# FREEDOM OF SPEECH

## IN THE CONDITIONS OF INFORMATION WAR AND ARMED CONFLICT



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There was conducted the analysis of the situation regarding the observance of freedom of speech in the conditions of information war and armed conflict in Ukraine. There were outlined problematic issues concerning the requirements of information security, possible restrictions in the sphere of freedom of speech, as well as the issue of counteracting the hate speech in the mass media. There are presented the results of the public expertise of the Ministry of Information Policy of Ukraine carried out by experts of the Ukrainian Helsinki Human Rights Union and "Media Detector" NGO.

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# CONTENT

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**STATE POLICY** in the conditions of information and real war is still formed by various actors of decision-making. For these reasons, in Ukraine, we can see on the one hand, unsatisfactory work on the formation of an effective legal response to the "hate speech", slowed down by the lack of appropriate investigative techniques and judicial practice. On the other hand, the authorities are actively resorting to attempts to protect the information space of Ukraine by offering, as a means, imposing a ban on the use of social networks, the development of extrajudicial restrictions on freedom of speech, the delegation to Internet providers of an obligation to increase their technical capabilities in the condition of information war at their own expense.

As a result, all interested actors in the information field of Ukraine are forced to act in opaque terms, when the terms "information security", "freedom of speech", "right to the truth", "hate speech" often do not have well-defined boundaries and jurisdictions.

The research we have proposed includes a legal analysis of documents affecting the establishment of restrictions on freedom of speech, an analysis of the resource capacity of the Ministry of Information Policy as the main coordinator of the activities of the authorities in the field of ensuring information sovereignty of Ukraine, as well as a package of recommendations for the joint development of legislative initiatives, the formation of departmental policies and methods

We hope that the results of the research will help to outline the general boundaries and forms of state regulation of freedom of speech, which are possible in the event of an armed conflict, at the same time defining areas to be regulated exclusively by non-state means (corporate policies, ethical codes).

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# SUMMARY

**THE INFORMATION WAR,** actively accompanying the East Ukraine' armed conflict and Crimea' annexation, for the first time in many years caused the need for a global revision of the state's information policy.

The reasons for this are two factors. At the first, this is an extremely active use by the Russian Federation all methods of information war: disinformation, propaganda, diversification of public opinion, manipulation, psychological and psychotropic pressure; spreading of the rumors. At the Second, neither the authorities nor the civil society were prepared to confront the hybrid armed conflict in the information sphere.

The result of this situation had been the uncoordinated activities of various actors in the field of information policy. The desire of the authorities to victory in the information war has led to attempts of the not well-grounded restriction of the freedom of speech. In particular - in the form of extrajudicial establishment of disproportionate sanctions against foreign media, as well as by establishing the criminal liability for the dissemination or promotion of socially important information on the ATO conduct.

The lack of state policy under information war has led to the threatening trends - the creation by media of the image of the whole Russian population as a «fierce enemy of Ukraine», non-compliance with tolerance during the coverage of the ATO and life of people living in temporarily occupied regions of Ukraine.

The hybrid armed conflict has clearly outlined the need for common standards of objectivity and balance, which should be monitored both by the state and the non-governmental sector. These standards apply to at least three areas:
- resisting the hate speech and propaganda of war;
- development of mechanisms of state interference with freedom of speech, in view of the legality and necessity of such interference;
- a clear division of functions and powers of all subjects of information policy.

To form a coordinated position regarding the possible configuration of the state policy in the area of ensuring freedom of speech, the research team has made the following:

1. The authorities and the non-governmental sector' steps in the sphere of freedom of speech had been analyzed.
2. The analysis of international documents influencing the establishment of restrictions on freedom of speech has been carried out.
3. The Ministry of Information Policy' resources in the field of information sovereignty of Ukraine' ensuring had been analyzed.
4. A package of recommendations was developed for working with authorities and international organizations in order to develop the legislative initiatives, regulations amendments and the formation of departmental policies.

The research has noted the following facts:

- the Ukrainian media lack consistent editorial practices to cover issues related to the conflict. Therefore, journalists are more inclined to be guided by their own experiences and views, rather than by established editorial practices and standards;
- the Ukrainian information sphere needs to be audited regarding the available resources of each of the subjects, its areas of competence and responsibility; existing problems, plans and regulations, coordination mechanisms;
- for the effective coordination of activities of all actors of information policy, it is necessary to develop a «road map» that should coordinate the requirements of information security of Ukraine, international standards in the field of freedom of speech, the right to truth, ethical principles of the work of mass media, including - in the field of counteraction to the hate speech;
- the Ministry of Information Policy work, despite the OSCE's concern, has no significant negative consequences for human rights. However, the Ministry does not fully exercise its powers in terms of protecting and promoting human rights due to lack of resources and political support, competition with other authorities;
- special attention has to be paid to improving the legal reaction to the hate speech: to put the complex definition of hate speech in the Criminal Code of Ukraine; to detail the social groups that may be the subject of criminal law protection; adjusting the legal framework for the activities of units that can counteract the hate speech in the social networks; to develop and introduce the law sanctions with priority of measures of administrative influence in opposition to criminal prosecution.

According to the research results, a package of recommendations had been

formed, which, among other things, suggests to the authorities the following:

To initiate amendments to the Constitution and the legislative system of Ukraine in order to harmonize Ukrainian legislation with regard to any restrictions on the freedom of expression with the Camden Principles on Freedom of Expression and Equity regarding the lawfulness, coherence and necessity of introducing such restrictions.

To submit to the Cabinet of Ministers of Ukraine a Strategy for Donbass Information Reintegration and Strategy for Crimea Information Reintegration. To develop the detailed action plans for these documents, which should include the specific measures to achieve their goals, and a system for monitoring and evaluating their implementation.

To develop an Action Plan to the Strategy for the Ukrainian Legislation Development on freedom of speech and media activities in accordance with European standards, which outlines the areas of responsibility and the level of participation of various authorities (in particular, the Ministry of Information Policy) in the implementation of media reforms.

Taking into account the Rabat Action Plan, take the initiative to develop a public strategy that would promote the pluralism and diversity of the media, would ensure that there is no discrimination in access to and use of communication facilities. Such a strategy may include, for example, the following elements:

- identification of the most problematic threats to freedom of speech through wartime challenges;
- development of the state regulation framework on freedom of speech, adopted to the armed conflict conditions, with the simultaneous definition of areas that should be regulated solely by means of non-state nature (corporate policies, ethical codes);
- development of the methodology for evaluating publications and speeches on the existence of a hate speech;
- development of the websites blocking procedures for reasons of information security;
- the development of clear criteria and indicators for the work of mass media dealing with ethical dilemmas in the field of freedom of speech and the right to truth (UN General Assembly Resolution A / HRC / RES / 12/12, 2009).

# LIST OF ABBREVIATIONS

| | |
|---|---|
| **ATO** | antiterrorist operation |
| **IDPs** | internally displaced persons |
| **VRU** | Verkhovna Rada of Ukraine |
| **CMA** | Civil–military administration |
| **UNGA** | United Nations General Assembly |
| **CO** | Civic organization |
| **DII** | Donetsk Institute of Information |
| **DPR** | the so-called «Donetsk People's Republic» |
| **SBGSU** | State Border Guard Service of Ukraine |
| **ECHR** | European Convention on Human Rights |
| **ECtHR** | European Court of Human Rights |
| **AFU** | Armed Forces of Ukraine |
| **CC** | The Criminal Code of Ukraine |
| **CMU** | Cabinet of Ministers of Ukraine |
| **LPR** | so-called «Luhansk People's Republic» |
| **MFA** | Ministry of Foreign Affairs of Ukraine |
| **MIP** | Ministry of Information Policy of Ukraine |
| **MES** | Ministry of Education and Science of Ukraine |
| **NISS** | National Institute for Strategic Studies |
| **NCCIR** | National Commission for the State Regulation of Communications and Informatization |
| **IMC** | Independent Media Council |
| **NUJU** | National Union of Journalists of Ukraine |
| **NGO** | Non-governmental organization |
| **OSCE** | Organization for Security and Co-operation in Europe |
| **ORDLO** | Separate districts of Donetsk and Luhansk regions |
| **NSDC** | National Security and Defense Council of Ukraine |
| **RF** | Russian Federation |
| **SBU** | Security Service of Ukraine |
| **SCMU** | Secretariat of the Cabinet of Ministers of Ukraine |
| **UHHRU** | Ukrainian Helsinki Human Rights Union |
| **FB page** | a page on the Facebook web site |

# I. KEY RESEARCHES OF THE UKRAINIAN INFORMATION SECTOR OF 2014-2017

**THE INFORMATION WAR,** which actively accompanies the armed conflict in the East of Ukraine and the annexation of Crimea, for the first time in many years has caused the need for a global revision of both the information space and the state information policy. The reasons for this were two factors. In the first turn it is an extremely active use by the Russian Federation of virtually all methods of information war: disinformation, propaganda, diversification of public opinion, manipulation, psychological and psychotropic pressure; spreading rumors[1].

Secondly, neither the authorities nor the civil society were prepared to confront the hybrid armed conflict in the information sphere.

The legal principles of protecting the population from information threats have been declared in a number of regulations[2], but were not executed properly.

Scientific and applied works at the level of dissertation researches were not numerous and concerned mostly theoretical and legal and social aspects: "Theoretical and legal principles of providing information security of Ukraine" (Maksimenko Yu.E., Kyiv, 2007); "Legal regulation of counteraction to information wars in Ukraine" (Abakumov V.M., Zaporizhia, 2011); "Military and information security of Ukraine in conditions of increasing threats of in-

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[1] Gorban Yu.O. Information war against Ukraine and means of its conduct [Electronic resource]. – Access mode: http://visnyk.academy.gov.ua/wp-content/uploads/2015/04/20.pdf

[2] Law of Ukraine «On the Basic Principles of the Development of the Information Society in Ukraine for 2007-2015» of January 9, 2007 No. 537; Decree of the President of Ukraine of 8 June 2012 No. 389 «On the decision of the National Security and Defense Council of Ukraine of June 8, 2012» On the new edition of the Strategy of National Security of Ukraine»; Decree of the President of Ukraine «On Measures to Ensure Information Security of the State» of 18.09.2002 № 836; Decree of the President of Ukraine «On the decision of the National Security and Defense Council of Ukraine of October 31, 2001 «On Measures to Improve State Information Policy and Ensuring Information Security of Ukraine» of December 6, 2001, No. 1193.

formation wars" (Petrov V.V., Kiev, 2010); "Theoretical and legal foundations of informational sovereignty" (Suprun V.M., Kharkiv, 2010); "Information Security Technologies in the System of Social Communications" (Chuvakova O.O., Kyiv, 2012); "Modern Information Wars in Ukraine: Communication, Social and Cultural and Historical Aspects" (Parthenyk I.M., Kyiv, 2013).

The vulnerability of the domestic information space became apparent already in 2014, in view of the lack of well-established political and legal mechanisms of public administration of information security of Ukraine; the lack of programs to protect the population from the destructive effects of the information war, mass raising awareness of the population, including children of school age, student youth, pensioners[3]. Also, the coordination of the actions of state authorities with the civil society, the expert environment and journalists appeared to be rather weak.

Therefore, the priority of the Ukrainian authorities was to change the concept of information security and develop effective measures for counteraction against information and sabotage activities[4].

In the civic sector, since the beginning of 2014, priority activities have been concentrated in three main areas: 1) State information policy in the context of armed conflict; 2) manifestations of hate speech and opposing them; 3) Professional standards of journalists.

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[3] Kolotiy N., Puppeteers of Consciousness [Electronic resource]. - Access mode: (https://dt.ua/TECHNOLOGIES/lyalkovodi-svidomosti-_.html

[4] Gorban Yu.O. Information war against Ukraine and means of its conduct [Electronic resource]. - Access mode : http://visnyk.academy.gov.ua/wp-content/uploads/2015/04/20.pdf

## 1.1. INFORMATION POLICY IN A THE WAR CONDITIONS – THE REVIEW OF BASIC RESEARCHES



*Monitoring "Conflict sensitive coverage of groups that are tangible to the conflict"* (Civic organization "Telekritika", 2015) highlighted the problem of unbalanced information provision by 27 Ukrainian TV channels, which does not contribute to overcoming the barriers caused by the conflict and the establishment of social dialogue. Experts stated that central TV channels pay disproportionate attention to interregional, interethnic and

interdenominational barriers, resort to hate speech, conceal the problems of migrants and almost do not mention volunteers.[5]

***Analytical report "Counteraction to Russian Informational Aggression: Joint Efforts to Protect Democracy"*** (Civic organization "Telekritika", 2015) reflected the dynamics of Russia's informational aggression against Ukraine between February 2014 and March 2015, as well as the consequences of this aggression for information, social, psychological, political and other processes in Ukraine.

The research, in addition to providing a package of recommendations to the state, came to the conclusion that the Ukrainian media apparently lose to Russian ones in the occupied territories. In the south-eastern regions, controlled by Ukraine, for example, a fairly significant percentage of people pessimistically assess the consequences of the Maidan, are confident of the huge losses of the Ukrainian army and have ambiguous attitude to hostilities in Donbas. Among other things, it was noted that the most demanded in the ATO zone is information about missing relatives and friends, losses among civilians and Ukrainian military, as well as actions of local and state authorities[6].

***The Research "Conflict in Media and Media in Conflict"*** ("Lviv Media Forum" Civic organization, School of Journalism, Ukrainian Catholic University, 2015) also stated insufficient coverage of IDPs problems, as was denoted by every fifth respondent in Lviv, Kyiv, Dnipropetrovsk, Kharkiv and Odessa. 78.9% of respondents noted that the conflict in the East of Ukraine was over-represented, while 17.6% of Ukrainians stated the lack of information on mobilization, and 20.4% - about demobilization and demobilized.

At the same time, researchers pointed to the fact that the Russian media actively used the hate speech, which provoked the same reaction in some of the Ukrainian media. Although the phenomenon of hate speech was documented by experts only in 1.7% of the cases of 941,000 analyzed

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[5]   Electronic resource. - Access mode:
http://osvita.mediasapiens.ua/mediaprosvita/research/konfliktno_chutlive_visvitlennya_grup_dotichnikh_do_
konfliktu_rezultati_monitoringu/

[6]   Analytical report «Countering Russian propaganda in the conflict region» Electronic resource. - Access mode:
http://osvita.mediasapiens.ua/mediaprosvita/research/yakim_e_riven_pidtrimki_mesedzhiv_rosiyskoi_
propagandi_u_zoni_konfliktu_sotsiologichne_opituvannya/

information messages of leading Ukrainian media[7].

***The Research "State of information coverage along the boundary line"*** ("Anti-crisis Media Center" Civil organization, 2016) drew the attention of the state to the fact that most of the settlements located along the boundary line are under the informational influence of anti-Ukrainian mass media broadcasting from Russia or the so-called DPR. Accordingly, this requires both a special formation of information policy in the region and the production of high-quality Ukrainian content that could be provided free of charge to local mass media[8].

***"Study of the media situation in the southern and eastern regions of Ukraine"*** ("Institute of Mass Information" Civic organization, 2016) found that the war in the East of Ukraine is not the most interesting subjects for the Ukrainian population. Thus, the war subject is on the first place only for the inhabitants of Dnipropetrovsk, Donetsk, Zaporozhye and Luhansk regions (it was named by 27% -38%)[9].

Analytical Report "Information Challenges of the Hybrid War: Content, Channels, Mechanisms for Counteraction" (National Institute for Strategic Studies, 2016) noted the development of the communicative policy of the state, as well as the coordination of communicative actions between various subjects of power, non-governmental and international organizations, among the main activities under the conditions of information war.[10]

***Monitoring "Black Tree Tower: How Ukrainian Print and Internet Media Cover Sensitive Subjects"*** ("Institute of Mass Information" CO, 2016) has witnessed the existence of a problem of verification of sources of information among mass media - own information of journalists from the ATO zone, as well as checking the authenticity of information from the ATO us-

[7]  The situation in Donbas in the discourse of Ukrainian mass media [Electronic resource]. - Access mode: http://www.nbuviap.gov.ua/index.php?option=com_content&view=article&id=1655:situatsiya-na-donbasi-u-diskursi-ukrajinskikh-zmi&catid=8&Itemid=350

[8]  Access to the media along the boundary line in the Donetsk region [Electronic resource]. - Access mode: http://detector.media/infospace/article/117136/2016-07-24-dostup-do-zmi-vzdovzh-linii-rozmezhuvannya-na-donechchini-doslidzhennya/

[9]  Study of the media situation in the southern and eastern regions of Ukraine [Electronic resource]. - Access mode: https://www.gfk.com/fileadmin/user_upload/dyna_content/UA/2_news-2016/Report_Media-poll_in_Six_Oblasts_UKR.pdf

[10]  Information challenges of the hybrid war: content, channels, countermeasures: An analytical report of the National Institute for Strategic Studies / general editorship of A. Barovska - K .: NISS, 2016. - 109 p., Access mode - http://www.niss.gov.ua/public/File/2016_nauk_anal_rozrob/inform_vukluku.pdf

ing other sources is practically absent. More than half of the information provided by the Internet media about the conflict in the East is reported by the headquarters and the ATO press service, 23% of the information is the OSCE reports, 13% of the information was taken from the FB page of the "Information Counteraction" (Dmytro Tymchuk). 8% of the information were press releases of the SBU.

