

UDC 342.7:001.102+004]:341.231.14(477)

DOI 10.32755/sjlaw.2025.03

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THE HUMAN RIGHT TO INFORMATION: FEATURES OF ITS PROTECTION UNDER MARTIAL LAW AND PROSPECTS FOR IMPROVEMENT

In the article, the authors propose the implementation of organizational and legal measures to ensure the human right to information, namely: to supplement the provisions of Article 34 of the Constitution of Ukraine, Articles 3 and 5 of the Law of Ukraine "On Information," Chapter 14, Article 173¹ of the Code of Ukraine on Administrative Offenses; to establish a Ministry of Information Policy; and to improve the information campaign aimed at countering Russian communication warfare.

Key words: human right to information, martial law, Russian propaganda, communication warfare, Center for Strategic Communications, national security, information campaign, disinformation.

Target setting. On 24 February 2022, the Russian Federation launched a full-scale invasion of Ukraine. Extending beyond military action, they initiated a dynamic information campaign involving the dissemination of fake news and propaganda, as well as the deployment of pro-Russian influence agents. The aim was to discredit our state and its authorities in the eyes of the international community and Ukrainian society.

Under such circumstances, information ceases to be safe, and individuals become objects of manipulation, incitement of distrust, and dissemination of disinformation. The strengthening of the ad-

versary's position in the information space negatively impacts not only the human right to information but also national security. The deformation of citizens' consciousness, the creation of narratives favorable to the enemy among them, and the provocation of conflict within one society – all of this constitutes a real threat to the sovereignty and territorial integrity of the state, its constitutional order, and, as a consequence, to the level of protection of human rights.

Actual scientific researches and issues analysis. Issues related to the protection of the human right to information, including during the period of martial law, have been studied by several Ukrainian scholars, including V. S. Polytskyi, O. V. Biloskurska, M. D. Fedorchuk, L. Vakariuk, A. L. Pravdiuk, among others.

The Purpose of the Article. The purpose of this article is to examine the peculiarities of ensuring the human right to information under martial law and to develop organizational and legal foundations for its protection.

The statement of basic materials. Ukraine is a young state that has become a defender of democracy and freedom in Europe, confronting a terrorist state – the Russian Federation. Amid full-scale invasion, when fierce battles rage on one front and missiles and drones rain down on civilians on another, Ukraine continues to build its statehood in accordance with European values, particularly the rule of law and the protection of human rights and freedoms.

At the same time, Russia's status as an aggressor state that systematically violates human rights poses a serious threat to the implementation of a wide range of rights and freedoms, especially the right to information. This right is arguably the primary object of enemy attacks, as communication is used to undermine Ukraine's authority on the international stage and to shape pro-Russian ideas in the worldview of Ukrainian citizens.

The right to information is enshrined in Article 34 of the Constitution of Ukraine, which states that: «Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of their views and beliefs. Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of their choice. The exercise of these rights may be restricted by law in the interests of national security, territorial integrity or

public order, to prevent disturbances or crimes, to protect the health of the population, the reputation or rights of others, to prevent the disclosure of confidential information, or to maintain the authority and impartiality of the judiciary» [1].

Based on the above, it can be argued that under the Basic Law of Ukraine, the human right to information encompasses the following system of rights: 1) the right to freedom of thought and speech; 2) the right to freely express views and beliefs; 3) the right to freely collect information; 4) the right to freely store information; 5) the right to freely use information; 6) the right to freely disseminate information.

At the same time, these rights may be restricted in cases provided for by law. In our opinion, the most relevant restriction today concerns national security. According to Article 1, Part 1, Clause 9 of the Law of Ukraine «On National Security», national security of Ukraine is defined as «the protection of the state's sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats» [2]. We believe that, in the context of national security, the affirmation and protection of human rights and freedoms necessarily include the defense of the democratic and constitutional order, since the implementation of the rule of law is enshrined as a duty of the state under Article 3 of the Constitution of Ukraine.

In comparison with the Basic Law, the Law of Ukraine «On Information» was also examined. Article 5 of this law states that «Everyone shall have the right to information, which implies the possibility of freely receiving, using, disseminating, storing, and protecting information necessary for the exercise of their rights, freedoms and legitimate interests. The realization of the right to information shall not infringe upon the civil, political, economic, social, spiritual, environmental and other rights, freedoms and legitimate interests of other citizens, as well as the rights and interests of legal persons» [3].

