

## INFORMATION THREATS AND LEGAL MEANS TO COMBAT THEM: THE CASE OF LITHUANIA

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**Abstract.** This research investigates the critical issue of combating information warfare through legal avenues, focusing on Lithuania's case. The backdrop reveals alarming statistics from the Lithuanian Democracy Sustainability Barometer study, highlighting susceptibility to Russian disinformation among approximately 300,000 individuals. Voices like Professor Tomas Janeliūnas and Minister Laurynas Kasčiūnas underscore the grave consequences of false narratives, citing examples from the Ukraine conflict. In Lithuania's democratic framework, freedom of speech is fundamental, yet the study reveals the delicate balance between this freedom and the spread of harmful content, especially disinformation. Recent incidents, such as bomb threats via false emails, underscore the urgent need to address deliberate misinformation. The research sets clear goals to identify disinformation instances, assess legal countermeasures, and analyze societal impacts. Methodologically, it combines legal analysis with expert interviews in propaganda, disinformation, and national security. Findings highlight prevalent propagandistic narratives in Lithuania, aiming to undermine sovereignty and historical memory. Despite legal frameworks, enforcement gaps hinder accountability for propagators of hostile narratives, necessitating legislative changes to curb misinformation amid rising geopolitical tensions. In conclusion, the study advocates proactive measures to safeguard democratic integrity and national security. By addressing legal loopholes and enhancing accountability, Lithuania can fortify its resilience against disinformation's pernicious influence.

**Keywords:** information warfare, legal measures, propaganda, disinformation, fake news

### Introduction

**The problem and its relevance.** During the second Lithuanian Democracy Sustainability Barometer study, it was found that approximately 300,000 people in Lithuania are within the field of Russian disinformation<sup>1</sup>. According to Professor Tomas Janeliūnas of the Institute of International Relations and Political Science at Vilnius University, „there is definitely a part of society that agrees that NATO and the USA have instigated the war in Ukraine, [...] almost 20 percent of respondents agree with such a propagandistic statement, which often emanates from

<sup>1</sup> „Tyrimas: Kremliaus dezinformacija pasiekia apie 300 tūkst. šalies gyventojų – dalis gali radikalizuotis“ (Study: Kremlin disinformation reaches about 300 thousand country residents - some may radicalize), LRT.LT, Available from: <https://www.lrt.lt/naujienos/lietuvoje/2/2157344/tyrimas-kremliaus-dezinformacija-pasiekia-apie-300-tukst-salies-gyventoju-dalis-gali-radikalizuotis>, accessed 3 January 2024.

*Russia.* <sup>2</sup> The Minister of National Defense of the Republic of Lithuania, Laurynas Kasčiūnas, emphasizes that the example of Ukraine clearly demonstrates that the step from words to actions is very small, and therefore, it is necessary to respond to individuals supporting a terrorist state. According to him, „*such individuals in Ukraine during the war became members of sabotage groups. [...] They marked targets, [...] betrayed their neighbours, [...] and helped Russian occupying forces enter Ukraine*“<sup>3</sup>.

In a free, independent, democratic Lithuanian society, as in other progressive Western countries, freedom of speech is a highly important and protected value. The citizens of the Republic of Lithuania enshrined this on October 25, 1992, by voting in a referendum for the adoption of the most important state document – the Constitution of the Republic of Lithuania (hereinafter referred to as the Constitution). Article 25, paragraph 1 of this highest legal authority document states that „*A person shall have the right to hold their own beliefs and freely express them*“<sup>4</sup>. With the ratification of one of the most important international legal documents regulating human rights in Europe – the European Convention on Human Rights (hereinafter referred to as the ECHR) – by the Seimas of the Republic of Lithuania, the freedom of expression in our country became even more strongly protected. Article 10, paragraph 1 of the ECHR establishes the following provision: „*Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers*“<sup>5</sup>. In explaining the content of this freedom, the Constitutional Court of the Republic of Lithuania (hereinafter referred to as the CCRL) „*has stated that this freedom is one of the foundations of an open, just, harmonious civil society and a democratic state. It is an important prerequisite for the implementation of various personal rights and freedoms enshrined in the Constitution, as a person can fully exercise many of their constitutional rights and freedoms only if they have the freedom to seek, receive, and disseminate information without hindrance*“<sup>6</sup>. It is evident that the CCRL assigns significantly greater importance to freedom of expression than merely its own content. Freedom of expression is described as an essential condition under which a citizen of the state is informed, informs others, and actively participates in the life of the state, exercising their rights and freedoms.

Recently, as the world is shaken by one global crisis after another, the overwhelming flow of information has seen the emergence of vast amounts of contradictory, unreliable, false, and harmful information to society and the state. In some cases, such information is shared due to ignorance or a poor understanding of the topic, but in others, this activity is planned, organized, and purposeful. Such deliberately spread information, depending on its sources, nature, distinctive features, goals, and impact, can be considered disinformation, propaganda, or fake news. One of the most recent cases in Lithuania, where society was affected by false and dangerous information, involved thousands of emails and messages about bomb threats in schools and other institutions or facilities. The information attack began on October 13, 2023, during which messages were received from foreign email addresses claiming that various

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Constitution of the Republic of Lithuania, LRS.LT, available from: <https://www.lrs.lt/home/Konstitucija/Konstitucija.htm>, accessed 6 November 2023.

<sup>5</sup> European Convention on Human Rights, ECHR.COE.INT, Available from: [https://www.echr.coe.int/documents/d/echr/convention\\_lit](https://www.echr.coe.int/documents/d/echr/convention_lit). Accessed 6 November 2023.

<sup>6</sup> „Lietuvos Respublikos Konstitucinio Teismo 2005 m. rugsėjo 19 d. nutarimas byloje Nr. 19/04“ (Decision of the Constitutional Court of the Republic of Lithuania dated September 19, 2005, in Case No. 19/04), LRKT.LT, Available from: <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta244/content>, accessed 6 November 2023.

institutions were supposedly mined. As it later turned out, this problem was not confined to Lithuania. Identical threatening messages reached institutions in other Baltic states, as well as in Finland and Poland.

Often, disseminators of false and harmful information, if identified, cloak themselves under the guise of freedom of expression. However, both Article 25, paragraph 4 of the Constitution, which states that: „Freedom to express beliefs and disseminate information is incompatible with criminal acts - incitement to national, racial, religious, or social hatred, violence, and discrimination, as well as disinformation“<sup>7</sup>, and the practice of the CCRL indicates that „the freedom to seek, receive, and disseminate information is not absolute“<sup>8</sup>.

So, today, more than ever, it is crucial to discuss the tools of information warfare - disinformation, propaganda, and fake news - the threats posed by these phenomena to the security of Lithuanian society, actively seeking to thwart these processes through existing legal means, and exploring new ways to combat harmful, false, damaging, and destabilizing information for public security.

Goals and objectives of the research. The goal of this study is to reveal the issues surrounding the prevention of the phenomenon of information warfare through legal means.

To achieve this goal, the following objectives are raised:

1. Present the phenomenon of information warfare and identify instances of disinformation, propaganda, and fake news in the Lithuanian information space.
2. Evaluate the legal possibilities for countering disinformation, propaganda, and fake news provided for in the legislation of the Republic of Lithuania and international legal acts.
3. Assess the impact of information warfare on the security of Lithuanian society.

**Methodology of the Research.** The research involves an analysis of legal acts aimed at identifying legal norms regulating the spread of disinformation, propaganda, and fake news, as well as measures for their prevention and counteraction. The effectiveness of such legal norms is also assessed. A qualitative study was conducted through semi-structured interviews with individuals possessing expertise in disinformation, propaganda, and fake news, as well as methods for combating these phenomena and fostering resistance to them. To investigate the impact of disinformation, propaganda, and fake news on societal security, a qualitative study was conducted through semi-structured expert interviews, involving three individuals who are experts in the fields of informational warfare, threats, and propaganda at the state level. Interviews with two experts were conducted remotely via the „MS Teams“ platform, while one interview was conducted in person. The interviewees were as follows: 1) Dr Mantas Martišius, an expert in informational warfare and propaganda, Associate Professor at the Faculty of Communication at Vilnius University, and former Chairman of the Lithuanian Radio and Television Commission; 2) Dr Viktor Denisenko, an expert in informational warfare and propaganda, researcher and lecturer at the Faculty of Communication at Vilnius University, and Associate Professor at the Global Politics Research Group of the Lithuanian Military Academy; 3) Laurynas Kasčiūnas, former Chairman of the National Security and Defense Committee of the Seimas of the Republic of Lithuania and Member of Parliament, who was appointed as the Minister of National Defense of the Republic of Lithuania on March 25, 2024, during the writing of this master's thesis, following Arvydas Anušauskas' resignation from office. Respondents were asked 6 questions. The responses of the respondents are not individually analyzed in the article; they are used as an additional source of information when analyzing specific legal issues.

