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# Fake information: Hard approach effect regarding freedom of expression and the soft approach on the internet in Europe

The case study of Lithuania, Germany and the United Kingdom

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## **Abstract**

Fake information have a negative effect on policies of human rights and it maintains a huge challenge to protect both. At the same time in order to bring change in the system EU started slowly moving from self-regulation to a co-regulation system and is still lacking ways in the midst of that change to release structures for human rights protection. This pushed us to gain a deeper look at the internet, specifically media platforms, and the scope of the hard and soft approaches to regulating disinformation/ misinformation effects on freedom of expression. The study conducts a case study analysis of three countries: Germany, Lithuania, and the UK. In a comparison of all three countries was discovered that the hard approach partly justifies the limitations of freedom of expression in the UK and Germany as proportionality fails in some aspects and the definitions are used too abstract whereas interestingly Lithuania has more specific term. This is probably the result of Lithuanian unique geographical and historical setting. In the soft approach, the results were pretty similar as Lithuania seemed to have more specific definitions and plans of action set. The conducted analysis revealed that legislation puts the foundation for the definition development on the specific issue.

*Keywords:* human rights, freedom of expression, limitation of freedom of expression, disinformation, fake news, limitation of freedom of expression, hard approach, soft approach.

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## Chapter 1. Introduction

### 1.1. Importance of the topic

Early internet supporters anticipated an information paradise in which knowledge would be openly and readily exchanged, yielding enormous advantages to society (Helm & Nasu, 2021, p. 302). However, the broad spread exploitation of information on the web, and more precisely, social media, in particular, has enabled 'fake news to influence people's perceptions of international and domestic issues (Helm & Nasu, 2021, p. 302). Thus, there has never been any doubt "that the internet, and by extension social media, needs to be regulated" (McMillan, 2019, p. 280). In reaction to the emergence of false news on social media, national authorities have implemented a variety of legislative remedies to reduce or eradicate the negative effect of information disorder (Helm & Nasu, 2021, p. 303). Applying these regulations will be challenging, raising concerns about whether it is compatible with free expression (Helm & Nasu, 2021, p. 303). After all, the Courts have been struggling with the issue of how for the greater part of two decades (McMillan, 2019, p. 280). Yet, it still remains to be in the process.

### 1.2. Research question

How, regarding internet/ social media, the scope of the hard approach to regulating disinformation/misinformation affects freedom of expression and the choice of soft approaches in Europe? This analysis will look more specifically into UK, Lithuania, and Germany as case studies.

### 1.3. Methodology

For the conduction of research was chosen EU, as a result, it seems to have at this moment one of the more advanced policies toward human rights (Tylec, Maćkowska, & Kwiecień, 2022, para.10). As America's main focus to the protection of author's rights makes a huge negative impact towards copyright trolling and encourages unfair actions. Where Europe is developing a system more on prevention of abuse of rights (Tylec, Maćkowska, & Kwiecień, 2022, para.10). Even further, more legitimate EU representation was chosen in three very different Europe countries: Lithuania as a Norther Europe country, Germany as Central Europe representation and the UK as part of EU and very closely connected to it, but does not belong to Europe Union and the same time being in its west. Even further, the UK (has been) and Germany (still is) one of the most developed countries in the EU, as in 2017 their GDP was one of the highest in the EU and the greatest source of aid granted within the

countries in EU (Bruszt, Piroska & Medve-Bálint, 2022, p. 10). Lithuania is also an important case study for false information owing to its situation as a former Soviet state and at the same time currently in the EU (Skaržauskienė et al., 2020, p. 78). In addition, the case studies were chosen on the bases that they belong to the different grouping in regards to social platform accountability models (Lithuania - self-Regulation, Germany- set by law, and the UK- codeciding accountability) (De Blasio & Selva, 2021, pp. 833-837).

Overall, the research uses primary sources (documents, reports) and secondary sources (books, analytical papers, and journals). The study is based on empirical analysis. More specifically, the research conducts content analysis while using the framing theory approach. The documents are going to be color coded, which refers to one of the framing theories (see appendix A). The analysis was composed of the most recent document or strategies on social media restrictions. The documents and strategies were divided into two categories a hard approach (6 legislations - two for each country) and a soft approach (4 - one for Lithuania and the UK and two for Germany). A comparison approach is also used to discuss the fake news regulations in Germany, Lithuania, UK.

### **1.4. Relevance**

International Covenant on Civil and Political Rights (ICCPR), similarly to European Convention on Human Rights (Art. 10), has defined the ‘freedom of an expression is a form that is open for communicating opinions, beliefs, convictions, ideas, or any other information ‘either orally, in writing, or in print, in the form of art, or through any other media of [the individual’s] choice’ (Art 19, para 2) (Gunatilleke, 2021, p. 92). In other words, it is a channel of expression without any constraints (Naab, 2012, p.43). Yet, it is in needs to be recognized and protected as the reason why it is needed and its value of it defines the line to which we can justify limitations on the freedom of expression (Gunatilleke, 2021, p. 93).

Freedom of expression through the centuries has kept a lot of debates open; unfortunately, most of them happen regarding the permissibility of censorship, and most often, it is looked at it from the angle of the connection between law and state, but not much research has been yet done towards other forms of constrains rather than through the law by the state, like in connection to the pressure through the social media (Riordan, 2016, p. 159). Through the appearance of the internet appeared a new way of enhancing or decreasing freedom of rights, and it complicated the whole connection between something being rooted in the society by gaining its support, but including the aspect of self-regulation as well (Naab, 2012, p. 44). Furthermore, the danger of the internet to the freedom of expression is

becoming acknowledged at the global level. The first thematic dialogue on the theme of freedom of expression by UNESCO was held in Geneva in September 2021 as an effort to assure access to information, media freedom, and protection for journalists. It has been a Communication-Information program with an aim at the same time to remain in connection with the sciences, culture, and education sectors. So through the dialogue was raised several current issues like after COVID rose, issues of massive electronic surveillance and its clash with the right to privacy, freedom and the right to assemble (Larsen, 2022, p.4).

The element to the freedom of expression on the internet is monitored not only by the state, but as well it is the Internet service providers (ISPs) responsibility as they have the power of control. They are enabled through the ability to block, filter, and remove the content as that limits access to the information, despite meeting or avoiding fulfilling state regulations. For example, on the basis of peer-to-peer evaluation that the content is illegal, enabling platform users without a court order to remove information (Carlsson, 2013, p. 143).

Even furthermore, the digital environment, including those specifically entitled to fight piracy like online content sharing platforms (OCSSP) in Europe, is facing a lot of challenges (Wang, 2022, p.435). As there is an imbalance between the growing amount of copyright works and inefficient licensing schemes, which opens doors for constant growth of piracy rather than its elimination process. Additionally, the process is even more complicated by the fact that user rights can become limited by the stronger enforcement of copyrights (Wang, 2022, p.435).

Additionally, it has to be not forgotten that the internet area is still pretty new, meaning that it not only faces a lot of new challenges in regards to assuring the guarantee of freedom of speech but also that in addressing those challenges, policies are still underdeveloped. One of such newly emerged areas is artificial intelligence systems. Its application is based on 'generating, collecting, and processing a large quantity of personal data to profile users and predict their future behavior' (Kolarević, 2022, p.118). As it has the power to select the information provided and through becoming 'filter bubbles' or 'echo chambers' (Kolarević, 2022, p.118). In that matter, It gains an ability to limit freedom of speech as at the beginning, the placed information is accessible to every user, but once it is processed, not only the content can be removed, but also in situations when the user violates community rules, there is a chance for the user to become blocked either temporarily or permanently (Kostić, 2021, p. 35).

In the EU already, there is seen a slow shift from self-regulation to the co-regulation system to fight false information, however, there is a thin line of as well making sure that



safeguards are consistent with human rights laws (Shattock, 2022, p.2). This is important as there is already implemented restrictive legislation to fight false information at the national level in Europe at the same time, there is seen lack of implemented policies toward these changes for human rights protection(Shattock, 2022, p.2). Finally, two-thirds of the world population is not even able to access such sources of information, which in itself points to the fact that the world lacks equality (Carlsson, 2013, p. 144).

To sum up, this topic is relevant not only because of its existence and newness but also because of its complexity in regards to a shared responsibility between self-monitoring, state involvement, and finally, internet providers' responsibility. Even further, there is a very thin line between copyrights, protection from false information and human rights.

### **1.5. Outline**

The thesis will consist of five chapters. The first chapter starts with an introduction of the topic, moves toward a research question, relevance of the topic, and finishes with an outline. The second chapter looks at freedom of expression's importance to human rights and democracy while also tackling in what cases it is exceptional to limit freedom of expression. The next chapter investigates the European definition of fake news and the actors and factors contributing to the spread of fake news. The fourth chapter discusses and analyzes different case study countries' backgrounds and strategies/ policies, which might or are applied to deal with fake information on the domestic level of three states: Lithuania, Germany, and the UK. The chapter also conducts a comparative analysis of hard and soft approaches between the states. The last chapter provides the conclusion of the findings.

## Chapter 2. Freedom of expression

Article 19 of the Universal Declaration of Human Rights (United Nations, 1948) and Article 19 of the International Covenant on Civil and Political Rights (United Nations, 1966) guarantee the right to freedom of expression, as other international agreements safeguard human rights (Jørgensen, 2013, p. 120). The right is a "first-generation right" that puts the focus on the individual. The starting point is the right of each person to participate in public debate without being limited in ways that don't make sense (Jørgensen, 2013, p. 120). The right is also part of the European Convention on Human Rights (ECHR).

*“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”* (European Court of Human Rights, 1950, Art.10).

Article (10) (1) of the European Convention outlines the concept of freedom of expression, which encompasses the freedom to express views as well as to acquire and disseminate ideas and information (Voorhoof & Cannie, 2010, p. 409).

### 2.1. Foundation for democracy

The two most significant justifications supporting freedom of expression are the deliberation of the truth and the importance of democracy (Voorhoof & Cannie, 2010, p. 408; Moon, 1985, p. 332; Rostbøll, 2011, p. 6). The European Court has often declared that freedom of expression represents one of the vital pillars of "a democratic society and one" of the fundamental requirements for its development and the fulfillment of each person (Bychawska-Siniarska, 2017, p. 11). The first mandates open dialogue, the free interchange of ideas, freedom of inquiry, and the right to criticize (Voorhoof & Cannie, 2010, p. 408). The second provides autonomy and tolerance (Moon, 1985, p. 332; Rostbøll, 2011, p. 6) and permits independent and free media monitoring and scrutiny of democratically elected officials; hence, individuals must be allowed to obtain information pertinent to their voting decision (Voorhoof & Cannie, 2010, p. 408).

As it was mentioned, freedom of expression is essential for the deliberation of truth (Voorhoof & Cannie, 2010, p. 408). In this concept, deliberation is not the discussion through which the majority of people would accept the facts, "but rather to find arguments that everyone can accept" (Rostbøll, 2011, p. 8). After all, deliberation is the growth and

improvement of knowledge. According to Mill's infallibility theory, the prohibition of speech is biased as someone assumes that they know better than others what is correct and not (Mill, 1859, ch. 2). Mills states that government restrictions take away from people to challenge or counter "truth" (Mill, 1859, ch. 2). Furthermore when the truth is not allowed in society, it leads to injustice and discrimination (Turner, 2019, p. 201). In the right of freedom of expression, many other rights are underpinned, and when the rights are provided to explain their minds, the public can point out many flaws in the system that threaten their freedom (McGoldrick, 2013, p.130; Turner, 2019, p. 201). As the basic idea behind freedom of expression is that real power belongs to people, and therefore they must be given the power to give their opinion on important matters of the country (Turner, 2019, p. 201). The public are entitled to be part of important government decisions and, therefore, should not be any decisions against the people's will. Also, there should not be any discrimination on the basis of race, color, or any other factors (Turner, 2019, p. 201).

Regarding democracy, freedom of expression is essential as it provides autonomy and makes society more tolerant (Moon, 1985, p. 332; Rostbøll, 2011, p. 6). Autonomy is the capacity of the reasonable individual to make decisions based on the information and not coerced (Moon, 1985, p. 332). According to Kant, people are capable of morality due to their autonomy, and the capacity of autonomy is the dignity of human nature (Taylor, 2005, p. 619). Also, if one looks closer at the different aspects of daily life, one would see that autonomy is implemented in the different aspects/ protection of the individuals' rights (Moon, 1985, p. 332). For example, political autonomy is used for self-determination, to give the right to self-regulate the indigenous community in the state (Moon, 1985, p. 332). One has to note that today's social media threatens autonomy as it is easy to manipulate information (Botes, 2022, p. 4). After all, by diminishing people's autonomy, manipulation methods may alter not just how individuals make decisions but also their actions and, eventually, the attitude of communities composed by these individuals (Botes, 2022, p. 4). The state can also create a later threat by imposing regulations such as censorship to protect itself and its citizens. By doing so, the state restricts citizens' ability to make decisions for themselves as it is already decided for them that they can see, hear, and read (Moon, 1985; Rostbøll, 2011). The other reason for the importance of freedom of expression is that it creates tolerance in society. It is essential that society must be tolerant, and people who have different opinions and ideas must be allowed to co-exist (Voorhoof, 2010, p.410). When there is no tolerance in society, then the minorities in that region have to face a lot of issues, and for their protection, freedom of expression is essential so that members can express their opinion freely

(Voorhoof, 2010, p.410). Of course, one could argue why one should be tolerant of conspiracy or disagreeable opinion when one knows that it is an untruth. People need false speech to test their thinking and opinions (Moon, 1985, p. 347). Another reason that one is not able to draw the lines between what is evil and good. It should also be the pride of the democratic society that those topics are a challenge, and they do not wave them (Moon, 1985, p. 347).