The research revealed three key issues in the work of the media:

1. Unverified information. More than 90% of print and Internet media do not post their own information from the ATO area, but publish reprints and reposts.
2. Inaccurate formulations, when about 30% of the media repeat the bizarre wordforms of politicians and officials ("Russian-terrorist mercenaries," etc.).
3. All-Ukrainian media have ignored millions of people involved in the conflict, starting from residents of the occupied territories to families of military, volunteers, children, and others. The life of these millions of people takes no more than 0.5% of the total flow of information[11].

*The research "How Russian Propaganda Affects Civic Opinion in Ukraine"* ("Media Detector" CO, 2016) confirmed the existing shortcomings of the state's information policy in covering armed conflict. To the question "What kind of information about the events on Donbas, in your opinion, the media cover not fully enough?" 39.6% of respondents said that it was the information about losses among Ukrainian military, and 35.6% - about the victims among civilian population. 18.2% believe that there is the lack of information about state plans for the development of front-line territories, their economic and social development.

41.7% of respondents believe that they lack information on the strategy and objectives of the state regarding Crimea, 29.1% said that they do not receive it at all. Also, 44.9% think that information about the strategy and objectives of the state regarding the territories in the East uncontrolled today by Ukraine is insufficient, 22,% indicated that they do not receive it at all.

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[11] Black wood tower: How Ukrainian print and online media cover sensitive subjects [Electronic resource]. - Access mode: http://imi.org.ua/analytics/52197-veja-chornogo-dereva-yak-ukrajinski-drukovani-ta-internet-zmi-visvitlyuyut-chutlivi-temi.html

It is quite important that 48.4% of respondents noted in their responses attacks on freedom of speech in Ukraine[12].

*The review of "The Situation of the Ukrainian Language in Ukraine in 2016"* ("Space of Freedom "Volunteers' Movement" CO, 2017), as a result of the information war, stated the elimination of library Ukrainian-language funds, departments and almost all academic chairs of Ukrainian philology in Crimean higher educational institutions. Ukrainian language in the occupied territories of the Donetsk and Luhansk regions is also being destroyed within the framework of the policy of intensive Russification, which is tried to be presented in the form of "objective processes"[13].

*Special report "Main tendencies of media coverage of social and political processes in Ukraine in 2014-2017"* ("Media Detector" CO, 2017) presented the main tendencies of coverage of social and political news - private TV channels in the first place put not the interests of the society, but only the interests of their owners, which leads to a distorted representation of reality. It is obvious that in the conditions of the information war, this state of affairs requires the reform of the channels of the public broadcasting system, given the high level of Russian propaganda activity[14].

*Monitoring of state communication policy in relation to Donbas: methodology* ("Media Detector" CO, 2017) should become the next comprehensive research of the state information policy. In particular, it provides an analysis of the reaction of representatives of state authorities to the information needs of the population in relation to the problems of Donbas; analysis of the strategic vision of the future of the region (controlled and uncontrolled territories) in the reports of various official sources, their political and informational contexts[15].

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[12]  How Russian propaganda affects public opinion in Ukraine (research) [Electronic resource]. - Access mode: http://osvita.mediasapiens.ua/mediaprosvita/research/yak_rosiyska_propaganda_vplivae_na_suspilnu_dumku_v_ukraini_doslidzhennya/

[13]  The state of the Ukrainian language in Ukraine in 2016 [Electronic resource]. - Access mode: http://ukrreporter.com.ua/politic/rosijska-mova-dominuye-v-media-i-sferi-poslug-ukrayinska-v-osviti-ta-kinoprokati.html

[14]  The main tendencies of media coverage of social and political processes in Ukraine in 2014-2017 [Electronic resource]. - Access mode: http://www.osvita.mediasapiens.ua/content/files/dm_news_2014-17_internet.compressed.pdf

[15]  Monitoring of state communication policy concerning Donbas: methodology [Electronic resource]. - Access mode: http://detector.media/monitoring/article/126482/2017-05-31-monitoring-derzhavnoi-komunikatsiinoi-politiki-stosovno-donbasu-metodologiya/

## 1.2. MANIFESTATIONS OF THE HATE SPEECH AND COUNTERACTION TO THEM - THE MAIN RESEARCHES



Hate speech in Ukraine has become the object of attention of experts relatively not long ago, since 2007. Already in 2008, the first comprehensive study "Hate speech: xenophobia or disorder" was published (Gorbacheva O., "Institute of Mass Information" NGO). Subsequently, the research sector was expanded with the publication of "Hate Crime in Ukraine. Victims' Groups and the Spectrum of Consultations in the Non-Governmental Sector" ("European Dialogue" NGO supported by the EVZ Foundation, Berlin, 2010).

*The Research on "The Hate Speech and Prejudice in the Ukrainian Media: Monitoring, Analysis and Prevention"* ("Social Action Center" NGO, 2014), covering leading editions and TV channels, recorded the hate speech in printed editions (173 cases), in the Internet media – 135 cases, on television – 116 cases. According to the research, 45 groups of people became objects of hate speech ("Ukrainians", "Russians", "Chechens", "People of the Caucasus", "LGBT", "The inhabitants of the West of Ukraine", "Black", "Women", "IDPs", etc.). The vast majority of the use of the hate speech is not in journalistic words, but in the citation, 63% of which had the character of xenophobic utterances[16].

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[16] "The Social Action Center" recorded 424 cases of hate speech in the Ukrainian media for 2014 [Electronic resource]. - Access mode: http://osvita.mediasapiens.ua/mediaprosvita/research/tsentr_sotsialna_diya_zafiksuvav_424_vipadki_vzhivannya_movi_vorozhnechi_v_ukrainskikh_zmi_za_2014_rik/

*"Tolerance vs. Hate. Results of the analysis of Ukrainian online editions on the presence of the hate speech»* ("Media Detector" CO, 2017) became a high-quality analysis of the situation in the mass media, when in the process of information war specific groups of people become objects of hate speech: the inhabitants of Russia; inhabitants of temporarily occupied territories of Ukraine (the Luhansk and Donetsk regions, Autonomous Republic of Crimea); ethnic groups; forced migrants; migrants without official documents; people with special needs; drug alcohol and drags addicts; people of certain professions, to which society has ambiguous attitude. At the same time, the research drew the attention of human rights activists to threatening trends - the creation by media the image of the entire Russian population as a "fierce enemy of Ukraine", non-compliance with tolerance during the coverage of the ATO events and the lives of people living in temporarily occupied regions of Ukraine[17].

This discourse was extended by the following monitorings of "Media Detector" "Hate Speech: The way how Ukrainian media ignore journalistic standards"[18] and "The Gypsy Baron", "zeks" and "rashists": the way Zaporizhye mass media spread hate during the whole springtime"[19].

*Monitoring of Internet editions of the occupied districts of the Donetsk and Luhansk regions of Ukraine* ("Institute of Mass Information" NGO, 2017) stated that even in conditions of armed conflict 82% of materials of the Ukrainian Internet media about the self-proclaimed government of the so-called "LPR / DPR" are complementary, 18% are neutral, while there are no critical materials at all[20].

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[17] Tolerance vs. Hate. Results of the analysis of Ukrainian online publications for the presence of hate speech [Electronic resource]. - Access mode: http://detector.media/infospace/article/128312/2017-07-18-tolerantnist-vs-nenavist-pidsumki-analizu-ukrainskikh-onlain-vidan-na-nayavnist-movi-vorozhnechi/

[18] Hate speech: How Ukrainian media ignore journalistic standards [electronic resource]. - Access mode: http://detector.media/infospace/article/128539/2017-07-05-mova-vorozhnechi-yak-ukrainski-zmi-nekhtuyut-zhurnalistskimi-standartami/

[19] «The Gypsy Baron», «zeks» and «rashists»: How Zaporizhye mass media spread hate during the whole springtime [Electron resource]. - Access mode: http://detector.media/infospace/article/127783/2017-07-07-tsyganskii-baron-zjechki-i-rashisty-kak-vsyu-vesnu-zaporozhskie-smi-tirazhirovali-vrazhdebnost/

[20] The analysis of Internet media of so-called «DPR» and «LPR»: every tenth news contains hate speech towards Ukrainians, 11% of news are fake [Electronic resource]. - Access mode: http://imi.org.ua/news/analiz-internet-zmi-tzv-dnr-ta-lnr-u-kojniy-desyatiy-novini-mova-vorojnechi-schodo-ukrajintsiv-11-novin-feyki/

*Monitoring "The Hate Speech in the print media of Donbas on both sides of the front line"* ("Donetsk Institute of Information" NGO, 2017) has studied eight editions on both sides of the boundary line, and stated that printed media that are on the territory of the ORDLO use hate speech much more often (26% in the publications of the so-called DPR and 2.13% in publications in the controlled territory). In a situation of military conflict, this situation does not contribute to the closure of the conflict and to overcoming of its consequences.[21]

## 1.3. PROFESSIONAL STANDARDS OF JOURNALISTS



*The report "Information Content of TV and Radio Channels Involved in the Public Broadcasting System: Trends of 2014-2016"* ("Media Detector" CO, 2017) confirmed the lack of uniform formal requirements for the quality of the content of Ukrainian mass media at the time of writ-

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[21] Printed editions of ORDO for 26% consist of hate speech - the research of DII [Electronic resource]. - Access mode: http://detector.media/infospace/article/127569/2017-07-03-drukovani-vidannya-ordo-na-26-skladayutsya-z-movi-vorozhnechi-doslidzhennya-dii/

ing, as well as the lack of progress in respecting professional standards, which is why news remains of poor quality. Among other conclusions, the report focused attention on the urgency of developing guidelines and recommendations for media professionals that would allow ethical and professional requirements to be met when preparing materials[22].

Due to the urgency of unitary professional standards, one can not ignore the *"Glossary of Neutral Terminology"*, developed by the "Institute for Mass Information" NGO on conflicts in the East of Ukraine and Crimea, which may be used by journalists[23].

*The report on Monitoring of Journalistic Standards in the Internet Media and Printed Media II quarter 2017* ("Institute of Mass Information" NGO, 2017) continued a series of reviews conducted by the Institute of Mass Media on a regular basis from 2010 on criteria of professional standards and the level of their observance by journalists of 15 Ukrainian mass media. According to the results of the second quarter of 2017, for example, the rating of Ukrainian national sites was headed by the "League" edition, in which 96% of the materials were written without any violations of journalistic standards. Among printed media, "Today" newspaper took the first position, in which 65% of the materials were written without violating journalistic standards.[24]

[22]  Information Content of TV and Radio Channels involved in the Public Broadcasting System: Trends of 2014-2016 [Electronic Resource]. - Access mode: http://stv.detector.media/reformuvannya/movlennya/informatsiyniy_kontent_tele_ta_radiokanaliv_zaluchenikh_u_sistemu_suspilnogo_movlennya_tendentsii_20142016_rokiv/

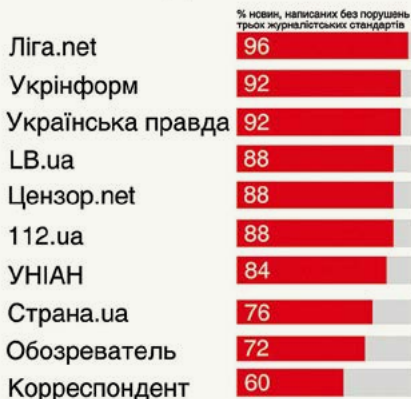[23]  Glossary of neutral terminology [Electronic resource]. - Access mode: http://imi.org.ua/photos/2015_07/1437051181.jpg

[24]  The report on monitoring of journalistic standards in the Internet media and printed media II quarter 2017 [Electronic resource]. - Access mode: http://imi.org.ua/monitorings/zvit-z-monitorynhu-zhurnalistskyh-standartiv-v-internet-zmi-ta-presi-ii-j-kvartal-2017-roku/

# Рейтинг ЗМІ за дотриманням журналістських стандартів

## ІНТЕРНЕТ-ВИДАННЯ

% новин, написаних без порушень трьох журналістських стандартів

| Видання | % |
|---|---|
| Ліга.net | 96 |
| Укрінформ | 92 |
| Українська правда | 92 |
| LB.ua | 88 |
| Цензор.net | 88 |
| 112.ua | 88 |
| УНІАН | 84 |
| Страна.ua | 76 |
| Обозреватель | 72 |
| Корреспондент | 60 |

## ДРУКОВАНІ ВИДАННЯ

% новин, написаних без порушень трьох журналістських стандартів

| Видання | % |
|---|---|
| Сегодня | 65 |
| КП в Украине | 52 |
| Факты и комментарии | 52 |
| Газета по-українськи | 48 |
| Вести | 30 |

ПРЕСА

|  | ІНТЕРНЕТ-ВИДАННЯ | ДРУКОВАНІ ВИДАННЯ |
|---|---|---|
| БАЛАНС ДУМОК І ТОЧОК ЗОРУ | 93% * Корреспондент (80%)** УП, Lb.ua (по 100%)*** | 79% * ГПУ (68%)** Факты (88%)*** |
| ДОСТОВІРНІСТЬ | 92% Корреспондент (72%) Укрінформ, Ліга.net, 112.ua (по 100%) | 76% Вести (56%) КП в Украине (96%) |
| ВІДОКРЕМЛЕННЯ ФАКТІВ ВІД КОМЕНТАРІВ | 92% Обозреватель (80%) Укрінформ, УНІАН Ліга.net (по 100%) | 81% Вести (65%) Сегодня (95%) |

* середній показник дотримання стандарту  ** найгірше видання  *** найкраще видання

Десять популярних онлайн-видань та п'ять друкованих видань аналізували експерти ІМІ у травні 2017 року на предмет дотримання ними трьох журналістських стандартів (баланс, достовірність та відокремлення фактів від коментарів).
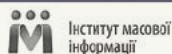
***The above review allows us to summarize the following:***

1. There is considerable pluralism in the Ukrainian mass media in approaches and editorial policies to highlight the conflict, and there is a high level of uncertainty among journalists regarding professional guidance; this is an indication that the Ukrainian journalistic community has not yet developed universal rules.

2. The Ukrainian media lack institutionalization of editorial practices on coverage of issues related to conflict. So, in general, journalists are more likely to be guided by their own experiences and views, rather than by established editorial practices and standards.

3. Emotional stress accompanies the coverage of the conflict and the feeling of empathy affected the rethinking by journalists of their professional role in a conflict situation. Most journalists believe that they can not be completely "over the situation", although many are aware of the danger of such a position.

4. Lack of state policy in the field of human rights protection in the context of information war leads to threatening trends - the creation by mediamen of the image of the whole Russian population as a "fierce enemy of Ukraine", non-compliance with tolerance during the coverage of the ATO events and the lives of people living in temporarily occupied regions of Ukraine.

5. In general, in the Ukrainian journalistic environment there is an understanding of the normative importance of the standards of objectivity and balance, but in the context of the conflict journalists feel uncertain about the possibility of observance of these standards without potential harm to the country.

6. Journalists consider themselves relatively free to highlight issues related to the conflict (especially in relation to political issues), but some journalists feel pressured by the editorial staff, public pressure and are conscious about possible self-censorship. In particular, it is about avoiding subjects that could harm the image of the Ukrainian military and play on Russian propaganda.