<sup>7</sup> The Constitution of the Republic of Lithuania, *supra note*, 4.

<sup>8</sup> Constitutional Court of the Republic of Lithuania, *supra note*, 6.

## Phenomena of Information Threats and it's Appearance in Lithuanian Information Area

Information warfare is a strategy aimed at achieving an information advantage over an adversary. It involves controlling and safeguarding one's own information space while simultaneously acquiring and exploiting the opponent's information, dismantling their information systems, and disrupting their information flow. Although not a new concept, information warfare incorporates innovative aspects due to technological advancements, leading to faster and more widespread dissemination of information. Currently, interest in information warfare has surged due to the Russian-Ukrainian conflict and Russia's annexation of Crimea in 2014. Russia has been shaping perceptions among Ukrainians and the international community to promote its own narrative. This was accomplished through traditional media controlled by the Russian government and social media platforms, which served as operational grounds for troll factories. (Aro, 2016; Buciuinas, 2021; Macdonald, 2006; Thomas, 2014; Thornton, 2015).

*„Although propaganda is a relatively stable phenomenon, life itself is changing too rapidly and radically to describe the situation using terms that emerged just a century ago. Today, its propaganda is part of other, broader processes..“<sup>9</sup> The same can be said about disinformation and fake news, as discussed earlier, as they can be identified as parts or elements of propaganda. As information flows inexorably increase, they occupy more and more space in society's life, and dependence on information and its importance in the modern world only grows. „This means that through information, we can have a greater impact.“<sup>10</sup> In the age of technology, „information has become one of the essential weapons, and skillful manipulation of it can be considered as a separate form of warfare“<sup>11</sup>. These days, while listening to the news or following updates about conflicts happening around the world, we can practically hear the term "information warfare" every day.*

Information warfare is a general term used to describe new forms of warfare and is one of the broader processes mentioned earlier. *„Information warfare can be defined and understood in two ways: as cyber warfare (actions of programmers aimed at influencing or damaging information infrastructure) and as psychological warfare (the use of false news to influence people's thinking)“<sup>12</sup> Propaganda with all its means and variations is considered an integral part of information warfare. M. Martišius describes information warfare as actions used to influence other states or adversaries<sup>13</sup>. The scientist gives a broader meaning to the concept, stating that such warfare „consists of psychological operations, electronic warfare, military deception, disruption of physical information dissemination means, information attacks, and*

<sup>9</sup> Viktor Denisenko, „Informaciniai karai ir propaganda: iššūkiai ir tikrieji pavojai“ (iš paskaitos #LEAD cikle, Vilnius, 2019 m. rugsėjo 19 d.) (Viktor Denisenko, "Information Wars and Propaganda: Challenges and Real Threats" (from the #LEAD lecture series, Vilnius, September 19, 2019)), Available from: <https://www.youtube.com/watch?v=IR3TXBZ8PYo>, accessed 6 February 2024.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Viktor Denisenko, „Informaciniai karai ir propaganda: iššūkiai ir tikrieji pavojai“ (iš paskaitos #LEAD cikle, Vilnius, 2019 m. rugsėjo 19 d.) (Viktor Denisenko, "Information Wars and Propaganda: Challenges and Real Threats" from the #LEAD lecture series, Vilnius, September 19, 2019)), Available from: <https://www.youtube.com/watch?v=IR3TXBZ8PYo>, accessed 6 February 2024.

<sup>13</sup> Mantas Martišius, *(Ne)akivaizdus karas: nagrinėjant informacinį karą ((Non)Obvious War: Exploring Information Warfare)* (Vilnius: Versus Aureus, 2010).

*defense measures. These means, aimed at different results, can be used separately or in combination*“. The reality and dangers of information warfare have also been recognized by the European Parliament, which in 2016 adopted a resolution „On the European Union's strategic communication to counteract third-party propaganda directed against it“<sup>14</sup>, by doing so, the European Parliament acknowledged the threats posed by propaganda and specifically identified Russia as a source of it. „*With this document, the European Parliament expressed its public position and agreed that propaganda directed against the EU by terrorist organizations such as DAESH and Russia is dangerous*“<sup>15</sup>, furthermore, the European Parliament outlined the European Union's strategy to counteract propaganda. V. Denisenko asserts that „the power of information warfare is immense. Even if you personally deny war and do not wage it, it does not mean at all that it will not involve you“<sup>16</sup>. Going even further, it should be noted that information warfare is part of a broader phenomenon - hybrid warfare, during which political confrontation, conventional warfare, information warfare, intervention in another state's elections, and other non-traditional methods of harming another state can converge into one entity. Finding a single definition for hybrid warfare can be said to be impossible due to its diversity, the use of unconventional methods, and unpredictability. The Cambridge Dictionary provides the following definition of hybrid warfare: „*the use of various methods to attack an enemy, for example, spreading false information or attacking computer systems, together with or instead of traditional military action*“<sup>17</sup>. The recent hybrid attack by Belarus against Lithuania - the illegal influx of migrants, along with the dissemination of false information about the situation through propaganda channels - perfectly illustrates how unpredictable hybrid warfare can be. Staying on topic, it can be said that Lithuania is not only the target of isolated propaganda, disinformation campaigns, or false news but is also the target of much broader and inherently more dangerous processes.

According to V. Denisenko, „*encountering information or propaganda attacks is not a new experience for Lithuania*“<sup>18</sup> and our state „*experiences constant information tension*“<sup>19</sup>, whose main source is Russia. „*Russia has applied the principles of information warfare, which are increasingly talked about today, towards the Baltic states for almost the entire period since the collapse of the Soviet Union*“. This is confirmed by the State Security Department (SSD), which states in its published „National Security Threat Assessment“ that „*Lithuania remains a target of Kremlin propaganda*“<sup>20</sup>. Despite restrictions on propaganda dissemination in Lithuania (previously mentioned ban on systematically broadcasting Russian channels spreading disinformation), the latter continues its activities, „*maintaining contact with individuals who produce content for them*“, and in turn, they „*gather information to produce propaganda products*“. True, they are more often used in propaganda campaigns aimed at the Russian domestic audience, and their impact on the Lithuanian society is minimal. For this

<sup>14</sup> European Parliament resolution of 23 November 2016 on EU strategic communication to counteract propaganda against it by third parties (2016/2030(INI)), available from: [https://www.europarl.europa.eu/doceo/document/TA-8-2016-0441\\_LT.html](https://www.europarl.europa.eu/doceo/document/TA-8-2016-0441_LT.html), accessed 6 February 2024.

<sup>15</sup> Ibid.

<sup>16</sup> Denisenko, *supra note*, 12.

<sup>17</sup> Cambridge Dictionary, *Hybrid Warfare*, available from: <https://dictionary.cambridge.org/dictionary/english/hybrid-warfare>, accessed 6 February 2024.

<sup>18</sup> Denisenko, *supra note*, 77.

<sup>19</sup> Denisenko, *supra note*, 1: 87.

<sup>20</sup> Valstybės saugumo departamentas (State Security Department) (2023), *National Threat Assessment. 2023*. available from: [https://www.vsd.lt/wp-content/uploads/2023/03/National-threat-assessment-2023\\_EN\\_for\\_download.pdf](https://www.vsd.lt/wp-content/uploads/2023/03/National-threat-assessment-2023_EN_for_download.pdf), accessed 6 February 2024.



reason, „*pro-Kremlin propagandists often use narratives oriented towards Western societies in products intended for the Lithuanian audience*“, in some cases, they even create campaigns specifically for the Lithuanian audience. Properly identifying and naming them is crucial for effectively responding to and suppressing informational attacks. Therefore, in the following sections of the study, the most frequently observed propaganda and disinformation messages and fake news publications in the Lithuanian information space are analyzed, along with prevailing narratives. Due to the enormous amount of harmful information in the public domain, the study provides examples observed in the Lithuanian and international public spheres since January 1, 2022.