Furthermore, freedom of expression strengthens individuals' rights to participate in the country's decision-making processes (McGoldrick, 2013, p.130). Democratization theory also explains the macro level change, which is transforming the government from autocratic to democratic ways and giving the powers to the hands of the people. Freedom of expression provides protection to people in all spheres of life, which help them to fight for their rights and reject all forms of injustice. It gives people the power to speak against all forms of injustice and in government competencies without fear of reprimand. It enables people to take care of their dignity and worth and also provides them opportunities to reach their full potential (McGoldrick, 2013, p.130). The example of freedom of expression's impact on democracy could be taken from history as so far in the democratic countries, there was no famine (Sen, 1999, 114). This development is due to the fact that in order to stay in power, politicians have to fulfill their duty, to face the criticisms. The events in nondemocratic societies can also support the statement. In the 1930s in the Soviet Union and in 1958 and 1961 in China, there were famines that lasted long and killed millions of people (Sen, 1999, 114). One of the reasons for those dreadful events was that even when it was seen that the policies did not work, the government did not change them as it did not have accountability to the people, and there was no free press or opposition in the parliament. Thus, the lack of challenge to the government's actions leads to disasters, and through public debates, the problems are better addressed and solved (Sen, 1999, p. 185).

Overall, freedom of expression is essential for the development of societies because, without this, none will feel safe sharing their values and opinions (Gilani et al., 2019, p.15). The process didn't happen suddenly, but it is a right gained through generational rights. It is considered a vital part of democracy, and therefore people must not be deprived of this right without any reason. However, there has to be a check to ensure that this right is not used in society for malicious purposes, and matters should be kept in check (Gilani et al., 2019, p.15). Many politicians also wanted to curb this right as they wanted people to be submissive and don't criticize their actions (Gilani et al., 2019, p.15; Voorhoof & Cannie, 2010, p. 408). In the past, when the governments were autocratic, severe punishment would be given to

people who wanted to raise opinions on distinction or any other issues (Gilani et al., 2019, p.15; Voorhoof & Cannie, 2010, p. 408). However, today it has been realized that without making people powerful and giving them their rights, governments can't thrive. When people are involved in the process and have freedom in all matters, then they can exercise their powers better. Freedom of expression is not only the right through which people can express their opinions and ideas, but they could point out the discrepancies and competencies that are curbing their powers (Gilani et al., 2019, p.15). Furthermore, although people must be allowed to express their opinions and ideas, a limit or line must be kept in mind. Fake news must not be encouraged if they create panic and havoc in society. Legislation can be used to control the advent of fake news, which is spread in society. Freedom of expression is different from yellow journalism or propaganda, where people spread false news to set some agendas. After the widespread use of social media among the people, it is also used as a source of information by a large segment of the population, but at the same time, it helped fake news to spread everywhere. Fabrication of news is not a new phenomenon and has been used by many people for malicious purposes (Sander, 2019, p.939).

To conclude, freedom of expression is a power granted to the people through the constitution, which is linked with many other rights. People are given the opportunities to raise their voice over all the discrimination and injustice so that they can get all the rights. Also, it gives the freedom to the people to speak their minds without repercussions from the authorities. Freedom to express your opinions and voices must not be linked with misinformation or propaganda, which is not allowed in any case. Propaganda can be done to gain different benefits, and it primarily creates havoc in society. Also, when people can raise their voices against the issues, they can protect their rights easily.

### **2.2. Legal limitations of freedom of expression**

Freedom of expression is critical to individuals' capacity to communicate their thoughts, beliefs, and views and to take an active part in democracy (Gunatilleke, 2021, p. 91). Yet, the government may restrict freedom of expression in specific circumstances, which are indicated in the international and regional conventions (Gunatilleke, 2021, p. 91). For instance, Art. 19(2) of the ICCPR and Art. 10(2), ECHR allows governments to regulate the right to the shared ground, including public order and health (Gerards, 2013, p. 469). The ICCPR and ECHR may have normative concerns since their restriction regimes provide governments extensive discretion when limiting expression freedom (Gerards, 2013, p. 469).

As the study looks at the case studies in Europe, it will analyze the limitation of freedom of expression through the European Court of Human Rights framework and ECHR.

The right to freedom of expression constrains the state's pursuit of public interests and establishes a protected area in which the state cannot intervene, even when such intervention might promote community objectives (Gunatilleke, 2021, p. 96). Furthermore, an individual's right to freedom of expression cannot be stifled or limited by any restriction, limitation, condition, or any other kind of interference (Bychawska-Siniarska, 2017, p. 31). Thus, the essence of the freedom of expression must not be tampered with (Bychawska-Siniarska, 2017, p. 32). Article 17 states similarly in this regard.

*“Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention”* (European Court of Human Rights, 1950, Art. 17).

Similarly, state institutions are not compelled to intervene with the exercise of liberty of expression where one of the reasons listed in Art. 10 (2) is at risk since doing so would restrict the substance of that right (Bychawska-Siniarska, 2017, p. 31). Overall, state authorities have the option but not the responsibility to limit freedom of expression. After all, an alternative approach might establish a hierarchy of rights, putting freedom of expression below other rights. Creating a hierarchical system would be a violation of all international treaties that guarantee equality of rights and prohibit any restriction on the exercise of such rights in the long term. Overall, domestic courts must uphold the Convention's wording in its current form, as established by the Court's precedent. However, the Court must be avoided at all costs (Bychawska-Siniarska, 2017, p. 31). Consequently, it is essential that national courts serve as the first and most significant check on the freedom of expression by ensuring future limitations are consistent with the standards established in Article 10, in paragraph 2 by the Court (Bychawska-Siniarska, 2017, pp. 31-32).

*“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”* (European Court of Human Rights, 1950, Art.10).

The paragraph is color coded according Appendix A. The Article 10(2) allows states' authorities to intervene with freedom of expression under three requirements. First, the limitations have to be prescribed by domestic law. Second, the restriction has to be necessary for democracy. Third, it has to have a legit aim. If the Court concludes that the country has not demonstrated one of the three elements, it will dismiss the case and rule that intervention with freedom of expression was unjustified (Bychawska-Siniarska, 2017, p. 32). For instance, in the case law of “Sunday Times v. the United Kingdom” set a legal precedent that, in each doubtful situation, individual freedom must be weighed favorably against the nation's allegation of overwhelming cause (Bychawska-Siniarska, 2017, p. 33; Global Freedom of Expression, n.d., para. Decision overview).

To sum up, The freedom of expression is a vital part of our lives, however even if the government may restrict it under rather specific circumstances, the right of freedom of expression creates a clear area where the government has no right to interfere. Limiting one's right to the liberty of expression would create a human rights hierarchy, which violates international laws. Even in the cases when the government deems that it is necessary for this right's limitations, it has to follow requirements: the limitations have to be prescribed by domestic law, it has to have a justifiable aim, and to be necessary for democracy.

### *2.2.1. Nature of interference*

Interference by the state refers to involvement from any authority body which has public duties and power or “in the public service, such as courts, prosecutors' offices, police, law enforcement bodies, intelligence services, central or local councils, governmental departments, army decision-making bodies, or public, professional structures” (Bychawska-Siniarska, 2017, p. 34). Far from complete, the preceding list attempts to portray state authorities whose acts might impede free speech. No matter whose power undermines this right as the state is the complainant in all Strasbourg proceedings. Furthermore, there are no pre-established boundaries to the spectrum of potential interferences “formalities, conditions, restrictions, or penalties” with the exercise of the right to liberty of expression (Bychawska-Siniarska, 2017, p. 34; European Court of Human Rights, 1950, Art.10). The Court considers whether interference occurs in each instance, taking into account the restrictive effect of the specific action imposed by the governmental bodies on the right (Bychawska-Siniarska, 2017, p. 34). Such interference might take the form of a criminal conviction (fine or jail), publishing prohibition, seizure of publications or other ways to express a viewpoint or transmit information, ban from practicing journalism, or disciplinary

sanction (Bychawska-Siniarska, 2017, p. 34). The Court has ruled a few times that a restriction on paid campaign ads violates Article 10 and may violate the right of minor political parties because those who obtain limited coverage in media and paid ads might be tactics to get some publicity (Bayer, 2020, p. 11). However, in the case of “Animal defenders international v. the United Kingdom,” the Court has modified its stance, stating that a prohibition on political ads is a reasonable measure to guard the democratic discussion and method against manipulation by vital financial interests with favorable exposure to prominent media (Bayer, 2020, p. 11).

### ***2.2.2. Prescribed law***

This criterion states that all restrictions on rights must have a foundation in domestic law (Bychawska-Siniarska, 2017, p. 39). Generally, it refers to public and written legislation passed by the legislature. The feasibility of such a limitation must be determined by a national legislature (Bychawska-Siniarska, 2017, p. 39). Moreover, a condition applies to the quality of the legislation, even when it is enacted by the government (Bychawska-Siniarska, 2017, p. 40). According to the Court, the regulation has to be accessible, public, and predictable (Bychawska-Siniarska, 2017, p. 40). In addition, this is described in the case law “The Sunday Times v. the United Kingdom”. The legislation must be accessible: the public must receive a sufficient demonstration of the relevant legal requirements (Global Freedom of Expression, n.d., para. Decision overview). Also, a norm can not be considered legislation unless it is precise enough to allow the citizen to manage conduct: individuals should be able to predict the implications of specific behavior. Furthermore, even though certainty is essential, it may bring undue stiffness, and the legislation must adapt to changing conditions. Many laws are thus written in imprecise, practice-dependent language (Global Freedom of Expression, n.d., para. Decision overview). In another case law, “Leander v. Sweden”, the Court commented that even in matters involving state security or combating organized crime, the Court stated the language of the legislation must be reasonably clear to give citizens sufficient insight into the legal conduct and the implications of breaking the law (Bicocca Law and Pluralism, n.d., para. Ruling).

### ***2.2.3. Important for democratic society***

To make a judgment under the second condition, domestic courts should use the proportionality principle: "Was the aim proportionate to the means utilized to achieve that aim?"(Bychawska-Siniarska, 2017, p. 43). The "aim" in this equation is the interests and



values specified in Art. 10(2), the preservation of which governments may interfere with the right. The disturbance itself is the "means." As a result, the "aim" is that particular interest stated by the government, such as "national security," "morals," and so on (European Court of Human Rights, 1950, Art.10). The "means" is the specific measure selected or implemented vs a person exercising the right (Bychawska-Siniarska, 2017, p. 43).

According to scholars, the best way to evaluate the necessity is to implement the proportionality test (Cianciardo, 2010, p. 180; Gerards, 2013, p. 469; Gunatilleke, 2021, p. 94). A proportionality test determines if a right restriction may be "justified by reference to gains on some other interest or value" (Urbina 2014, p. 173 as cited in Gunatilleke, 2021, p. 94). The examination typically consists of four parts (Gunatilleke, 2021, p. 94). Firstly, when restricting the right, the government must first seek an aim that would be legitimate. This part has a normative constraint since some "illegitimate" objectives would be prohibited from the start (Gunatilleke, 2021, p. 94). Secondly, the exact measure chosen to limit the freedom of expression and the justifiable interest must be rationally related. Thirdly, this action must be required to advance or avoid a reversal of that legitimate interest. The "necessity test" is an official name for this part of the test (Gunatilleke, 2021, p. 94). Also, the ECtHR focuses on the third criteria, repeatedly emphasizing that the quest for a reasonable balance is implicit in the Convention (Gerards, 2013, p. 469). Lastly, the action must be proportional in the "strict sense" (Gunatilleke, 2021, p. 94).

### ***2.2.4. Legitimate aim***

States authorities should not lawfully depend on any other grounds other than those specified in paragraph 2 ("national security, territorial integrity", etc.) (European Court of Human Rights, 1950, Art.10(2)). As a result, when brought upon to enforce a legislative requirement that might in any way impair freedom of expression, domestic courts should define the objective or purpose safeguarded by the particular law and determine whether that objective or purpose is indicated in paragraph 2 (Bychawska-Siniarska, 2017, p. 43). If the response is yes, the courts will be able to put that clause to the person in question. For instance, confiscating an offensive book may have the legal ground of defending "morals"(Bychawska-Siniarska, 2017, p. 43). Nevertheless, the courts must determine that the protected interest is genuine and not just a remote possibility. In case domestic courts are pleased with the justification of interference with rights, it is also vital that they consider if such intervention is essential in a democratic country (Bychawska-Siniarska, 2017, p. 43).

Furthermore, there are cases (of case law), in which the legitimacy of the states was justified. For instance, in the previously mentioned case of “Sürek v. Turkey”. Due to the article’s capacity to provoke violence in the south-east region of Turkey, the Court determined that there is the foundation of safeguarding national security and territorial sovereignty was proportional to the limitation on freedom of expression: “the measures taken against the applicants can be said to have been in furtherance of certain of the aims mentioned by the Government, namely the protection of national security and territorial integrity and the prevention of disorder and crime” (European Court of Human Rights, 1999, section As to the law 1B(2)). Similar case, but with an opposite ending, is the case “Özgür Gündem v. Turkey” (Bychawska-Siniarska, 2017, p. 55). The difference between cases is the article’s ability to provoke violence and the chance that such violence would occur, both of which are decided by the Court based on the specific particulars of each case (Bychawska-Siniarska, 2017, p. 55).