Thus, according to the Law of Ukraine «On Information» the human right to information includes the following components: 1) the right to freely receive information; 2) the right to freely use information; 3) the right to freely store information; 4) the right to protect information.

The last component, in the context of domestic legislation, should be considered in relation to the protection of restricted-access information.

It is also important to emphasize that the Ukrainian state undertakes to guarantee the human right to information. A notable and recent example concerns the media's dissemination of the statement that «Ukraine is partially withdrawing from certain provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms». This news caused a significant public reaction and, in effect, threatened public trust and the image of state institutions through manipulation of citizens' consciousness. On the same day, a number of civil society actors and public officials provided commentary clarifying that the media materials had misrepresented the facts.

Almost immediately, government representatives issued official comments, thereby safeguarding both national security and the human right to information. This is not an isolated case. Considerable amounts of information are disseminated in ways that favour the enemy, and this happens methodically and over long periods of time.

For many years, Russia has systematically driven wedges between Ukrainian society and the armed forces, and between different groups within those communities [4, p. 325]. For example, as early as the 2000s in Crimea, pro-Russian politicians circulated leaflets from Nataliya Vitrenko that depicted a goblin hand labeled «NATO» with a swastika, placed over the Crimean peninsula. NATO was portrayed as a Nazi occupying force, while only the then-leader of the Progressive Socialist Party (now known as a collaborator) was presented as capable of «saving» Ukraine.

In 2024, Russian propaganda actively promoted narratives aimed at causing division and weakening Western support for Ukraine. Among these is the narrative that «the West is tired of Ukraine and has lost interest in assisting it». This messaging targets both the political landscape and public opinion, provoking doubt about the necessity of continued aid and support.

In the temporarily occupied territories, Russian forces use a variety of tools in their arsenal of communication warfare, many of which are reminiscent of Soviet methods. These include the dissemination of propaganda posters. More contemporary tactics involve blocking Ukrainian internet providers, radio, and television; broadcasting Russian media; and introducing a new school curriculum embedded with propaganda elements.

A significant number of Telegram channels have been established in the occupied regions. The core narrative across all media controlled by the occupation authorities is the claim that «Ukraine is shelling the territories seized by Russia». In the occupied part of Zaporizhzhia Oblast, a radio station controlled by the occupation authority, Radio Crimea, began broadcasting in late March, as reported by local television channel Za!TV. One of its main projects was dedicated to Russian military personnel, according to media sources. In addition to Za! TV and Radio Crimea, the region also hosts Za!Radio and Radio Sputnik. A printed newspaper titled Zaporizhzhia Herald is distributed free of charge, with a reported circulation of 300,000 copies last year, according to local sources [7]. Effectively, an information ghetto has been created. Russia seeks to replicate this model across all newly occupied Ukrainian territories [8].

Russian forces do not shy away from using platforms that they themselves have declared «prohibited». In social media, Russian intelligence agencies launch attacks on Ukrainians via troll farms, video and audio fakes, propaganda clips, intrusive advertisements, pseudo-Ukrainian or cloned Telegram channels, and spam campaigns [9].

Beyond their primary aim – spreading propaganda and advancing pro-Russian narratives on social networks, since the onset of the full-scale invasion, Russian troll farms have acquired several new objectives: 1. to sow panic among the population and incite regime change through neighborhood, school, and residential chat groups by integrating into community-level discussions; 2. to mass-distribute bomb threats targeting various institutions, shopping centers, schools, and hospitals – tactics employed even before the invasion began; 3. to influence individual Ukrainian military personnel, urging them to lay down arms and defect to the enemy side [10].

According to Mariia Sahaidak, Head of the Strategic Communications Department at the Center for Strategic Communications and Information Security, the enemy continuously adapts its methods for creating fake news: «We tend to believe that anonymous Telegram channels were the main source of disinformation, but now TikTok is gaining momentum – Russia is employing numerous anonymous bloggers to conduct campaigns discrediting Ukrainian authorities and both political and military leadership» [11]. The enemy utilizes not only information as a tool, but

also human resources – in particular, agents of influence, including collaborators who voluntarily cooperate with occupation authorities and spread pro-Russian narratives on social media.