„**Economic and energy blackmail**“ (*Implementers of the Kremlin's information policy attempt to convince Western societies that due to the international sanctions imposed on Russia, the West suffers more damage than Russia, and European states that refuse to buy Russian energy resources will undermine their economies and fail to meet the essential needs of their citizens.*)<sup>21</sup>. This narrative is easily refuted by the strategically significant liquefied natural gas (LNG) terminal-ship project "Independence" and its successful operation, as well as Lithuania's rapid progress towards complete energy independence. At present, our country produces almost half of its consumed electricity, and according to the Ministry of Energy press release, Lithuania will be able to fully supply itself with electricity as early as 2027.<sup>22</sup> Furthermore, the European Union's decision to reduce energy dependence on Russia is based on a proper assessment of its energy resources as well as hybrid warfare tools and threats. Former Prime Minister of Poland Mateusz Morawiecki referred to the Nord Stream 2 gas pipeline as a weapon of Russia's hybrid warfare during the NATO Parliamentary Assembly on May 28, 2018<sup>23</sup>.

„**Dividing Western states**“ (*Russian propagandists draw attention to disagreements among European states, aiming to fuel discord between the US and the EU, as well as between Western and Eastern European states on matters of war. Supporters of Kremlin's policy in the Lithuanian information space spread disinformation that Poland, which began strengthening its defense after Russia's invasion of Ukraine, poses a threat to Lithuania's independence and territorial integrity.*)<sup>24</sup> Such messages undoubtedly do not reflect reality. The relations between Lithuania and Poland amid the war in Ukraine are strong. Both countries clearly recognize and identify the aggressor, enhance their defense capabilities, and consult with each other. This is also evidenced by frequent meetings of the state leaders. In a press release issued by the Communication Group of the President of the Republic of Lithuania, it is stated that on January 21, 2024, Gitanas Nausėda met with the President of Poland, Andrzej Duda, who visited Lithuania, and „*discussed bilateral cooperation in defense, the security situation in the region, and the course of Russia's war in Ukraine, as well as issues related to support for Ukraine*“<sup>25</sup>.

<sup>21</sup> Ibid.

<sup>22</sup> 15min, „Lūžio taškas nacionalinėje energetikoje – pasigaminame beveik pusę poreikio“ (15min, „Turning Point in National Energy - We Produce Almost Half of the Demand“), 15MIN.LT, available from: <https://www.15min.lt/verslas/naujiena/energetika/luzio-taskas-nacionalineje-energetikoje-pasigaminame-beveik-puse-poreikio-664-2181774>, accessed 7 February 2024.

<sup>23</sup> „Polish PM Calls Nord Stream 2 ‘Weapon’ Of Hybrid Warfare“, RFERL.ORG, available from: <https://www.rferl.org/a/polish-pm-calls-nord-stream-2-weapon-of-hybrid-warfare/29255392.html>, accessed 10 February 2024.

<sup>24</sup> State security Department, *supra note*, p. 63.

<sup>25</sup> Lietuvos Respublikos Prezidento komunikacijos grupė, „Prezidentas: Lietuva ir Lenkija sutarė plėsti bendradarbiavimą gynybos srityje“ (Office of the President of the Republic of Lithuania, "President: Lithuania and Poland Agreed to Expand Cooperation in Defense Sector"), LRP.LT, available from:

**„The negative image of Ukraine, its armed forces, and the Ukrainian people“** (*At the beginning of the Russian invasion of Ukraine, Russian propagandists spread a narrative that Western military assistance would only prolong the war, while the Russian armed forces would inevitably achieve victory and occupy the entire country. Later, after Russia suffered military defeats and parts of Ukrainian territory were liberated, supporters of Kremlin policy in the Western media began to spread false news that Ukraine allegedly sells received military aid to third countries or even to Russia.*).<sup>26</sup> The fact that this narrative doesn't resonate with the Lithuanian society at all is evidenced by the overwhelming support of the country's population for Ukraine and the military, humanitarian, and social assistance to it and its people. From the first day of Russia's war in Ukraine to the present day, Lithuanian people have been actively participating in support actions for Ukraine, donating money, cars, goods, and special equipment. Particularly noteworthy are large-scale support campaigns organized by activists and major Ukraine aid funds. During one such campaign, people donated five million euros in three days for the purchase of an unmanned aerial vehicle "Bayraktar TB2", which was eventually donated by the manufacturers. With the funds collected, other important equipment was purchased, armed, and handed over to Ukrainian soldiers after coordination. Naturally, such an action attracted echoes of Russian propaganda – jokes were made that „the poor have collected bandages for a corpse“, and even before the drone reached Ukraine, it was announced that it had already been shot down by Russian military forces. To the aggressor's misfortune, such an informational attack only strengthened people's resolve to donate, and shortly after the end of the campaign, its initiator, journalist, activist, and founder of „Freedom TV“ Andrius Tapinas, received questions about when the next support campaign would be announced. He stated that „the story of buying 'Bayraktar' became like a plaster for our somewhat divided society“<sup>27</sup>. Following were such large-scale aid campaigns as: „Radarom!“ – during which more than 14 million euros were collected for the purchase of radars to help protect the Ukrainian skies; „Magyla“ – an action aimed at helping Ukraine acquire drone systems (more than 400 thousand euros were collected); „Legion of Boom“ – a support campaign for the purchase of drone kamikazes (about 1.7 million euros were collected); „Gift for Putin“ – on the occasion of the Russian dictator's birthday, A. Tapinas called for donations, which were later used during other campaigns (about 380 thousand euros were collected); „Black Friday“ – in response to the Ukrainian President's call to support the Ukrainian Navy's development of Maritime drone fleet, people donated about 530 thousand euros, and adding the funds from „Gift for Putin“, over 900 thousand euros were allocated for drones; „Sleepless“ – funds were collected by "Laisvės TV" for together with Ukrainian military implemented plan acquiring the necessary equipment and over 800 thousand euros worth of anti-drone systems and mine initiators were handed over to Ukrainians.<sup>28</sup> The unbreakable Lithuanian ambition to help

<https://lrp.lt/lt/prezidentas-lietuva-ir-lenkija-sutare-plesti-bendradarbiavima-gynybos-srityje/41940>, accessed 7 February 2024.

<sup>26</sup> State Security Department, *supra note*, p. 63.

<sup>27</sup> Vismantas Žuklevičius ir Deividas Jursevičius, „Tapinas: „Bayraktar“ pirkimo istorija tapo pleistru mūsų visuomenei, planuose – žadą atimanti nauja tarptautinė akcija“ (Vismantas Žuklevičius and Deividas Jursevičius, "Tapinas: 'Bayraktar' Purchase History Became a Flashpoint for Our Society, Plans Include a Promise-Renewing New International Action"), LRT.LT, available from: <https://www.lrt.lt/naujienos/lietuvoje/2/1716531/tapinas-bayraktar-pirkimo-istorija-tapo-pleistru-musu-visuomenei-planuose-zada-atimanti-nauja-tarptautine-akcija>, accessed 7 February 2024.

<sup>28</sup> VšĮ „Laisvės TV“ Ukrainai organizuotos pagalbos tarpinė ataskaita (Interim Report on the Assistance Organized by the Public Institution "Freedom TV" to Ukraine), available from: <https://laisves.tv/ukrainai/>, accessed 7 February 2024.

Ukraine is confirmed by the fact that during the writing of this study, the aid campaign „*Radarom!*“ has been revived for the second time. This time, the money is being donated to purchase "safe soldier kits" for Ukrainian soldiers, which include night vision monoculars, laser sights, and individual anti-drone systems. As of today, the total amount raised in this campaign exceeds 1.9 million euros, all this is without mentioning the constant and regular contributions of people to the activities of both large and smaller Ukrainian aid organizations and other assistance provided to Ukrainians. For example, the „*Strong Together*“ initiative - aid for Ukrainians fleeing war. On the official website, it is stated that Lithuanian people have already offered over 10,000 accommodations and over 5,000 rides from the state border.<sup>29</sup> So, it's obvious that Russian propaganda not only fails to undermine the trust of Lithuania's population in Ukraine's armed forces and the Ukrainian nation itself, but it further encourages support for the attacked state and assistance to its people.

