

ISCKMC 2022**International Scientific Congress «KNOWLEDGE, MAN AND CIVILIZATION»****STATE REGULATION OF MASS COMMUNICATIONS OVER
LAST DECADE**

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Abstract

Over the past decade, the world has changed significantly due to globalization and digitalization processes speeded up by mass media being a tool for realizing the rights of the population to freely seek, receive, transmit, produce and disseminate information. These rights are guaranteed by the Constitution of the Russian Federation. However, recently the freedom of speech in the country has become the subject of numerous discussions among political scientists, lawyers, journalists and bloggers. The reason for this was the increased influence of state power on the media, which is expressed in the restriction of freedom of speech. This article discusses the state policy in the field of mass communication in Russia in connection with the adoption of several legislative acts aimed at tightening control over media content, especially network media platforms. The authors come to the conclusion that legislative measures in the field of Russian media aim to protect the interests of state power and the information security of the country, limit criticism of the authorities. This is confirmed by the fact that the Federal Service for Supervision of Mass Communications can block websites, social networks and instant messengers without a court decision. The authors also note that the existing law enforcement practice of control and supervisory bodies of state power leads to undesirable consequences in freedom of opinion, complicates the work of the opposition media, and this is contrary to the principles of democracy for the development of civil society.

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1. Introduction

The state regulation of the media in Russia has its own characteristics in contrast to Western states since the Czarist era and the Soviet Union, including the current period, subjected the country to adhere to an authoritarian regime of governance, which benefited the emergence of a semi-authoritarian or neo-Soviet media model of the current period (Oates, 2007; Toepfl, 2014).

It is known that the state regulation manifested on the legislative, economic and administrative levels, affects the development and state of the country's media system. In a short time, our country ranked among the countries where senators are actively involved in lawmaking in all spheres of society.

Experts started speculating about the growing role of the Russian state in media regulation in the next 5–10 years in 2016 (Galkina & Lehtisaari, 2016). The legislative regulation of the media is associated with the adoption of the Mass Media Law in 1991, which has been amended 19 times during 30 years. As is known, in addition to the above-mentioned law, a number of other federal laws concerning the work of the media and journalists have been adopted, supplemented and are in force now.

Such laws as on the procedure for covering the activities of public authorities in the state media, on state secrets, on countering terrorism, regulations on the information security of children, etc. affect the media directly or indirectly.

Several years have passed since the adoption of the laws that will be discussed in this article, and disputes about mitigating some of them have not been resolved yet.

2. Problem Statement

Since 2011, the state has adopted resolute measures to restrict the media sphere regarding the media content, as evidenced by the adoption of the following laws: 420-FZ; Federal Law “On Amendments to the Code of the Russian Federation on Administrative Offenses” dated March 13, 2019; Federal Laws No. 27-FZ of March 18, 2019 (Article 13.15 of the Code of the Russian Federation on Administrative Offenses was supplemented) and Federal Law No. 31-FZ of March 18, 2019 (amendments were made to Article 15.3 of Federal Law No. 149-FZ “On Information, Information Technologies and Information Protection”); Federal Law No. 538-FZ of December 30, 2020 “On Amendments to Article 128.1 of the Criminal Code of the Russian Federation”.

The media community of the country was ambiguous about the amendments to the Code of Administrative Offenses and the Criminal Code, where the Criminal Code of the Russian Federation was supplemented with articles 207.1 and 207.2 criminalizing the dissemination of knowingly false information. The Federal Law No. 260-FZ of July 1, 2021 “On Amendments to the Federal Law “On Information, Information Technologies and Information Protection” and Article 6 of the Law of the Russian Federation “On Mass Media” came into force and caused more reproach than approval in society.

Let us consider how these laws are observed in practice, what problems arise with the interpretation of some concepts, and how these controls on the dissemination of information affect the restriction on freedom of opinion.