# II. PROTECTION OF FREEDOM OF SPEECH: ACTIONS OF THE AUTHORITIES AND NON-GOVERNMENTAL SECTOR

## 2.1. ACTIONS OF THE AUTHORITIES



Among the most significant initiatives of the authorities should be mentioned the adoption in 2016 of the Doctrine of Information Security of Ukraine, which states that there is a devastating informational influence of the Russian Federation in the conditions of the started by it hybrid war. In this regard, among the priorities of the state policy in the information sphere are also noted:

- legislative regulation of the mechanism of detection, fixation, blocking and removal from the information space of the state, in particular from the Ukrainian segment of the Internet, information that threatens the life and health of Ukrainian citizens, promotes war, national and religious hate, the change of the constitutional order by violent means or violation territorial integrity of Ukraine, threatens state sovereignty, propagates communist and / or national-socialist (Nazi) totalitarian regimes and their symbolism;
- development of legal instruments for the protection of human rights and citizens for the free access to information, its dissemination, processing, storage and protection.[25]

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[25] Decree of the President of Ukraine No. 47/2017 «On the decision of the National Security and Defense Council of Ukraine of December 29, 2016» On the Doctrine of Information Security of Ukraine « [Electronic resource]. - Access mode:  http://www.president.gov.ua/documents/472017-21374

As the most significant measure of respond to the challenges of the information war can be considered the creation of the **Ministry of Information Policy of Ukraine** in 2015, which was identified as the main body in the system of central executive authorities in the field of ensuring Ukraine's informational sovereignty.



МІНІСТЕРСТВО ІНФОРМАЦІЙНОЇ ПОЛІТИКИ УКРАЇНИ

Among the key tasks of the ministry is the development of the strategy of Ukraine's information policy, the concept of information security of the state, as well as counteracting information aggression of Russia. The strategic directions of the Ministry's activities include information re-integration of temporarily uncontrolled territories of the Luhansk and Donetsk regions; annexed Crimea and internally displaced persons.

That is why during 2015-2017 the Ministry, among others, developed:

- Draft Order of the Cabinet of Ministers of Ukraine "On Approval of the Concept of Information Security of Ukraine" (2015);
- Strategy for the Information Reintegration of Internally Displaced Persons (2016)
- Draft Order of the Cabinet of Ministers of Ukraine "On Approving the Strategy of Information Reintegration of Crimea" (2017);
- Draft Order of the Cabinet of Ministers of Ukraine "On Approval of the Strategy of Information Reintegration of Separate Territories in the East of Ukraine, on which the state authorities temporarily do not exercise their powers, and territories adjacent to the area of the anti-terrorist operation" (2017).

The protection of freedom of speech, declared as one of the main values of the ministry, is executed mainly in the areas of physical protection of journalists and technological aspects of the protection of the state's information space.

For the first direction by the Ministry in 2017 there was created the working group on monitoring and responding to the facts of violations of freedom of speech and the right to professional journalism. The working group cooperates with the Council of Europe Platform, including 23 announcements of the violations of freedom of speech and attacks on journalists in Ukraine reported on the Platform.

The second direction is more remarkable by the results of the restoration and dissemination of the national broadcasting system in the Donetsk, Luhansk and Kherson regions territories (the construction of broadcast and telecommunication towers, the installation of digital, analog and FM transmitters)[26].

Acting actively in the field of counteraction to negative informational influences, the Ministry publicly assures that the state has no intention to regulate the information space[27].



СЛУЖБА БЕЗПЕКИ УКРАЇНИ

*The Security Service of Ukraine* took a slightly different position, stressing the danger coursed by more than 800 anti-Ukrainian groups in social networks.[28], because of what part of social networks should be blocked on the territory of Ukraine.

Having accepted such a position of the SBU, the President by his decree enforced the decision of the *National Security and Defense Council of Ukraine* of April 28, 2017 "On the Application of Personal Special Economic and Other Restrictive Measures (Sanctions)". The sanctions concerned 468 legal entities and 1228 individuals, as well as provided ban of the web resources mail.ru, Yandex, social networks VKontakte and Odnoklassniki. Earlier, on September 16, 2015 and October 17, 2016, the President had already is-

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[26]  Ministry of Information Policy of Ukraine, official site, http://mip.gov.ua/

[27]  Stereotypes about migrants do not leave the Ukrainian media [Electronic resource]. - Access mode: http://detector.media/infospace/article/123013/2017-02-10-stereotipi-pro-pereselentsiv-ne-pokidayut-ukrainski-media

[28]  In Russian social networks, there were identified about 800 anti-Ukrainian groups - Hrytsak [Electronic resource]. - Access mode: http://detector.media/infospace/article/126320/2017-05-25-u-rosiiskikh-sotsmerezhakh-viyavleno-blizko-800-antiukrainskikh-grup-gritsak/

sued similar sanctions, which affected foreign journalists, bloggers and TV channels.[29]

Web resource blocking has been negatively evaluated by virtually all target groups. International and national experts have noted the violation of the principle of proportionality of the state's interference with freedom of speech, as well as the non-objective and extrajudicial order of the closure of a number of web resources. In addition, at the time of the Presidential Decree, the mechanism for its implementation was not yet elaborated, but there were no technical possibilities for blocking Russian sites.[30]

By developing its own position on the possibilities of restricting freedom of speech in conditions of armed conflict, the SBU established the Civil Platform for Legal Assessment of the Methods of Hybrid War, on pages of which the SBU Head insisted that "... adequate repression of the enemy requires decisive joint actions, a combination of the force of law and public opinion as weapons against Russian aggression in the information space", therefore, it is necessary " ... to conclude an act of informational unity of Ukrainian journalists in confronting the enemy" and to announce a boycott "to all representatives of the fifth column of the Russian Federation in the information space of Ukraine"[31].

Within the framework of this initiative, on July 28, 2017, the first round table devoted to counteracting the Russian information aggression - "Improving the legislation of Ukraine on combating the hybrid aggression of the Russian Federation in the information sphere as a condition for



ensuring the national security of Ukraine" was held on the basis of the National Academy of the SBU. The organizers reported that more than 300

29    Under the sanctions of the National Security and Defense Council there were 12 journalists, 2 bloggers, and 4 TV channels - [Electronic resource]. - Access mode:  http://detector.media/infospace/article/119795/2016-10-18-pid-sanktsii-rnbo-potrapili-12-zhurnalistiv-2-blogeri-4-telekanali/

30    Blocking Internet resources is in contradiction with the understanding of freedom of speech - the Council of Europe. - [Electronic resource]. - Access mode: http://detector.media/infospace/article/126033/2017-05-17-blokuvannya-internet-resursiv-ide-vrozriz-iz-rozuminnyam-svobodi-slova-rada-evropi/

31    SBU – the Public platform for legal evaluation of hybrid war methods - [Electronic resource]. - Access mode https://www.facebook.com/platformazmin/

concrete proposals have already been received by the SBU to improve the counteraction to Russian information aggression in key areas.[32]

Despite the measures taken, the position of the various authorities in responding to the violation of imposed sanctions was quite diverse. So the NSDC reported that they will not punish those who will find the opportunity to use the forbidden Russian Internet resources[33].

On the other hand, the National Commission on State Regulation of Communications and Information (NCSRCI) stated that Internet providers failing to comply with the decision of the National Security and Defense Council regarding sanctions would be brought to administrative liability and imposed a fine of one hundred to two hundred non-taxable minimum incomes. Violations committed repeatedly during a year impose a fine of two hundred to three hundred non-taxable minimum incomes of citizens[34]. The Department of Cyberpolicies of the National Police of Ukraine just appealed to citizens to report on the fact of non-fulfillment of the Presidential Decree on the blocking of Russian Internet resources.

The Minister of Information Policy unveiled his position on the imperfection of the closure of web resources and the need to execute such measures solely by a court order.



НАЦІОНАЛЬНА РАДА
З ПИТАНЬ ТЕЛЕБАЧЕННЯ
І РАДІОМОВЛЕННЯ

*The National Council for Television and Radio Broadcasting* also plays its role in regulating information policy, for example, in September 2016 it issued o the "Planet" TV channel (Television Network "Unika-TV" Ltd) warning against

[32] The first round table dedicated to counteracting Russian information aggression took place in Kiev - [Electronic resource]. - Access mode: http://in-kyiv.com.ua/2017/07/29/news/v-kiyevi-vidbuvsya-pershiy-krugliy-stil-prisvyacheniy-protidi%D1%97-rosiyskiy-informaciyniy-agresi%D1%97/

[33] Users will not be punished for bypassing the blocking of Russian Internet resources - the National Security and Defense Council - [Electronic resource]. - Access mode: http://detector.media/infospace/article/126122/2017-05-19-koristuvachiv-ne-karatimut-za-obkhid-blokuvannya-rosiiskikh-internet-resursiv-rnbo/

[34] Providers will be fined for non-compliance with Poroshenko's decree on blocking Russian resources - [Electronic resource]. - Access mode: http://detector.media/infospace/article/126022/2017-05-17-provaideriv-shtrafuvatimut-za-nevikonannya-ukazu-poroshenka-shchodo-blokuvannya-rosiiskikh-resursiv/

the spread of xenophobic and chauvinistic statements. And later, the Council sent a letter to the Security Service of Ukraine asking for measures of influence on the "Planet" TV channel[35].

Attempts of insufficiently substantiated restriction of the right to freedom of speech are observed at the level of legislative initiatives. For instance, on 09.06.2015, the Draft Law No. 2050a was registered, which provided for a ban on the dissemination or promotion of information on the conduct of anti-terrorist operations without the permission of the operational headquarters.

The desire of the authorities to ensure the suppression of socially important information (level of equipment, provision and moral and psychological state of military servicemen and law enforcement officers, the state of execution of work by the enterprises of the defense industrial complex for the development, manufacture, repair and modernization of armaments and military equipment) led to an attempt to implement this in the easiest way, namely, by establishing a criminal responsibility for spreading or promoting the dissemination of information about conducting of the anti-terrorist operation without the permission of the operational headquarters. The provisions of the Draft Law are formulated despite to repeated statements of mass media workers about the unsatisfactory state of coverage of such important issues as the consideration of the needs of servicemen in the organization of military operations, the level of corruption in the Armed Forces, the state of discipline, cases of hazing, etc.[36]

Despite the criticism of this Draft Law by human rights activists, this Draft Law in 2017 was included in the agenda of the session of the Verkhovna Rada.

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[35] The National Council complained to the SBU on the «Slavic-Aryan» TV channel - [Electronic resource]. - Access mode: http://detector.media/infospace/article/118492/2016-09-06-natsrada-poskarzhilasya-sbu-na-slovyano-ariiskii-telekanal/

[36] How journalists see their role in highlighting the conflict in eastern Ukraine - [Electronic resource]. - Access mode: http://detector.media/infospace/article/113865/2016-03-28-yakoyu-zhurnalisti-bachat-svoyu-rol-u-visvitlenni-konfliktu-na-skhodi-ukraini/

## 2.2. ACTIONS OF THE NON-GOVERNMENTAL SECTOR



One of the positive results of 2014-2015 there was the recognition by the majority of journalists of the extremely negative role of the hate speech that could split the Ukrainian society. Extremely radical patriotic coverage of the military confrontation in the East can cause a substitution of values, and at neutral-minded citizens a reciprocal reaction.[37] Human rights activists also noted the need to avoid the hate speech under the guise of patriotism in order not to get closer to examples of Russian propaganda that is far from European values. The consolidation of positions logically led to the creation at the end of 2015 of Independent Media Council (NMC), formed by 15 experts from media organizations ("Center for Democracy and Rule of Law", "Institute for Mass Information", "Internews-Ukraine", "Media Detector", "Society" Foundation).



The most notable activity of the NMC since 2016, there was the decision made by the Council on a number of national TV channels that al-

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37   Likhobabina O. From neutrality to hate speech - [Electronic resource]. - Access mode: http://imi.org.ua/analytics/49766-vid-neytralnosti-do-movi-vorojnechi.html

lowed in their materials the violation of ethical and professional norms, and also violated the legal norms on the inadmissibility of discrimination and the spread of hate speech, covering the subject of refugees and asylum seekers.[38] The NMC also approved the decision in the case of the appeal of the National Council of Ukraine on Television and Radio Broadcasting on the issue of the "Open Microphone" broadcast on radio "AKS" dated April 25, 2016, in which hate speech against the Crimean Tatars was recorded. In addition, the National Migration Service has prepared its first recommendation to the National Council on content regulation[39].

Also, in 2016, a joint project on overcoming hate speech in the media, initiated by the "Media Detector" NGO, the National Union of Journalists of Ukraine and the Office of the United Nations High Commissioner for Human Rights was started. The project's focus is on issues of migration, gender, religions, nationalities and Ukrainian-Russian relations.[40]



## 2.3. PUBLIC EVENTS

During 2015 there were at least two significant round tables on issues of information policy and freedom of speech. This was, for example, *the round table "Countering Russian Information Aggression: Common Endeavors to Protect Democracy"* ("Telekritika" CO, Internews Network), which discussed asymmetric measures to counter Russian propaganda and the issue of developing a national media product that

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[38]  Ukrainian media resorted to discrimination and xenophobia, highlighting the issue of refugees in Yagotin, the decision of the Independent Media Council - [Electronic resource]. - Access mode:http://detector. media/community/article/114093/2016-04-05-ukrainski-zmi-vdalisya-do-diskriminatsii-ta-ksenofobii-visvitlyuyuchi-temu-bizhentsiv-u-yagotini-rishennya-nezalezhnoi-mediinoi-radi/

[39]  The Independent Media Council revealed hate speech towards the Crimean Tatars on the «AKS» radio - [Electronic resource]. - Access mode:http://detector.media/infospace/article/119118/2016-09-27-nezalezhna-mediina-rada-viyavila-movu-vorozhnechi-na-adresu-krimskikh-tatar-na-radio-aks/

[40]  Ukrainian media organizations jointly with the UN are launching a project to overcome hate speech - [Electronic resource]. - Access mode: http://detector.media/infospace/article/117718/2016-08-12-ukrainski-mediaorganizatsii-spilno-z-oon-rozpochinayut-proekt-z-podolannya-movi-vorozhnechi/

could reduce the influence of Russian mass messages[41].

*The round table "The Problem" of hate speech in the Ukrainian media"* (National Union of Journalists of Ukraine, Independent Media Trade Union of Ukraine, September 2015) stated that hate speech in the Ukrainian media has always existed, but has gained active use since the beginning of the Maidan and an armed conflict. Local media often uses hate speech towards residents of other regions, and hate speech is used in visual forms - photos, videos, demotivators. The most common use of hate speech was recorded in Correspondent.net. (30%), as well as in resources 24tv.ua, Tsn.ua, Tsensor.Net, Voice of Ukraine, Ukrinform, LigaBusinessInform, Gazeta.ua and Segodnya.ua. The reasons for using of hate speech were the emotional engagement of journalists in the conflict, ultrapatrioticism, incompetence, laziness, the influence of the media owner, the lack of experience in coverage of the war[42].



The theme of the prevalence of hate speech in the Ukrainian media continued in a year and a half *the round-table discussion entitled "Ethics of journalists' coverage of the issues of IDHs, migrants and refugees. The role of mass media in overcoming the split of the society"* ("Media Detector" CO, "N-Ost" NGO (Germany), February 2017). The speakers focust their attention on that stereotypes about internally displaced persons remain extremely large in the Ukrainian media, while Ukrainian media pay little attention to the issue of discrimination of migrants by the state itself.[43]

*The expert round table entitled "Opportunities for State regulation in the context of counteraction to hate speech"* ("Media Detecto" CO, July 2017) highlighted the issue of regulatory measures that the state should take to

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[41] Own narrative instead of counter propaganda - [Electronic resource]. - Access mode: http://osvita.mediasapiens.ua/monitoring/advocacy_and_influence/vlasniy_narativ_zamist_kontrpropagandi/

[42] Avoiding hate speech bring peace closer - [Electronic resource]. - Access mode: http://osvita.mediasapiens.ua/ethics/standards/unikannya_movi_vorozhnechi_nablizit_mir/

[43] Stereotypes about migrants do not leave the Ukrainian media - [Electronic resource]. - Access mode: http://detector.media/infospace/article/123013/2017-02-10-stereotipi-pro-pereselentsiv-ne-pokidayut-ukrainski-media/

respond effectively to the use of hate speech in the media. At the same time, the common position of the Ministry of Information Policy and NGO experts was the belief in the superiority of administrative sanctions over criminal.

