**EU contribution to a report on Challenges for Freedom of expression and opinion in times of conflict and disturbances**

**Introduction**

The European Union would like to thank the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression for the request to contribute to a report on Challenges for Freedom of expression and opinion in times of conflict and disturbances.

Please find below the responses to some of the questionnaire’s questions

**EU CONTRIBUTION**

**Questionnaire from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

*Please describe specific situations where disinformation, misinformation or propaganda have been used or restrictions have been placed on media or access to the Internet in order to instigate, aggravate or sustain hatred, violence or conflict. What means and methods are used to manipulate information in such situations?*

Foreign Information Manipulation and Interference (FIMI) – also often labelled as “disinformation” – is a growing political and security challenge. Foreign actors trying to manipulate and interfere with information environments use a variety of constantly evolving Tactics, Techniques, and Procedures (TTPs) to target democracies and its key institutions and processes, including free and fair elections. This is often done in combination with cyber security and hybrid threats, with intention and coordinated action to interfere in and polarise public debate. For example, cyber-attacks can be among other things used to obtain sensitive documents, which can then be leaked selectively at politically opportune moments to influence the political agenda, sow distrust, or drown out unwanted political debates.

We also see that the suppression of independent and critical voices is part of foreign information manipulation and interference, and one way of distorting public opinion and civic discourse. Such activity restricts freedom of expression by harassment, trolling and other actions to push out unwanted voices.

The COVID-19 pandemic in particular highlighted that foreign information manipulation and interference pose a considerable security risk. This does not just apply to the EU. The wave of disinformation and information manipulation following the outbreak of the pandemic continues to be of great concern to democracies and democratic efforts around the globe facing these threats by different state and non-state actors. As unprovoked Russian military aggression against Ukraine is continuing, the EU observes how devastating Russia’s global information manipulation and interference effort, including disinformation, can be.

*What role have States, armed groups or social media platforms played to instigate or mitigate such manipulation of information?*

Information manipulation used to distort our information environment, interference attempts or campaigns to influence elections or hack and leak patterns employed by perpetrators to undermine trust and compromise universal values and human rights present a global problem that threatens the functioning of democracies and the well-being of societies around the world. The threat is very real and has a very concrete impact – and it can target any policy area. Be it climate change, migration, the international rules-based order and our democratic systems and electoral processes as such.

While the online space has enabled actors of information manipulation and interference to use a myriad of different tactics, techniques and procedures to rapidly reach thousands of people around the globe, we need to keep in mind that we also see activity offline in the traditional media, such as in TV, radio and print material. While such activity can be carried out both online and offline, social media platforms are one of the main channels that are being abused, including by manipulating algorithms, monetising disinformation and spreading conspiracy theories. Therefore, cooperation with the private industry and in particular social media platforms is crucial if we want to effectively address this threat in a transparent and adequate risk management way. On the other side, it is a competence of a sovereign state/state authority to ensure healthy information environment for its citizens to make informed decisions.

*What has been the impact on human rights and the lives of people? Which groups of people have been particularly affected and in what ways?*

We have seen, especially during the COVID-19 pandemic, how information manipulation spread rapidly across the online space and social media platforms and how it has affected not just our ability to respond to the global health crisis in an effective manner, but also had very real impact on our citizens’ health and even their lives. Foreign actors have exploited the situation to discredit democracies around the globe or to promote their own autocratic systems, as well as tried to use it for economic benefit, e.g. by promoting their own vaccine while discrediting Western vaccines. On many occasions, the victims of information manipulation and disinformation are the most vulnerable groups in societies – minorities, refugees and migrants. Often disinformation leads to discrimination of minorities and hate speech incidents.

*What has been the impact of such propaganda, disinformation or misinformation on the work of human rights defenders, journalists, civil society, humanitarian and development organizations?*

Media freedom, as an extension of freedom of expression, is a key value of the EU. In addition, independent and professional journalism is one of the key tools in the fight against corruption and abuse of power. It is also a strong antidote against foreign disinformation, information manipulation and interference. Pressure on independent media has significantly increased in recent years and especially so in case of autocratic regimes. We have seen the adoption of draconian new laws targeting media, individual journalists and bloggers in a number of countries, threatening to further restrict citizens’ access to reliable information. Many governments and leaders have taken advantage of the health crisis to escalate censorship, ill-treatment of journalists and restrictions aimed at silencing free speech.

Putin’s war in Ukraine is mirrored in Russia by censorship and systematic crackdown on independent media, journalists and civil society organisations. The recently adopted Russian law criminalises so-called “fake” information about the war in Ukraine with up to 15 year of imprisonment. Media censorship is strengthening. Key media outlets are silenced for giving a platform to voices that challenge the falsehood spread by Kremlin about its military aggression in Ukraine via the Russian government controlled disinformation network, including Russian state-controlled TV channels, news agencies and social media accounts.

The EU is implementing a wide range of measures to support civil society, in particular media and fact checkers particularly in its neighbourhood in their fight against disinformation, information manipulation and interference, including working with tech companies and improving societal resilience.

*What legislative, administrative, policy or regulatory or other measures has the government in your country taken to protect online and offline freedom of expression or access to information in times of emergency, conflict, violence, disturbances? Do you have any suggestions on how these measures can be improved to uphold human rights while countering war propaganda, disinformation, misinformation and incitement?*

The European External Action Service (EEAS) is working on developing the comprehensive EU FIMI toolbox and building up national and regional capabilities to strengthen resilience of our democratic institutions. The toolbox will include multifaceted response options with preventive, cooperative, disruptive, stability-building, and restrictive measures with the aim to lower the impact of FIMI actors on target audiences and deter them from using FIMI in first place. Through the development of the conceptual work, four dimensions of the toolbox that the EU has at its disposal to respond to FIMI were identified: (a) situational awareness; (b) resilience building; (c) disruption and regulatory approaches; and (d) diplomatic responses / responses of the realm of European Common Foreign and Security Policy. All of these four dimensions comprise concrete individual instruments, such as strategic communication or demarches. These include also the important work done by the Commission services and Member States, in particular on disruption and regulatory approaches (social media platform regulation) and resilience building (media literacy, awareness raising campaigns, etc.).