For instance, in the Bilozerka community, an employee of a pharmaceutical company agreed to work with the occupying administration, assuming the position of «Chief of the Medical Division at the Central District Hospital». He also shares pro-Russian narratives online. Additionally, law enforcement identified a collaborator-journalist working for the propaganda channel Tavria – a 58-year-old man registered in Zakarpattia Oblast, operating under a pseudonym. On social media and Tavria TV, he conducts pro-Russian propaganda targeting the Armed Forces and Ukrainian government [12].

These are just a few cases drawn from the broader context of contemporary information warfare, but their frequency is striking. For many years, Russia has used information as a weapon to influence public consciousness, and often successfully. Distorted historical claims (e.g., that Ukraine was created by Lenin, or that Crimea was «gifted» by Khrushchev), narratives about «three types of Ukrainians», threats of nuclear war, and constant psychological operations – all of these threaten Ukraine's constitutional order and, accordingly, undermine the protection of the human right to information.

In our view, state policy requires amendments and the implementation of a series of more decisive measures in the sphere of protecting the human right to information. We propose a comprehensive approach, namely: improving legal regulation, reforming institutional structures, and enhancing the national information campaign.

1. Improvement of Legal Regulation. In our opinion, reforms should begin with the law holding the highest legal force. When analyzing the provisions of Article 34 of the Constitution of Ukraine, we identified a range of rights that, according to the national legislator, are components of the right to information. However, one essential element is absent – namely, the explicit recognition of an individual's right to safe information or a safe informational environment. This might be inferred from the second part of the same article, which lists the grounds for limiting the right to information.

Nevertheless, a restriction of the right to information and a right to safe information are not synonymous, though they are related in

cases where ensuring the right to a safe information space necessitates restrictions on other information flows.

We propose amending the wording of the first part of Article 34 of the Constitution of Ukraine as follows: «Everyone shall have the right to freely collect, store, use, and disseminate information orally, in writing, or by other means of their choice, and to enjoy a safe informational environment».

This amendment would not only constitutionally enshrine the human right to a safe information environment but also recognize it as a fundamental right, thereby obligating governmental and local authorities to take more decisive action to ensure its effective protection.

In addition, it is necessary to revise the wording of the Law of Ukraine «On Information», specifically paragraph 7 of Part 1, Article 3. We propose replacing «ensuring the information security of Ukraine» with «ensuring the information security of the individual and Ukraine». Furthermore, we suggest amending Part 1 of Article 5 by adding a second paragraph: «Everyone has the right to a safe informational environment».

We also find it appropriate to supplement Chapter 14, Article 173¹ of the Code of Ukraine on Administrative Offenses with a provision that introduces liability in the form of a fine for disseminating false rumors or distorted information among the population via the media. Based on the example involving the misrepresentation of information about the European Convention on Human Rights in domestic media, we believe that establishing administrative responsibility could help prevent similar incidents in which editors and journalists, in pursuit of publicity, threaten national security and violate the human right to accurate information.

2. Reform of Institutional Foundations of State Information Policy. In order to effectively protect society in the information domain, we consider it appropriate to reorganize the central executive body responsible for information security – the Ministry of Culture and Information Policy. Given the scale of enemy information attacks, a ministry that simultaneously oversees both cultural and informational policy is not capable of exercising its authority effectively.

We recognize that during martial law, the creation of a separate central executive body may seem inappropriate due to financial constraints. However, under the present conditions, the information

front can be equated with the military front. A dedicated Ministry of Information Policy would focus exclusively on the information sphere – proposing legal regulations in this area and developing new strategies to counter hostile disinformation.

3. Information Campaign to Counter Russian Communication Warfare. Public information outreach holds a fundamental advantage in ensuring the right to information, as Ukraine cannot impose total and harsh censorship even during martial law for several key reasons:

1. Such measures would contradict international human rights standards, since total censorship does not constitute information restriction, but rather its complete prohibition. This would violate the human right to information and could harm Ukraine's international reputation, particularly in comparison with practices of the Russian Federation.

2. Ukraine neither can, nor should, aim to fully control the information environment. This environment includes not only media and social networks, but also interpersonal communication and the information space within temporarily occupied territories beyond the state's effective control.

The creation of a separate central executive body for implementing state information policy may require significant time. Meanwhile, the human right to information must be protected now. Therefore, we propose involving one of the existing governmental initiatives.