„**Expansionist History Narrative**“ (*Russian expansionist policy is justified by a historical narrative based on manipulations about the Soviet victory over Nazi Germany. This narrative proclaims the Kremlin regime's fabricated exclusive rights to control the post-Soviet space, and aggressive policies and military actions are justified by the necessity to defend these rights. Vladimir Putin compared Russia's war against Ukraine to the campaigns of Tsar Peter I, claiming not to seize but allegedly to reclaim territories rightfully belonging to Russia. The necessity to attack the Kremlin was explained by their fabricated defensive goals to „demilitarize“ and „denazify“ Ukraine, as it allegedly poses a threat to Russia's security*)<sup>30</sup>. It's paradoxical that this idea, based on the victory over Nazi Germany in World War II, essentially echoes its propagated „living space“ theory. Like Hitler's Germany, Putin's Russia sees around itself only potential or existing enemies who „pose a threat“, „seek Russia's downfall“, „attempt to destroy traditional values“, and so on, and the only way to neutralize such perceived threats is through various forms of aggression and wars, expansion, occupation, and imposition and consolidation of its worldview. At the time of the writing this research, United States journalist Tucker Carlson, who has controversial views, visited Moscow on February 6, 2024, and interviewed Russian President Vladimir Putin, with the video of the conversation being posted on his „Youtube“ channel for video sharing. The video recording from February 16, 2024 has been viewed more than 17 million times. It's hard to call the visible interaction between the two men a journalistic interview because for the entire two hours, the journalist simply allows the Kremlin leader to distort and even fabricate historical facts (for example, V. Putin claims that Ukrainian President V. Zelensky's father fought against Nazi Germany as part of the Soviet Army during World War II, even though Zelensky's father, Oleksandr Zelensky, was born in 1947. This is just one of many lies told by Putin, which is easily refuted). We hear familiar propaganda stories about the non-existent Ukrainian state, the existence of Nazis and neo-Nazis in it, and NATO aggression against Russia. However, during the interview, we also „learn“ new historical circumstances. V. Putin claimed that the Grand Duchy of Lithuania could actually be called the Grand Duchy of Russia because supposedly the main language spoken there was Russian, and the Grand Duchy itself was founded by Russians. Such distortion of historical facts should be taken very seriously. This can be understood as a message that Russia considers the former territory of the Grand Duchy of Lithuania to be its historical lands, as this logic also justifies the invasion of Ukraine.

„**Violations of the Rights of Russian Speakers**“ is a prevalent narrative in Russian propaganda. In Lithuania, as in many other former Soviet states, there are many Russian

<sup>29</sup> Stiprūs kartu (Stromng Together), available from: <https://stipruskartu.lt/lt/>, accessed 7 February 2024.

<sup>30</sup> Valstybės saugumo departamentas (State Security Department), *supra note*, p. 62.



speakers, so propagandists find it easy to twist any idea to supposedly violate the rights of Russian speakers and play the role of savior or seeker of justice. It's obvious that there are no real violations of the rights of Russian speakers, and such accusations coming from a state where individuals who disagree with the regime's worldview are detained and even beaten by special service officers during protests, facing real sentences of imprisonment, sound surreal. However, this does not matter to the Kremlin, as this narrative is aimed at the domestic market and seeks to turn the Russian society against the Baltic states, portraying them as aggressors, oppressors of minorities, and enemies.

*„The War in Ukraine was Provoked by NATO“*. The Kremlin spreads this story as a justification for the invasion of Ukraine. It is claimed that the allegedly aggressive expansion of NATO left Russia no choice but to defend itself, but an informed person who hears real information knows that NATO is a defensive alliance, and it is impossible to see provocations or aggression in either the statements or actions of its highest officials. Independent and sovereign states are free to decide whether to join the alliance, and such a decision is a matter for those states, not a process of satisfying the preferences of the aggressor Russia.

*„Falsification of the History of the Baltic States and Other Former Soviet Influence Sphere States“*. The Kremlin actively spreads false historical narratives to maintain the false understanding of history implanted in the Russian society and to change the understanding of past events by the inhabitants of other states affected by the propaganda. The Russian propaganda machine constantly falsely explains that Lithuania and other states voluntarily joined the Soviet Union, that there was no Soviet occupation at all, and that the partisans who fought against the occupiers and sought the freedom of their countries were nothing but former Nazis who stayed behind after the end of World War II and create and spread other versions of history that have nothing to do with reality, which they try to present as objective truth.

As mentioned earlier, the discussed propaganda narratives of the Kremlin do not affect the absolute majority of Lithuanians and are rather aimed at shaping the mindset of Russian residents, seeking to justify the difficulties arising from war, sanctions, and state isolation to the aggressor state itself and blame the West for them. However, such narratives still resonate to some extent in our country. Russian propaganda narratives are repeated, supported by those who spread lies, and various marginal actors create similar types of stories. One could question the motives of such individuals, their sources of financing, and the alignment of their personal worldview with the ideas they spread, but one cannot ignore their actions and the threats they pose. The main messages of information warfare spread in Lithuania are related to: 1) spreading propaganda, disinformation, lies, and doubts about the war in Ukraine; 2) discrediting the Ukrainian government, army, and Ukrainian aid organizations; 3) criticizing, belittling, and mocking Lithuania's and other Western countries' positions towards Russia; 4) justifying Russia's aggressive foreign policy, denying war crimes; 5) discrediting the democratically elected government of the Republic of Lithuania and the EU, with ideas and calls to leave the union; 7) denigration of sexual minorities. Sharing harmful information to the state and society as never before empowers modern technology. A significant part of individuals engaged in anti-state activities have created their own websites, accounts on social networks, or both, through which the actors can spread misinformation that does not reflect reality in an instant. This information is disseminated in huge quantities – for example, on the „KomentarasTV“ channel alone, about 30 videos were uploaded in the first month of 2024, practically one video every day, and their views range from 3,500 to 50,000. Such viewing figures, compared to the entire population of Lithuania, may seem small, and it may seem that there is no danger, but this would not be a completely accurate assessment. Any idea, essentially, is dead until it is silent

and unheard, but once an „*idea enters the communication field, it is as if legitimized*“<sup>31</sup>. This doesn't mean that the information expressed is accurate or legitimized from a legal standpoint, but „*if an idea starts to circulate freely and widely, the audience accepts it as appropriate to discuss*“<sup>32</sup>, it is shared. Furthermore, social media provides an extremely favourable environment for propagandists and enables them to create the illusion of the majority. Even if one website or channel is closed due to overt dissemination of misinformation, nothing stops an individual from creating others. Moreover, the creation of fake accounts becomes a significant issue as their numbers are virtually unlimited. People creating these accounts can lie, provide different information, and manage not just one or two but several different social media accounts where false information is shared. An example of this is the so-called Russian „Troll Factory“, where employees create hundreds of nonexistent profiles<sup>33</sup>, with the goal of sharing false information and „*persuading other platform users that the majority of social media users support precisely this position*“<sup>34</sup>. Such an illusion is also facilitated by the advertising service offered by social media platforms (known as „boosting“), which, for a small fee, elevates a posted post above others in the news feed, showing it more frequently to a wider audience. Utilizing such a service, a post can even be highlighted or presented in a more visually appealing manner than usual.

So, it can be said that a significant amount of attention is devoted to propagandistic narratives directed towards the Lithuanian state and its society, including the romanticization of the Soviet era, the dissemination of disinformation on Russia's war in Ukraine, and the exaggeration and escalation of various ongoing political and social processes and disagreements, which in a democratic state are inherently understandable, natural, and normal phenomena. Through such actions, the aim is to depict the Republic of Lithuania as a failed state, suggesting that it has achieved nothing during its years of independence.

### **Legal Measures to Combat Information Threats**

It is noticeable that there is a dangerous tendency when some Lithuanian politicians share or repeat disinformation messages in the information space. Such a situation must be taken very seriously because a politician can no longer be considered just an actor with marginal views - they are elected representatives of the public, authorities to a greater or lesser extent to their electorate, and people tend to trust the information they share, even if it is incorrect and aligns with narratives spread by the Kremlin. One such politician who actively shares misinformation on social media is Remigijus Žemaitaitis, a member of the Seimas of the Republic of Lithuania. One of his most notable missteps, which led to legal consequences, occurred on July 11, 16, and August 9, 2022, in posts on the social network *Facebook*, where the member of the Seimas claimed that during the support actions for Ukraine initiated by the public institution „LaisvėsTV“, where funds were collected for the purchase of the combat drone „Bayraktar TB2“, the funds were collected opaquely, and the founder of „LaisvėsTV“, Andrius Tapinas went to the United States to play poker with the collected money and lost it there. Due to these and other statements made in the posts, Andrius Tapinas, a public figure, and his established public institution „Laisvės TV“ filed a lawsuit against R. Žemaitaitis in the Klaipėda district court, „*requesting that the information disseminated by R. Žemaitaitis about the support actions organized by his public institution, himself, regarding Ukraine (statements about fundraising*

<sup>31</sup> Martišius, *supra note 13*, p. 48.