In 2016, the attention was attracted by thematic content of *the round table "Coverage of the Conflict in Ukrainian Media: Policies, Practices, and Finding Solutions"* ("Media Detector" CO, March) which is focused on the lack of consistent editorial practices, which has made journalists of at least 42 studied media at coverage of sensitive topics to follow mainly their own experiences and views. Participants of the round table discussed the lack of media professionalism in covering the conflict, the inability of journalists to follow ethical standards at work, as well as the facts of silencing by mass media sensitive subjects (the problem of migrants, families of the dead, etc.) A separate issue was the question of reproducing the true picture of events in the East of Ukraine due to the lack of high-quality journalistic investigations and the fears of witnesses to talk about the real scale of human rights violations in the ATO zone. There was stated the general imbalance in coverage of problems in favor of military as compared to the categories of IDPs and the civilians of the ORDLO[44].

*The International Conference "Media Participation in Reconciliation: Lessons for Ukraine"* (OSCE Project Coordinator Office in Ukraine, "Media Detector" CO, May 2016) provided an opportunity to discuss the role of the media in facilitating dialogue during the conflict, building confidence in the post-conflict surrounding as well as in counteraction to the propaganda of war and hatred in the media.

An important component was the experience of countries where armed conflicts took place (Yugoslavian wars, Trans-Dniester and Karabakh conflicts, opposition in Northern Ireland), review of standards and recommendations for the Ukrainian media community on conflict-sensitive reporting.[45]

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[44] How journalists see their role in highlighting the conflict in the East of Ukraine - [Electronic resource]. - Access mode: http://detector.media/infospace/article/113865/2016-03-28-yakoyu-zhurnalisti-bachat-svoyu-rol-u-visvitlenni-konfliktu-na-skhodi-ukraini/

[45] The role of journalists in conflict situations: how not to separate, but to restore trust - [Electronic resource]. - Access mode: http://prportal.com.ua/Peredovitsa/rol-zhurnalistiv-v-umovah-konfliktu-yak-ne-roziednati-vidnoviti-doviru

***The above review allows us to summarize the following:***

1. The desire of the authorities to win in the information war now leads to attempts of not reasonable enough restriction of the right to freedom of speech, in particular in the form of extrajudicial establishment of disproportionate sanctions against foreign media, and by establishing criminal liability for the dissemination or promotion of publicly important information on the conduct of the ATO.

2. The information war clearly outlined the need for common standards in responding to hate speech, which should be monitored both by the state and by the non-governmental sector.

3. Measures to respond hate speech should provide a fairly wide range of concerted actions of actors of influence:

- formation of a clearer definition of the term "hate speech"; development and introduction of sanctions with priority of measures of administrative influence in opposition to criminal prosecution;
- improvement of the regulatory framework, including the Law of Ukraine "On the Principles of Prevention and Counteraction of Discrimination in Ukraine";
- identification of the most effective spheres of control (printed media, online media, social networks, TV channels);
- strengthening the expertise of expert institutions in analyzing materials for the presence of hate speech;
- the level of investigative and judicial practice in cases of counteraction to hate speech.

4. Effective coordination of the activities of all actors in the implementation of the Doctrine of Information Security can begin with the creation of a roadmap with simultaneous analysis of available resources of each of the actors, their areas of competence and responsibility; existing problems, plans and level of normative maintenance of the main functions in the field of information security.

5. The multidirectional problem issues in the context of information war may also require the development of a separate normative act that harmonizes the requirements of information security of Ukraine, international standards in the field of freedom of speech, the right to truth and ethical principles of the work of the media, including in the area of counteraction to hate speech.

# III. INTERNATIONAL LEGAL BASIS FOR OBSERVANCE OF FREEDOM OF SPEECH IN CONDITIONS OF ARMED CONFLICT

In conditions of armed conflicts, freedom of speech, as one of the most important freedoms, is always tested by the society, which put rather pragmatic questions: if the state can compromise freedom of speech in exchange for security and social harmony. Is freedom of speech an urgent need and an integral part of a democratic state in a crisis?

Therefore, it is useful for this situation to mention the famous *"theory of four values"* by the American professor T. Emerson (1970), who distinguished four public values, which protection freedom of speech is aimed at:



- ensuring the development of personality;
- gaining knowledge and establishing truth;
- ensuring the participation of all members of society in the process of making state decisions;
- the formation of a more capable to change, and accordingly, a more sustainable society through the balance of healthy public discussions and the necessary consent of citizens for decision-making.[46]

The decision of the House of Lords in the United Kingdom (1999) almost similarly outlines the value of freedom of speech for a democratic society and the implementation of the rule of law principle:

"... freedom of expression of course, is very important: it is valued by itself. However, it is recognized that its value is also instrumental in nature - it serves the achievement of many important objectives. Firstly, it promotes

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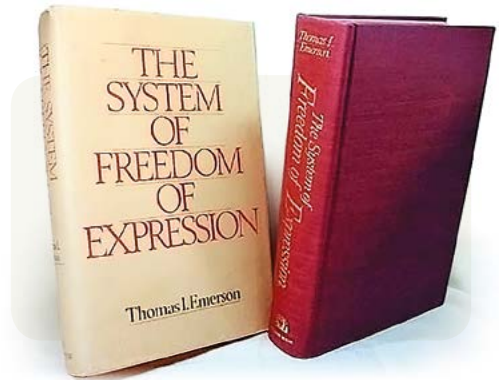
[46]    T.Emerson, The System of Freedom of Expression, 1970.

the self-realization of individuals in society. Secondly, in the well-known words of Judge Holmes, "the best proof of truth is the perception of opinion in the process of competition in the market [of ideas]". … Thirdly, freedom of speech is the body and blood of democracy. The free exchange of information and ideas determines political debate. It is a "safety belt": people are more willing to submit to decisions that go against their interests, if they were in principle able to influence them. It acts as a brake on misuse of power by officials. It helps to identify mistakes in government and the administration of justice in the country."[47]

A fairly similar position can be found in the **Rabat Action Plan** (2014): "The realization of the right to freedom of expression makes possible a lively, multifaceted debate on issues of interest to the public, which express the various approaches and points of view. Respect for freedom of expression plays a crucial role in ensuring democracy and sustainable development of human potential and contributes to the establishment of peace and security on earth" (cl.8).[48]

### *Whether freedom of speech can be limited?*

Yes, it can be. However, the legality of the restrictions on freedom of speech is subject to the well-known standard of the ECHR, which considers the following components of state interference in the realization of human rights and fundamental freedoms:

- Whether the interference with freedom of speech was "established by law";
- whether such interference pursued a "legitimate purpose";
- whether such interference was "necessary in a democratic society".
  1. "Established by law". This term requires at least 3 elements:
- the domestic law must comply with the Convention, including set out or general principles that are implied. At the core of the term "in accordance with the law" there is the concept of a just and proper pro-

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47  R.v. Secretary of State for the Home Department, ex parte Simms and another [1999] 3 All ER 400 (House of Lords) per Steyn LJ, at 407.

48  Rabat Action Plan on Prohibition of the Promotion of National, Racial, or Religious Hatred, which is Incitement to Discrimination, Hatred or Violence (2014). Conclusions and recommendations of the four regional expert meetings organized by OHCHR in 2011 adopted by experts in Rabat (Morocco) on October 5, 2012. http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

cedure and the requirement itself that any measure that deprives a person of liberty is appointed and performed by the relevant body and is not arbitrary.[49]

- In order to prevent the arbitrariness of laws, the law must be publicly accessible in order for the citizen to know that under this circumstance precisely this law is applied;

- a rule is not the rule of law, unless it is formulated sufficiently clear, that the citizen was able to regulate his behavior, and also in the case of providing him with qualified advice, could reasonably predict the consequences to which his certain action would lead.[50]

In other words, accessibility, clarity and predictability are considered by the ECHR as an integral part of the "guarantees of sound democratic legitimacy".[51]

2. "Legitimate purpose" of interference

The legitimate grounds for restricting freedom of expression are expressly set out in Article 10 (2) of the ECHR, namely:

- National security;
- Territorial integrity or public security;
- Maintenance of order or crime prevention;
- Maintenance of health and morals;
- Protection of the reputation or rights of other persons;
- Preventing the disclosure of confidential information;
- Maintaining authority and impartiality of the court.

3. "Necessity in a democratic society"

The application of this legal standard is based on three basic elements:

- correspondence of state interference with freedom of speech to so-called "urgent public need";

- proportionality to the legitimate purpose pursued during such interference;

- the adequacy and sufficiency of the arguments provided by the au-

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[49]  Winterwerp v. The Netherlands (1979) 2 EHRR 387, ECtHR, § 45.

[50]  Sunday Times v. United Kingdom (1979) 2 EHRR 245,271.

[51]  Delmas-Marty The European Convention for the Protection of Human International Protection versus National Restrictions (Dordrecht 1992), p. 324.

thorities to explain the interference with freedom of expression.[52]

The practice of the ECtHR has been reflected in the Recommendation of the Committee of Ministers of the Council of Europe "On the Protection of Freedom of Expression of Views and Information in Crisis Times":

"Member States should not restrict citizens' access to information in times of crisis and go beyond the limits of Article 10 of the European Convention on Human Rights and interpreted in the practice of the European Court of Human Rights.

Member States should not impose restrictions on the freedom of expression and information on uncertain terms during times of crisis. Incitement to violence and violations of public order requires a proportionate and clear definition"[53].

### *What legal standards protect freedom of the press?*

Despite the fact that Article 10 of the Convention does not provide separate guarantees to the press, the ECtHR, by applying the principle of extended interpretation, raised a number of special rights of journalists which are auxiliary or derivative of the right to freedom of expression: the right to estimated judgment (Lingens v. Austria, 1986[54], De Haes and Gijsels v. Belgium, 1997[55], Dalban v. Romania, 1999[56], Oberschlick v. Austria (No 2), 1997[57]); the right to exaggerate and provokes (Prager and Oberschlick v. Austria, 1995)[58]; the right to preserve the confidentiality of sources of journalistic information (Goodwin v. the UK, 1996)[59]; the right to use the

[52]  Shevchuk S. Judicial protection of human rights: The practice of the European Court of Human Rights in the context of the Western legal tradition. - 2nd Publ., revised, amended. - K. .: Abstract, 2007. - 848 p., P. 477.

[53]  Recommendations of the Committee of Ministers of the Council of Europe «On the Protection of Freedom of Expression of Views and Information in Crisis Times». Adopted by the Committee of Ministers on September 26, 2007 at the 1005th meeting of permanent representatives of ministers. Cl.cl. 17, 19

[54]  Case of Lingens v. Austria (9815/82). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-57523

[55]  Case of de Haas and Gijsels v. Belgium (19983/92). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-58015

[56]  Case of Dalban v. Romania (28114/95). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-58306

[57]  Case of Oberschlick v. Austria (20834/92). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-58044

[58]  Case of Prager and Oberschlick v. Austria (15974/90). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-57926

[59]  Case of Christine Goodwin v. the United Kingdom (28957/95). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-60596

media (*Groppera Radio AG v. Switzerland,* 1990)[60]; the right to disseminate information of public interest (*Fressoz and Roire v. France,* 1995)[61]; the right to disseminate information that is formally a secret protected by law but which has already been disclosed (*Weber v. Switzerland,* 1990)[62] etc. However, the rights of the press are considered in the context of freedom of speech as its special guarantees and prerequisites.[63]

The continued practice of the ECtHR, according to domestic researchers, allows us to derive the following principles for the protection of press freedom:



- Freedom of the press allows exaggeration and even provocation to be applied;
- There can be no restrictions on statements that are of public interest;
- restrictions on the freedom of the press can only take place in accordance with Article 10 part 2;
- there can be no restrictions on comments and evaluative judgments that have at least some actual basis;
- no sanctions can be imposed on the media or their employees who acted in accordance with their professional duties when the public has a correspondent right to receive information.

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60  Case of Groppera Radio AG and others v. Switzerland (10890/84). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-57623

61  Case of Fressoz and Roire v. France (29183/95). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-58906

62  Case of Weber v. Switzerland (11034/84). – [Electronic resource]. - Access mode: http://hudoc.echr.coe.int/eng?i=001-57629

63  Chervyatsova A.O. Freedom of speech and freedom of the press: definition of the relation in different legal systems [Electron. resource] / A.O. Chervyatsova // Scientific notes of the Tavrida National V.I. Vernadsky University. Series «Legal Sciences». - 2013. - Vol. 26 (65). No. 2-1. - Ch.1 - P. 213-221. - Access mode: http://sn-jurid.crimea.edu/arhiv/2013/26_2_p1_law/027_che.pdf

***This right exists with respect to any information that is relevant, in particular:***

- Political life;
- Public persons or persons who are in the center of public attention;
- Activities of public authorities, regardless of status and powers, bodies of local self-government, large enterprises, institutions or organizations;
- State policy issues;
- Social problems.[64]

***Does the freedom of speech "stir the pot" when criticizing the actions of politicians?***

In connection with the above provisions of the ECHR, a special standard of freedom of expression in the political sphere was even formulated. The reason for this was a long-standing jurisprudence in many countries of the world, in which the efforts of politicians to protect themselves from the excessive attention of the media took central place.

The most famous precedent was the decision of the US Supreme Court in the New York Times v. Sullivan case (1964), which pointed to the need to provide the opportunity to criticize politicians. Moreover, the court has established a standard according to which communications in the media related to public persons are not defamation until such persons prove not only the falsehood of the message, but also that such a message was made with direct intent.

In such way, the Court in its judgment formulated the principle according to which freedom of speech, in particular freedom of the press, requires greater protection in cases of slander against political figures or officials than an official or officer. The court referred to "the deep commitment of the nation to the principle that discussions of issues of public interest should be free, reasonable and open ... may include strong, passionate, shocking, and sometimes unpleasant attacks against the government and officials." On the other hand, politicians and officials "tend to have considerably

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[64] Shevchuk S. Judicial protection of human rights: The practice of the European Court of Human Rights in the context of the Western legal tradition. - 2nd Ed., revised and ammended, - K.: Abstract, 2007. - 848 p., P. 486-487.

greater access to mass media and, accordingly, have a more real opportunity to counteract false statements than private individuals... [In addition they bear] the risk of more public attention to their actions".[65]

The ECtHR has continued to develop such an approach and in particular states that participation in the political process is voluntary and often lucrative, therefore, politicians can not demand the same level of protection as ordinary citizens in their everyday lives (Case Feldek v. Slovakia, (2001). That is why in political debate limits of criticism towards politicians are much wider than towards individuals (Lingens v. Austria, (1986).

### When restrictions on freedom of speech can be justified by the interests of national security, public order and the prevention of crime?

Despite its extraordinary importance, national security can not be used as a legitimate ground without any restrictions on interference with freedom of speech. One of the first of these restrictions is set out in the judgment of the Supreme Court of the Netherlands in 1916.[66] Then the court found that the publication could not be prohibited for posting only on the grounds that it could threaten national security. In the Court's opinion, the government had to prove, based on its own experience, that it could reasonably be assumed that, in the present circumstances, such a consequence would occur in the event of making public of such a publication.

This logic was subsequently supported by national European courts[67], and the ECtHR (Observer and Guardian v. United Kingdom (1991).

Protection of public order is also an important and legitimate basis for restricting freedom of speech, especially when it is about an unstable, potentially dangerous or extremely criminal situation. However, some of the most stringent requirements for restricting freedom of expression in the context of public order were formulated, for example, by the US Supreme Court in the case Brandenburg v. Ohio in 1969,[68] which justifies such restrictions only if two requirements are met:

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[65]   New York Times v. Sullivan, 376 U.S. 254 (1964), 279-280.

[66]   HR 6 Nov. 1916, NJ 1916,1223.

[67]   1026 Egin case, STC 159/86, Boletin de Jurisprudencia Constitucional 68, 1447 para. 8.

[68]   Brandenburg v. Ohio, 395 U.S. 444 (1969).

- the statement should be "aimed at incitement or causing of direct un-lawful actions";
- such a statement "will likely lead to such unlawful actions".

### *What could be directly prohibited by the state?*

First of all, it should be noted the special conditions that the state must adhere to when interfering the freedom of expression.