At present, the Ministry of Culture and Information Policy oversees the Center for Strategic Communications, whose core mission is to counter Russian disinformation. We view this platform as a resource hub for Ukraine's information campaign.

Upon reviewing the official website of the Center for Strategic Communications, we found a section containing training sessions and methodological resources for public servants working in the field of strategic communication. However, we did not find similar educational resources for the general public. We propose creating such content for all citizens who are not affiliated with the civil service.

Since the Center's aim is to provide verified information in response to hostile information-psychological operations, but it is not always able to immediately address every piece of disinformation, we propose the following solution: in cooperation with the Ministry of Digital Transformation of Ukraine, a chatbot called «YeFake» should be introduced in the «Diia» mobile application. This feature

would allow users to submit information they suspect to be false. The staff of the Center for Strategic Communications would verify it and publish a corresponding article on their website.

In addition to trainings, we also recommend the development of a universal guidebook for Ukrainian citizens, which would include key features of information-psychological operations; main tools of the enemy in communication warfare; practical tips for protecting oneself in the information environment; links to training materials and strategic communication guidelines from the Center; direct access to the «YeFake» chatbot in the «Diia» app.

This guide should be distributed in all public institutions and published on the websites of state and local government bodies to ensure wider public awareness of its availability.

Conclusions. The conducted research has demonstrated that under martial law, the Russian Federation, as an aggressor state, systematically violates the human right to information. The adversary employs a wide range of tools of communication warfare across all domains of the information space: occupied territories, internet platforms, social networks, the international media environment, and offline settings. In the context of widespread dissemination of distorted data, information ceases to be secure, thereby posing a threat to national security and leading to violations of the right to information.

In order to ensure adequate protection of the human right to information, the authors propose a set of organizational and legal measures, namely: amending the Constitution of Ukraine, the Law of Ukraine «On Information», and the Code of Ukraine on Administrative Offenses; establishing a separate Ministry of Information Policy of Ukraine; developing online training modules, methodological recommendations, and informational leaflets for Ukrainian citizens; disseminating these materials in public institutions and on the official websites of state and local authorities; and, in cooperation with the Ministry of Digital Transformation of Ukraine, creating a new feature called «YeFake» within the Diia mobile application.

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ПРАВО ЛЮДИНИ НА ІНФОРМАЦІЮ: ОСОБЛИВОСТІ ЗАБЕЗПЕЧЕННЯ В УМОВАХ ВОЄННОГО СТАНУ ТА ПЕРСПЕКТИВИ ВДОСКОНАЛЕННЯ

Стаття присвячена аналізу особливостей забезпечення права людини на інформацію в умовах воєнного стану, а також розробленню організаційно-правових шляхів удосконалення його захисту. Авторами наголошується на систематичному порушенні права людини на інформацію з боку російської федерації. Держава-агресор розв'язала комунікаційну війну проти України, використовуючи її різноманітні засоби, а саме: популяризацію агітаційних матеріалів, блокування українських інтернет-провайдерів, радіо, телебачення, створення проросійських медіа на окупованих територіях, поширення неправдивих новин та пропагандистських наративів, реалізацію через мережу ворожих агентів впливу як в українському, так і в міжнародному інформаційному просторі.

Констатується, що за таких умов інформація перестає бути безпечною і становить загрозу національній безпеці, а отже, і забезпеченню права людини на інформацію, оскільки існує чіткий взаємозв'язок між конституційним ладом та утвердженню прав людини в державі.

Наголошено, що забезпечення права на інформацію залишається проблемним з огляду на масовість інформаційно-психологічних операцій і той факт, що встановити повний контроль над інформаційним полем видається неможливим, а тому виникає потреба в розробленні низки заходів, що матимуть дієвість за цих обставин.

Авторами пропонується здійснити низку організаційно-правових заходів задля забезпечення права людини на інформацію, а саме: доповнити положення статті 34 Конституції України, статей 3 та 5 Закону України «Про інформацію», глави 14 статті 173 з позначкою 1 Кодексу України про адміністративні правопорушення, створити Міністерство інформаційної політики, вдосконалити інформаційну кампанію з метою протидії російській комунікаційній зброї.

Ключові слова: право людини на інформацію, воєнний стан, російська пропаганда, комунікаційна війна, Центр стратегічних комунікацій, національна безпека, інформаційна кампанія, дезінформація.