<sup>32</sup> Ibid.

<sup>33</sup> Martišius, *supra note*, 13, p. 193

<sup>34</sup> Ibid.

*for the purchase of the combat drone „Bayraktar“, alleged losses of money by A. Tapinas, etc.) be recognized as not corresponding to reality, demeaning the dignity and honor of the individual, and damaging the business reputation of „Laisvės TV“<sup>35</sup>. Although the member of the Seimas argued in court that „in his comments about possibly „misused thousands“ mentioning „Andriukas“, he did not mean A. Tapinas and „by raising questions about the transparency of support actions for Ukraine, he simply sought to promote the common good, that is, to exercise control over the use of support“, the court spoke unequivocally and firmly. „It was established that, although the information presented was attempted to be presented as an opinion, using the interrogative form, the word „possibly“, however, after analyzing the entire content of the posts, the court concluded that the information presented has clear features of factual statements, therefore, it recognized that the information presented in those posts qualifies as news, not opinion.“*

So, „the court acknowledged that R. Žemaitaitis publicly disseminated information on his Facebook profile about the plaintiffs that did not correspond to reality, which denigrates the honor and dignity of A. Tapinas and the business reputation of „Laisvės TV“, and obligated the defendant on the *Facebook* social network to publish a refutation message denying the information that does not correspond to reality within two weeks from the date of entry into force of the court decision, which must remain on the defendant's profile on the *Facebook* social network for an unlimited time, and to remove (delete) the relevant posts. Additionally, the court decision awarded A. Tapinas 2,000 euros and „Laisvės TV“ - 1,000 euros in compensation for non-pecuniary damage“<sup>36</sup>. Indeed, the Member of Parliament appealed this court decision to the appellate court, stating that „he did not publish any misleading or factually inaccurate information about the plaintiffs on his profile, but merely expressed his opinion.“<sup>37</sup>. The Klaipėda District Court, by its decision, rejected the appeal of Member of Parliament Remigijus Žemaitaitis and upheld the ruling of the first-instance court, acknowledging that R. Žemaitaitis had exceeded the limits of freedom of expression, and his statements published on Facebook undermined the honor and dignity of A. Tapinas and the business reputation of „Laisvės TV“<sup>38</sup>. It is likely that this legal process and its final outcome will have significant implications for evaluating false information spread on social media, even when done by members of Parliament. Currently, several legal proceedings are underway related to the previously mentioned pro-Kremlin statements disseminated by individuals in the information space about Ukrainian aid organizations and their activities. It is conceivable that all these processes could dismantle this, so beloved by propagandists, „shield of freedom of speech“.

<sup>35</sup> Gytis Pankūnas, „Teismas: Žemaitaičio paskleista informacija apie Tapiną ir „Laisvės TV“ neatitinka tikrovės, žemina garbę ir orumą“ (Gytis Pankūnas, "Court: Žemaitaitis' Disseminated Information about Tapinas and 'Freedom TV' Does Not Correspond to Reality, Degrades Honor and Dignity"), LRT.LT, available from: <https://www.lrt.lt/naujienos/lietuvoje/2/2149714/teismas-zemaitaicio-paskleista-informacija-apie-tapina-ir-laisves-tv-neatitinka-tikroves-zemina-garbe-ir-oruma>, accessed 13 February 2024.

<sup>36</sup> Ibid.

<sup>37</sup> Ingrida Steniulienė, „Žemaitaitis prašo panaikinti teismo sprendimą dėl Tapino šmeižimo“ (Ingrida Steniulienė, "Žemaitaitis Requests Repeal of Court Decision Regarding Smearing of Tapinas"), LRT.LT, available from: <https://www.lrt.lt/naujienos/lietuvoje/2/2181467/zemaitaitis-praso-panaikinti-teismo-sprendima-del-tapino-smeizimo>, accessed 13 February 2024.

<sup>38</sup> „Klaipėdos apygardos teismo 2024 m. balandžio 18 d. nutartis civilinėje byloje Nr. e2A-381-618/2024“ (Decision of the Klaipėda District Court on April 18, 2024, in Civil Case No. e2A-381-618/2024), LITEKO.TEISMAILT, available from: <https://liteko.teismai.lt/viesasprendimupaiska/tekstas.aspx?id=106c39b1-5db3-466d-a114-6764a77a45fe> accessed 14 May 2024.

Both in the mentioned example and generally recently, it has been observed that individuals spreading false information or promoting a propaganda narrative, while using the word „possibly“, hope that freedom of speech, ensured by democracy, will protect them from legal liability. Indeed, freedom of speech and expression is one of the fundamental values of the democratic world, allowing individuals to think, reason, and not fear persecution for a different view of the world. Such rights are enshrined in the Constitution of the Republic of Lithuania, as well as in articles of the European Convention on Human Rights (Article 19) and the Universal Declaration of Human Rights (Article 19). In the aforementioned article of the Declaration, it is stated that *„Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance“*<sup>39</sup>. In Article 19, paragraph 2 of the Covenant, it is stipulated that *„Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice“*, while paragraph 3 states that *„The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals“*<sup>40</sup>.

It is evident that following the aforementioned documents and the previously presented practice of the Constitutional Court of the Republic of Lithuania - where the Court clearly stated that freedom of expression is incompatible with criminal activity - freedom of speech is not entirely absolute, and there are grounds under which it can be restricted. This is illustrated by the aforementioned case where the transmission of Russian television channels was suspended for the deliberate dissemination of misinformation and propaganda.

The grounds for restrictions in legal regulation are quite broad, especially in the formulation of the Pact, where rather abstract concepts of state security, public order, and morality of the population are used, therefore *„in reality, the prohibition can encompass almost everything“*<sup>41</sup>, however, *„it is worth noting that [...] the issues of various prohibitions and restrictions seem fundamentally debatable to most experts“*<sup>42</sup>. Since *„propaganda is not exclusively a tool used in war“*<sup>43</sup>, rather *„an everyday companion to people's civilian lives“*<sup>44</sup> (in light of examples of white propaganda shaping public opinion on health, addiction, or other issues), international documents do not explicitly state that propaganda and disinformation should be prohibited.<sup>45</sup> Prohibition is only explicitly provided for overt wartime propaganda. Although the prohibition of disinformation is stipulated in national legislation, it cannot be said that the issue is resolved. In international documents, which, upon ratification, become part of Lithuania's legal system, disinformation is not explicitly prohibited<sup>46</sup>.

<sup>39</sup> Visuotinė žmogaus teisių deklaracija (Universal Declaration of Human Rights), LRS.LT, available from: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.278385>, accessed 13 February 2024.

<sup>40</sup> Ibid.

<sup>41</sup> Martišius, *supra note*, 13, p. 56.

<sup>42</sup> Denisenko, *supra note*, 12, p. 114.

<sup>43</sup> Martišius, *supra note*, 13, p. 56.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid, p. 63.



If propaganda and disinformation are essentially not prohibited, the question remains: what to do with individuals who, under the guise of freedom of speech and utilizing the opportunities of social media, spread falsehoods? The OSCE Representative on Freedom of the Media, overseeing how member states ensure the principles of media freedom, along with representatives from other organizations, has adopted a joint declaration on freedom of expression and false information, disinformation, and propaganda. This document stipulates that restrictions on freedom of expression are only permissible if they comply with international law and the requirements of the Pact. The declaration states that „*generalized prohibitions on disseminating information based on vague and ambiguous ideas, including „falsehoods“ or „biased information“, are incompatible with international standards on restrictions to freedom of expression and should be repealed.*“<sup>47</sup>. So, it's meant to say that even individuals clearly sharing falsehoods cannot be restricted, as it would not align with international standards of freedom of expression. International organizations, in publishing this document, assert that, in their opinion, „*freedom of speech is a greater and more important value than the threat posed by propaganda*“<sup>48</sup>, and measures to stop it do more harm than good.

While such a perspective might hold during times of peace, can it be endorsed during the largest military conflict in Europe since World War II? One could argue that „*the spread of propaganda and falsehoods [...] is a price paid by democratic nations for everyone's right to freely express opinions and thoughts*“<sup>49</sup>, but given the context of the Russian-instigated war in Ukraine, where the aggressor, deeply entrenched in the conflict, openly threatens that the next targets could be the Baltic states, propaganda, disinformation, and falsehoods spread by Russian channels and affiliated individuals should be viewed as threats of exceptional magnitude. The mere existence of these threats should be sufficient grounds for prioritizing their management and prevention over the abuse of freedom of expression and speech.