In such way, ***the Camden Principles on Freedom of Expression and Equity*** (2009)[69] require the following:

- the provisions of the national constitutions have to clearly outline the limits of permissible restrictions on the right of expression, including the fact that these restrictions <u>should be provided for by law (1)</u>; should be <u>narrowly defined</u> in order to ensure legitimate interests recognized by the constitution (2); should be <u>necessary in a democratic society (3)</u> for protection of these interests (principle 2) Unfortunately, in the Constitution of Ukraine (Article 34) only the first condition is indicated;

Countries must respect the fundamental principle that any regulation of the media should be carried out by bodies independent of the government, accountable to the civic society and transparent in their work (principle 5);

- Countries should not impose restrictions on freedom of expression that do not conform to the standards laid down in the ECHR, and in particular these restrictions are: i. Clearly and narrowly defined and relevant to the public interest; ii. the least aggressive means available, that is, there are no other measures that would be effective, but at the same time, are less restrictive regarding freedom of expression; iii. Not too far-reaching, that is, they do not restrict the freedom of speech in a broad or unplanned sense, or go beyond the scope of the expression of danger, or prohibit the legitimate expression of thought; iv. Proportional, that is, the benefit of protecting interests outweighs the damage caused by the freedom of expression, including the sanctions they approve (principle 11).

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[69] Camden Principles on Freedom of Expression and Equity. - [Electronic resource]. - Access mode: https://www.article19.org/data/files/medialibrary/1214/Camden-Principles-Russian-web.pdf

*Rabat Action Plan* (2014), relying on the Camden principles, provides a detailed view of international experts on things that should be banned by the state, while not violating the freedom of speech.[70]

Thus, paragraph 14 of the Plan among such things refers to "statements that fall under the definition of "hate speech." They may be limited "...on various grounds, such as respect for the rights of others, public order, and sometimes even considerations of national security. States also have the obligation to "ban" statements that are reduced to "prompting" discrimination, hate or violence".

However, the restriction of freedom of speech must be exceptional means. That is why, according to the authors of the Plan, the restrictions must meet the following requirements: "they must be clearly and narrowly defined, meet the urgent public need, they must be the least of all available measures to intrude into public and private life, not to be too broad (that is, not to assume broad or uncertain restrictions on the freedom of speech), be proportionate in the sense that the benefit to the defended interests exceeds the damage caused to freedom of expression" (cl.18).

Also, states were offered a six-part test for the identification of statements that are subject to criminal prosecution (cl.22):

- Context. The context is very important in assessing whether specific statements encourage discrimination, hate or violence, since it can be directly related to intentions and/or causes. Contextual analysis should put statements to the social and political context prevailing at the time when that statement was made or disseminated.
- Speaker. It is necessary to take into account the position or status of the person who speaks, in particular, the position of this person or organization in relation to the target audience of the statement.
- Intent. Negligence and recklessness are not sufficient grounds for qualifying actions as "propaganda" or "incitement of hatred." This implies the presence of a triangle of relations between the object of the statement, the subject of the statement and the audience.

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[70] Rabat Action Plan on the Prohibition of the Promotion of National, Racial, or Religious Hatred, which is Incitement to Discrimination, Hatred or Violence (2014). Conclusions and recommendations of the four regional expert meetings organized by OHCHR in 2011 were adopted by experts in Rabat (Morocco) on October 5, 2012. - [Electronic resource]. - Access mode:
http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

- Content or form. The content of the statement is one of the main objects of the trial and the main component of the incitement of hatred. Analysis of the content involves finding out how direct and provocative the statement was, as well as consideration of the form and style, the nature of the arguments put forward by the speaker, the balance of arguments, and others.
- The level of publicity. This item includes such elements as the availability of the statement, the nature of the recipient, the significance and size of the audience, whether the statement is public, means of dissemination. It is necessary to take into account whether the statement was circulated through a single leaflet, either by broadcasting in the mass media or through the Internet, what was the frequency, number and breadth of coverage, or whether the audience had the ability to act in accordance with provocative calls; whether the statement was circulated in a narrow circle or was publicly available.
- Probability of the implementation of the appeal, including inevitability. Incitement to hatred, by definition, is a crime in the embryo. The action to which the statement induce does not have to be fulfilled in order for the statement could be recognized as criminal. This means that the courts will have to establish that there was a real probability that the statement could provoke an actual action against the target group, knowing that in this case there should be a rather direct causal link.

The Rabat Action Plan, in the light of these provisions, recommends to states to introduce "a clear distinction between the three types of statements: a statement that is a criminal offense; a statement that is not criminally punishable, but may be subject to civil action or administrative sanctions; a statement that is not subject to criminal, civil or administrative sanctions, but is a concern in terms of tolerance, correctness and respect to the rights of other people."

# IV. CIVIC EXPERTISE OF THE MINISTRY OF INFORMATION POLICY: PROBLEMS AND RESULTS

**Relevance of conducting civic expertise**

The formation of the Ministry of Information Policy in December 2015 raised lively discussions in the political and expert environment not only in Ukraine but also abroad. From the outset, there were uttered suspicion of future use of the Office as a means of putting pressure on freedom of speech in Ukraine; the representatives of the Ministry themselves substantiated the necessity of their work to protect this freedom, improve access of citizens to information, and counteract the information war in the situation of armed conflict. Consequently, since its very foundation, the Ministry and its activities are in the discourse of human rights.

In accordance with the directions of the ministry, its activities, indeed, are directly related to the challenges of human rights, in particular: freedom of speech; access to socially important information; the right to freely collect and disseminate information; the right to education; freedom of creativity; right to language and culture; the right to political participation; the right to information and others.

**Procedure for conducting civic expertise**

On July 11, 2017, on behalf of the First Deputy Minister of Information Policy of Ukraine, the Executive Director of the Ukrainian Helsinki Human Rights Union (hereinafter - UHHRU) was sent a request for the civic expertise of the state of observance of human rights in the implementation of the powers of the Ministry of Information Policy of Ukraine on the formation and implementation of state policy in the field of information sovereignty, state international broadcasting in Ukraine and information security.

The legal grounds for initiating and conducting of the civic expertise there were the Procedure for facilitating the conduct of the civic expertise
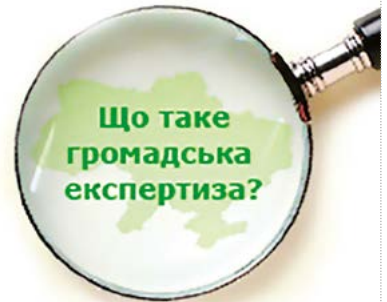
of the activities of executive authorities, approved by the Cabinet of Ministers of Ukraine of November 5, 2008, No. 976, as well as Articles 34, 38 of the Constitution of Ukraine, Articles 5, 6, 9, 10, 21, 29, 32, 33 of the Law of Ukraine "On Information", Articles 21, 22 of the Law of Ukraine "On Public Associations", Articles 19-22 of the Law of Ukraine "On Access to Public Information".

As an institution of civil society, the UHHRU informed the Ministry of Information Policy of Ukraine of all necessary information regarding the registration and attributes of the organization.

***The subject of civic expertise*** was determined to be the observance of human rights in the activities of the Ministry of Information Policy on the formation and implementation of state policy in the field of information sovereignty of Ukraine and information security.

***The objective of civic expertise*** was formulated as an analysis of the capacity of the Ministry of Information Policy to respond to the challenges and threats to human rights coursed by the need to protect information sovereignty, provide information security and counteract external information aggression.

In accordance with the stated objective, the UHHRU applied to the Ministry of Information Policy of Ukraine with the request to provide the following list of documents and other materials for study:

1. Normative documents on the activities of the Ministry of Information Policy:

- regulatory acts issued by the Ministry, in part of the implementation of the state policy on information sovereignty and information security;
- regulatory acts issued by the Ministry of Information Policy of Ukraine regarding the conditions for the dissemination of publicly important information in Ukraine;
- documents on the participation of the Ministry of Information Policy in the development of state strategic communications;
- documents regarding media reform;
- regulatory and legal documents on the protection of the rights of citizens to free collection, storage, use and dissemination of information, including in the temporarily occupied territories and in the territory of anti-terrorist operation;

- documents on the interaction of the Ministry of Information Policy with state institutions, in particular with the National Security and Defense Council of Ukraine, the National Council on Television and Radio Broadcasting, other institutions, central and local authorities on the observance of human rights, the activities and independence of the media and the protection of journalists' rights;
- documents on the interaction of the Ministry of Information Policy with respect to compliance with international obligations and international standards in the field of human rights during the implementation of state strategic communications, formation of strategic priorities in the field of information security;
- documents concerning the use of measures by the Ministry of Information Policy to promote the independence of the media and protection of the rights of journalists and consumers of information products;
- program documents and / or draft programs for protecting the informational space of Ukraine from external information influence;
- documents confirming the contribution of the Ministry of information to protection of freedom of speech;
- the methodology and criteria for monitoring information in the media;
- regulatory and legal acts defining the strategic priorities of the Ministry of Information Policy for the information re-integration of the temporarily occupied territory of the Autonomous Republic of Crimea, separate territories of the Donetsk and Luhansk regions, where the state authorities temporarily do not exercise their powers and territories adjacent to the area of the anti-terrorist operation;
- documents proving the conduct of nationwide communication campaigns on human rights, prevention and counteraction to hate speech in the media.

2. Information and statistic data on the activities of the Ministry of Information Policy in 2015-2017:
- statistic data on the access of the population of the temporarily occupied territory of the Autonomous Republic of Crimea, separate territories of the Donetsk and Luhansk regions and territories adjacent to the area to information, in particular mass media, information of social importance;

- quantitative data on the reform of state and communal media;
- statistic data proving the participation of the Ministry in the protection of freedom of speech;
- the number of appeals and complaints (indicating the subject matter) regarding the violation of the rights of journalists and consumers of information products;
- statistics on conducted national communication campaigns, including those aimed at the observance of human rights, prevention and counteraction to the use of hate speech in the media.

3. Information and reporting materials on the implementation of strategic priorities in the field of information policy and human rights during 2015-2017:
- Reporting materials on implementation of programs of the Government of Ukraine, Strategy for Sustainable Development, National Strategy in the Field of Human Rights;
- materials of the colleges, meetings on issues of the activity of the mass media, promotion of their independence and protection of journalists' rights;
- informational materials that are evidence of compliance with international obligations and international standards in the field of human rights during the implementation of state strategic communications, the formation and implementation of state policy on information sovereignty and information security;
- information materials on organized national communication campaigns.

4. Materials on taking into account the recommendations on the results of public control over the observance of human rights:
- recommendations of stakeholders on issues of observing human rights during the formation and implementation of state policy in the field of information sovereignty and information security;
- materials on taking into account the recommendations of stakeholders on observance of human rights in strategic program documents on information sovereignty, information security and state strategic communications.

The coordinator of the analytical department Bogdan Moisa was identified as the representative of the interests of the UHHRU.

The attention of the First Deputy Minister of Information Policy of Ukraine, as the Acting Head of the executive branch, was drawn to the need to provide measures to facilitate the conduct of civic expertise in accordance with paragraph 4 of the Procedure for the promotion of civic expertise, namely:

1) to create a joint working group for the preparation of materials and to ensure the effective conduct of civic expertise, which includes representatives of structural units responsible for the preparation of materials on issues of civic expertise and the representative of the interests of the UHHRU, Bogdan Moisa.

2) within a week to issue an order for conducting civic expertise and approval of measures related to the preparation of the requested materials, as well as the appointment of an official of the Ministry of Information Policy of Ukraine responsible for ensuring cooperation with the UHHRU and coordinating the cooperation of the UHHRU expert with representatives of the structural units of the Ministry of Information policy of Ukraine;

3) a copy of the order within three days from the date of its issuance to be sent to the authorized person of the UHHRU and representatives of the structural units for reading and use in everyday activities;

4) to post information on the receipt of the application for conducting the civic expertise of the UHHRU and on measures taken by the Ministry of Information Policy of Ukraine in order to facilitate its implementation on the website of the Ministry of Information Policy of Ukraine;

5) to provide the UHHRU with the requested materials and copies of documents taking into account the requirements and the time stipulated by sub-clause 4 of clause 4 of the Procedure for facilitating the civic expertise of the activities of executive authorities.

Order of the MIP of Ukraine from 19.07.2017 No. 84 "On the conduct of civic expertise on the request of the Civic Union "Ukrainian Helsinki Human Rights Union" Head of the sector of reforming information sphere, chief specialist of legal sector, chief specialist of information reintegration of Crimea and Donbas sector and chief specialist of administrative and economic provision were determined as responsible persons for ensuring interaction with the Civic Union "Ukrainian Helsinki Human Rights Union" regarding organizing and conduct of the civic expertise.

The powers of the Ministry of Information Policy are regulated by the Regulation on MIP[71]. According to this document, the main tasks of the Ministry are:

- ensuring the formation and implementation of state policy in the areas of information sovereignty of Ukraine and information security, in particular on the issues of dissemination of publicly important information in Ukraine and abroad;
- ensuring the formation and implementation of state policy in the field of international broadcasting;
- ensuring the development of a system of state strategic communications in Ukraine;
- ensuring the implementation of mass media reforms regarding the dissemination of publicly important information.

Expertise and monitoring of the work of the Ministry is a difficult task due to the inaccurate definition of its mandate. Definition of the term "information sovereignty" is contained only in the Law of Ukraine "On the National Program of Informatization"; it is executed quite broadly and does not acquire any detailed definition either in normative acts, or in political science; in addition, it is sustained in a security paradigm and leaves the question of division of the functions of the ministry and security organs. The wording "...regarding the dissemination of publicly important information" also leaves a wide scope for interpretation - which reforms are then underway and which is the role of the Ministry in the reforms.

Adopted in 2017 Doctrine of Information Security[72] brings some clarity in the interpretation of information security. According to the Doctrine, work on ensuring information security should be, in particular, in the following: ensuring access of citizens to information; ensuring freedom of speech; counteracting destructive information and psychological influences on the part of the aggressor state; e-governance development; promotion of transparency of the authorities, proper communication of the authorities with the media; increasing media literacy of society; development of national information resources; promoting the image of Ukraine abroad and so on.

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[71] http://zakon3.rada.gov.ua/laws/show/2-2015-%D0%BF

[72] http://www.president.gov.ua/documents/472017-21374

The doctrine of information security is the second source that details the powers of the MIP. It in a certain way divides areas of responsibility between different authorities for different directions of work. However, the wording of the task in the Regulation allows a broad understanding of the agency's mandate in this regard, and as practice shows, the MIP works with a fairly wide range of tasks related to information security.

**Information security.**

*1.1. Counteracting devastating informational and psychological influences*
*Powers of the Ministry.*
*In accordance with the Regulations on the MIP of Ukraine:*
- «5) carries out normative and legal regulation in the sphere of ensuring the informational sovereignty of Ukraine, in particular on issues of dissemination of publicly important information in Ukraine and abroad, as well as ensuring the functioning of state information resources;
- 6) participates in the formation of state information policy;
- 12) organizes researches on the impact of media outcomes on public consciousness;
- 16) develops and submits to the Cabinet of Ministers of Ukraine program documents in the field of protection of Ukraine's information space from external information influence;
- 21) conducts monitoring of information in domestic and foreign mass media and informs the Cabinet of Ministers of Ukraine about its results;
- 23/4) promotes nationwide communication campaigns;"

*In accordance with the Doctrine of the Information Security of Ukraine (Article 6), the MIP implements:*
- monitoring of the mass media and public resources of the domestic segment of the Internet with the purpose of revealing the information the distribution of which is prohibited in Ukraine;
- monitoring of threats to national interests and national security in the information sphere;
- government communications;
- development of a strategic narrative and its implementation.

*Challenges to human rights.* In this aspect we can talk about the human right to a safe environment, the provision of which should be the aim of the activities of state bodies. On the other hand, the state's efforts to strength-

en information security naturally conflict with democratic rights and freedoms, with human rights in general.

First of all, it's about free access of citizens to various sources of information.

The restrictive measures taken by Ukrainian authorities since March 2014 are very wide:

- Broadcasting on the air and through cable networks of almost all Russian TV channels is limited;
- It is forbidden to issue screenings certificates (which means the exclusion from TV screens and cinemas) a large number of films of Russian production, as well as all films produced in the Russian Federation starting from January 1, 2013;
- limited import of Russian books;
- a number of web services, including Yandex and mail.ru were blocked;
- popular in Ukraine social network VKontakte was blocked.