3. Research Questions

Until 2011, Article 129 of the Criminal Code of the Russian Federation established liability for libel. Between 2009 and 2011, many journalists and bloggers were convicted for violating this article at the initiative of officials and public authorities. However, in 2011, Article 129 became invalid, and an administrative offense was established for libel rather than a criminal one. Almost a year later, in 2012, Article 128.1 was established in the Criminal Code of the Russian Federation, which returned criminal liability for libel to the Russian Federation. Under this article, a person guilty of libel could receive a fine of up to five million rubles or in the amount of wages or other income for a period of up to three years, or community service for up to four hundred and eighty hours.

The increase in the number of cases related to the restriction of freedom of speech indicates an increase in the practice of persecution for expression. The most common offense used against journalists is libel (Alieva & Kagirova, 2021).

For example, criminal proceedings under Article 128.1 (Mediazona, 2016) were instituted in 2015 against Sergey Vilkov, a commentator for the Public Opinion news agency. The accusation was put forward by Sergei Kurikhin, a deputy of the Saratov Regional Duma from the party “United Russia”, who was the target of Vilkov’s journalistic investigation. As part of the investigation, a copy of the operational information about a member of the “Pakrovskie” gang, whose personal data completely coincided with those of the deputy, was published. Litigation in the libel case lasted until November 2020; the journalist went through 4 trials. In November 2020, the Frunzensky District Court of Saratov finally closed the case on exculpatory grounds. Information about Kurikhin’s involvement in the criminal community was transferred to the investigative department only in May 2021, after the deputy left the party “United Russia”.

On March 18, 2019, Federal Law No. 28-FZ adopted parts 3-5 of Article 20.1 of the Code of Administrative Offenses of the Russian Federation, the so-called amendment “On disrespect for authority”.

According to the International Human Rights Group “Agora”, in the first year of this article application, citizens of the Russian Federation paid fines totaling 1.6 million rubles in follow-up of 51 cases. Of these, 38 were for showing clear disrespect to the President of the Russian Federation V.V. Putin (Advocate newspaper, 2020). As objects of disrespect, in connection with which administrative cases were initiated in the first 180 days of the article, there were (except for the president of the country): society, security forces, governors, the party “United Russia”, judges, local officials, deputies, the Constitution, the state corporation “Rosatom”.

According to the lawyer of the international human rights group “Agora”, one of the main problems of the law remains the vagueness of the wording: the legislator did not give criteria for “clear disrespect”. Thus, Article 20.1, Part 3 of the Code of Administrative Offenses of the Russian Federation can be used as protection for a narrow circle of persons falling under the category of “authority”, and to block all information objectionable to them, as well as to put pressure on *personas non grata*.

Parts 3–5 of article 20.1 Part 3 of the Code of Administrative Offenses of the Russian Federation are rarely used against journalists, but they often fall under the content of bloggers, activists and ordinary

users of social networks. However, this does not mean that this article does not affect the work of the media and the activities of journalists. It contributes to the strengthening of self-censorship among journalists forcing them to beware not only of insulting phrases in relation to the authorities, but also of any criticism of them since any unflattering text can be recognized as “clear disrespect”.

Another law related to the spread of fake news has aroused much controversy by attracting the attention of human rights activists and the public. Federal Law No. 27-FZ dated March 18, 2019 supplemented Art. 13.15 of the Code of Administrative Offenses of the Russian Federation (hereinafter, the Code of Administrative Offenses of the Russian Federation), Parts 9–11 establishing liability for dissemination in the media, as well as in information and telecommunication networks, of knowingly unreliable socially significant information under the guise of reliable messages, threatening life and (or) the health of citizens, property, leading to mass disruption of public order and (or) public security, interfering with the functioning or cessation of the functioning of life support facilities, transport or social infrastructure, credit organizations, energy, industry or communications facilities, or causing the onset of these consequences, if these actions of the person disseminating information do not contain a criminally punishable act. Violations are subject to administrative fines. For example, in July 2020, the case under Part 9 of Article 13.15 of the Administrative Code of the Russian Federation was filed against Vladimir Guba, the editor-in-chief of the newspaper “Tomskaya Nedelya”. The reason was the article “Games for Adults”, where Guba said that the resolution of the administration of the Tomsk region on the high alert mode in the midst of the coronavirus was not formally a binding legal act for the inhabitants of the region. However, the editor-in-chief received confirmation of this information from the Department of the Ministry of Justice of Russia for the Tomsk Region. In this case, the message cannot in any way be considered “knowingly false”. However, in April 2021, a Tomsk court found Vladimir Guba guilty and fined him 60,000 rubles. The journalist himself believes that the reason for initiating the case was the personal dissatisfaction of the governor of the Tomsk region, Sergei Zhvachkin, who signed the decree, which Guba wrote about (2021).