Another case is "Kühnen v. the Federal Republic of Germany" (Bychawska-Siniarska, 2017, p. 55). The petitioner managed an organization that wanted to re-establish the National Socialist Party in Germany. Mr. Kühnen promoted socialism and an autonomous "Greater Germany" (Bychawska-Siniarska, 2017, p. 55). His organization was for German unification, social equity, nationalism, community, and against "capitalism, Zionism, communism, environmental degradation" (Bychawska-Siniarska, 2017, p. 55). He further said that anyone who supports this goal might operate; whoever obstructs will be battled against and finally exterminated. Germany's courts condemned Mr. Kühnen to jail (Bychawska-Siniarska, 2017, p. 55). The European Commission of Human Rights highlighted that the petitioner had supported national socialism to undermine democracy and freedom (Bychawska-Siniarska, 2017, p. 56). In addition, his statement ran opposed to one of the critical values of the Convention: that a functioning parliamentary democracy best protects fundamental freedoms. The European Commission of Human Rights recognized religious and racial prejudice in the petitioner's remarks. In addition, the Commission stated that the petitioner used free speech to encourage behavior opposed to the purpose of the Convention and Article 17, which forbids rights exploitation. Lastly, the European Commission of Human Rights concluded that the state's limitation of the petitioner's freedom of expression was essential for democracy (Bychawska-Siniarska, 2017, p. 55).

### Chapter 3. Fake news and causes

#### 3.1. Fake news (disinformation, misinformation)

The topic of fake news has evolved into a social and national security issue (Kirtley, 2017, p. 7; Sample et al., 2019, p. 171). The phrase "fake news" was formally introduced to the language in 2017 by the Oxford Dictionary. However, finding a shared understanding of it is one of the biggest obstacles in literature. After all, the phrase is commonly used, and its meanings differ (Sample et al., 2019, p. 171).

The term "fake news" becomes popular around the world after then-candidate Donald J. Trump of 2016 presidential campaign's extensive usage of the term fake news in order to criticize the U.S. press, and the term also spread in Europe (Kirtley, 2017, p. 7; van Hoboken & Fathaigh, 2021, p. 12). Instead of rejecting the usage of such a phrase, a number of officials at the national and European Union levels have accepted and have begun advocating laws to ban fake news (van Hoboken & Fathaigh, 2021, p. 12). For instance, in the mids of 2017, the European Parliament issued a resolution requesting that the European Commission examine the legal structure of fake news and investigate the prospect of "legislative intervention" in order to restrict the distribution and spread of bogus material (van Hoboken & Fathaigh, 2021, p. 12). However, instead of rushing to impose false news laws, the European Commission formed an independent high-level expert group (HLEG) (van Hoboken & Fathaigh, 2021, pp. 12-13). According to HLEG, "fake news" includes an array of information formats (Directorate-General for Communication Networks, Content and Technology, 2018, p. 10). This ranges from relatively low types, such as journalists' innocent mistakes, "partisan political discourse, and the use of clickbait headlines, to high-risk forms, such as foreign states or domestic groups attempting to undermine the political process in the European Member States and the European Union"(Directorate-General for Communication Networks, Content and Technology, 2018, p. 10). The latter can be achieved through the infiltration of grassroots organizations, various sorts of harmful fabrications, and automated amplification methods. Overall, the HLEG avoids the phrase "fake news". This is done for two reasons. Firstly, the definition is insufficient to address the complexity of the disinformation issue, which includes information that is not truly or fully "fake," but rather manufactured information mixed with facts, and practices that extend far above anything matching "news" to also include algorithmic "accounts used for astroturfing, networks of fake followers, fabricated or manipulated videos, targeted advertising, organized trolling, visual memes, and much more" (Directorate-General for Communication Networks, Content and

Technology, 2018, p. 10). It may also entail a vast range of digital behaviors that are more concerned with misinformation propagation than its creation, such as publishing, posting, tweeting, sharing, etc. Second, the term "fake news" has been misused by certain politicians and their supporters as they use it to brush aside scope that they find inconvenient or disagreeable. In addition, the term is used as a tool with which powerful individuals can interrupt the spread of information and strike and diminish independent news media. According to research, individuals often identify the phrase "fake news" with arguments of political partisans or generally with bad reporters rather than more harmful and explicitly defined kinds of disinformation. In short, the HLEG rejected outright the usage of the phrase "fake news" on the grounds that it was "inadequate," "misleading," and adopted by politicians to "undermine independent news media" (Directorate-General for Communication Networks, Content and Technology, 2018, p. 10). It is similar to an independent assessment written for the Council of Europe, which also advocated against using the "fake news" term as it can be a tool by which the authority might limit, weaken, and bypass the free press (van Hoboken & Fathaigh, 2021, p. 13).

Furthermore, the report from the European Commission's expert group emphasized the term disinformation, which was described "as false, inaccurate, or misleading information designed, presented and promoted to cause public harm intentionally or for profit" (Directorate-General for Communication Networks, Content and Technology, 2018, p. 5). According to François (2019), disinformation has three essential characteristics: "[m]anipulative actors, deceptive behaviors, harmful content" (p. 2). The report of HLEG states that disinformation is not inherently criminal, but it may damage people and society in general. Furthermore, the HLEG not only gives the definition but also identifies the challenges and problems caused by disinformation. First, political forces may spread disinformation: local parties or foreign governments might damage Europe's media systems and democratic structures (Directorate-General for Communication Networks, Content and Technology, 2018, p. 12). After all, some European political figures and elites respect independence and freedom of media; few actively strive to dominate public service and private industry news media. Secondly, not every media channel has the same professional standards and journalistic integrity; some even contribute to deception. Third, some disinformation issues are exacerbated by jointly or individuals sharing misleading and false content. Those strongly polarized societies with lower trust are exacerbated by citizens individually or collectively sharing deceptive and inaccurate content. Lastly, the increasing ability of networks to facilitate — and possibly meddle with — free information circulation

comes with higher obligations. Even though the platforms provide new tools for receiving and spreading information, they also facilitated the manufacture and dissemination of disinformation on a broader scale than possible in the past, frequently in different manners still under research and lacking understanding (Directorate-General for Communication Networks, Content and Technology, 2018, p. 12).

Following the research in 2018, the European Commission issued a significant Communication, "Tackling online disinformation: a European approach", which avoided using the term fake news and used disinformation instead (European Commission, 2018, ch. 1). Disinformation, according to the Commission, is "verifiably false or misleading information that is created, presented and disseminated for economic gain or to deceive the public intentionally, and may cause public harm"(European Commission, 2018, Art.2(1)). The Commission does not offer a source for this term, although it bears a remarkable similarity to several so-called fake news legislation ruled by domestic supreme courts to breach free speech norms (van Hoboken & Fathaigh, 2021, p. 14). Notably, the Commission voted against any legislative approach to disinformation. Instead, it released "The EU Code of Practice on Disinformation", which had been agreed to by numerous internet platforms (Google, Facebook, Firefox, Twitter, TikTok, and Microsoft) in October 2018 (van Hoboken & Fathaigh, 2021, p. 14). In 2020, the recently formed European Commission announced its suggested amendments to the EU legal frame governing social networks. It is known as the Digital Services Act (DSA) (European Commission, 2020). The DSA mandates a slew of additional requirements on specific big networks, like transparency requirements for material filtering systems, recommendation engines, digital advertising, and external reviews (European Commission, 2020, p. 60 (Art. 26)). Importantly, some significant networks are expected to address "systemic risks" arising from their platform's operation and usage in the EU (European Commission, 2020, p. 60 (Art. 26)). For instance, the spread of unlawful material and deliberate misuse of their platform (European Commission, 2020, p. 60 (Art. 26)). These systemic hazards might also manifest as organized actions intended to reinforce the material, including disinformation (European Commission, 2020, p. 33). Furthermore, significant networks will be forced to make publicly accessible archives of online advertising shown on their platforms in order to enable oversight and study in connection to disinformation (European Commission, 2020, p. 35). One can conclude that the European Union prevents using the term fake news as it does not have specific wording and is too broad. Thus, it is suggested to use the disinformation term as it is more fitting

Moreover, conceptual studies have shown the importance of alerting operators about the ramifications by employing specific language (Khan et al., 2021, p. 124). As a result, the UK House of Commons suggested that the phrase "fake news" would be rejected by the authorities and instead suggested agreed terms: disinformation and misinformation (Khan et al., 2021, p. 124; The Digital, Culture, Media, and Sport Committee, 2018, para. Recommendation 1). The UK government accepted the recommendation and implemented definitions of mentioned terms: "disinformation as the deliberate creation and sharing of false and/or manipulated information that is intended to deceive and mislead audiences, either for the purposes of causing harm or for political, personal or financial gain [and] [m]isinformation refers to the inadvertent sharing of false information" (The Digital, Culture, Media and Sport Committee, 2018, para. Recommendation 1). It is important to note that the definition provided by HLEG of misinformation is "defined as misleading or inaccurate information shared by people who do not recognize it as such" (Directorate-General for Communication Networks, Content and Technology, 2018, p. 10). Overall, the UK government's and the HLEG's definitions on misinformation are similar, while the UK government's and European Commission's definitions are similar UK government provides more detailed areas of harm (Directorate-General for Communication Networks, Content and Technology, 2018, p. 10; European Commission, 2018, Art.2(1); The Digital, Culture, Media and Sport Committee, 2018, para. Recommendation 1). Thus the paper will use mainly the term false information as it is used in both definitions (of disinformation and misinformation) unless the regulations or secondary sources give the specific term of disinformation or misinformation.

To conclude, even though it has been problematic to come to a common understanding of the term "fake news", EU officials have considered embracing this new term and trying to declare laws that ban "fake news". In the end, the EU commission formed an expert group, HLEG, which determined that the "fake news" range from low type ones to high-risk forms and also the term should be avoided because the authorities might abuse it. Therefore The EU commission prefers to use the term disinformation, while the UK also includes the term misinformation.

### **3.2. Spread of fake news**

Manipulative actors (such as foreign governments, domestic politicians, and users) participate in viral deception efforts consciously and with an evident purpose (François, 2019, p. 2). Their initiatives are clandestine, meant to conceal the origin and objective of the player

behind them (François, 2019, p. 2). Discovery and regulation of this vector of viral manipulation initiatives in the tech sector rely on a cat-and-mouse play (François, 2019, p. 3). After all, to deal with the manipulative actors, one has to identify threat actors' capability and willingness to deceive national discourse secretly and prevent the same actors from incorporating social media to do so, as they modify their methods to mitigate detection. Such a detection approach has its origins in cybersecurity. Conditions of governance and general rules do not usually address these concerns, nor do they offer a solid foundation to enable surveillance and enforcement operations versus manipulative individuals. There are examples of platform regulations in this area that certain state groups, like International Terrorist Organizations, can't use the services. However, it's important to note that no large platform has yet put a principle in its service agreement that clearly says governments can't use its services secretly to run manipulative campaigns. In August 2019, Twitter stated that it would no longer let the Government controlled media use its advertisement. This new standard came after research showed that China's controlled media used Twitter ads to promote content crucial to Hong Kong's pro-democracy protests. The government-controlled media outlets may still be holders of accounts on the Twitter platform, although their capacity to employ adverts to target non-following individuals is now limited (François, 2019, p. 3).

However, Governments have used different methods to hide their participation in independent online media assets—for example, the Baltnews network case (François, 2019, p. 3). Russian governmental media made hidden companies open websites in the Baltic countries (Roonemaa & Springe, 2018). The files reveal that in 2014 Rossiya Segodnya created news websites for Russian-speaking communities in Estonia, Latvia, and Lithuania. The platforms were established six months after Russia took over Crimea. The sites had the same name (Baltnews) and only differed by domain names depending on the targeted country. Websites were set up to look like independent news online platforms for the Russian-speaking public. The system was operated as follows. First, the funds were transferred via shell businesses from outside Russia. Later, explicit editing commands were sent over Skype, and the websites forwarded the titles of stories they posted. They also purchased views and attempted purchasing comments from troll manufacturers to increase numbers (Roonemaa & Springe, 2018).

Overall, one can conclude that there are foreign and domestic actors who spread the fake news. Foreign influence efforts, particularly those aiming at manipulating election processes, have received considerable media and political scrutiny (Hamm, 2020, p.3). Such efforts conducted by foreign powers, often through the use of electronic proxies, are

well-planned and coordinated. Using phony identities, bots, ads, and infiltration of forums and sites, these campaigns may be undertaken across multiple platforms in order to polarize society over sensitive themes. For example, during the 2016 US election, the notorious IRA effort exploited racial inequities in American culture by "targeting African Americans with Black Lives Matter" material (Hamm, 2020, p.3). Regarding domestic politics, politically-motivated disinformation may be tied to election campaigns, but it may also serve the larger, long-term objectives of a certain political organization or government (Hamm, 2020, p.4). Thus, disinformation may serve the purpose of agenda-setting in order to promote political activities, (de)emphasize social and political concerns, and/or undermine opponents. Politicians or parties might indulge in disinformation by creating false names and sites, artificially magnifying specific themes (often in political adverts), and altering material (Hamm, 2020, p.4).

