Legal Means of Defending Democracies Against Disinformation

by Maria Avdeeva

Kremlin disinformation campaigns pose a direct threat to democracies both new and old as they try to undermine the stability of our societies and to manipulate our views and choices. The strategic objective of these campaigns is to weaken and destabilize the West at every level. Starting from 2014 sixteen European elections have been influenced by the disinformation campaigns[1] attributed to Kremlin backed groups.

And the used tools, techniques and methods are getting more and more adaptable, ingenious, aimed at very specific social groups. At the same time our response is insufficient, we are overlooking some defensive strategies against disinformation.

Various solutions have been already undertaken to counter these threats. But I would like to look on the legal status of national laws adopted resulting from disinformation campaigns led by Russia.

First of all, it's necessary to constantly collect and document cases of pro-Kremlin disinformation. It's necessary to develop a monitoring system for newly emerging disinformation attacks. Broad monitoring tasks should become the priority for national governmental bodies and all European organizations.

A good example is the activities of the Lithuanian Armed Forces StratCom Department which has an experience of neutralizing disinformation before it has time to spread.

Second, we need to get the full consensus that media and information are strategic assets. Attacks on these assets should be followed by targeted sanctions. International community should adopt regulations that would allow levying fines against outlets that are reporting false information.

Furthermore, western nations should consider applying coordinated sanctions against foreign officials who lead state organs that engage in information warfare against western democracies.

Third, we should intensively work with media as the goal of the disinformation campaign is to maximize the number of possible sources spreading the same disinformation messages as often as possible.

For example, the European Court of Justice ruled that EU countries can take action against a broadcaster that shows programs deemed to spread hate speech. After a Russian TV channel broadcasted in Lithuanian a program that was inciting hatred based on nationality, it was allowed to be distributed online only as part of packages available for an additional fee.

As to the social media platforms, through which the disinformation is disseminated, they are not responsible for producing wicked content, but rather are used to spread it as fast as possible. That's why EU is working with the industry through a voluntary Code of Practice on Disinformation to fight disinformation. However it's only a first step to stop the spread of disinformation online[2] and as of now it's clearly insufficient. European Commission latest report card on this voluntary effort sums to the platforms could do better.

Legal means will also fulfill the important task of raising warnings about disinformation. Well informed and educated public, media, and government will provide the most resilient form of defense against foreign malign influence and disinformation campaigns for all democracies. This is evident from countries like Ukraine that have long been subjected to heavy disinformation and propaganda campaigns on behalf of the Russian state and have since implemented law identifying information security as a vital part of national security.[3]

The disinformation challenge has always changed with the times and will continue to do so. Learning from each other remains the best way of staying ready to counter it.

1 https://disinfoportal.org/testimony-jakub-kalensky/

2 https://techcrunch.com/2019/10/29/tech-giants-still-not-doing-enough-to-fight-fakes-says-european-commission/

3 https://www.csis.org/coming-together-fight-fake-news-lessons-european-approach-disinformation

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