising models. Therefore, it is necessary to promote appropriate changes in platform behavior, a more accountable information ecosystem, improved fact-checking capabilities and collective knowledge about disinformation, as well as the use of new technologies to improve how information is produced and disseminated online (European Commission, 2018a).

Given the complexity of the subject and the rapid pace of developments in the digital environment, the Commission “believes that any strategic response should be comprehensive, continuously assess the phenomenon of disinformation, and adapt policy objectives as it evolves.” There are “increasing expectations that online platforms not only comply with legal obligations laid down in EU and national legislation but also act with due responsibility to ensure a safe online environment, protect users against disinformation, and allow them access to diversified political views.” The Commission “has urged platforms to decisively step up their efforts to combat online disinformation.” Their actions should strictly respect freedom of expression and should include safeguards to prevent their misuse (European Commission, 2018a).

The lifelong development of critical and digital skills, especially among young people, is crucial to strengthen the resilience of our societies to disinformation. The Digital Education Action Plan, adopted by the Commission in January 2018, highlights the risks that disinformation poses to teachers and students, as well as the urgent need to develop the digital skills and competences of all learners, both through formal and non-formal learning systems (European Commission, 2018b). The Digital Competence Framework for Citizens, developed by the Commission, sets out the wide range of skills needed by all learners, from information and data

literacy to digital content creation and online safety and comfort (Joint Research Centre, n.d.).

Educating and empowering users to better access and use online information, as well as informing users when content is generated or spread by a bot, are considered measures that online platforms can take that would have a strong impact on preventing the spread of disinformation. Due to the cross-border dimension of disinformation, the EU “must support the dissemination of best practices in Member States to increase citizens' resilience, and the Commission can further strengthen its actions targeting young people and adults.” The Commission encourages Member States “to mobilize the necessary resources and to include in their educational policies digital citizenship, media literacy, the development of critical thinking skills for the online environment, as well as awareness-raising activities regarding disinformation and online amplification techniques” (European Commission, 2018a; Joint Research Centre, n.d.). In this regard, it is essential that teachers receive support, which includes training courses and exchanges of best practices.

Communication and awareness-raising actions by public authorities are an integral part of the response to disinformation. In addition to data detection and analysis, strategic communication requires adequate information activities to counter false narratives.

Given that the EU is often a target of disinformation campaigns aimed at harming its institutions, policies, actions, and values, the East Stratcom Task Force was established within the European External Action Service in 2015 to address Russia's ongoing disinformation campaigns, in recognition of an important dimension of this challenge. In cooperation with the European External Action Service, the Commission “has strengthened its strategic communication capacity, primarily by improving internal coordination of its communication activities aimed at combating disinformation.” The Commission is mindful of the threats posed by disinformation to democratic societies. The EU has a global approach that seeks to respond to these serious threats by promoting digital systems based on transparency, prioritizing high-quality information, empowering citizens against disinformation, and protecting democracies and policymaking processes (European External Action Service [EEAS], n.d.).

### 3. Conclusions

Freedom of expression is a fundamental human right, essential for a democratic regime, but it cannot be exercised without limitations. National and international legal frameworks establish clear boundaries. Expression must not prejudice a person's dignity, honour, private life, or the right to one's own image. Furthermore, expressions that defame the country or the nation, incite war, national/racial/religious hatred, or provoke discrimination/public violence are prohibited. Exceeding these limits entails legal liability (civil and criminal) for the information or creation brought to public knowledge.

Disinformation is perceived as a major problem for European countries and for democracy in general. The phenomenon is amplified by digital platforms, allowing disinformation to spread further, faster, deeper, and across a wider spectrum than the truth. Disinformation uses mechanisms based on:

- **Algorithms:** Which prioritize sensational/viral content.
- **Technology:** The use of bots and simulated profiles (“troll factories”).
- **Innovations:** The creation of advanced false content, such as “deep fakes.”

The fight against disinformation requires a strategic, comprehensive, and continuous response from the EU. The approach must be based on promoting digital systems founded on transparency, increasing the accountability of online platforms to ensure a safe environment and protect users, while respecting freedom of expression. It is also necessary to strengthen citizens' resilience through the development of critical and digital skills (digital citizenship, media literacy, critical thinking), as well as the detection, analysis, and strategic counteracting of false narratives.

There is a fundamental link between the right to freedom of expression and the need to combat disinformation in the digital era, and the solution requires a strategic, comprehensive approach based on responsibility and education. Countering information manipulation and foreign interference, including disinformation, occupies a prominent place on the EU's political agenda, being crucial. Numerous policy documents, such as the 2020 European Democracy Action Plan, reaffirm and strengthen the EU's commitment and efforts to counter information manipulation and foreign interference, thereby consolidating EU security, especially with regard to hybrid threats.

## References

- Cathala, H.-P. (1991). *Epoca dezinformării / The age of disinformation*. Editura Militară.
- Constituția României/Constitution of Romania. (2003). <https://legislatie.just.ro/Public/DetaliiDocument/47355>
- European Commission (2018a, April 26). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling online disinformation: a European approach* (COM/2018/236 final). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52018DC0236>
- European Commission (2018b, January 17). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Digital Education Action Plan* (COM/2018/022 final). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52018DC0022>
- European External Action Service (n.d.). *Questions and answers about the East StratCom Task Force*. [https://www.eeas.europa.eu/eeas/questions-and-answers-about-east-stratcom-task-force\\_en#11243](https://www.eeas.europa.eu/eeas/questions-and-answers-about-east-stratcom-task-force_en#11243)
- Joint Research Centre (n.d.). *DigComp Framework: The Digital Competence Framework for Citizens*. EU Science Hub. [https://joint-research-centre.ec.europa.eu/digcomp\\_en](https://joint-research-centre.ec.europa.eu/digcomp_en)
- Mazilu, D. (2008). *Drepturile omului: Concept, exigențe și realități contemporane/Human rights: Concept, contemporary demands and realities*. Editura Lumina Lex.
- Muraru, I., & Tănăsescu, E. S. (Coords.). (2022). *Constituția României: Comentariu pe articole/The Constitution of Romania: Commentary by article* (3rd ed.). Editura C.H. Beck.
- Oprea, B. (2021). Dezinformarea în era digitală: Concepte și abordări/Disinformation in the digital age: Concepts and approaches. *Revista Română de Sociologie/Romanian Journal of Sociology*, 19(1), 70–86.
- Safta, M. (2018). *Drept constituțional și instituții politice: Vol. I. Teoria generală a dreptului constituțional. Drepturi și libertăți/Constitutional law and political institutions: Vol. I. General theory of constitutional law. Rights and freedoms* (4th ed.). Editura Hamangiu.
- Tomescu, M. (2024). *Drepturile omului: Tendințe și orientări contemporane/Human rights: Contemporary trends and orientations* (5th ed.). Editura Pro Universitaria.
- Volkoff, V. (2002). *Tratat de dezinformare/Treatise on disinformation*. Editura Antet.
- Vosoughi, S., Roy, D., & Aral, S. (2018). The spread of true and false news online. *Science*, 359(6380), 1146–1151. <https://doi.org/10.1126/science.aap9559>