Furthermore, after the disinformation is posted online, one of the methods by which the fake information is spread further is through the activities of individuals (Buchanan, 2020, p. 2). After all, the public may deliberately distribute the information on their social accounts as sharing is one of the features of social media platforms. In addition, another type of interaction, such as "like," can also trigger the algorithms on platforms to show the fake information to others. Such a tendency to spread information is called "organic reach" (Buchanan, 2020, p. 2). For instance, the research on the spread of truth and false news online analyzes the spread of fake news on Twitter in the U.S. (Vosoughi et al., 2018, p. 1). The analysis took the period of 2006 to 2017 (with the peak of 2016 during the elections), which contained around a hundred twenty-six thousand rumors and extended spreading through about three million individuals to four point five million times (Vosoughi et al., 2018, p. 1).

One has to note that not everyone shares the fake information they encounter (Guess et al., 2019, p. 1). The research in the aftermath of the 2016 U.S. election showed that the bigger part of the population did not share fake news articles (Guess et al., 2019, p. 1). Thus, the disinformation is directed to a specific part of the population so that it can be more efficient (Buchanan, 2020, p. 3). This was analyzed in the research "The impact of disinformation campaigns about migrants and minority groups in the EU" during the 2018-2021 period by the Special Committee on Foreign Interference in all Democratic Processes in the European Union of European Parliament (Szakács & Bogнар, 2021, section: Abstract). For example, Russian disinformation has targeted Germany and the Baltic states' Russian-speaking minorities for a long time (Szakács & Bogнар, 2021, p. 20). This strategy came to light once again during the pandemic as there were "Kremlin's well-documented



efforts to discredit the EU's management of this crisis while portraying its pandemic response as successful" (Szakács & Bognar, 2021, p. 20). Furthermore, the Lithuanian human rights NGO "Manoteises" stated that this is why the Russian minority is slow to get vaccinated in Lithuania. This statement is also supported by an analysis of anti-vaccination channels on Youtube and pages on Facebook, as more than half of them were Russian (Szakács & Bognar, 2021, p. 20). In the case of the UK, there was gossip on social media and Muslim Whatsapp groups that the ingredients for the vaccine are made from pork, contain alcohol, etc. (Szakács & Bognar, 2021, p. 21). In addition, according to the European Network Against Racism (ENAR) spokespeople, the terror of being used as an experimental subject for vaccine subjects was one of the reasons for anti-vaccination campaigns. One has to mention that such fear had a historical background as minorities were used for the medical experiments without their knowledge or agreement (Szakács & Bognar, 2021, p. 21). Another target of disinformation is the elderly population, as they are less likely to determine what is true and what is false (Buchanan, 2020, p. 4). This was also the result of the research about the 2016 presidential elections in the U.S. (Guess et al., 2019, p. 4). The data showed that the elderly, precisely those over 65, are the most likely to spread false information as they have the lowest levels of media literacy (Guess et al., 2019, p. 4), which is defined as "the ability to access, analyze, evaluate and create messages across a variety of contexts" (Livingstone, 2004, p. 18). One has to note that if the user shares fake information intentionally, media literacy does not prevent the individual from sharing it (Buchanan, 2020, p. 4).

To sum up, false information is spread through different actors: foreign powers, local politics and users themselves. While a majority of manipulative actors spread disinformation for their own gains, governments push fake information for their political causes. Overall, the manipulative actors target a specific group of people to reach the agenda and to ensure effectiveness. Thus, media literacy is one of the main ways to prevent or minimize the spread of fake information among the public.

### **3.3. Situation factors behind the spread of fake news**

The change of understanding of the spread of disinformation is due to search engines and social media's dependence on algorithmic selection (Fletcher et al., 2021, p. 6). Even though the news exposure was characterized via selective exposure, technologies such as social networks and search engines provide individuals with mixed self-selection and algorithmic selection. In other words, platform use is a combination of self-selection and that given by algorithms (Fletcher et al., 2021, p. 6). After all, information ranking is constantly

tailored to each user's interests, individual Facebook activity, and network of friends (Zimmer, 2019, p. 45). The engine selects posts, which always appear in the top positions of the page as a result of an account holder frequently clicking on the posts. Therefore, in a short period, when Facebook engagement is strong, users may only see postings from their preferred authors at the top of their pages. It may thus be inferred that such tailored information display results in a filter bubble (Zimmer, 2019, p. 45). This phenomenon of the filter bubble was created primarily by ranking algorithms engaging in passive customization with no active decision on our side, as a probable result of spreading information and news online (Arguedas et al, 2022, p. 11). Furthermore, it is the user's responsibility to become friends on Facebook, and it is the individual's responsibility to frequently choose specific friends' postings for viewing, liking, commenting, and sharing (Zimmer, 2019, p. 46). Facebook's pertinence recommendation system may magnify current individuals' behavior patterns to filter bubbles and when to echo chambers, with user behavior data playing the most crucial role (Zimmer, 2019, p. 46). The definition of echo chambers is custom customized communication settings that allow users of networks to follow similar thinking individuals (Arguedas et al, 2022, p. 10).

The distinction between the names echo chambers and filter bubble is critical (Arguedas et al, 2022, p. 11). On the one hand, an echo chamber is a bubble itself, although the phrase explains or analyzes why specific individuals may live in such bubbles. On the other hand, a filter bubble shows how an echo chamber is (Arguedas et al, 2022, p. 11). Since social platforms have numerous materials, these algorithms learn users' interests and offer sufficient information to improve the hours spent on their media (Rhodes, 2021, p. 5). Furthermore, previous research has discovered that when information is seen on social media, it is generally received passively (Rhodes, 2021, p. 6). According to studies, people are more receptive to a material when they are exposed to it in a passive setting, which raises concerns for those who want to better understand the spread of false information fueled by social networking algorithms (Rhodes, 2021, p. 6). Since these algorithms distinguish the quality of information supplied to consumers, they may also protect consumers from group think where unpleasant comments are uncommon. Earlier studies have mimicked false information exposures but have not compensated for the circumstances under which most Americans come into touch with incorrect information on social networking sites such as Twitter or Facebook. In other words, researchers have not examined if being subjected to a politically homogeneous information collection makes a more prone individual to accepting false information than being subjected to a politically balanced news diet (Rhodes, 2021, p. 6).

Overall, there are three main aspects to filtering bubbles (Zimmer, 2019, p. 46). First, nobody is alone in the sphere, which results in echo chambers. Second, the bubble is evident to some individuals since they found out about Facebook's ranking techniques; for other ignorant individuals, the bubble is actually not visible. Three, the users' activity supplies the pertinence ranking algorithms; hence, the individuals (tensional or unconsciously) co-create the bubble (Zimmer, 2019, p. 46).

Regarding echo chambers, platforms such as Facebook make use of social networking that are frequently thick and crowded (Arguedas et al, 2022, p. 10). Furthermore, these platforms typically mimic previous social platforms and are ideologically homogeneous (Rhodes, 2021, p. 5). Thus, it becomes challenging to question dubious information as one is surrounded by similar thinking people. Even among individuals with a small interest in politics, social media offers some normally acceptable results in terms of the function of educating on politics. Moreover, echo chambers' repeatability combines with people's acquaintance and fluency prejudices. Those have an impact on humans' cognitive abilities; the more often someone encounters a tale, the more comfortable it gets, and the probability that it will be believed grows with a number of repetitions - even when it's a wholly invented fiction. While fact-checking technologies tend to reduce the dissemination of dubious content, long-period adjustments are improbable in the presence of constant exposure and dissemination owing to the acquaintance and fluency prejudices that exist in echo chambers (Rhodes, 2021, p. 5).

To conclude, social networks and search engines cause the users to have a mix of self-selective and algorithm-chosen content. It causes phenomena called echo chambers and filter bubbles, where the information provided to the user is specifically directed towards them, according to their personal preferences. In the end, such phenomena cause the spread of fake news since people tend to find information encountered in the passive setting more believable.

## Chapter 4. Context of the case studies

### 4.1. Context of the case studies

#### 4.1.1. Lithuania

Lithuania is in Eastern Europe and shares the border with Russia. Thus the state is an important chess piece in the clashes between the Atlantic world and Russia (Charap & Colton, 2017). Overall, Lithuania, the first among other Soviet republic states, announced its regain of independence in 1990 March 11 (Skaržauskienė et al., 2020, p.78). The history of being under Russian occupation made the term fake news or false information familiar to Lithuanians for a long time (Bankauskaitė, 2019, p.17). However, as a result, the majority of citizens, to be the more precise older generation, have a view "that most of the things are self-explanatory" due to Lithuanian survival of the propaganda of the Soviet Union (Bankauskaitė, 2019, p.17). Furthermore, there is a belief that Lithuanians have developed immunity to information manipulation (Bankauskaitė, 2019, p.17). Of course, on the one hand, such development is a positive thing for the country. On the other hand, it can put society to sleep and make people lose awareness of the threats. The conducted research about media and information literacy and media use patterns in Lithuania (2021), which was also conducted in 2017, showed that almost half (48.7 %) of users claimed that they read, listen or watch foreign media from which the most used was Russian information sources (UAB "Market Research Center", 2021, p. 17). In addition, even though the younger generation heard the stories from family members and learned history, the understanding of the disinformation cannot be as strong due to the lack of personal experience (Bankauskaitė, 2019, p.17). The generation difference is also reflected in the way Lithuanians search for additional information: 18-35 years old search for information in English, while 36 and above look in Russian (UAB "Market Research Center", 2021, p. 45).

Against Lithuania is used systematic technological disinformation, which spreads very quickly and has a disruptive effect when the nation does not have a solid public identity (Bankauskaitė, 2019, p.17). After all, disinformation is usually created to achieve long-term plans; thus, it is not apparent to the public that it would not create resistance in society (Bankauskaitė, 2019, p.17). It is important to note that for Lithuanians, the primary source of news is the internet, it scores 4.39 out of 5, while other information sources score less than 4 (TV-3.34; radio 3.54, newspapers and magazines only 3) (UAB "Market Research Centre", 2021, p.15). As a result, at the country's level, information protection is the top priority, while

the partnership on this topic among the states and international institutions is relatively low (Skaržauskienė et al., 2020, p.78). In addition, Lithuania has to deal with domestic issues regarding information security (e.g., due to continuous reduction of population, small media market, poor media literacy, and reliance on some clusters of interests media channels) (Denisenko, 2018; Skaržauskienė et al., 2020, p.78).

The literature identifies overall three trends of the disinformation targets. First, to damage the public belief in sovereignty (e.g., Health care system, government, etc.) (Denisenko, 2018; Skaržauskienė et al., 2020, p.78). The second goal of disinformation is to damage trust in democratic institutions like the EU and NATO (Denisenko, 2018; Skaržauskienė et al., 2020, p.78). Third, the goal of the Kremlin's disinformation is not to take over the society but to divide it and put it against each other (Bankauskaitė, 2019, pp.17-18). The country's economic situation, to be more specific, a huge gap in salaries between people, allows Kremlin to take the situation to their advantage. Of course, the economic difference is not the only aspect used to divide the society. Kremlin also uses cultural differences and historical events to divide the society, as in the case of Lithuanian and Polish populations in the country (Bankauskaitė, 2019, p.18).

Overall, the conducted research about media and information literacy and media use patterns in Lithuania (2021), reveals that Lithuanian users do not look at the content on social media critically (UAB "Market Research Center", 2021). In the research majority of respondents noticed the differences in facts among diverse sources, 71.5 % of users declare they ignore/do not pay attention to the dissimilarities (UAB "Market Research Center", 2021, pp. 28-29). Compared to data from 2017 to 2021, the percentage of respondents that compare the news has increased (from 15-20% to more than half). However, the number of users who do not pay attention to information from different sources also increased (from 68% to 71.5%) (UAB "Market Research Center", 2021, p. 30). The researcher of 2021 also showed that respondents from the Russian minority are less likely to notice the dissimilarity in the information among different sources than Lithuanians (UAB "Market Research Center", 2021, p. 29). On the other hand, Lithuania has an elevated level of media freedom. In 2022, the World Press Freedom Index ranked Lithuania 9th (36th in 2017) out of 180 countries (the highest among the three case studies) (RSF Reporters Without Borders, 2022). On the other hand, the Media Literacy Index 2021 shows that Lithuania scores lowest (53 out of 100) among the cases of study (Lessenski, 2021, p. 9).

### ***4.1.2. Germany***

Germany's geopolitical position is in Central Europe, and it has a federal system (Bayer, 2021). On the one hand, such a system slows down the decision-making process, but, on the other hand, this consensual process brings stability to the state. Furthermore, Germany has fostered an environment for various groups due to establishing different organizations/associations. Differently than in less open societies, Germany has strong civil and political activism, which creates an opportunity for not only radicals to express their opinion. After all, in more closed societies, the individual has to take a higher risk of danger in order to stand by their beliefs; thus the only radical person would expose themselves (Bayer, 2021). Thus, due to the strong institutions and diverse communities, the spread of disinformation is limited in Germany (CERTH et al., 2021, p. 60). The false information online basically addresses contentious topics such as the refugee crisis. It is important to note that even though the spread of disinformation is different than in some other countries, for Germany, disinformation is still a serious issue among political parties and distinctive groups (CERTH et al., 2021, p. 60). The research on disinformation in the German parliamentary elections of 2017 revealed that the more people are likely to believe in false information during the elections, the less they have trust in the political system (CERTH et al., 2021, p. 60).