It's ironic that those spreading harmful information often exploit the very values protected by democracy—freedom of speech and expression. However, even these values cannot always shield individuals from openly disseminating dangerous information. In the jurisprudence of the European Court of Human Rights (ECHR), there have been cases where the Court clearly delineated the circumstances under which the freedom of expression guaranteed by Article 10 of the European Convention on Human Rights (ECHR) reaches its limits. In the decision of October 15, 2015, in the case of *Perinçek v. Switzerland*, the ECHR stated that in exceptional cases, when it is clearly evident that statements made conflict with the values protected by the ECHR, and when the use of Article 10 of the ECHR, which guarantees freedom of expression, deviates from its true purpose, the criteria for freedom of expression are not applicable, guided by Article 17 of the Convention<sup>50</sup>.

As an example, denial, justification, or endorsement of international crimes can be cited, as it was precisely due to the denial of the Armenian Genocide that a Turkish nationalist political activist, Doğu Perinçek, was convicted in Switzerland. He appealed to the European Court of Human Rights (ECHR) for violation of freedom of expression. Although the violation of freedom of expression was established in that ECHR case, this established principle became particularly important when similar cases were considered in national courts. Lithuania is no

<sup>47</sup> Ibid.

<sup>48</sup> Ibid, p. 60.

<sup>49</sup> Ibid.

<sup>50</sup> „Europos Žmogaus Teisių Teismo Didžiosios Kolegijos 2015 m. spalio 15 d. sprendimas byloje *Perinçek prieš Šveicariją*“ (Decision of the Grand Chamber of the European Court of Human Rights in the case *Perinçek v. Switzerland*, October 15, 2015), ECHR.COE.INT, available from; <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%22227510/08%22%5D,%22itemid%22:%5B%22001-158235%22%5D%7D>, accessed 30 March 2024.

exception. In cases where individuals are prosecuted for denying international crimes or expressing support for them, national courts rely precisely on this ECHR provision. The ECHR reaffirmed its previous practice in its decision of April 17, 2018, in the admissibility case of *Roj TV A/S v. Denmark*.<sup>51</sup>

In Denmark, a television company was convicted by national courts, and its license was revoked because some of the programs broadcasted on the channel advertised the Kurdistan Workers' Party, considered a terrorist organization in the EU, the US, Canada, and Australia. They portrayed their fighters as heroes and repeatedly incited viewers to join the organization and participate in the fighting. The television company appealed to the ECHR, claiming that freedom of expression had been violated. However, the Court reminded of its previous practice and emphasized that the channel's actions conflicted with the values protected by the ECHR, therefore, statements made and information broadcasted were not protected by the freedom of expression guaranteed by the ECHR. The television's appeal to the ECHR was dismissed by an inadmissible decision.

Thus, it can be said that international legal norms often ensure very broad limits to freedom of expression and do not even provide for the prohibition of disinformation or the dissemination of false, misleading information, or propaganda in general. However, even in those norms, certain exceptions are provided, as established by the ECHR practice. In the context of the war in Ukraine, it is natural to want to see as few messages discrediting the state fighting for its sovereignty. However, „Lithuania faces a double challenge here—not only to defend its information space but also to remain true to the values of liberal democracy“<sup>52</sup>.

In Article 19(2) of the Law on Public Information<sup>53</sup> The provisions prohibiting disinformation, due to the supremacy of ratified international documents, are „*more of a slogan than an effective legal norm*“<sup>54</sup>. In addition, for non-compliance with the prohibition of disseminating disinformation stipulated in the Law on Public Information, responsibility is envisaged only for public information providers or other persons who have entered into an agreement with the providers, namely, television or radio channel broadcasters and/or retransmitters, but not for individual natural persons who have access to a large audience through other channels (such as social networks or video-sharing platforms).

If liability for individuals is not provided for in the law, does such a legal norm exist in codified legislation? The Republic of Lithuania's Code of Administrative Offenses<sup>55</sup> (*further – CAO*) there is no mention of either propaganda, disinformation, or falsehoods. There, you won't even find a legal norm that superficially discusses any responsibility for individual persons for disseminating inaccurate information in the public space. The closest article in its content is Article 524, which provides for liability for the dissemination or demonstration of Nazi, communist symbols, symbols of totalitarian or authoritarian regimes, but this is not liability for

<sup>51</sup> „Europos Žmogaus Teisių Teismo 2018 m. balandžio 17 d. sprendimas dėl priimtino byloje *Roj TV A/S prieš Daniją*“ (Decision of the European Court of Human Rights on admissibility in the case *Roj TV A/S v. Denmark*, April 17, 2018), ECHR.COE.INT, available from: <http://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-183289%22%5D%7D> accessed 30 March 2024.

<sup>52</sup> Denisenko, *supra note*, 12, p. 114.

<sup>53</sup> „Lietuvos Respublikos visuomenės informavimo įstatymo pakeitimo įstatymas“ 2006 m. liepos 11 d. Nr. X-752 (The Law Amending the Law on Public Information of the Republic of Lithuania). Valstybės žinios, 2006-07-27, Nr. 82-3254.

<sup>54</sup> Martišius, *supra note*, 13, p. 63.

<sup>55</sup> „Lietuvos Respublikos Administracinių nusižengimų kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo tvarkos įstatymas“ (The Law on the Adoption, Entry into Force, and Implementation of the Code of Administrative Offences of the Republic of Lithuania), LRS.LT, available from; [https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b8d908\\_c0215b11e58a4198cd62929b7a/asr](https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b8d908_c0215b11e58a4198cd62929b7a/asr), accessed 19 February 2024.

the dissemination or support of propaganda narratives of such regimes. However, it is worth mentioning that Article 477 of the AOC provides for liability for non-compliance with decisions of the Radio and Television Commission of Lithuania. It is worth recalling the decision of the Commission, which banned the retransmission of such Russian and Belarusian television channels as „Planeta RTR“, „Rossija 24“, „NTV Mir“, „Belarus 24“, „PBK“, and „TVCi“. Therefore, if such a decision of the Commission were not followed and the channels continued to be retransmitted, administrative liability under the aforementioned Article 477, or Article 4 in case of repeated offences, would be applicable.

However, individual natural persons are not penalized administratively for propagandistic, disinformation statements, or spreading falsehoods. Direct prohibitions on propaganda, disinformation, or spreading falsehoods are not explicitly stated in the Criminal Code of the Republic of Lithuania<sup>56</sup> (*further* – PC), however, for this purpose, Article 170(2) of the Criminal Code „Public Approval of International Crimes, Denial, or Gross Trivialization of the Crimes of the USSR or Nazi Germany“ could be applicable. This legal norm stipulates that, according to the mentioned article, liability is incurred by „those who publicly approved the genocide or other crimes against humanity or war crimes recognized by the laws of the Republic of Lithuania or by the decisions of Lithuanian courts or international courts, or denied or grossly trivialized them, if it was done in a threatening, insulting, or offensive manner or if public order was disturbed or could have been disturbed as a result, as well as those who publicly approved the aggression committed by the USSR or Nazi Germany against the Republic of Lithuania, the genocide or other crimes against humanity or war crimes committed by the USSR or Nazi Germany, or the very serious or serious crimes against the Republic of Lithuania or the very serious crimes against the inhabitants of the Republic of Lithuania committed by persons who participated in or committed aggression against the Republic of Lithuania in 1990-1991, or who participated in such aggression, or denied or grossly trivialized them, if it was done in a threatening, insulting, or offensive manner or if public order was disturbed or could have been disturbed.“ The sanction for such a crime is a fine or restriction of freedom, arrest, or imprisonment for up to two years, and legal entities are also liable for the actions provided.

The legal norm is comprehensive, so it is worthwhile to discuss it in more detail. Liability under Article 170(2) of the Criminal Code arises for 1) public approval of genocide or other crimes against humanity or war crimes recognized by the laws of the Republic of Lithuania or by the decisions of Lithuanian courts or international courts; 2) public approval of aggression committed by the USSR or Nazi Germany against the Republic of Lithuania, genocide or other crimes against humanity or war crimes committed by the USSR or Nazi Germany, or other very serious or serious crimes against the Republic of Lithuania or very serious crimes against the inhabitants of the Republic of Lithuania committed by persons who participated in or were involved in aggression against the Republic of Lithuania in 1990-1991. It is noteworthy that Paragraph 2 of Article 170(2) holds legal entities liable for such a crime. Criminal liability also arises for denying or grossly trivializing such crimes. There are also necessary conditions for liability under this article – the criminal act must be done in a threatening, insulting, or offensive manner, or the public order must have been or could have been disturbed, but the formal composition of the crime does not require the occurrence of consequences for liability to arise.