The spread of a new coronavirus infection in Russia in 2020 became the reason for tightening the measures to combat unsubstantiated information. On March 27, 2020, the Government of Russia established a special Communication Center. One of its main tasks was to “identify and counter misleading information about the coronavirus infection, whose spread could endanger people’s lives and health, increase social tension, destabilize the socio-economic and political situation in the country.

Within one day on March 31, 2020, the State Duma adopted Federal Law N 100-FZ in three readings at once, and the Federation Council approved it. Thus, on April 1, 2020, the following articles were introduced into the Criminal Code of the Russian Federation: Article 207.1 “Public dissemination of deliberately false information about circumstances that endanger the life and safety of citizens” and Article 207.2 “Public dissemination of deliberately false information of social significance that entailed adverse consequences”.

On the one hand, tightening liability for false information during the Covid-19 pandemic seems justified. Misinformation of the country’s population in such difficult circumstances can lead to severe consequences. On the other hand, the practice of applying Article 207.1 of the Criminal Code of the Russian Federation indicates the possibility of using it as a tool to stifle dissent.

According to the data published on the website RBC (2020a), since March 2020, the courts have fined 1.4 million rubles for cases involving false information about threats. It also notes that as of June 10, 2020, 17 out of 42 cases of criminal prosecution related to the statements of activists, journalists and bloggers. For example, Yulia Latynina, a journalist from the opposition media outlets “Novaya Gazeta” and “Ekho Moskvyy”, was under investigation under Article 207.1 for voicing on “Ekho Moskvyy” a letter published on Telegram on behalf of the country’s medical workers.

The next “victim” of this article of the law was a journalist from the Ufa edition of “ProUfu”, who was fined 60,000 rubles for a false report about the places in the cemetery for those who died from coronavirus, although the material was published after the fact was confirmed by the press secretary of the city administration through the WhatsApp messenger. The reason for finding the journalist guilty of the dissemination of unreliable information in the media, which posed a threat to public safety, was a hasty message on the website of the city administration about the refutation of the data transmitted by the press secretary to the “ProUfu” journalist (RBC, 2020b).

Another problem of article 13.15 of the Code of Administrative Offenses of the Russian Federation and articles 207.1-207.2 of the Criminal Code of the Russian Federation is the vagueness of the boundaries of an administrative offense and a criminal offense. This leads to the fact that the same act can be unpredictably qualified under the Criminal or Administrative Codes. Thus, for example, in the spring of 2020, Tatiana Voltskaya, a journalist from the media project “Sever.Realii”, was prosecuted for an interview with an anonymous resuscitator who spoke about poor working conditions but in December of the same year, the journalist was found guilty under an administrative article (Deutsche Welle, 2021).

In November 2017, the State Duma of the Federal Assembly of the Russian Federation adopted the bill “On Amendments to Articles 10.4 and 15.3 of the Federal Law “On Information, Information Technologies and Information Protection” and Article 6 of the Law of the Russian Federation “On the Mass Media” (in terms of clarification the procedure for restricting access to information disseminated in violation of the law). It included a section concerning the foreign agents of media. According to this bill, media-foreign agents were legal entities registered abroad, or foreign structures without forming a legal entity, distributing printed, audiovisual and other materials, and financed from foreign sources.