Also, according to the research, the disinformation during the elections has influenced the voting: it reduces "the likelihood of the electorate to vote for the main governing party (i.e., the CDU/CSU), and driving them into the arms of right-wing populists (i.e., the Alternative für Deutschland party (AfD – right-wing party))" (CERTH et al., 2021, p. 60). In particular, in October of 2016, AfD declared that in their election campaign, they are going to use social bots (Neudert et al., 2017, p. 2). "Social bots are computer programs" that imitate and potentially influence society and its actions on social media (Keller & Klinger, 2019, p.1). In the German election case, the program used hashtags to target Angela Merkel and political organizations and promote the AfD (Neudert et al., 2017, p.2). Of course, one has to mention that the bots are used by the other parties, however, according to the research among studied parties, only AfD increased usage of the bots (Neudert et al., 2017, p. 11).

According to the research about media literacy in Germany, in some cases, participants found it hard to separate different types of information: advertisements, options, information, and disinformation (Meßmer et al., 2021, p. 4). For instance, even though the advertisement had labeling, 56% took it as a real source of information, and only 23% recognized that it is an advertisement (Meßmer et al., 2021, p. 4).

Overall data showed that media literacy is more potent with younger people (sample: 18 and over) than older respondents and that education plays a crucial role in being news

literate (Meßmer et al., 2021, pp. 5-6). The research revealed that the respondent under 40, who have low education, are the least news literate, while 18-39 age participants, who are of high-level education, are especially news literate (Meßme et al., 2021, pp. 5-6). It is important to note that overall, respondents had at least a primary level of news literacy. The majority recognized that the source was not trustworthy or not biased and stated that unfamiliar videos should not be shared (Meßmer et al., 2021, pp. 6-7). The study also looked at the literacy of political parties' supporters. FDP (liberal Free Democrats) supporters, followed by the Green party, are the most literate, while AfD is the least. It is essential to mention that the party's preference was not the main factor, but age, beliefs, and education level ((Meßmer et al., 2021, pp. 6-7), p. 6). In 2022, the World Press Freedom Index ranked Germany 16th out of 180 countries (RSF Reporters Without Borders, 2022). Interestingly, Germany scores higher than Lithuania and the same as the UK (62 out of a hundred) in the Media Literacy Index 2021 (Lessenski, 2021, p. 9). However, it is important to note that in 2021, Germany implemented soft approaches (see sub-sections 4.2.2.3. and 4.2.2.4.).

Regarding foreign interference, the government of Germany acknowledges that Russia is using systematic disinformation in the country's media, states that such policy comes from Moscow, and recognizes that this is a threat to Germany (Hellman & Wagnsson, 2017, p. 160). However, the state's primary approach is not to go into a debate or question the Russian narrative but to portray itself as positive, trustworthy, in different ways superior, and credible. According to Frank-Walter Steinmeier, the best way to deal with Russian propaganda is not to counter it but to provide transparent information. Overall, Germany's strategy combines the dominance of ethical values and national pride as it focuses on accuracy and credibility instead of engaging in the foreign narrative. In addition, Germany uses "public diplomacy and civilian agencies to project its narratives, such as the Foreign Ministry and the state-sponsored media channel Deutsche Welle, which has been described as Germany's "media visiting card""(Hellman & Wagnsson, 2017, p. 160). After all, the channel is similar to Voice of America and BBC World in characteristics (Hellman & Wagnsson, 2017, p. 160).

### ***4.1.3. The United Kingdom***

The United Kingdom is a bit different case from other case-studied countries (WorldAtlas, n.d.). The state has a one-land border with Ireland, and its maritime boundaries are the Faroe Islands, Denmark, France and Germany, and the Netherlands. In other words, direct or indirect borders are only with Western countries like Germany (WorldAtlas, n.d.).

The same as Germany, direct or indirect borders are only with Western world countries. Also, differently from the other two previously mentioned countries, the United Kingdom is not part of the EU anymore. In 2022, the World Press Freedom Index ranked the UK 24th out of 180 countries, which is the lowest score among Germany and Lithuania (RSF Reporters Without Borders, 2022). In the 2021 Media Literacy Index, the UK scored 62, the same as Germany. This might also be the case due to the soft approach, as The Action Plan was already put into action (see subsection 4.2.3.2.) (Lessenski, 2021, p. 9).

Overall, social media has a significant effect in the UK, as in any other EU country, social media platforms are used as a source of information. To be more precise, in research conducted by Reuters Institute, 74% of respondents indicated social media as their information source (Newman et al., 2021, p. 62). In the research conducted by Ofcom News Consumption Survey (2020) almost half (45 %) of respondents get information via social media or by redirecting to the source (Ofcom, 2020, p.12). The data showed that of those who use social media to get information, the primary information provider is Facebook (76%). After all, through social media, a user can access a broad range of content such as video, information, news, and pictures in one location. However, using social media as an information source is dangerous, as the algorithms and not human judgment suggest the content (Ofcom, 2020, p.12).

Talking about fake information, it is also essential to mention Brexit. After all, in this event, post-truth politics had a tremendous influence on the public discourse leading up to the United Kingdom's decision to leave the European Union (Marshall & Drieschova, 2018, p. 100). Post-truth politics is a politics that tries to send messages into the public sphere that would elicit emotionally charged responses, with the objective of spreading information broadly and regardless of the lack of verification of the statements delivered (Marshall & Drieschova, 2018, p. 90). Clearly, technological advancements played a significant part in this, since social media have supplanted conventional media as the guardian of verified information (Marshall & Drieschova, 2018, p. 100). Moreover, on social media, statements are disseminated based on the amount of novelty and excitement they produce and not on the foundation of their accuracy. Thus, social media facilitates the propagation of post-truth politics in the UK (Marshall & Drieschova, 2018, p. 100).

Moreover, the negative effect of fake news can also be seen among UK citizens. For instance, according to Reuters Institute (2020), the majority (63%) of respondents were anxious about the truthfulness of the news in the media (Newman et al., p. 18). However, one has to note, the trustfulness of the information changes over time due to the events in the



country. For example, in the Brexit case, "[p]olitical elites and the media (social media giants included for fear of tarnishing their reputation and courting the threat of extensive regulation)" have reacted to the danger of post-truth politics by enhancing fact-checking, attempting to monitor social media platforms, and creating algorithms designed to find fake news (Marshall & Drieschova, 2018, p. 100). These initiatives are able to tackle the problem of fake news only to some extent as, despite the effort, there was a massive decline in trust (Marshall & Drieschova, 2018, p. 101). This enormous reduction in trustworthiness has particularly affected governments, lawmakers, experts, and conventional media gatekeepers. Consequently, voters make emotion-driven and value-based judgments, frequently founded on incorrect information tailored to elicit emotional reactions. Technically blocking the transmission of false news will not be sufficient to rebuild public confidence in authorities. Doing so would require a more comprehensive government reform and to reform the relationship between elites and the public (Marshall & Drieschova, 2018, p. 101). Also, the previous statement is also supported by Reuters Institute research. The data showed that while in 2019 the trustfulness was 40%, it declined to 28% in 2020 and rose to 38 % in 2021 (Newman et al., 2020, pp. 18-19; Newman et al., 2021, p. 62). Similar results were also found by the Ofcom (2020) research. Data showed that 35% of individuals who use social media as a source of news thought they were trustworthy (Ofcom, p. 9).

### **4.2. Description of the legislation and strategies**

#### **4.2.1. Lithuania**

##### **4.2.1.1. The law on the provision of information to the public**

The law on the provision of information to the public was written in 1996 and last time was amended in 2016 (Parliament of the Republic of Lithuania, 2016). Even though the law does not explicitly indicate social media but generally talks about information distribution, it is the most important law about public information in Lithuania (Ministry of Culture of the Republic of Lithuania, n.d.). This law states what kinds of public information are harmful to minors' mental, moral, and physical development. It also notes how that information can be published and shared. In addition, the law describes the responsibilities, liability, and rights of the people who make, spread, and own information, including journalists and the institutions that oversee their work (Parliament of the Republic of Lithuania, 2016, Art. 1). In article 19 of the law on the provision of information to the public states that it is prohibited to publish or disseminate disinformation, war propaganda,

incitement of war, to violently violate the sovereignty of the Republic of Lithuania by changing its constitutional order, attempting its independence or violating territorial integrity (Parliament of the Republic of Lithuania).

It is important to note that this is a pro-freedom of information law as it states that every individual should have the freedom to express their thoughts and opinions freely, as well as to gather, access, and distribute ideas and information. The freedom to gather, access, and publish information may only be restricted by legislation when essential to defend the private life, the health, honor, dignity, constitutional system, and morals of an individual (Parliament of the Republic of Lithuania, 2016, Art. 3).

#### **4.2.1.2. Lithuanian Committee on Television and Radio Broadcasting (RTCL)**

The Radio and Television Commission of Lithuania (RTCL) is an autonomous institution responsible to the Seimas (Parliament) that governs and oversees the "activities of broadcasters of radio and television programs and providers of on-demand audiovisual media services falling under the jurisdiction of the Republic of Lithuania," and also the actions of "video-sharing platform providers and re-broadcasters operating" in Lithuania (The Radio and Television Commission of Lithuania, 2021, para. 1). The RTCL contributes to the development of state audiovisual policy. It advises the Seimas and the government on the aforementioned subjects. The RTCL operates independently while executing its tasks and making judgments on matters within its competence. The mission of the RTCL is to ensure that the public has access to quality information, i.e., radio and tv programs that obey legal requirements, honor the principles of freedom of expression, promote a variety of views, the development of citizenship and democracy, foster and support cultural, national values. The RTCL shall have the right, without penalty, to suspend the broadcasting of television or radio programs in the territory of Lithuania if violations of Article 19 are established. In March, the RTCL took into account the new EU Directive and adopted new guidelines under which persons producing content on video-sharing platforms may sometimes be treated in the same way as audiovisual media service providers. The new regime is announced to apply to advertisers on YouTube, Facebook, TikTok, and other platforms (The Radio and Television Commission of Lithuania, 2021).

#### **4.2.1.3. Demaskuok.eu**

The cooperation of the major media outlets in Lithuania (which reach 90 percent of the people) is our strength, together with state officials (Lithuania's Military Strategic

Communications (STRATCOM)) and elves (white-hat hackers), who are linked and operate to combat misinformation in real-time on the platform (Demaskuok.eu, n.d.-a). "Debunk EU" primary mission is to investigate misinformation in the public sphere and implement educational media literacy programs. Using artificial intelligence, "Debunk EU" conducts an in-depth investigation on disinformation in the Baltic states and collaborates on collaborative initiatives with allies in the United States and North Macedonia. Debunk.eu is an analytic tool powered by numerous AIs that detects and exposes disinformation in "two minutes of real-time, a civil society of elves and journalists" that confirm claims, and competitive newsrooms that seek maximum reach (Demaskuok.eu, n.d.-a, para. 3). Incorporating all of these elements, we aspire to create a more educated and, over time, more resilient society (Demaskuok.eu, n.d.-a).

### **4.2.2. Germany**

#### **4.2.2.1. The Network Enforcement Act**

The Network Enforcement Act (Netzwerkdurchsetzungsgesetz, or "NetzDG") was written in 2017 because social media tools to stop illegal content online were not working well enough (Claussen, 2018, p. 117). In 2015, the German Ministry of Justice (BMJV) set up a task force to work "with relevant social networks (Facebook, Google, Twitter)" and non-governmental organizations (NGOs) to encourage self-regulation of online content (Claussen, 2018, p. 117). The tech giants affirmed to make it easier for users to report the content and look at the report within a day to a week after its publication. IT giants worked with the NGOs to train staff and share information about how to report problems, which led to creating a code of conduct. Although, according to research about improvement conducted by a German NGO ( jugendschutz.net), it was evident that the monitoring systems were getting better, the steps taken by the social platforms were not enough to safeguard everyone from illegal content online. One has to note the fact that fake news stories on Facebook may have affected the 2016 US presidential election, which led to the BMJV introducing draft legislation for the NetzDG. The legislation makes it a legal requirement for social media platforms to report how they deal with illegal content online (Article 2), to set up a "report and takedown procedure" (Article 3), and include rules about fines for not following the NetzDG if they don't (Art. 4) (Claussen, 2018, p. 117).

The scope of the NetzDG is limited to social platforms with over two million account holders in Germany (Claussen, 2018, p. 117). Article 1, section 1 defines a social network as

"platforms which are designed to enable users to share any content with other users or to make such content available to the public" (Bundestag, 2017, p. 1). The agreement excludes networks that target certain themes or consumers, such as technical platforms, corporate networks, online games, etc (Claussen, 2018, p. 118). In order to secure a tight definition of the term "illegal content", Article 1, section 3 identifies certain German Criminal Code (Strafgesetzbuch) offenses that correspond to the notion of unlawful material in the context of NetzDG (Claussen, 2018, p.116).

The competent administrative body may apply a regulatory penalty for actions or lack thereof, for instance, failing to submit a valid transparency report or properly establishing a mechanism for handling complaints in accordance with the NetzDG (Zurth, 2020, p.1119). The basic tenet of regulation is that social networks would be punished only if actions are systemic or chronic infractions. Therefore, a mere misjudgment of a post does not lead the social platform to a penalty. A misinterpretation of a statement's veracity to support a complaint or an answer does not result in a penalty either. The maximum penalty is 50 million euros. According to rules established by the relevant agency, the precise amount of the fine is established. These rules are administrative principles governing the discretion of this authority in determining "whether to impose a fine and how to" determine its amount (Zurth, 2020, p.1119). In accordance with these principles, legal incidents that are difficult to evaluate, such as inflammatory remarks made during political campaigns, do not result in fines. Overall, the amount of the penalty is determined by a variety of variables, including the number of users registered on the platform, the economic situation, and if the conditions and effects of the infraction are regarded as "light, medium, serious, very serious, or very serious" (Zurth, 2020, p.1119).