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<sup>56</sup> „Lietuvos Respublikos baudžiamojo kodekso patvirtinimo ir įsigaliojimo įstatymas. Baudžiamasis kodeksas“ (The Law on the Adoption and Entry into Force of the Criminal Code of the Republic of Lithuania. The Criminal Code). 2000 m. September 26, No. VIII-1968. Valstybės žinios, 2000-10-25, Nr. 89-2741.

Analyzing the conditions, it can be understood that thoughts of this nature are evaluated as a violation of the law only when expressed aloud. No one will prohibit a person from engaging in such illegal activity as long as they do it quietly and do not share their thoughts with others. Otherwise, the state risks that attempts to restrict how a person thinks may be seen as a restriction of conscience freedom, which is prohibited by international legal acts and the Constitution, which declares in Article 26 that „Freedom of thought, belief, and conscience is inviolable“.

Despite this, Article 170(2) of the Criminal Code can be understood as a powerful legal tool in the fight against propaganda, as the prohibited actions outlined in it correspond to some of the narratives spread by Russia's propaganda. For example, a person denying that Lithuanian partisans were killed on Soviet orders, the deportation of Lithuanian residents to Siberia, or supporting the narrative of „our people shot at our own“ when referring to the events of January 13th could incur liability under Article 170(2) of the Criminal Code. However, as is customary in a state governed by legal principles, criminal law in the Republic of Lithuania is applied only as a last resort. It can be said that for this reason, there are not many such cases. In conducting a search for criminal cases under Article 170(2) of the Criminal Code in the Lithuanian courts' information system „LITEKO“ from January 1, 2018, to the present day (February 20, 2024), only a few cases were found.

One of the most notable examples is the verdict of the Klaipėda District Court dated May 14, 2019, in criminal case No. 1-253-659/2019, in which V. T. was convicted under Paragraph 1 of Article 170(2) of the Criminal Code, as well as under Paragraph 2 of Article 170 and Paragraph 2 Article 313), for „publicly disseminating false assumptions capable of causing public ridicule or undermining the respect for the memory of the deceased A. R. – Vanagas; publicly denigrating and inciting hatred against a group of people, namely armed resistance participants – Lithuanian partisans, their supporters, and publicly grossly belittling the genocide committed by the USSR on the territory of the Republic of Lithuania against the armed resistance participants – Lithuanian partisans“<sup>57</sup>. The court recorded that „V. T., on July 18, 2018, in the premises of the Klaipėda City Municipality, during the Finance and Economics Committee meeting, while discussing the issue of commemorating A. R. – Vanagas, stated to the committee members: „Do you really think it's worth commemorating such a person, for whom about 8 thousand peaceful citizens and children were murdered“. From V. T.'s statement, it can be understood that it is implied that Lithuanian partisan leader Adolfas Ramanauskas–Vanagas is somehow directly linked to the deaths of several thousand peaceful individuals, including children. It was also established that V. T. continued his criminal actions on at least 15 occasions, specifically: he posted messages on his social network *Facebook* account stating that A. R. – Vanagas participated in „field“ trials, personally handed down death sentences to peaceful Lithuanian residents; referred to A. R. – Vanagas as a „nationalist criminal“ and „leader of a terrorist organization“; shared videos and articles on pro-Russian websites belittling the Lithuanian partisan movement and A. R. – Vanagas specifically, claiming that partisans were involved in the destruction of Lithuanian Jews, carried out mass killings; participated in debates on a Russian television channel where he allegedly expressed doubts about a monument related to 8 thousand murders and so on. The Court stated, that through such actions, V. T.

<sup>57</sup> „Klaipėdos apylinkės teismo 2019 m. gegužės 14 d. nuosprendis baudžiamojame byloje Nr. 1-253-659/2019“ (The judgment of the Klaipėda District Court on May 14, 2019, in criminal case No. 1-253-659/2019), LITEKO.TEISMAILT, available from: <https://liteko.teismai.lt/viesasprendimupaiska/tekstas.aspx?id=15e8c9d0-83b6-432d-a144-27939e8b1dbb>, accessed 20 February 2024.



publicly disseminated false assumptions capable of causing public ridicule or undermining the respect for the memory of A. R. – Vanagas; publicly denigrated and incited hatred against a group of people, namely armed resistance participants – Lithuanian partisans, their supporters, and publicly grossly belittled the genocide committed by the USSR on the territory of the Republic of Lithuania against the armed resistance participants – Lithuanian partisans. During the trial, the accused, V. T., did not admit his guilt and claimed that he was not responsible for the articles he shared, he justified his opinion by not reviewing the archive criminal case of A. R. – Vanagas, which allegedly may contain data on alleged crimes against humanity by Lithuanian partisans, that during the Finance and Economics Committee meeting he asked a question formulated incorrectly, and claimed that his published information is just his opinion.

When examining the case, specialist M. L., asked to evaluate whether the information provided by V. T. corresponds to the interests of the Russian regime and whether V. T. behaves consciously, after analyzing V. T.'s statements, activities, historical sources, and facts, stated that *„from the information being disseminated, from the current interests of the Russian regime, and how those interests are pursued, it can be concluded that this is part of beneficial disinformation campaigns for Russia“*. Also, the expert, speaking about the importance of the history of statehood and the goals of Russian propaganda narratives directed against the Lithuanian partisan movement as one of the foundations of statehood, concluded that *„V. T. consciously participates in various campaigns of the current Russian regime“*.

The court emphasized that the channels and websites through which V. T. disseminated information were included in the State Security Department *„Threats to National Security Assessment“* as channels *„aimed at expanding Russian influence in Lithuania's information space“*. In this case, the position of the department itself was presented. According to the Department, *„the information disseminated by V. T. should be considered as belittling Lithuania's statehood, V. T. spreads misinformation about the partisan war in Lithuania from 1944 to 1953 against the Soviet Union (USSR), allegedly reviving Nazism in Lithuania and increasing Russophobia. He collaborates (participates in broadcasts and/or gives interviews) with television channels belonging to Russian government institutions or oligarchs close to the Kremlin, and with online news portals whose activities undermine Lithuania's national security interests“*. The court, analyzing the material collected in the case, expert statements, and the defendant's testimony, established that A. R. – Vanagas' activities were exclusively aimed at fighting for Lithuania's independence and also for the protection of residents, and the totality of the documents discussed in the case undeniably refutes the statements made by the accused V. T. regarding crimes allegedly committed by A. R. – Vanagas or involvement (complicity), as well as any other contribution in any way to 8000 murders, collaboration with Nazis, or participation in the Holocaust. The court found that his deliberate actions were confirmed by consistently and systematically published messages on his personal *Facebook* account, the number and unchanging content of which show that the individual *„understood what he was doing and wanted to behave in this way“*. Finally, the court concluded that *„V. T. publicly disseminated factually inaccurate statements about A. R. – Vanagas and the purported crimes committed by the Lithuanian partisan movement against humanity, participation in the Holocaust, „collaboration“ with Nazis“, and by such actions „grossly belittled the Lithuanian population, against whom the USSR committed genocide, i.e., against Lithuanian partisans“*. The court, recognizing V. T. guilty under the aforementioned articles of the Criminal Code, imposed a penalty - a fine of €12,000.

V. T. indeed appealed the judgment of the Klaipėda District Court. However, the Klaipėda Regional Court, by its judgment of October 17, 2019, in the criminal case No. 1A-210-

651/2019<sup>58</sup> imposed a lower fine of €10,000 but left the remaining part of the decision unchanged. The scope of this case was extensive, as the court meticulously analyzed each potential instance of the defendant's unlawful activity, historical documents, expert opinions, described historical facts, and, with well-founded reasoning, issued an important judgment.