These measures seem expedient and (in the short term perspective) effective in terms of the context, namely: the oversaturation of the Russian information flow with anti-Ukrainian and anti-democratic ideas; the state of actual military aggression on the part of the Russian Federation and the use of Kremlin information tools for military purposes; the present threats to national security from the consequences of the Russian propaganda influence. However, if we evaluate the situation from the point of view of human rights, we are talking about restrictions of citizens both on sources of information, and on channels for its dissemination and expression. Blocking VKontakte has created a dangerous precedent for extrajudicial blocking of social networks, which can be hypothetically used in the future to restrict rights and freedoms.

The first half of 2017 was marked by discussions about the possibility of blocking sites that contain content that threatens national security. At the time of preparation of this conclusion, the mechanism of such blocking is discussed. A number of bills have been registered in the Verkhovna Rada, which provide for the possibility of extra-judicial blocking of sites, the content of which is defined as dangerous. Similar state decisions, if they are practical, will continue the tendency of combating information threats with restrictive means, and hence - at the expense of citizens' freedoms.

In this context, it is important to have clear criteria for the "dangerous" content. At the moment, these criteria are fixed in the Doctrine of Information Security of Ukraine.

*The role of the MIP in human rights ensuring.* Based on the description of the powers of the Ministry, we can talk about several levels of its participation in the provision of human rights in this context:

1. **Strategic.** The MIP participates in the development of strategic documents that are intended to record the interests of the state, society and citizen in the information sphere; signs of threats to these interests; the amount of instruments the state has to neutralize these threats.

In December 2016, by the decision of the National Security and Defense Council (on the proposal of the Minister of Information Policy Yu. Stets) there was approved the Strategy of Information Security of Ukraine. The document was signed by the President of Ukraine on February 25, 2017.

2. **Development of toolkit.** The MIP is involved in developing solutions on counteraction to destructive information impacts, but in practice, key decisions are mostly taken by other authorities. The decision to restrict Russian TV channels is taken by the National Council on Television and Radio Broadcasting; about Russian cinema product - the State Cinema Agency; Russian web services are blocked by the decision of the NCDC. Monitoring the work of the MIP[73] in the period when the web resources were blocked, gives grounds to talk about the lack of real levers of the agency's influence on making such decisions in the state. On the one hand, it removes the responsibility for the possible negative consequences of such decisions for human rights from the MIP. On the other hand, it speaks of its inability to resist threats to human rights, if any.

3. **Monitoring threats.** It is the ministry that has the function of monitoring the information space and detecting dangerous content. The importance of this direction of work is evidenced by the fact that this task was one of the first for the newly appointed deputy minister in

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[73]   http://detector.media/infospace/article/129475/2017-09-01-ne-vtratiti-golovu-monitoring-roboti-mip-u-pershomu-pivrichchi-2017-go/

February 2017[74]. Already in the spring, the MIP came up with the first list of websites[75], which, according to its monitoring, are subject to blocking as dangerous.

In this context, it is important to draw attention to the fact that there is no clear mechanism for making decisions about blocking websites; Similarly, the distribution of functions between authorities for monitoring threats is not completely clear. This, as well as the role and functions of the Ministry of Information Policy in this process, should be the subject of more detailed legal regulation.

### *1.2* *Strengthening the state's ability to provide information and psychological security*
*The powers of the ministry*
*In accordance with the Regulation on MIP (Article 4), the ministry:*
«9) provides methodical and practical assistance to the press service of the executive authorities;

13) organizes the development and implementation of training courses in information policy and develops teaching and methodological support for educational institutions of all levels of accreditation;

14) Participates in the preparation by central executive bodies of plans and programs for training specialists in the field of information policy, their professional training, retraining and qualification improvement;

21) monitors information in domestic and foreign mass media and informs the Cabinet of Ministers of Ukraine about its results;

24) organizes training of state officials on matters within its competence."
*In accordance with the Doctrine of Information Security of Ukraine (Article 6) the ministry provides:*

- contribution to the work of the Ministry of Foreign Affairs of Ukraine on providing Ukraine's official position to foreign media;
- formation of current priorities of state information policy, control over their implementation;
- coordination of the activities of central and local executive authorities

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74   http://detector.media/infospace/article/123734/2017-03-02-yurii-stets-antiukrainski-saiti-mae-zakrivati-sud-za-rezultatami-monitoringu-mipu-ta-analizu-sbu-i-ekspertnoi-radi/

75   https://uain.press/politics/mininform-oprylyudnyv-spysok-sajtiv-yaki-proponuye-zaboronyty-foto/

in the field of information sovereignty of Ukraine;

- development and implementation of common standards for the training of specialists in the field of government communications for the needs of public authorities.

*Challenges to human rights.* This block of functions of the MIP is directed primarily to the public authorities themselves, and therefore we consider that the human rights challenges associated with this block are the consequence of the further activity of the state in terms of ensuring information security and are therefore described in detail in the relevant parts of this report..

### *1.3 Preventing violations of freedom of speech*
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the ministry:*

«7) takes measures to protect the rights of citizens to free collection, storage, use and dissemination of information, including in the temporarily occupied territories and in the area of antiterrorist operation in accordance with the tasks assigned to it under the law on martial law and the state of emergency;

17) contributes to the observance of freedom of speech in Ukraine».

*Challenges to human rights.* First of all, we note the risks to freedom of speech that are present in Ukraine, while it is expedient to consider separately the situation in the territories under the control of the Government of Ukraine and temporarily occupied by the Russian Federation.

**1. Territory under the control of the Government of Ukraine.** From 2014, experts note the disappearance of government censorship in Ukraine. However, the censorship of owners came to replace it: the Ukrainian mass media do not have the opportunity to be stable and financially independent (and this is also largely a consequence of state policy)[76].

2015-2016, a number of important incidents took place in Ukraine, namely the killing of journalists O. Buzina and P. Sheremet and the arson of the Inter TV channel. These incidents are actively used by interested parties as illustrations of the violation of freedom of speech by the Ukrainian gov-

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[76]   http://osvita.mediasapiens.ua/trends/1411978127/yak_politika_formatue_novini_tendentsii_20142017_rr/

ernment, although there are no signs of state participation in these cases. However, there are no results of the state investigation (besides the murder of O. Buzina), leaving a wide scope for manipulations and uncertainty. The theme of the lack of freedom of speech in Ukraine is one of the important narratives of Russian propaganda.

It is also important to mention cases of persecution by the state of those representatives of the media, whose activities were considered by the state to be in the interests of the aggressor state. We are talking about the arrest of R. Kotsaba and I. Huzhva. As to the latter, it should be considered separately, since formally the person was arrested on suspicion of bribery. The lack of a proper ability of the state to apply security arguments to restrict Mr. Guzhva's activities and an attempt to institute criminal proceedings in any way raises questions for Ukrainian justice.

Finally, there is a situation in which the state as such does not obstruct freedom of speech (if not to treat as a restriction the ban against Russian TV channels and social networks); there are only isolated and non-systemic cases of persecution for reasons of national security. However, there is a high risk of pressure on journalists by some officials, political groups and factions of the security forces, from which the state will not be able to protect. In this context, it is important to mention the situation with the publication of personal data of journalists working in the occupied territories, carried out by the "Peacemaker" group. This publication launched the campaign of harassment of these journalists, including representatives of foreign media. The situation is dangerous because behind the "Peacemaker" group there were specific political forces, and the group itself, in particular, is associated with the Minister of the Interior. The latter circumstance has given additional arguments to those who accuse the Ukrainian state of undemocratic pressure on journalists.

In addition, there is still a number of less resonant cases of force pressure on civic activists and journalists - in particular, a number of crimes that have not been disclosed yet, committed against public activists and journalists in Kamyanskiy[77] in 2016-2017.

Another dimension of the problem is the work of journalists in the situ-

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[77]  http://detector.media/community/article/129774/2017-09-10-zhoden-iz-kilkokh-rezonansnikh-zlochiniv-proti-zhurnalistiv-u-kamyanskomu-dosi-ne-rozkritii/

ation of military conflict. The issue of physical security, admission to the front-line territory, ensuring the rights of journalists in communication with the military, proper security awareness are various aspects of the freedom of journalists to free coverage of the conflict.

**2. The territories temporarily occupied by the Russian Federation.** In these territories freedom of speech has actually been destroyed. The activity of independent media is discontinued. After the active campaign of "witch hunt" (public harassment, threats, beatings, destruction of property, inclusion in "mortal lists") in 2014, these territories were left by journalists who did not support occupation. TV channels, newspapers and websites operating in these territories are under control of the Kremlin, they agree their editorial policy with its representatives, and any deviation from this line is impossible. Public figures, artists, and other opinion leaders who disagree with the occupation regime are subject to persecution, including criminal ones. Among them there are the artist Oleg Sentsov, the activist Oleksiy Chyrniy, victims of the demonstrative "Crimean Terrorist Cases" and "Case of February 26 and others. Access to these areas for journalists, bloggers, activists who are in the territory under the control of Kyiv, and disagree with the occupation, is virtually impossible.

*The role of the MIP in human rights provision*. At the end of 2014, when the ministry was only being created, many observers saw it as a future instrument of state censorship; but their fears were not fulfilled. In practice, the MIP does not have the will or the resources to exert pressure on the Ukrainian media. On the contrary, in 2015-2017, the ministry consistently advocated freedom of speech, in particular freedom of the media; its representatives unequivocally condemned the cases of pressure on journalists (including the arson of "Inter" in August 2016), emphasized the inadmissibility of restricting freedom of speech during a military conflict, the right of journalists to secure access to the zone of hostilities, and so on. The Ministry provided organizational assistance to journalists who had problems accessing the front-line territory; made efforts to ensure their physical security, to facilitate the crossing regime, etc.. In 2015-2016, the Embedded Journalists program was operating, in which foreign and Ukrainian journalists joined military units, thus having the opportunity to directly cover the realities of the conflict. The MIP actively co-operated with Ukrainian and international

organizations working in this field, providing them with political support and organizational assistance (in particular, such as the OSCE, the Institute of Mass Media, "Media Detector", NUJU and others).

However, it is important to note that lack of sufficient political weight prevents the Ministry from achieving results in difficult situations. So, in 2017, the MIP participates in measures to counteract impunity together with NUJU, but is not able to move the investigation of crimes against freedom of speech.

**For instance, in the territory under the control of the Government of Ukraine, the MIP puts efforts to strengthen freedom of speech, but its capabilities are limited in view of the functional of the executive body.**

The possibilities of the ministry in the occupied territories are even less. It pays considerable attention to Ukrainian citizens, political prisoners of the Kremlin, conducting information campaigns in Ukraine and abroad to attract the attention of foreign governments and human rights defenders; cooperates with partners in order to provide political prisoners with assistance and speed up their return to their homeland. However, unfortunately, this is the only thing the ministry can do under these conditions.

### *1.4* *Ensuring access of Ukrainian citizens to the media (broadcast restoration)*

*The powers of the ministry*

*In accordance with the Regulation on the MIP (Article 4), the Ministry:*

«7) takes measures to protect the rights of citizens to free collection, storage, use and dissemination of information, including in temporarily occupied territories and in the area of anti-terrorist operation in accordance with the tasks assigned to it under the law of war and state of emergency;

23/3) provides information reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea, separate territories of Donetsk and Luhansk regions, where the state authorities temporarily do not exercise their powers, and territories adjacent to the area of the anti-terrorist operation; "

*Challenges to human rights.* First of all, it is about citizens' access to information. After the occupation of the Crimea and parts of the Luhansk and Donetsk regions, the Ukrainian mass media stopped working in these ter-

ritories. The towers used for the broadcast of Ukrainian TV channels and radio stations went under the control of the occupation forces and are used by them as means of their own propaganda. The independent editions disappeared; Ukrainian print media is not distributed - they have been replaced by local print media of local occupation regimes. The ban on Ukrainian news sites is being practiced.

Much of the front-line territory remains without proper coverage of the Ukrainian television signal. The infrastructure of the distribution of the press is destroyed, and the front-line communities do not have access to print media. A large number of local media ceased their work due to military actions; those which remained do not properly fulfill the functions of informing the citizens. Thus, only 10.6% of the residents of the East use local media as a source of information on the state of affairs in Ukraine, and only 1% - on the course of action in the zone of the ATO[78].

*The role of the MIP in human rights provision.* Restoration of the access of Ukrainian citizens to the Ukrainian media is in practice one of the priorities of the ministry, and it is in this area that it has the most significant achievements. At the MIP, an interagency working group on broadcast restoration has been established, which also includes representatives of the National Television and Radio Broadcasting Council, the Ministry of the Temporary Occupied Territories and a number of other departments.

Already the end of 2016, the construction of towers in Karachun near the Slavyansk (186 m) was been completed; in March 2017 the tower was opened in Chongar in the Kherson region (150 m), which distributes the radio signal also to the part of the occupied Crimea. In the first half of the year, the construction of the tower in Bakhmutivka (open on August 22) was completed, which should close the "northern gap" in the coverage area of the Ukrainian TV and radio signal. The process of building the tower in Pokrovsk has been started - though, only at the expense of the local budget.

Consequently, the MIP effectively enough performs the functions of coordinating authorities to provide citizens with access to the signal. In April 2017, the commission published a detailed report[79] with quantitative indi-

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[78] http://osvita.mediasapiens.ua/mediaprosvita/research/yak_rosiyska_propaganda_vplivae_na_suspilnu_dumku_v_ukraini_doslidzhennya/

[79] http://mip.gov.ua/documents/107.html

cators of the results of their work that reflect the dynamics in solving the problems of covering the television and radio signal of the front and occupied territories. However, it should be noted that its activities relate only to television and radio broadcasting.

To improve the access of citizens to print media, the MIP issues the "Donbas Inform" newspaper: 8 pages of A-3 format twice a month, with a circulation of 80 thousand copies. The newspaper is distributed from June 2017 in the Donetsk and Luhansk regions by civil-military cooperation of the General Staff of the Armed Forces, the National Guard, the STS, the Donetsk and Luhansk regional military-civilian administrations, Oschadbank. However, the issue of restoring the infrastructure for the spread of the press remains unresolved, especially in the frontline and distant communities.

### 1.5 *Conducting information campaigns to strengthen information and psychological security*

*The powers of the ministry*

*In accordance with the Regulation on the MIP (Article 4), the Ministry:*

«20) ensures the holding of festivals, exhibitions, etc.;

23/3) provides information reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea, separate territories of Donetsk and Luhansk regions, where the state authorities temporarily do not exercise their powers, and territories adjacent to the area of conducting of the antiterrorist operation;

23/4) promotes nationwide communication campaigns».

*Challenges to human rights.* In this aspect we can talk about the human right to a safe environment, provision of which should be the aim of the activities of state bodies.

*The role of the MIP in human rights provision.* During 2015-2017, the ministry was active in conducting information campaigns of various genres. Campaigns include outdoor advertising, video clips, printed leaflets, rallies, photo exhibits, movie shows, even student flash mobs. The Ministry provides organizational support and promotes initiatives of civic organizations and businesses.

The information campaigns were aimed at raising the combat spirit of the army and the rear; ensuring people's support of the army; strengthen-

ing the internal consolidation of Ukrainian society on a patriotic basis. Separate campaigns were conducted to address the problems of the Crimean Tatars' distress and to support Ukrainian citizens illegally imprisoned by the Russian government.

**1.6** *Access of citizens to information on government activities, transparency, reform of government communications*
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the Ministry:*
«9) provides methodical and practical assistance to the press services of the executive authorities;

13) organizes the development and implementation of training courses on information policy and develops teaching and methodological support for educational institutions of all levels of accreditation;

14) participates in the preparation by central executive bodies of plans and programs for training specialists in the field of information policy, their professional training, retraining and qualification improvement.;

21) conducts monitoring of information in domestic and foreign mass media and informs about its results the Cabinet of Ministers of Ukraine;

25) carries out consideration of appeals of citizens on issues related to the activities of MIP, enterprises, institutions and organizations belonging to the sphere of its management, as well as acts issued by the MIP".

*Challenges to human rights.* It is about the challenge to the right of the person to access information, in particular, publicly important (which is the information about state policy and reforms), as well as the right to participate in the management of public affairs (which is not possible without proper awareness of the activities of the authorities).