#### **4.2.2.2. Amendments to the NetzDG Act**

The German federal government adopted a proposed amendment of the NetzDG on February 19, 2020 (Zurth, 2020, p. 1115). It mandates social media platforms to report deleted and prohibited content to the Federal Criminal Police Office if any of the violations specified in NetzDG section one paragraph three have been committed. These charges involve widespread incitement but do not include insults. In addition to the submitted material, the report must include, if it is possible, the user's IP address. If the method for transmitting the reports has not been established, social platforms may be fined. The Federal Criminal Police Office is anticipated to transfer the information to the local prosecuting authorities (Zurth, 2020, p. 1115).

Furthermore, when faced with hostility and incitement to hatred, members of social media platforms like Facebook, Twitter, and Instagram will be granted additional rights (Zurth, 2020, p. 1119). In addition to imposing penalties, the federal government's proposed change to the NetzDG from April 2020 allows the supervisory, administrative body to take further "necessary actions" and require the network to fix the violation (Zurth, 2020, p. 1119). In this method, the government can move with prudence rather than quickly imposing sanctions (Zurth, 2020, p. 1119).

Furthermore, the amendment requires social media companies to develop a system through which complainants and impacted users can begin a review of a decision to delete or not remove flagged information (appeals procedure) (art . 3.b.)(Library of Congress, 2021). Moreover, the amendment empowers the Federal Office of Justice to authorize private-law arbitration organizations for out-of-court resolutions "of disputes between complainants/users and social media providers" (Library of Congress, 2021, para. 4). Arbitration participation is entirely optional. The amendment mandates that the transparency reports contain more information. For example, providers should disclose if automated detection of illicit content is employed and, if so, how it is detected. The Amend the Network Enforcement Act was enacted on June 28, 2021 (Library of Congress, 2021).

### **4.2.2.3. Federal Returning Office- Facts Against Fake News**

The Election Commission has developed "Facts against Fake News," a site that debunks the most general election-related false information, as one of the most major government-led projects to increase awareness against disinformation (Miguel, 2021). Each provider is responsible for the content on their social platforms (Federal Returning Officer, n.d.). The Lander's media officials have a supervisory role (Federal Returning Officer, n.d.). However, unlike fact-checkers, the website focuses on comprehensive storylines rather than single hoaxes (Miguel, 2021). For instance, in the midst of the Bundestag election, misleading material (sometimes termed fake news) meant to "misinform voters is doing the rounds in social media and chat groups"(Federal Returning Officer, n.d., para. Disinformation in social media channels). Such material is commonly forwarded as receivers do not know it is fake news. Therefore, Federal Returning Officer corrects the information (Federal Returning Officer, n.d.).

### **4.2.2.4. #Wahlwissen**

The government also took extra steps to enhance individuals' ability to respond to hoaxes and misinformation. This includes Facebook infographics with "the hashtag "Wahlwissen" (meaning "electoral knowledge")" to increase public understanding of the electoral process (Miguel, 2021, para. 3).

### ***4.2.3. The United Kingdom***

#### **4.2.3.1. Online Harms White Paper - Online Safety Bill**

Online harm is a global issue. The UK's government recognizes that policies and regulations only partly respond to the problem in the country and worldwide (HM Government, 2020, p. 5). The UK has an opportunity to be a global leader in this area as the state has a strongly respected legal system and a good environment for business. Furthermore, the Online Harm White Paper is created to fulfill the government's desire to make the UK the safest zone to be online. Also, at the same time, it would be the most suitable location to start and develop a digital business. The Online Harm White Paper is "a new regulatory framework establishing a duty of care on companies to improve the safety of their users online, overseen and enforced by an independent regulator" (HM Government, 2020, p. 5). This will result in society's trust in those companies' services and will create a well-established and strongly developing digital sector.

Moreover, the White Paper in the subsection on threats of online disinformation cites studies from the Oxford Computational Propaganda Project about how much groups can manipulate social media (Pomerantsev, 2019, p. 4). It also discusses the dangers of micro-targeting and recognizes that the Russian government's disinformation campaigns are significant (HM Government, 2019, p. 23). According to the White Paper, the effect of this danger is that consumers are usually unaware that algorithms determine what individuals see online and that data collected about them, surfing history, and networks play a role in this (HM Government, 2019, p. 26). "Online manipulation" appears to be a broader harm category than "disinformation"(HM Government, 2019, pp. 22-24). The White Paper argues that while tolerance of opposing beliefs and views is fundamental to democracy, they are from foundations exposed to the attempts of some to manipulate and distort the environment of information for evil ends, such as weakening trust (HM Government, 2019, pp. 22-24). The public might be manipulated with never known efficacy using a mix of personal data collecting, AI-based algorithms, and incorrect or misleading information (HM Government, 2019, p.82).

In addition, under the supervision of an independent regulator (Ofcom), subject firms should anticipate better clarity on what is required of them "to keep their customers safe", particularly in terms of hazardous material (Graydon, 2021, p. 2). The government repeatedly reviews the policy and consults to ensure that the regulation is proportionate, moves quickly to technological advances, and is coherent. "It is part of the government's overarching, pro-innovation approach to regulating digital technologies that will address issues arising from digital technology which affect prosperity, security and our democratic values" (HM Government, 2020, p. 5). Overall, the British idea is marketed as a win-win for all parties as it considers business innovation (economic growth), users' safety, and their rights (Graydon, 2021, p. 2). Under the supervision of an independent regulator, subject firms should anticipate better clarity on what is required of them "to keep their customers safe", particularly in terms of hazardous material (Graydon, 2021, p. 2). A new regulatory framework is risk-based and proportionate to ensure that firms have needed and well-functioning systems and operations to deal with harmful content. The government's strategy for managing digital technologies aims to maximize benefits while reducing risks (Graydon, 2021, p. 8). Several categories, including data and data usage, competition, cyber security, and the preservation of high-quality journalistic content, are being tackled to improve online security and safety, foster competitive and dynamic digital marketplaces, and promote democratic ideals online (Graydon, 2021, p. 8). At the same, the framework will enable people to realize the hazards of online activity, oppose undesirable behavior, and know-how to obtain assistance if someone encounters damage online, with additional protection for children (Graydon, 2021, p. 2). Also, the framework strives to guarantee users' rights, including the freedom of expression online (HM Government, 2020, p. 5). The UK government issued the Online Harms White Paper to build a safer online environment and restore public faith in search services and digital platforms (Tregrove et al., 2022, p. 3). The White Paper has now generated the Online Safety Bill, a draft piece of legislation that gives the original White Paper's goals greater legislative substance (Tregrove et al., 2022, p. 3). The Bill establishes new standards for corporations that host user-generated data, i.e., those that allow users to publish their personal online content or connect with one another, as well as for browsers that will have specialized obligations aimed at reducing the appearance of damaging search engine results to users (Department for Digital, Culture, Media & Sport, 2022). Platforms that fail to safeguard users will have to be responsible to the regulator and may risk penalties of up to 10% of their turnover or, in the most extreme circumstances, being banned. In scope, all platforms will be required to address and delete

illegal online content. Platforms that are likely to be accessible by children will also be necessary to safeguard young people who use their services from lawful but harmful materials such as eating disorder content or self-harm. In addition, the biggest, most risky platforms will be required to handle certain kinds of legal but harmful material accessible by adults. They must clearly define and enforce what is and is not permitted on their website in their terms and conditions. Platforms will also be required to have user empowerment features, which will give customers the power to decide who they connect with, the lawful content they view, and the ability to confirm their identity. These rules are not about placing a greater control or governmental removal of material but about assuring that corporations have the mechanisms and systems to safeguard users' safety. As a result, freedom of speech will be maintained. In addition, both Ofcom and in-scope businesses will be subject to freedom of expression obligations. Companies in scope will have a legal responsibility to consider the significance of freedom of expression when carrying out their tasks, for which they may be held accountable. Furthermore, the larger platforms will need appropriate processes and systems to prevent illegal advertisements from being published or displayed on their website. Proportionality will save small and low-risk firms from undue constraints.

"The duty of care will require platforms to be robust and proportionate" actions to address problems that might cause significant physical or mental harm to children, such as vaccination misinformation and disinformation (Department for Digital, Culture, Media & Sport, 2022, para. How the new laws tackle misinformation and disinformation). Additional measures to combat disinformation will be included in the regulatory framework, such as provisions to increase users' resilience by providing clients with the critical thinking skills they need to spot online falsehoods, providing Ofcom with the mechanisms in order to understand how effectively disinformation and/ or misinformation is being dealt with. It will be accomplished by transparent reports and by conducting further research on disinformation and misinformation (Department for Digital, Culture, Media & Sport, 2022).

### **4.2.3.2. Online Media Literacy Strategy**

This Media Literacy Strategy aims to increase media literacy in the United Kingdom, encourage users to maximize the internet's potential, and ensure online safety (Department for Digital, Culture, Media & Sport, 2021, p. 18). This strategy wants to supplement the existing media literacy environment and activities, not replicate them. The government can have the most significant influence by collaborating with the business to develop and expand



its media literacy initiatives instead of directly targeting people (Department for Digital, Culture, Media & Sport, 2021, p. 18).

Furthermore, the government solicited their opinions on the most significant impediments and obstacles to boosting media literacy rates, talked with them about the most effective remedies, and solicited feedback on recommendations (Department for Digital, Culture, Media & Sport, 2021, p. 82). The proposed Online Safety Bill will incorporate media literacy measures in addition to the Media Literacy Strategy. These amendments would build upon existing provisions in the Communications Act of 2003 and will reinforce Ofcom's existing duty to encourage media literacy by increasing its obligations and activities. Before the passage of the Online Safety Bill, the government is committed to addressing the challenges of media literacy in this strategy (Department for Digital, Culture, Media & Sport, 2021, p. 82).

The report has highlighted six significant obstacles that the government must address to implement change within the industry and enhance consumer media literacy results (Department for Digital, Culture, Media & Sport, 2021, p. 82). First is evolution (Department for Digital, Culture, Media & Sport, 2021, p. 83). According to research, there is a notable absence of rigorous evaluations of media literacy programs. If evaluation methods exist, they are frequently quite restricted, utilizing metrics such as reach, number of events, participant quotations, or participant's self-assessment. This makes it difficult to determine if measures help enhance media literacy skills over the long run. Second, providers of media literacy instruction typically experience financing challenges for their programs. Most suppliers are nonprofits or foundations and frequently rely on external financing sources. According to stakeholders, financing seldom exceeds two years, making it difficult for organizations to interact with students for a longer period and to establish long-term strategies (Department for Digital, Culture, Media & Sport, 2021, p. 83). Another challenge is that it is hard to reach an audience (Department for Digital, Culture, Media & Sport, 2021, p. 84). While several media literacy programs are provided to the public in the United Kingdom, some groups are tough to reach and educate. It includes individuals who: are unconcerned with the problem of online safety; are extremely confident in their media literacy skills; lack access to formal schooling environments where media literacy instruction may occur, and do not routinely utilize technology or have restricted internet connection. The fourth challenge is to reach vulnerable groups (Department for Digital, Culture, Media & Sport, 2021, p. 84).

The fifth challenge is “building audience resilience to misinformation and disinformation” (Department for Digital, Culture, Media & Sport, 2021, p. 86). The Online

Safety Bill will establish duties of care mandating firms to handle harmful content on their online platforms, including dis- and misinformation. The new regulations will include powerful and proportional tools to combat dis- and misinformation that might cause severe physical or mental harm to a person, such as anti-vaccination material and COVID-19 myths. These actions are vital, but they cannot guarantee that all dis- and misinformation is eliminated from the United Kingdom's digital landscape. Improving audience resistance to misinformation and disinformation via media literacy is among the most effective weapons governments have to combat online fake information. A public with excellent critical thinking abilities and the ability to distinguish autonomously between truth, view, and lies online will be protected from the dangers of disinformation. The last challenge is Coordination. Most of the problems found with media literacy can't be fixed by just one person or group. Instead, they need to be solved by people from different fields working together (Department for Digital, Culture, Media & Sport, 2021, p. 86). Thus, representatives from tech corporations, Ofcom, civic society, academic institutions, media literacy organizations, news publishers, and youth forums are participating in this engagement (Department for Digital, Culture, Media & Sport, 2021, p. 82).

Overall, over the next three years, the strategy focuses on assisting organizations in engaging in media literacy activities in a more organized, comprehensive, and high-quality manner (Department for Digital, Culture, Media & Sport, 2021, p. 18). The strategy is complemented by the Annual Online Media Literacy Action Plan, which outlines the concrete activities and actions that the government intends to implement throughout the fiscal years until 2023-2024 and starts by 2021-2022. The Action Plan will address the Media Literacy Challenges discussed in the strategy (Department for Digital, Culture, Media & Sport, 2021, p. 18). Each Media Literacy Action Plan will list the government-funded and -led projects that will be done during the next fiscal year(s). With these projects, steps will be taken to respond to previously listed challenges in the Media literacy Strategic plan. This method will give the government the flexibility to respond to new trends, research, and needs. In addition, it will allow tracking the effectiveness and progress (Department for Digital, Culture, Media & Sport, 2021, p. 87).

### **4.3. Analysis of hard approach**

In this subsection, one analyzes and compares hard approaches to regulating fake information in the media platforms in Germany, Lithuania, the UK.