*How do internet intermediaries address:*

* *Propaganda of war;*
* *Incitement to violence, discrimination or hatred;*
* *Disinformation and misinformation that instigates or aggravates violence, instability or conflicts*

*What improvements would you suggest?*

One of the challenges in tackling foreign disinformation, information manipulation and interference is that there are no international principles that define foreign disinformation, information manipulation and interference as illegal or harmful. Tackling this threat needs to be in line with international law (in full respect of fundamental rights and freedoms) and there needs to be a legal basis that would give justification to possible restrictive measures (i.e. not case-by-case).

The EEAS is keen to further intensify the existing exchanges with UN to share its expertise, participate in the relevant groups and explore opportunities for developing international principles for responsible state behaviour in the information environment.

*What role has legacy media played in addressing disinformation, misinformation and propaganda in situations of conflict, violence and disturbances? What challenges do legacy media faced in combating such information manipulation?*

As stated earlier, on the example of the current Russian war of aggression against the Ukraine, we can see that censorship and systematic crackdown on media, journalists and civil society organisations is often the case. Key media outlets are harassed or silenced for giving a platform to voices that challenge the falsified picture of the situation on the ground in Ukraine as portrayed by the Russian government and the disinformation network under its control, including Russian state-controlled TV channels.

International legacy media and global independent public broadcasters such as Deutche Welle, FRANCE24 and many others has played a constructive role in providing facts-based information addressing and fact-checking disinformation and providing global access to the information and analysis to the societies were media is censored and controlled by the State.

*Please provide examples of good practices, including at the community level, to fight disinformation and hate speech during conflicts and disturbances.*

Unity and strong international cooperation against foreign information manipulation and interference, including through sharing information and analysis and identifying opportunities for coordinated response is key. Local communities are raising awareness by engaging the public directly and supporting an open and democratic environment where civil society, independent media and media literacy skills thrive.

*Please share any suggestion or recommendations you may have for the special Rapporteur on how to protect and promote freedom of opinion and expression while countering the manipulation of information in times of conflict, disturbances or tensions.*

For many years, the threat has been identified as “disinformation”, characterised as “false and/or misleading content”. However, this term has become too much of a “catch-all phrase”, which hinders the adequate description of the threat. Additionally, the threat landscape has changed and extends far beyond the content-focused approach that no longer adequately describes the threats to the values, principles and political processes we aim to protect.

In addition, looking solely at the content to determine illegitimate patterns of behaviour in the information environment is not sufficient. Freedom of speech must be protected under all circumstances – therefore, the proportionality and appropriateness of any potential responses to the threat are of utmost importance and a graduated approach is required. Factually incorrect information needs to be addressed adequately by the competent authorities and stakeholders (e.g. through stronger strategic communication, fact-checking). However, such unintentional dissemination of false/misleading content has little to do with the harmful, intentional manipulation of the information environment used by foreign malign actors, state and non-state.

Therefore, it is necessary to focus on a manipulative-behaviour analysis of the threat (notwithstanding that the content might be important for analytical and/or response purposes).

Concretely, shared situational awareness and an updated definition need to reflect the tactics, techniques and procedures (TTPs) that describe the patterns of behaviour of the threat actor that we see today. The concept of TTPs is well established within counter-terrorism and cybersecurity research to understand and discern a threat actor’s activity or modus operandi. Tactics describe what threat actors are trying to accomplish. Techniques are lower-level descriptions of how they try to accomplish it. Threat actors can have multiple techniques at their disposal to fulfil the objective of a tactic. Finally, procedures are the specific combination of techniques across multiple tactics (or stages of an attack).

In a nutshell, there is a need to put focus more on a behaviour of the threat actors than just on a content they produce.

Elections, in particular in fragile states and countries in democratic transition, can turn into critical moments leading to disturbance, tensions or even conflicts. The EU contributes to building confidence in the integrity of electoral processes by deploying Election Observation Missions (EOMs) to partner countries which can contribute to lower tensions. EU EOMs assess, among others, the media environment, the election campaign, including online campaigning, and offer recommendations to partner countries how to further strengthen freedom of expression.

 On one hand, we tend to see some reluctance in certain regions to agree the presence of international election observers. On the other hand, information manipulation (including disinformation) is increasingly preventing the citizens to make informed choices and aggravates the risks of violence associated to elections.

In this context, it is crucial to promote awareness and skills related to the impact of social media in election times. In the past years, the EU has built significant expertise when it comes to detecting, analysing and countering information manipulation and interference. A specific methodology has been developed to observe the online aspects of elections. Since 2019, we reinforced the capacity of EU Election Observation Missions to do social media monitoring and our missions makes now recommendations in this area.

We are leading the reflection and work on guidelines on observation of online campaign within the community of leading observer organisations (Declaration of Principles) and will seek to disseminate them so they become recognised as best practices for a vast number of election observation stakeholders.

This is a work in progress and it needs to be further developed. This is what the EU is aiming at together with the UN, other international and regional partners. It is crucial to provide support to governments, election management bodies, independent media and civil society to answer these challenges by building policy frameworks, secure infrastructures, regulatory capacity and oversight in order to counter the damaging effects of information manipulation and interference.