In another case, G. Š. was prosecuted under Paragraph 1 Article 170(2) of the Criminal Code for publishing articles on the website „www.lietuviat.lt“ titled „The Myth of January 13 Died“ and „The End of Lithuania's Freedom Fights – Another Myth“, where the official and true version of the events of January 13, 1991, was referred to as „history-distorting propaganda“, and Lithuanian partisans were labelled as „criminals“, „bandits“, and „terrorists“ allegedly killing peaceful Lithuanians. The lower court acquitted the defendant as it was not established that he had indeed published the mentioned articles. However, the Kaunas Regional Court reopened the evidence examination during the trial. A computer was found during the trial, from which the articles were published, along with hard drives containing copies of the articles and other data identified by IT experts, confirming that the articles were indeed published from the computer belonging to the accused, G. Š. The appellate court, relying on the practice of the European Court of Human Rights and Lithuanian Supreme Court, recognized that G. Š.'s actions corresponded to the elements of the offense provided for in Article 170(2) of the Criminal Code. By its decision of April 10, 2020, in the criminal case No. 1A-48-634/2020, the Kaunas Regional Court amended the part of the lower court's judgment regarding the acquittal of G. Š. under Article 170(2) of the Criminal Code, found G. Š. guilty of committing the offense provided for in this Article, and imposed a sentence of 10 months of restricted freedom, obliging him to not change his place of residence without informing the court, to commence employment, to perform 40 hours of unpaid work in specified organizations during the period of restricted freedom, and to delete the published articles mentioned in the case from the website.<sup>59</sup>

At the time of writing this research, another case has been submitted to the court, in which representatives of the association „International Good Neighborhood Forum“ Erika Švenčionienė, Kazimieras Juraitis, and Valerijus Ivanovas are prosecuted for „acting as accomplices, multiple times in 2022, in Lithuania, Belarus, and Russia, aiding Russia and Belarus and their organizations to act against Lithuania“<sup>60</sup>. This case has attracted significant attention because the mentioned individuals traveled to hostile states, presenting themselves as official representatives of the Republic of Lithuania. They meet with officials from Russia and Belarus, and in some cases, even with the Belarusian dictator A. Lukashenko. During these meetings, members of the „International Good Neighborhood Forum“ publicly spread false information about Lithuania, expressed sentiments towards the Soviet era, denied Soviet

<sup>58</sup> „Klaipėdos apygardos teismo 2019 m. spalio 17 d. nuosprendis baudžiamojoje byloje Nr. 1A-210-651/2019“ (The verdict of the Klaipėda District Court on October 17, 2019, in criminal case No. 1A-210-651/2019), LITEKO.TEISMAI.LT, available from: <https://liteko.teismai.lt/viesasprendimupaiska/tekstas.aspx?id=5c18379b-0814-4613-94f9-3b6aafc03808>, accessed 23 February 2024.

<sup>59</sup> „Kauno apygardos teismo 2020 m. balandžio 10 d. nuosprendis baudžiamojoje byloje Nr. 1A-48-634/2020“ (The verdict of the Kaunas Regional Court on April 10, 2020, in criminal case No. 1A-48-634/2020.), LITEKO.TEISMAI.LT, available from: <https://liteko.teismai.lt/viesasprendimupaiska/tekstas.aspx?id=346becd0-62b6-4cc9-86c6-5c73afccb791>. Accessed 24 February 2024.

<sup>60</sup> Vilmantas Venckūnas, „Teismas dar kartą bandys atversti Švenčionienės, Juraičio ir Ivanovo bylą“ (The court will once again attempt to open the case of Švenčionienė, Juraitis, and Ivanovas.), LRT.LT, available from: <https://www.lrt.lt/naujienos/lietuvoje/2/2205897/teismas-dar-karta-bandys-atversti-svencionienes-juraicio-ir-ivanovo-byla>, accessed 26 February 2024.

occupation, justified Soviet-era deportations, demonstrated support for Russia regarding its aggression against Ukraine, and claimed that elections in the Republic of Lithuania were rigged. The association itself was previously liquidated by the decision of the Vilnius Regional Court due to its anti-state activities and fundamental violations of the founding regulations.<sup>61</sup> „*The court acknowledged that the true purpose of this legal entity's establishment is deliberately to publicly disseminate false information (disinformation) about Lithuania, forming a misleading opinion that Lithuania is not an independent and democratic state, i.e., the association was founded to act against the constitutional order of the Lithuanian state and to incite social discord.*“<sup>62</sup> The decision was upheld by higher instances as well – the Vilnius District Court rejected the appeal of the 'International Good Neighborhood Forum'<sup>63</sup>. At present, with the criminal case reaching the court, the individuals mentioned are accused of committing criminal acts as stipulated in Article 118 of the Criminal Code, „Assisting Another State to Act Against the Republic of Lithuania“, and in the aforementioned Article 170(2) of the Criminal Code. It is likely that the outcome of this case will set an important precedent, determining how the state should deal with individuals openly acting against it.

So, as can be seen, the process of proving to hold an individual criminally liable under Article 170(2) of the Criminal Code is complex; it requires establishing numerous conditions – that the person specifically posted a comment, message, or publication, finding the means by which it was done or where traces of criminal activity remain (phones, computers, hard drives), the conclusions of experts from various fields confirming that the published words were indeed aimed at publicly endorsing international crimes, crimes of the USSR or Nazi Germany, denying them, or grossly belittling them. Furthermore, the assessment by experts cannot be too broad or abstract. It is emphasized that courts attach great importance to the criteria of consistency and systematicity; that is, one episode of such activity alone is not sufficient grounds to apply Article 170(2) of the Criminal Code. Without establishing all the necessary circumstances, individuals are acquitted. Although Article 170(2) of the Criminal Code is an effective tool in combating some of the propagated propaganda narratives, the absence of administrative liability for individuals for spreading disinformation or falsehoods, under the guise of freedom of expression and speech, leaves a wide „gray area“ where individuals may feel immune and actively take advantage of it.

## Conclusions

Studying and analyzing the information provided by special services regarding the activities of hostile states, it has been determined that in the information space of the Republic of Lithuania, propagandistic narratives aimed at demeaning and distorting our state's historical memory, questioning its sovereignty, and justifying the actions of terrorist states are most prevalent. In the context of the war in Ukraine, propagandists' statements are clearly

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<sup>61</sup> Gytis Pankūnas, „Teismas: „Tarptautinis gero kaimynystės forumas“ bus likviduotas kaip neteisėtai įsteigtas“ (The court: 'International Good Neighborhood Forum' will be liquidated as unlawfully established), DELFI.LT, available from: <https://www.delfi.lt/news/daily/lithuania/teismas-tarptautinis-geros-kaimynystes-forumas-bus-likviduotas-kaip-neteisetai-isteigtas-92595505>, accessed 26 February 2024.

<sup>62</sup> „Teismo verdiktas „Tarptautinis geros kaimynystės forumas“ lieka pripažintas neteisėtu ir likviduojamas“ (The court verdict: 'International Good Neighborhood Forum' remains recognized as illegal and is being liquidated“), LRT.LT, available from: <https://www.lrt.lt/naujienos/lietuvoje/2/1990123/teismo-verdiktas-tarptautinis-geros-kaimynystes-forumas-lieka-pripazintas-neteisetu-ir-likviduojamas>, accessed 26 February 2024.

<sup>63</sup> „Teismo verdiktas „Tarptautinis geros kaimynystės forumas“ lieka pripažintas neteisėtu ir likviduojamas“, *supra note*, 214, žiūrėta 2024 m. vasario 26 d.

distinguished, attempting to pit Western partners against each other, deny the effectiveness of the European Union and NATO, and deter Western allies from aiding Ukraine in its defense.

Both international and key national legal acts, such as the Constitution, safeguard the freedom of speech and expression of individuals, but this does not mean that it is unlimited. In exceptional cases established by laws, when freedom of speech is abused and statements made or information published meet the criteria of criminal activity, individuals can be held accountable. However, even in cases where a person is held accountable, proving their guilt is very complex, requiring the determination of numerous circumstances and being overly complicated. Interestingly, the most important international legal acts do not provide for a prohibition on spreading propaganda or disinformation, and in the international arena, there is generally a mindset that freedom of speech is a greater and more important value than the threat posed by propaganda. Nevertheless, considering the looming threat of the largest military conflict since World War II, with aggressors openly threatening that the Baltic states are next after Ukraine, and with propagandists spreading fear and doubts about the ability to defend ourselves in society, changes in legislation and accountability for spreading disinformation, propaganda, and falsehoods are necessary steps to ensure the security of our state and its inhabitants.

In the legal system of the Republic of Lithuania, there are gaps that prevent effectively holding individuals accountable for openly repeating hostile propaganda narratives against Lithuania, its allies, and partner states. Such individuals, well aware of the high standards applied to evidence in criminal cases under Article 170(2) of the Criminal Code and knowing that there is no administrative liability for their actions, feel immune from punishment and continue their harmful activities.

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