### 4.3.1. Definition

The states use different definitions to address the fake information problem. Of course, one has to note that none of the documents address only the fake news problem. Thus, Germany and UK use the broad term (content) in the documents, while Lithuania separately identifies the information that is banded and does not have a shared definition (see Table 1) (Department for Digital, Culture, Media & Sport, 2022; Zurich, 2020, p.1119; ).

Regarding the UK, the documents address not only the fake news issue. Thus, the document mainly uses the term(s) “illegal content” and “harmful content”(HM Government, 2019, p. 23). Regarding fake information, it uses two terms to address fake information: disinformation and misinformation. The Online Harm White Paper, it defines the terms: “[o]nline disinformation – spreading false information to deceive deliberately” and “[m]isinformation refers to the inadvertent sharing of false information”(HM Government, 2019, p. 23). Even though the terms are defined, later, the White Paper further elaborates on "disinformation" and "online manipulation," it makes a commendable shift from an obsession with content to a focus on behavior, actors, and online architecture, although in an unstructured fashion (Pomerantsev, 2019, p. 4). In the Online Safety Bill, there is further elaboration, but at the same time for both definitions: “misinformation or disinformation which, tak[es] into account the manner and extent of its dissemination, may have a material adverse effect on users of regulated services or other members of the public“ (House of Commons, 2022, p.17).

As it was mentioned in the previous section, the German legislation addresses hate speech and fake news. The usage of the term fake news might be due to the fact that legislation was realized at the time (2017), when EU terminology was not strongly framed. For instance, the HLEG report was released only in 2018. In addition, the Network Enforcement Act uses as the primary term “unlawful content”. However, in order to secure a precise interpretation of the term "unlawful content" the document identifies the offenses under the German Criminal Code (Strafgesetzbuch or StGB) that correspond to the definition of illegal material in the context of this legislation (Claussen, 2018, p. 118). Examples of unlawful hate speech include "public incitement of crimes (§ 111 StGB), threats to commit offenses (§ 126 StGB), incitement to hatred (§ 130 StGB) and defamation of religions (§ 166 StGB) or people (§ 186 StGB) as examples of illegal hate speech"(Federal Office of Justice, 1998, Art 1 (para. 3)). Similar to the dissemination of fake news include malicious

"intentional defamation (§ 187 StGB), treasonous forgery (§ 100a StGB) and forgery of data (§ 269 StGB)" (Federal Office of Justice, 1998, Art 1 (para. 3)). It is important to note that Amendments to the NetzDG Act do not contribute to the improvement of the definition. In Lithuania's case, the regulation of each banded information is addressed differently and there is no shared term, but it does identify the fake information in the specific term: "[d]isinformation" means intentionally disseminated false information" (Parliament of the Republic of Lithuania, 2016, Art. 2 (13)).

On the one hand, one can state that the UK and Lithuania use specific terms and provide definitions that are similar to each other (see Table 1). On the other hand, both definitions are broad and short in comparison to the UK government definition (The Digital, Culture, Media and Sport Committee, 2018, para. Recommendation 1). Regarding terms, in the case of Lithuania, it uses the disinformation term in 'The Law on the Provision of Information to the Public' and by 'Lithuanian Committee on Television and Radio Broadcasting (RTCL)'. In the UK's both documents use the terms: misinformation and disinformation. The regulations were developed or started to develop from 2017 to 2020. Even though the period is small, it might still have affected the terms used by the countries as the European Union also shifted the terminology in recent years and due to the recent events (i.e. COVID-19, Ukraine-Russia war). However, one has to note that the reason might be political as the UK's Brexit from the EU was influenced by post-truth politics (Marshall & Drieschova, 2018, p. 100). After going through Brexit, the UK became more exposed to the threats and is no longer under the EU regulations of disinformation; thus, it is not a surprise that the UK uses specific terminology. The documents of the UK explain that regulations aim to protect democracy and prevent manipulation (Department for Digital, Culture, Media & Sport, 2022; HM Government, 2019, pp. 20-23).

Even though unlike the UK, Lithuania is part of the EU, it shares its border with Russia. This geopolitical position makes the country vulnerable and explains the need for the country to have more specific terms to control the information flow and protect the democratic narrative from foreign interference. The reasoning behind the first regulation (The law on the provision of information to the public) is to prevent distrust in society and threats against democracy or elections (Parliament of the Republic of Lithuania, 2016). In Lithuanian Committee on RTCL, Lithuania specifically indicates a security threat from Russia (The Radio and Television Commission of Lithuania, 2021). Interestingly, among the states' hard approaches, it is the only one that addresses only the fake information issue (The Radio and Television Commission of Lithuania, 2021).

Regarding Germany, as a country that has efficient and pluralism, the spread of disinformation is limited and not as much affected by the foreign spread of fake information as in other states (CERTH et al., 2021, p. 60). The false information online mostly addresses domestic issues like immigration. Thus, it is not surprising that fake news goes alongside hate speech in ‘Germany’s Network Enforcement Act’. It is also important to note that the main reasoning behind both (NetzDG and Amendments to the NetzDG Act) laws is social cohesion, which differs from the other two states' reasons behind the regulations (see Table 2) (Zurth, 2020). The cases show that the states have different reasoning behind the regulations, which also influences the choice of the definitions and the terms used in the regulations themselves.

**Table 1***Definitions in the documents*

	<b>Only fake</b>	<b>Primary term</b>	<b>Term regarding fake</b>	<b>Definition/ description</b>	<b>Document/ Approach</b>	<b>Date</b>
<b>Lithuania</b>	No	N/A	Disinformation	<i>“Disinformation” means intentionally disseminated false information (Parliament of the Republic of Lithuania, 2016, Art. 2 (13)).</i>	The law on the provision of information to the public	2019
	Yes	N/A	Disinformation	N/A	Committee on RTCL	2019
<b>Germany</b>	No	Unlawful content	Fake news	<i>“intentional defamation (§ 187 StGB), treasonous forgery (§ 100a StGB) and forgery of data (§ 269 StGB)” (Federal Office of Justice, 1998).</i>	The Network Enforcement Act	2017
	No	Unlawful content	Fake news	N/A	Amendments to the NetzDG Act	2020
<b>The UK</b>	No	Illegal or harmful content	Disinformation misinformation	<i>“Online <b>disinformation</b> – spreading false information to deceive deliberately. <b>Misinformation</b> refers to the inadvertent sharing of false information.” (HM Government, 2019, p. 23, p. 23)</i>	Online Harms White Paper	2019

No	Illegal or harmful content	Disinformation misinformation	“ <i>[M]isinformation or disinformation which, tak[es] into account the manner and extent of its dissemination, may have a material adverse effect on users of regulated services or other members of the public</i> (House of Commons, 2022, p.17)	Online Safety Bill	In progress
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**Table 2**

*The hard approach is linked to these issues*

	Lithuania	Germany	The UK
<b>Linked</b>	Security threat; Russia; election; national interest; democracy;	Political advertising, social coherence, transparency, propaganda, democracy	Transparency; diverse news content; fact-checking; algorithmic accountability; democracy, manipulation

**4.3.2. Content regulation and regulators**

Lithuania, Germany, and the United Kingdom also have different approaches to content regulations and who regulate them. Regarding policies in the UK, the state wants to protect the freedom of expression, and as a result, it does not impose restrictions on fake information but tries to address the issue in a transparent way (Pomerantsev, 2019, p. 4). For example, White Paper UK states that it is not going to police truth on the internet” but mitigate the harms (Pomerantsev, 2019, p. 4). Furthermore, unlike Germany and Lithuania's policies, the Online Safety Bill has a soft approach as it promotes media literacy (Department for Digital, Culture, Media & Sport, 2021, p. 82). In addition, UK policies will implement a new way of regulating fake news as it is going to be regulated by a third party (Ofcom), which should be independent of state and social networks (see Table 3) (Department for Digital, Culture, Media & Sport, 2022). The reasoning behind the independent regulator might be post-truth politics, which happened during Brexit. After all, political figures were the ones who used the fake information to exit the EU (Marshall & Drieschova, 2018, p. 100).

Differently, Germany and Lithuania impose content regulations. However, the regulators are different in both cases. Germany’s Network Enforcement Act and Amendments to the NetzDG Act involve the social networks, which have over 2 million users, in regulation power (Claussen, 2018, p. 117; Zurth, 2020, p. 1119). The social networks have to

report illegal content, and if the illegality is proven, it needs to be removed in a given timeframe. It is also important to note the changes in the regulator part as Amendments to the NetzDG Act passed. The Amendments to the NetzDG Act include more social networks, and amendments also state that the social networks have to give users information about the policies in case of illegality (Zurth, 2020, p. 1119). To be more precise, the state does not want to give social networks full authority (Zurth, 2020, p. 1119). This shows that even though Germany attempted to shift the regulator, the state remains empowered to deal with violations of fake news. In Lithuania's case, regulation of fake information is within the framework of governmental monitoring and law enforcement. Also, differently from the UK and Germany, network platforms are free to address or not the issues raised by fake information (Department for Digital, Culture, Media & Sport, 2022; Parliament of the Republic of Lithuania, 2016; The Radio and Television Commission of Lithuania, 2021; Zurth, 2020, p. 1119).

**Table 3**

*Regulators*

	<b>Lithuania</b>	<b>Germany</b>	<b>The UK</b>
<b>Main regulator(s)</b>	Government, market players	Social networks with over 2 million users, Government	Independent regulator

The misconduct is also addressed differently by the states. While the UK fines the platforms if they fail to act according to the regulation, in the German case, despite the removal of the published content, the users might be fined or even brought to court (Zurth, 2020, p.1119). Similar to Germany, individuals or organizations can be fined or brought to court (Ministry of Culture of the Republic of Lithuania, n.d.). In addition, RTCL has the power to ban/close down temporarily the website or the channel due to the spread of disinformation (The Radio and Television Commission of Lithuania, 2021).

One can conclude that the UK approach is the most directed towards the preservation of freedom of expression as it does not impose the content regulation for the user, and the regulation itself is given to the third-independent party, while other states regulate the content and the regulatory power mainly remains in the state.

### ***4.3.3. Limitation of freedom of expression***

To analyze if the regulation has all three qualifications to limit the right to freedom of expression. In the documents, the aspects fitting to the categories were color-coded (see Appendix A). Also, it is important to note that the aspects of the categories “nature of limitation” and “legitimacy”, which are in table 4, were coded based on the wording of Art. 10(2). of ECHR.

One can state that overall the case studies’ hard approach to some extent, fits the requirements to limitations of freedom of expression (see Table 4). For instance, in Lithuania's case, However, one must note that some legislation issues question the legitimacy. This is the case with the German and UK approaches. In the German case, most of the 18 criminal provisions included in NetzDG are not proportionate (McMillan, 2019, p. 285). There is a disparity between the objectives promoted by the legislation and the values that are hurt by its introduction since the harm caused by the majority of the impacted material "is not comparable to the potential chilling effect that" penalties and government involvement have on expression (McMillan, 2019, p. 285). This asymmetry has three causes. Firstly, targeted speakers lack judicial oversight and transparency. Secondly, the legislature fines without legal oversight. Lastly, while the court employs "a least restrictive means analysis" seldom, it should do so in this case (McMillan, 2019, p. 285). It would conclude that the NetzDG is not the least restrictive way of attaining Germany's aims for the majority of the criminal offenses in effect. Therefore, those requirements are not proportionate (McMillan, 2019, p. 285). In addition, due process isn't guaranteed by law (McMillan, 2019, p. 286). Tech businesses don't have to explain why they remove comments or material as the European Commission has recommended. There's no formal way to reverse tech giants' behavior outside the courts. Even if someone goes to court, Facebook isn't required to preserve a log of what it removes. Therefore, the user may not have access to the only piece of evidence necessary to defend their answer. It's a disturbing component of the legislation, particularly because it doesn't require firms to justify why they deleted information. However, companies such as Twitter or Facebook are obliged to act. Otherwise, they might be penalized for not deleting it (McMillan, 2019, p. 286).

In the UK case, it is important to note that Online Safety Bill is still in progress. Overall, the Bill imposes harsh penalties on online networks that don't comply with their responsibilities (Article 19, 2022, para. 7). Ofcom may punish corporations up to 10% of their worldwide revenue and prohibit UK users from using non-compliant networks. Senior



executives may be legally accountable for their corporation's shortcomings, especially when complying with Ofcom's data and information demands. The harsh penalties would encourage firms to over-censor users to prevent breaking the law. Considering the Online Safety Bill's complexity, poorly defined obligations, and criminal offenses, any online network will be legally urged to minimize its exposure to liability and delete any problematic information without considering individuals' human rights. Banning a service or website for noncompliance with the Bill would undoubtedly mean stopping lawful, protected material and penalizing users for the network's failure (Article 19, 2022, para. 7). Furthermore, the Bill outlines "hundreds of criminal offenses" that will be subject to this responsibility (Wingfield, 2022, para. 5). Rather than a court deciding if online information is unlawful, companies will be required to do it by themselves, thereby privatizing the work of law enforcement. Platforms still had to "swiftly" evaluate whether information marked by users is unlawful or not for other criminal offenses where "the victim or intended victim is a person" (Wingfield, 2022, para. 5).