50% of Ukrainian citizens consider the coverage of reforms in the media inadequate;[80] 71% do not receive enough information about the state's strategy regarding the Crimea (68% - regarding Donbas)[81]. 39% believe that the Kiev government deliberately breaks the armistice and the Minsk

[80]   Internews Network, 2017. http://osvita.mediasapiens.ua/mediaprosvita/research/bilshe_polovini_ukraintsiv_znayut_pro_zamovni_materiali_u_zmi_sotsiologichne_doslidzhennya/

[81]   "Media Detector", KMIS, 2016. http://osvita.mediasapiens.ua/mediaprosvita/research/yak_rosiyska_propaganda_vplivae_na_suspilnu_dumku_v_ukraini_doslidzhennya/

process[82]. These figures show that the Ukrainian government shows insufficient ability to properly communicate the goals and results of its policy. An audit of government communications by the Ministry of Information Policy at the end of 2015 revealed in particular such systemic problems as[83]:

- There is no single system of communication management in the Government.
- There is no general strategic communications function, most of the functionality of specialists is limited to tactical actions that are more reactive and aimed at solving current problems. Lack of prediction and strategic planning based on public inquiry.
- There is no internal communication, there is no cooperation between departments, some ministries do not go into communication and cooperation with other ministries.
- Ministries are focused on reporting their messages, which sometimes do not correlate with the Government's strategy or policy, and this leads to very low awareness of the latter

The conclusions of the government commission are also confirmed by the results of the monitoring of government communications regarding the East conducted by the "Media Detector" in 2017[84]: "... with the increase in the number of important news and decisions of the authorities that will affect the further life of the region, the quality of information did not improve ... [There is a gap between the authorities' perceptions about the needs of citizens in Donbas and the real interests of local residents."

*The role of the MIP in human rights provision.* The MIP Action Plan for 2015 was to start of reforming the system of government communications. The reform team worked with the Communication Reform Group, which was formed at the Cabinet of Ministers of Ukraine, which included 13 Ukrainian and international communications and PR specialists. In January 2016 they released a report[85] on the results of the audit of the system of government communications, on the basis of which a reform plan was devel-

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[82]   Ibid.

[83]   http://mip.gov.ua/documents/56.html

[84]   http://detector.media/monitoring/article/128073/2017-07-18-komunikatsiya-z-donbasom-borotba-yastrubiv-ta-golubiv-u-vladi/

[85]   http://mip.gov.ua/documents/56.html

oped. But it never has been implemented so far. Under the new prime minister V.Groysman, another working group on communications was created, which did not use the experience of the previous one. The "One voice" government initiative is being implemented at the SCMU level, and the ability of the MIP to influence the communication of officials on important public policy issues (reform, foreign policy, defense, strategy for occupied territories, etc.) is limited.

**The situation with government communications is a vivid illustration of the fact that the Ministry of Information Policy does not have sufficient mechanisms to effectively influence the formation and implementation of state policy in this area.** So, the ministry's ability to influence the observance of human rights in the information sphere is also limited.

### *1.7* *Promotion of Ukraine's image abroad*
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the Ministry:*
"15) develops, together with the Ministry of Foreign Affairs, the Ministry of Culture and the Ministry of Education and Science, plans of measures and program documents on Ukraine's positioning in the world;
18) together with other central executive authorities, it takes measures to promote domestic television production abroad;
23) establishes and participates in the activities of the broadcasting organization, organizes and ensures the activities of state television and radio organizations in the field of foreign broadcasting in order to disseminate information about Ukraine in the world;
23/2) promotes the popularization and formation of a positive image of Ukraine in the world's information resources and national information resources of foreign states in order to protect its political, economic, social and cultural interests, strengthening national security and restoring the territorial integrity of Ukraine."
*Challenges to human rights.* The activity is aimed, first of all, at promoting the interests of Ukraine in the region and in the world, so it has little to do with human rights in Ukraine.
*The role of the MIP in human rights provision.* The Ministry has developed the Concept of popularization of Ukraine in the world and promotion of

Ukraine's interests in the world's information space. A corresponding inter-departmental working group has been established at the MIP. In the subordination of the MIP there is a multimedia platform for broadcasting in foreign languages in Ukraine (see more about it below), which also serves as a platform for communication between the Ukrainian government and the world.

In the context of human rights, it should be noted that part of this communication is devoted to the issues of the occupation of the Crimea and parts of Donbas, the human rights situation in these territories (in particular, freedom of speech, movement, the right to life, housing, work, health), political prisoners of the Kremlin.

### International broadcasting
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the Ministry:*

"23) establishes and participates in the activities of the broadcasting organization, organizes and ensures the activities of state television and radio organizations in the sphere of foreign broadcasting in order to disseminate information about Ukraine in the world;

23/1) carries out the formation and implementation of state policy in the field of state international broadcasting, as well as facilitates the integration of the subjects of state international broadcasting of Ukraine to the world information space and the conduct of their activities in accordance with international standards;

23/2) promotes the popularization and formation of a positive image of Ukraine in the world's information resources and national information resources of foreign states in order to protect its political, economic, social and cultural interests, strengthening national security and restoring the territorial integrity of Ukraine."

*Challenges to human rights.* The activity is aimed, first of all, at promotion of interests of Ukraine in the region and in the world, to meet the information needs of foreign audiences, so it has little to do with human rights in Ukraine. However, state media management can be considered in the area of freedom of speech and interference with the work of journalists working on these resources.

*The role of the MIP in human rights.* The key civic organizations tracking violations of journalists' rights (the Institute of Mass Media, Independent Union of Journalists of Ukraine, "Media Detector") did not find examples of restriction of freedom of speech, censorship, pressure on journalists working in the "Ukrinform" agency and on the UA/TV TV channel, who form the basis of international broadcasting. So we can say that the work of the Ministry in this direction does not create threats to the realization of human rights, although it is not directly related to their promotion.

*Strategic communications.*
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the Ministry:*

"21) conducts monitoring of information in domestic and foreign mass media and informs about its results the Cabinet of Ministers of Ukraine; promotes nationwide communication campaigns;

23/3) provides information reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea, separate territories of the Donetsk and Luhansk regions, where the state authorities temporarily do not exercise their powers, and territories adjacent to the area of conducting the antiterrorist operation".

*According to the Doctrine of Information Security of Ukraine (Article 6), the Ministry is responsible for the organization and provision of:*

- government communications;
- crisis communications, in particular during the anti-terrorist operation and in a special period;
- taking measures in the field of information related to the introduction of legal regimes of emergency or martial law;
- development of a strategic narrative and its implementation;
- elaboration and implementation of information support strategy for the process of liberation and reintegration of temporarily occupied territories.

*Challenges to human rights.* It is difficult to talk about strategic communications in Ukraine, because they do not exist either on the institutional or on practical level. The system of structures responsible for the development and dissemination of information within the framework of strategic

communications is only being built up. The communication of individual authorities is determined not by common program documents or instructions, but by the interests and situational decisions of public officials-communicators. This is confirmed by the results of the Government Communications audit conducted at the end of 2015 by The Communication Reform Group[86], and by monitoring of government communications on specific issues, in particular, Donbas[87].

From the point of view of human rights, the issue of strategic communications of the government appears primarily on two levels: the purpose and the toolkit.

From the position of the purpose, government communications should promote the right of citizens to information, in particular on government activities and other socially important knowledge. It is also about political rights: adequate citizens' awareness of political, economic and other processes in the state, region, and community is the basis for a balanced and effective democratic participation. The risk to human rights may be in: 1) insufficient public awareness, in the event of inaction by the government or ineffective communication; or 2) distorted awareness, misinformation (which entails violations of democratic participation) if the government seeks to manipulate public opinion by misleading citizens.

In Ukraine, in the first place, we note the very low quality of citizens' awareness of state policy and processes in the country, which reflects the quality of government strategic communications. Above, we cited statistical data that demonstrate the lack of understanding by citizens of the essence of the reforms and the state strategy for restoring territorial integrity. Indirect evidence of ineffective strategic communications is the low trust rating for state authorities.

Cases of disinformation occur in government communication. However, in the absence of the system of strategic communications and in general the state as a subject of communication policy, it would be erroneous to assert on the basis of these facts the existence of a communication strategy, based (or predicted) on misinformation. Like any government communica-

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[86]   http://mip.gov.ua/documents/56.html

[87]   http://detector.media/monitoring/article/128073/2017-07-18-komunikatsiya-z-donbasom-borotba-
       yastrubiv-ta-golubiv-u-vladi/

tion, misinformation is the product of separate government bodies or officials created by them to achieve their own interests (which may coincide with the state, or not).

From the position of the toolkit, it is important to understand how the government disseminates information and whether it interferes in the work of the media. It is important to note here the steady positive tendencies that have taken place since the Revolution of Dignity. The state ceased to press the media and use private media as an instrument of its own propaganda, censorship and topics lists disappeared. There are positive trends in the reduction of the media sector under the control of the state (Civic Broadcasting was created, denationalization of print media continues), which limits the government's ability to communicate its own narratives through the work of journalists dependent on it. This creates the conditions for democratic relations between the government and the media, in which strategic communications take place with respect to freedom of speech. However, the hypothetical risk that the government will return to undemocratic methods of spreading its messages remains. Firstly, this is due to the unstable character of democratic transformations at the moment; secondly, more and more attention is paid to strategic communications in the context of war and national security, and there is the threat of more rigorous approaches to media management, including the impact on their content.

*The role of the MIP in human rights provision.* Implementation of the strategic communications system was put forward as one of the first tasks of the ministry, and its implementation was scheduled for 2016. However, the process took much more time. Slowly, but the developed model of the state system of strategic communications is being implemented[88]. An important milestone in the process was the adoption of the Doctrine of Ukraine's Information Security, which included strategic communications points. According to the Doctrine, an interdepartmental working group providing a strategic level must be moved from the National Security and Defense Council to the Cabinet; this process takes a lot of time in the Ukrainian conditions - officially the composition of this group has not been approved yet.

In the structure of the MIP, the strategic communications sector and the

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[88]   http://mip.gov.ua/files/documents/Stratcom_Report_2016_UKR_updated.pdf

information security sector were created - both subordinate to Deputy Minister D. Zolotukhin. There was conducted the analysis of communication functions and audit of the information resources of the Armed Forces of Ukraine, and the analysis of the communication potential of the National Guard. A structure has been developed and pre-approved by the Department of Communications of the Ministry of Defense, but the body itself has not yet been established. It is the MIP profile sector, together with the Office of Public Diplomacy of the Ministry of Foreign Affairs and the Department of Communications of the Ministry of Defense, that in the future are to form the operational level of the Ukrainian stratum.

Consequently, **the ministry is making efforts to overcome the chaos in government communications and bring them into a single strategy.** A number of strategic documents developed by the MIP, namely, the strategies of information reintegration of the occupied Crimea and part of the Donbas, the information reintegration of internally displaced persons are also aimed at that. The strategies provide for active and purposeful communication between the government and the population on important security issues and further development (which deserves a positive assessment from the point of view of promoting human rights), but so far they do not look quite realistic until the implementation of the strategic communications mechanism.

It is the ministry that the Strategy of Information Security put the development of strategic narratives on. How it will look in practice, who exactly will produce them, of what format they will be, and most importantly, how they will communicate, remains incomprehensible. And here is the risk of returning to the practice of "topic lists" and censorship. This is particularly worrisome in the context of discussions about possible extra-judicial closure of sites - the possibility of termination of activity may be a powerful argument for the government to press for independent media in order to promote their own narratives.

*Media reforms.*
*The powers of the ministry*
*In accordance with the Regulation on the MIP (Article 4), the Ministry:*
"7) takes measures to protect the rights of citizens to free collection, stor-

age, use and dissemination of information, including in the temporarily occupied territories and in the area of anti-terrorist operation in accordance with the tasks assigned to it under the law on martial law and the state of emergency;

10) provides methodical assistance to the state and communal mass media in the process of their reform;

11) develop plans for measures to promote the independence of the media, protect the rights of journalists and consumers of information products;

19) brings to the consideration of the Cabinet of Ministers of Ukraine proposals to determine the mechanism of state support for the production and popularization of domestic audiovisual products."

*Challenges to human rights.* Media reforms cover a wide range of human rights, in particular:

- freedom of expression depends on regulatory regulation of media activities, real tools for protecting journalists' rights, proper conditions for the existence of independent media, a state-owned property segment in the media sector;
- the right to work and decent pay is more secure when the media at the national and local levels are long-term stable, have the opportunity to receive sufficient income from different sources;
- the right to information, access to publicly important information (and the related right to political participation) is most often realized when a pluralistic media landscape is present in the country, there is no pressure of the government or owners to the media, and the media themselves are professional and objective;
- the right to a secure environment (in this case, the information environment) is more secure when there are proper regulatory, self-regulatory and co-regulatory instruments that encourage media to comply with ethical norms and national legislation on potentially harmful content.

Also, in the context of media reforms, it makes sense to talk about citizens' participation in political decision-making in the context of reforms (which mechanisms people who are affected by the reform had to voice their voice to policy makers).

Since 2014, important reforms in the field of media regulation have begun in the country. The key reforms are as follows:

1. Creation of civic broadcasting. A system of 52 local TV and radio broadcasters, 2 national TV channels and 3 radio stations are withdrawn out of ownership of the state and becomes civic broadcasting.

2. Denationalization of printed editions. It is about 687 newspapers and magazines issued by national or local authorities. Within 3 years they must all become private; Denationalization takes place in 3 stages. Stage 1 already completed; according to preliminary plans, 244 media had to undergo denationalization at the moment, in practice this number was only 49[89].

3. Transparency of the ownership of television and radio broadcasters. According to Ukrainian legislation, they now have to publish (and transmit to the National Council on Television and Radio Broadcasting) information about their final beneficiaries.

4. The development of a new framework law "On audiovisual services", which is to replace the morally obsolete Law "On Television and Radio Broadcasting", is still in process.

In addition, there are a number of innovations in the field of media regulation, such as quotas for a Ukrainian-language product on television and radio, and important initiatives (start-up reforms) such as: media communities; introduction of transparency of media financing; introduction of digital broadcasting, etc..

In general, these reforms are aimed at improving the media market, promoting media pluralism, better regulation, self regulation and co-regulation, which in the long term perspective should improve access of citizens to high-quality and reliable information about socially important things.

Civic participation in reform itself takes on forms of consultation with civic organizations representing various stakeholders. In the period 2014-2017, this participation is real; civil society acts as an important initiator and locomotive of reforms, an equal partner in political dialogue with the state and industry. Проте в However, in Ukraine there is no practice of developing scenarios and forecasting at the stage of decision making; media policy

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[89]   http://detector.media/rinok/article/126349/2017-05-26-na-ekvatori-reformi-drukovanikh-zmi/

has not attracted specialists from other fields; consequently, the ongoing reforms do not take into account their possible social and economic consequences, which may endanger the economic and social rights of citizens.

*The role of the MIP in human rights.* At present, the ministry practically does not participate in media reforms. In early 2016, its representatives announced their intention to take the initiative to adapt the Ukrainian media law to European standards, and the relevant provisions were incorporated into the annual work plan.[90] of the ministry; however, this initiative met with strong resistance from the Verkhovna Rada Committee on freedom of speech and information, as well as lack of understanding on the party of the civil society, since it was about duplication of efforts (in January 2015, the Verkhovna Rada Committee adopted the Strategy for the Development of Ukrainian Legislation on Freedom of Speech and Media Activities in compliance with European standards[91], which was under developing by Ukrainian and foreign experts). Since then, the ministry has been involved in the creation of public broadcasting, the introduction of compulsory insurance for journalists, the simplification of the procedures for staying of foreign journalists in Ukraine, etc. However, the Ministry is not a regulator of the media market (except for those enterprises and institutions in the management of the Ministry).

**Consequently, because of the impossibility for the ministry to fully exercise its powers in the media reforms, it does not affect the human rights situation in this context.**

### *Conclusions*

1. The expert review indicates that the work of the ministry in 2015-2017, despite the OSCE's concern[92], did not have significant negative consequences for human rights. It did not become an instrument of pressure on journalists or a source of "topic lists". Certain signs of negative consequences for human rights can be found in restrictive measures in the context of strengthening information security, but the ministry

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[90] http://mip.gov.ua/documents/57.html

[91] http://www.coe.int/uk/web/kyiv/-/the-strategy-for-development-of-ukraine-s-media-legislation-in-line-with-the-european-standards-has-been-approved

[92] Propaganda and freedom of the mass media. Memorandum of the Office of the Representative of the OSCE on Freedom of the Media. Vienna, 2015  http://www.osce.org/ru/fom/219726?download=true

was virtually unrelated to them. However, it does not remove from the agenda the need for active monitoring of the ministry's work on human rights, since the information security architecture is only being built up and there is a risk that the ministry will carry out functions that will go against freedom of speech.