In December 2019, the norms of the law on media-foreign agents were expanded. Mass media performing the functions of a foreign agent were obliged to register legal entities in Russia. Moreover, individuals were allowed to enter into the foreign media register performing the functions of a foreign agent. According to information published by the Ministry of Justice of the Russian Federation (2021), 40 legal entities and 75 individuals are currently included in the register of foreign mass media performing the functions of a foreign agent (115 in total). Notably, 9 of them were included in 2017, 1 – in 2019, 7 – in 2020, 94 – in 2021 and 4 – in 2022. These figures show that in 2021, a record number of foreign agents were included in this law in the 4-year period.

The main consequence of failure to execute the above-described duties for a foreign media agent may be its blocking on the territory of Russia by Roskomnadzor. In addition, a foreign media agent may also face a fine of up to 5 million rubles for violating laws. Other consequences of being a foreign agent are that it tends to deter advertisers.

Citizens have the most questions about the application of the Articles of Criminal Code, specifically, Article 280 “Public calls to carry out extremist activities”, Article 280.1 “Public calls to carry out actions aimed at violating the territorial integrity of the Russian Federation”, and Article 282 “Inciting hatred or enmity” (in content closer to them and violations of Article 20.3.1 of the Code of Administrative Offenses of the Russian Federation by citizens).

In recent years, the number of criminal and administrative cases under these articles has increased. Today, the practice of initiating criminal cases against users for likes and reposts on social networks is rather widespread. For a careless like or repost for the first time, a user is brought to justice under Article 20.3.1 of the Code of Administrative Offenses, and for the second time – under the Criminal Code. As an example, we can mention the fact that the court punished Academician of the Russian Academy of Sciences Efim Khazanov for 20 thousand rubles for reposting unauthorized actions in social networks in April 2021 (TASS, 2021).

“If we expand the concept of “extremism” in the way it is used today, then we can convince half the country of being extremists. What for? What’s the point?” – noted Mikhail Fedotov, the Chairman of the Council under the President of Russia for the development of civil society and human rights (HRC) at a meeting of the Council under the President of Russia for the development of civil society and human rights (Gnedinskaya, 2021)

Having studied the judicial practice in criminal cases involving extremist offenses, in which excesses are noted, the Plenum of the Supreme Court of the Russian Federation in 2021 made appropriate amendments to the current resolution of the Plenum of the Supreme Court “On judicial practice in criminal cases involving extremist offenses.” As noted in this document, it is necessary to prove not only the fact of posting materials on the Internet containing signs of unlawful information, but also the fact of calls for extremist activities or actions aimed at violating territorial integrity of the Russian Federation as part of the consideration of cases under articles 280, 280.1, 282 of the Criminal Code. At the same time, lawyers themselves draw attention to the fact that the court regards the opinion of media experts on the content of likes and reposts on the network, and accordingly, it becomes necessary to ensure the objectivity of the content under consideration (Kulikov, 2021).

4. Purpose of the Study

The purpose of this study is to analyze the practice of implementing state policy in the field of mass communication in Russia over the past decade and to determine the level of state intervention in the dissemination of media content in the media and social networks.

5. Research Methods

To analyze the issue, the research uses the methods of studying the following documents: amended Federal Laws, the Code of the Russian Federation on Administrative Offenses, the statistics of the Ministry of Justice of Russia, Roskomnadzor over the past decade. It analyzes the materials of the electronic media devoted to the issues of restricting the freedom of expression of citizens and journalists after the adoption of the above-mentioned laws. The quantitative method of studying the issue is chosen

due to the need to ensure the undesirable consequences of the law enforcement practice of state control and supervisory bodies for the freedom of the mass media.

6. Findings

The study of the state regulation of the media system in Russia shows that the intensity of lawmaking in creating new restrictions is associated with the desire of the state to maintain a semi-authoritarian model of the mass media and this practice does not contribute to the realization of the rights of citizens and the media to the freedom to disseminate critical information regarding the activities of authorities and officials.

7. Conclusion

The analysis of the law enforcement practice of state control and supervisory bodies enable to verify the hypothesis that the restrictive measures to disseminate media content in the mass media aim to protect the interests of state power and the information security of the country, on the one hand, and to strengthen the responsibility of citizens and the media for spreading libel and fake news, on the other hand.

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