In the case of Lithuania, the LRTC temporarily banned or closed down the news with disinformation (The Radio and Television Commission of Lithuania, 2021). In addition, in 2019, LRTC and the parliamentary Committee on Culture had put forward debatable changes to the law on the Provision of Information to the Public (Human Rights Monitoring Institute, 2019, para. 1). These changes would have allowed the LRTC to limit audiovisual media material that threatens the country's interests. The reforms were written in unclear language that didn't meet Lithuania's constitutional provisions or international standards. The bill said that media information should be banned if it:

*"[T]ries to change the historical memory of the Republic of Lithuania, promotes distrust in and dissatisfaction with the country and its institutions, democratic system, and/or military, aims to widen national and cultural divisions, weaken national identity and civic engagement, make people less likely to defend their country, or in any other way affects democracy, elections, or the party system in a way that is harmful to the Republic of Lithuania"* (Human Rights Monitoring Institute, 2019, para. 2).

In reaction, the Human Rights Monitoring Institution NGO said that "the foundation for these adjustments is unclear" and that they might "endanger the freedom to discuss the history and criticize the government in Lithuania" and give the country broad authority to stop the media from spreading information (Human Rights Monitoring Institute, 2019, para. 3-4). The European Court of Human Rights emphasized the significance of freedom, stating that in democratic nations, state intervention or inactivity should be scrutinized by the media

and monitored by public opinion. In addition, the "media have the right to broadcast such political information, but the public has the right to receive it as well"(Human Rights Monitoring Institute, 2019, para. 5). However, one has to note that in the end, RTCL decided no longer to seek to establish amendment in the law on the provision of information to the public a broad prohibition on the publication of information by the mass media based on national security (The Radio and Television Commission of Lithuania, 2020, para. 2).

One can conclude that in the cases of Germany and the UK, the legality of the law under the human right of freedom of expression is questionable due to a vague description of the restrictions and disproportionalities between fines imposed on the platforms and their obligations. It is also important to note that in Lithuania's case, one of the reasons the amendment was suggested not to be implemented was that it was too vague.

**Table 4**

*Limitation of freedom of expression*

	<b>Document/ Approach</b>	<b>Nature of limitation</b>	<b>Discussed by the domestic court</b>	<b>Prescribed by domestic law</b>	<b>Necessity for democratic society</b>	<b>Legitimacy</b>
<b>Lithuania</b>	The law on the provision of information to the public	Restrictions or penalties	Yes	Yes	Yes	Public safety, prevention of disorder, the protection of health or morals, for maintaining the authority
	Committee on RTCL	Restrictions	Yes	Yes	Yes	National security, public safety, prevention of disorder, the protection of health or morals, for maintaining the authority
<b>Germany</b>	The Network Enforcement Act	Conditions, restrictions or penalties	Yes	Partly	Yes	National security, public safety, prevention of disorder, the protection morals, protection of the reputation or the rights of others
	Amendments to the NetzDG Act	N/A	Yes	Partly	N/A	N/A

<b>The UK</b>	Online Harms White Paper	Conditions, restrictions or penalties	No	Yes	Yes	Public safety, prevention of disorder, the protection of health or morals, protection of the reputation or the rights of others
	Online Safety Bill	Conditions, restrictions or penalties	No	Partly	Yes	Public safety, prevention of disorder, the protection of health or morals, protection of the reputation or the rights of others

**4.4. Analysis of soft approach**

This subsection analyzes Germany, Lithuania, UK's soft approaches to regulating fake news. One can note that the soft approach among the states is a new development. In the case of Germany and the UK, the government has its own initiated soft approach, while in Lithuania, the state only supports NGO's initiate.

**4.4.1. Definition**

Differently from the hard approach, soft approaches use specific terms to describe fake news. Overall, Germany (in the #Wahlwissen) and the United Kingdom( in “ Online Media Literacy Strategy”) use the term misinformation, while in Lithuania’s case, it is integrated into the explanation of disinformation (see in Table 5 and Table 6) (Demaskuok.eu, n.d.-b; Department for Digital, Culture, Media & Sport, 2021; Miguel, 2021). However, only the UK provides the actual definition of the term: “[m]isinformation is the inadvertent sharing of false information” (Department for Digital, Culture, Media & Sport, 202, p. 64).

**Table 5**

*Choose the term to describe fake news*

	<b>Term</b>	<b>Strategy</b>
<b>Lithuania</b>	Disinformation	Demaskuok.eu
<b>Germany</b>	Misinformation	#Wahlwissen
	Disinformation	Federal Returning Office- Facts Against Fake News

<b>The UK</b>	Misinformation; disinformation	Online Media Literacy Strategy
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Term disinformation is used in all three states' cases. However, the definitions differ from one another (see Table 6). Of course, there are similarities among them. In the definition of all three cases, the term false information was used. In addition, Lithuania and the UK in the definition identify that the spread of information has to be intentional. The UK and Germany describe that the information purpose of deceiving the public, while Lithuania states is to cause public harm. This difference in wording is interesting, as in both the UK government and European Commission, definitions of phrases ("to deceive" and "cause harm" are included. Also, only in Lithuania's case it is mentioned that disinformation's intent might be to gain profit. Overall, the definition used by Germany is the most broad, while the UK's and Lithuania's are more specific.

**Table 6**

*Comparison of disinformation definition*

	<b>Definition</b>
<b>Lithuania</b>	<i>"Disinformation includes all forms of false, inaccurate, or misleading information which is designed, presented and promoted to intentionally cause public harm or to gain profit. Those can vary from misinformation to actually harmful propaganda" (Demaskuok.eu, n.d.-b, para. 5).</i>
<b>Germany</b>	<i>"Disinformation is demonstrably false or misleading information spread to influence or deceive the public" (Federal Returning Officer, n.d., para. 1).</i>
<b>The UK</b>	<i>"Disinformation is the deliberate creation and/or sharing of false or manipulated information with the intention to deceive or mislead audiences" (Department for Digital, Culture, Media &amp; Sport, 2021, p.64).</i>

#### **4.4.2. Intention and reasoning**

Despite that, Germany and UK have governments initiating soft approaches, their agenda is different, which is due to the various challenges the states are currently facing (see Table 7 and Table 8). In 2021, the UK released the "Online Media Literacy Strategy", whose goal is to increase the understanding of the journalistic process and critical thinking through media literacy (Department for Digital, Culture, Media & Sport, 2021, p. 7). According to the UK's government, it is one of the main ways to deal with disinformation and misinformation. After all, it is an important approach, as UK citizens do not have the ability to determine

falsehood in the media (Department for Digital, Culture, Media & Sport, 2021, p. 7). On the other hand, in the same year, German approaches were released to deal with misinformation and disinformation regarding the elections to prevent citizens’ manipulation (Federal Returning Officer, n.d.; Miguel, 2021). In Lithuania's case, Debunk.eu deals with disinformation in order to prevent division in the society, economic struggles, distrust in the institutions, and to protect the public from false information influencing public opinion (Demaskuok.eu, n.d.-b).

**Table 7**

*The intent of soft approach*

	<b>Lithuania</b>	<b>The UK</b>	<b>Germany</b>
<b>Intent</b>	Raise awareness; Media literacy	Media literacy	Raise awareness

**Table 8**

*The soft approach is linked to these issues*

	<b>Lithuania</b>	<b>The UK</b>	<b>Germany</b>
<b>Linked</b>	Security threat, Social coherent, Economy	Critical thinking, Transparency	Election’s literacy

Interestingly, even though the states have different agendas, they use specific terms to indicate the problem that countries face, that is especially the case for the soft approach. Regarding the soft approach, all the states, one way or another, address the disinformation. On one hand, in the Lithuania case, the government supports the initiatives which come from independent organizations to tackle disinformation and raise awareness. This supports that in Lithuania it is up to the media platforms to implement the measures against disinformation. On the other hand, Germany and the UK have their own governmental initiative.

**4.5. Hard approach in relation to freedom of expression and soft approach**

In the connection to freedom of expression, it is understandable why the European Commission voted against any legislative approach to disinformation (van Hoboken & Fathaigh, 2021, p. 14). After all, for the state, it is hard to fulfill fully all criteria indicated in Article 10, paragraph 2 of ECHR (see section 4.3.3.). Furthermore, one can state that there is a relationship between the issues in the scope of limitations of the hard approach and the

choice of broad primary terms in the document. Interestingly, in the case of Lithuania one did not find sources stating that there is an issue with limitations on characteristics of the right and at the same time it is the only state with a broad scope of soft approach (see Table 9).

**Table 9**

*The hard approach and soft approach*

	Hard approach		Soft approach	
	<i>Some issues on limitation</i>	<i>Main term is specific</i>	<i>Limited time</i>	<i>Narrow scope</i>
<b>Lithuania</b>	No	N/A	No	No
<b>Germany</b>	Yes	No	No	Yes
<b>The UK</b>	Yes	No	No	Yes

In addition, one can note that there is a relationship between the definition of fake information in the hard and soft approaches. On the one hand, in the case of Germany, NetzDG does not have the definition of fake information; instead, it takes the offenses from the German Criminal Code (see Table 1). In the soft approach, Germany defines disinformation, but its definition is the shortest and the vaguest among other case study countries (see Table 6). On the other hand, Lithuania and UK provide the definition of disinformation in their hard approaches, even though the descriptions are vague and short (see Table 1). In soft approaches, both countries' definitions of disinformation are more detailed (Lithuania's definition being the most specific) (see Table 6). Also, one noticed the changes in the similarities between the definitions. Even though in both hard and soft approaches, there is only one term in common (hard approach- intentional, soft approach- fake information) between all three study cases, terminology becomes much more similar between the states in the soft approach (see Table 1 and Table 6).

## Chapter 5. Conclusion and recommendations

### 5.1. Conclusion

This article analyzes the hard approach to disinformation/ misinformation in the way it limits freedom of expression. Based on case studies (Lithuania, Germany and the UK), it was found that the regulations (German- NetzDG; the UK- Online Safety Bill) overall fit the requirements of the limitations of freedom of expression. However, in both mentioned cases in the regulation, the states use too vague and broad definitions. In addition, there is an issue with the proportionality test as fines to the social platforms for not keeping the requirements are disproportionate to the requirements themselves. Oppositely, in Lithuania's case, the restriction on freedom of expression was fully justified. There might be two reasons. Firstly, Lithuania shares the border with Russia, which has a different set of values. Thus, it is much easier to prove the justification of the limitation of the right. Second, the regulation is not only directed at the media platforms. Even though it is true, it might not be a reason as in 2019, RTCL wanted to pass the amendment, which would violate the right and not fit the characteristics of limitations. However, after receiving the analysis/ statements from the human rights organization, RTCL decided not to push forward with the amendment.

Another finding in this article is that the scope of the hard approach might influence the choice of the soft approach. While Germany and the UK use broad terms to describe different issues that regulation (will) address, the soft approaches of both states are limited to one area of concern (media literacy, elections). Differently, Lithuania in regulation directly addresses the disinformation, while its soft approach has different tactics (media literacy, public awareness).

Moreover, the analysis has unexpected findings. Even though the states use the same term (disinformation), they describe it differently, and only some parts are similar. However, it is essential to note that the similarity of wording increased in the soft approach. This development can be explained in two ways. First, the states share soft approaches with similar or the same intent: Lithuania and Germany- to raise awareness; Lithuania and the UK- media literacy. Thus, the specific aspects are more important than others to integrate into the definition. Second, the countries paid more attention to already published definitions. This is the case for the similarities between Germany and the UK, as both states use the phrase "to deceive public/ audience", which is also used in the definition of the European Commission and the UK government. It is important to mention that despite the similarities, neither approach uses the full definition of the European Commission or the UK government.

Furthermore, one noted the hard approach's effect on the definition of the soft approach. Analysis showed that if the legal framework provides a foundation for the definition, it is later elaborated in the soft approach (as in the case of Lithuania and the UK). However, if this is not the case, the soft approach establishes the definition's foundation instead of specifying it.

### **5.2. Recommendations**

Regarding recommendations, the article provides suggestions for the state authorities and the international human rights to prevent the "illegal" limitations of the right to the freedom of expression. In future analyses, it is essential to consider these recommendations: For the governments:

1. Not to use the broad term under which all the topics addressed would fall in, but use the specific terms.
2. To provide a more specific and more detailed definition of disinformation.
3. To define clearly the obligations and criminal offenses.
4. To promote transparency between social platforms and users (that media platforms would provide the report on why the content was deleted)
5. To implement proportionality regarding the fines for the media platforms and the requirements they have to fulfill

For the international human rights organizations:

1. To provide the legislation analysis in regards to human rights before it is published



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## Appendix A Coding Guide

### 1. Hard approach

- 1.1. Definition of fake news/ disinformation (all aspects colored the same color):
  - 1.1.1. Does the document/ strategy only address the fake news/ disinformation?
  - 1.1.2. If not, what is the primary term used in the document?
- 1.2. Characteristic of the limitations of the right (each aspect colored differently):
  - 1.2.1. Prescribed by domestic law
  - 1.2.2. Type of regulation
  - 1.2.3. Necessary for democracy
  - 1.2.4. Legit aim
- 1.3. Other aspects to consider (each aspect colored differently):
  - 1.3.1. Who is the regulator ?
  - 1.3.2. Is the soft approach integrated?
  - 1.3.3. What issues are linked to the regulation?

### 2. Soft approach

- 2.1. Definition of fake news/ disinformation (all aspects colored the same color):
  - 2.1.1. Does the strategy only address fake news?
  - 2.1.2. The term(s) the policy uses.
- 2.2. Other aspects to consider (each aspect colored differently):
  - 2.2.1. What is the aim of the approach?
  - 2.2.2. What issues are linked to the regulation?