2. The result of the ministry's work is improvement of the human rights situation in a number of aspects. Thus, its efforts improved the access of inhabitants of the front-line and occupied territories to publicly important information; in the focus of the authority there are human rights violations in the occupied territories. However, the ministry does not fully exercise its powers in terms of protecting and promoting human rights owing to the fact that some important areas of work are not being properly implemented. The reason for this is lack of resources, problems in planning and determining priorities of work, lack of political will, competition with other authorities. In general, the range of issues in which the MIP has a real impact is very narrow. The ministry lacks political support to be a prominent actor that truly influences processes and defines media policies. It is on the sidelines of the media reform. In the field of information security, where threats to freedom of speech are aroused, strategic issues are determined by political figures, but not by the development of executive bodies. This substantially reduces the ministry's influence on political processes, and hence on the situation with the rights and freedoms of citizens associated with these political processes.

3. Another important factor is the occupation of certain parts of the southern and eastern territories of Ukraine by the Russian Federation and armed entities under its control. Any government initiatives aimed at promoting democratic changes in the country, creating favorable conditions for the implementation of human rights and freedoms are limited to the territory controlled by the government and do not affect the situation in Crimea and ORDLO. The Government of Ukraine, including the MIP, has extremely limited capacity to improve the human rights situation in these areas.

*Recommendations*

1. To organizationally support and contribute to the adoption of the Draft Law No. 6565 "On Amendments to Some Laws of Ukraine Concerning Interim Permits for Broadcasting in the Area of the Anti-Terrorist Operation and Border Regions of Ukraine", which would legitimize the concept of temporary broadcasting in territories with a special regime of broadcasting and provide appropriate permissions to the National Council of Ukraine on Television and Radio Broadcasting (National Council), which will facilitate the restoration of Ukrainian TV and radio in front-line territories.

2. To appeal to the Ministry of Justice for the interpretation of the term "information sovereignty" at the level of normative legal acts, or to amend the Regulations on the Ministry of Information Policy and to change the formulation of the tasks of the ministry in such a way as to avoid this term.

3. To the Ministry of Information Policy to take over the coordination of the elaboration and implementation of a plan of action to ensure the access of front-line territories and remote communities to Ukrainian print media.

4. To carry out an audit of the information security system within which to analyze the powers of various authorities in the field of information security (in particular, in terms of monitoring information space, identifying threats, developing policy decisions, implementing decisions), coordination mechanisms, staffing and resource capabilities. To involve non-governmental and foreign experts to the audit. On the basis of the audit results, to develop changes to the normative legal acts of Ukraine (Doctrine of Information Security of Ukraine, the Law of Ukraine "On the National Security and Defense Council of Ukraine", the Law of Ukraine "On the National Council of Ukraine on Television and Radio Broadcasting", the Law of Ukraine "On Security Service of Ukraine", the Regulations on the Ministry of Information Policy of Ukraine, the Regulations on the State Committee for Television and Radio Broadcasting of Ukraine, etc.) for the maximum full, consistent and effective implementation by the state bodies of functions necessary to perform the functions of information security.

5. In co-operation with the Ministry of Finance of Ukraine, to provide for the provision of proper financing of the State Service for Special Communications and Protection of Information of Ukraine, programs of the Luhansk and Donetsk MCA, regional state administrations of the border regions of Ukraine as regards the development of the infrastructure for access of Ukrainian citizens to television and radio (first of all, the construction of a TV tower in Pokrovsk).

6. To ensure proper public participation in the development of website blocking procedures for information security reasons. The existence of a relevant court decision must necessarily be among the necessary grounds for such a blockade.

7. At the level of regulations to clarify the concept of "strategic narrative" to determine the format and content of the strategic narratives, which, according to the information security strategy should be produced by the Ministry of Information Policy. Determine an exhaustive list of methods and channels through which the Ministry of Information Policy can distribute strategic narratives and also the order of interaction of the MIP with non-governmental entities, civic organizations and individuals in the process of distribution of strategic narratives.

8. To submit for the consideration of the Cabinet of Ministers of Ukraine the Strategy for Information Reintegration of Donbas and the Strategy of Information Reintegration of Crimea. To develop detailed action plans for these documents, which would include specific measures for achieving objectives stipulated in them, and a system for monitoring and evaluation of their implementation.

10. To develop an Action Plan to the Strategy of the Development of Ukrainian Legislation on Freedom of Speech and Media Activities in accordance with European Standards, which would outline the areas of responsibility and the level of participation of various authorities (in particular, the Ministry of Information Policy) in the implementation of media reforms.

# CONCLUSIONS

1. There is considerable pluralism in the Ukrainian mass media in approaches and editorial policies on highlighting the conflict, and there is a high level of uncertainty among journalists regarding professional guidance; this is an indication that the Ukrainian journalistic community has not yet developed universal rules.
2. The Ukrainian media lack institutionalization of editorial practices to cover issues related to conflict. So, in general, journalists are more likely to be guided by their own experiences and views, rather than by established editorial practices and standards.
3. Emotional stress accompanying the coverage of the conflict and the feeling of interconnectedness affected the rethinking by journalists of their professional role in a conflict situation. Most journalists believe that they can not be completely "over the situation", although many are aware of the danger of such a position.
4. Lack of state policy in the field of human rights protection in the context of information war leads to threatening trends - the creation by mediamen of the image of the whole Russian population as a "fierce enemy of Ukraine", non-compliance with tolerance during the coverage of the ATO events and the lives of people living in temporarily occupied regions of Ukraine.
5. Journalists consider themselves relatively free to highlight issues related to the conflict (especially in relation to political issues), but some journalists feel editorial pressure, public pressure, and are conscious of possible self-censorship. In particular, it is about avoiding those subjects, which could harm the image of the Ukrainian military and play on the Russian propaganda.
6. The desire of the authorities to win the information war now leads to attempts of insufficiently substantiated restriction of the right to freedom of speech, in particular, in the form of extrajudicial establishment of disproportionate sanctions against foreign media, and by establishing criminal liability for the dissemination or promotion of publicly important information on the conduct of ATO.

7. The information war clearly outlined the need for common standards of objectivity and balance, as well as responses to the hate speech that the state and the non-governmental sector must monitor.

8. Responses to hate speech should provide a fairly wide range of concerted actions by actors of influence:

- formation of a clearer definition of the term "hate speech"; development and introduction of sanctions with priority of measures of administrative influence in opposition to criminal prosecution;
- improvement of the regulatory framework, including the Law of Ukraine "On Principles of Prevention and Counteraction to Discrimination in Ukraine";
- identification of the most effective spheres of control (print media, online media, social networks, TV channels);
- Strengthening the expertise of expert institutions in analyzing materials for the presence of hate speech;
- increasing the level of investigative and judicial practice in cases of counteraction to hate speech.

9. Effective coordination of the activities of all actors in the implementation of the Doctrine of Information Security can begin with the creation of a roadmap with simultaneous analysis of available resources of each of the actors, their areas of competence and responsibility; existing problems, plans and level of regulatory maintenance of the main functions in the field of information security.

10. There is considerable pluralism in the Ukrainian mass media in approaches and editorial policies on highlighting the conflict, and there is a high level of uncertainty among journalists regarding professional guidance; this is the indication that the Ukrainian journalistic community has not yet developed universal rules.

11. The Ukrainian media lack the institutionalization of editorial practices on coverage of issues related to the conflict. So, in general, journalists are more inclined to be guided by their own experiences and views, rather than by established editorial practices and standards.

12. Emotional stress accompanying the coverage of the conflict and the feeling of own interconnectedness affected the rethinking by journalists of their professional role in a conflict situation. Most journal-

ists believe that they can not be completely "over the situation", although many are aware of the danger of such a position.

13. The lack of state policy in the field of human rights protection in the context of information war leads to threatening trends - the creation by mediamen of the image of the entire Russian population as a "fierce enemy of Ukraine", non-compliance with tolerance during the coverage of the ATO events and the lives of people living in temporarily occupied regions of Ukraine.

14. In general, in the Ukrainian journalistic environment there is an understanding of the normative importance of standards of objectivity and balance, but in a conflict situation, journalists feel uncertain about the possibility of compliance with these standards without potentially harming the country.

15. Journalists consider themselves relatively free to highlight issues related to the conflict (especially in relation to political issues), but some journalists feel editorial pressure, public pressure, and are conscious of potential self-censorship. In particular, it is about avoiding those subjects, which could damage the image of Ukrainian military and "play" on Russian propaganda.

16. The work of the Ministry of Information Policy during 2015-2017, despite the OSCE concern[93], had no significant negative consequences for human rights. It did not become an instrument of pressure on journalists or a source of "topic lists". Certain signs of negative consequences for human rights can be found in restrictive measures in the context of strengthening information security, but the Ministry was virtually unrelated to them. However, this does not remove from the agenda the need for active monitoring of the work of the Ministry for the observance of human rights, since the information security architecture is only being built up and there is a risk that the Ministry will carry out functions that will go against the freedom of speech.

17. The result of work of the Ministry of Information Policy is improvement of the human rights situation in a number of aspects. Thus, its efforts improved the access of inhabitants of the front line and oc-

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[93] Propaganda and freedom of the mass media. Memorandum of the Office of the Representative of the OSCE on Freedom of the Media. Vienna, 2015

cupied territories to publicly important information; in the focus of the authority are human rights violations in the occupied territories. However, the Ministry does not fully exercise its powers in terms of protecting and promoting human rights owing to the fact that some important areas of work are not being properly implemented. The reason for this is lack of resources, problems in planning and determining priorities of work, lack of political will, competition with other authorities. In general, the range of issues in which the MIP has a real impact on is very narrow. The ministry lacks political support to be a prominent actor that really influences processes and defines the state's media policy. It is on the sidelines of the media reform. In the field of information security, where threats to freedom of speech arise, strategic issues are determined by political figures, but not by the developments of executive bodies. This significantly reduces the Ministry's influence on political processes, and hence on the situation with the rights and freedoms of citizens associated with these political processes.

18. An important factor is the occupation of part of the southern and eastern territories of Ukraine by the Russian Federation and armed entities under its control. Any government initiatives aimed at promoting democratic changes in the country, creating favorable conditions for the implementation of human rights and freedoms are limited to the territory controlled by the government and do not affect the situation in Crimea and ORDLO. The Government of Ukraine, including the MIP, has extremely limited capacity to improve the human rights situation in these areas.

http://www.osce.org/ru/fom/219726?download=true

# RECOMMENDATIONS

1. To the Verkhovna Rada of Ukraine and the Ministry of Justice of Ukraine to initiate amendments to the Constitution and the legislative system of Ukraine with a view of harmonizing Ukrainian legislation with regard to any restrictions on the freedom of expression with the Camden Principles on Freedom of Expression and Equity regarding legality, coherence and the need for implementation of such restrictions.

2. To the Cabinet of Ministers of Ukraine to initiate discussions on the appropriateness of a separate normative act that coordinates the various issues of problem questions in the context of information war: the requirements of information security of Ukraine, international standards in the field of freedom of speech, the right to truth, ethical principles of the work of the mass media, including - in the field of counteraction to hate speech.

3. To the Cabinet of Ministers of Ukraine to conduct an audit of the information security system within which to analyze the powers of various authorities in the field of information security (in particular, in terms of monitoring information space, identifying threats, developing political decisions, implementing decisions), coordination mechanisms, personnel and resource capabilities. To involve non-governmental and foreign experts to the audit. On the basis of the audit results, to develop changes to the normative legal acts of Ukraine (Doctrine of Information Security of Ukraine, the Law of Ukraine "On the National Security and Defense Council of Ukraine", the Law of Ukraine "On the National Council of Ukraine on Television and Radio Broadcasting", the Law of Ukraine "On Security Service of Ukraine", the Regulations on the Ministry of Information Policy of Ukraine, the Regulations on the State Committee for Television and Radio Broadcasting of Ukraine, etc.) for the maximum full, consistent and effective implementation by the state bodies functions necessary to perform the functions on provision of information security.

4. To the Cabinet of Ministers of Ukraine should provide for the provision of proper financing of the State Service for Special Communications

and Information Protection of Ukraine, programs of the Luhansk and Donetsk MCA, regional state administrations of the border regions of Ukraine as regards the development of the infrastructure for access of Ukrainian citizens to television and radio (in the first place, the construction of a TV tower in Pokrovsk city).

5. To the Ministry of Justice, together with the interested ministries, research and academic institutions, to initiate:

• discussion of the implementation of the provisions to in Ukraine's legal policy of the Rabat Action Plan on the introduction of a clear distinction between the three types of statements: a statement that is a criminal offense; a statement that is not criminally punishable, but may be subject to civil action or administrative sanctions; a statement that is not subject to criminal, civil or administrative sanctions, but is a matter of concern in terms of tolerance, correctness and respect for the rights of other people;

• improvement of the legal response to hate speech: consolidation of the fullest possible definition of hate speech in the Criminal Code of Ukraine; the detailing of social groups that may become the subject of criminal law protection from hate speech; adjusting the legal framework for the activities of units that can counteract hate speech in social networks; improvement of the normative base within the limits of civil and administrative legislation and judicial practice

6. To the Ministry of Justice provide the interpretation at the level of normative legal acts of the term "information sovereignty" or, in co-operation with the Ministry of Information Policy, to initiate amendments to the regulations on the Ministry of Information Policy regarding the formulation of the tasks of the Ministry in such a way as to avoid this term.

7. To the Ministry of Information Policy to organize and support the adoption of the Draft Law No. 6565 "On Amendments to Certain Laws of Ukraine Concerning Interim Permits for Broadcasting in the Area of the Anti-Terrorist Operation and Border Regions of Ukraine", which would legitimize the concept of temporary broadcasting in territories with a special regime of broadcasting and providing corresponding permissions of the National Council of Ukraine on Television and Ra-

dio Broadcasting, which will facilitate the restoration of Ukrainian TV and radio in front-line territories. At the same time, to coordinate the development and implementation of a plan of action to ensure the access of front-line territories and remote communities to the Ukrainian print media.

8. To the Ministry of Information Policy, taking into account the Rabat Action Plan, to initiate the development of a public strategy and regulatory framework that would promote the development of pluralism and diversity of the media, including the use of new media technologies, and which would ensure the absence of discrimination in access to the means of communication and their use. Such a strategy may include, for example, the following elements:

• Identification of the most problematic threats to freedom of speech through the challenges of wartime;

• development of common limits and forms of state regulation of freedom of speech, possible in conditions of armed conflict, with the simultaneous determination of areas that should be regulated exclusively by means of non-state nature (corporate policies, ethical codes);

• development of a methodology for evaluating publications and speeches on the presence of hate speech;

• developing procedures for blocking websites for reasons of information security;

• the development of clear criteria and indicators for the work of mass media dealing with ethical dilemmas in the field of freedom of speech and the right to truth (UN General Assembly resolution A / HRC / RES / 12/12, 2009).

9. To the Ministry of Information Policy, within the framework of normative activity:

• to submit for the consideration of the Cabinet of Ministers of Ukraine the Strategy for Information Reintegration of Donbas and the Strategy of Information Reintegration of Crimea. To develop detailed action plans for these documents, which would include specific measures to achieve their goals, and a system for monitoring and evaluating their implementation.

- to develop an Action Plan on the Strategy for the Development of the Ukrainian Legislation on Freedom of Speech and Media Activity in accordance with European Standards, which would outline the areas of responsibility and the level of participation of various authorities (in particular, the Ministry of Information Policy) in the implementation of media reforms.
- at the level of regulations, to clarify the concept of "strategic narrative", determine the formats and content of strategic narratives, which, according to the Strategy of Information Security, should be developed by the Ministry of Information Policy. Identify an exhaustive list of methods and channels by which the Ministry of Information Policy can disseminate strategic narratives, as well as the manner in which the Ministry interacts with non-state actors, civic organizations and individuals in the process of disseminating strategic narratives.

10. To the Ministry of Information Policy, in co-operation with mass media, to initiate the development of professional standards for addressing the following working situations:

- the relevance of quoting expressions of politicians, public figures, well-known people containing abnormal, abusive, rude, slang vocabulary;
- the expediency of publishing articles of bloggers who also resort to hate speech, since the publication automatically becomes a platform for the distribution and replication of such expressions;
- the legality of page screenshots from social networks where the hate speech is present;
- the possibility of publishing of so-called memes, anecdotes that are dubious from an ethical point of view.