

Executive Summary

Types of disinformation and misinformation

Various types of disinformation and their dissemination from a communication science and legal perspective

Judith Möller • Michael Hameleers • Frederik Ferreau

A report commissioned by the Committee Chairperson Conference (*Gremienvorsitzendenkonferenz; GVK*) of the German Media Authorities



Types of disinformation and misinformation

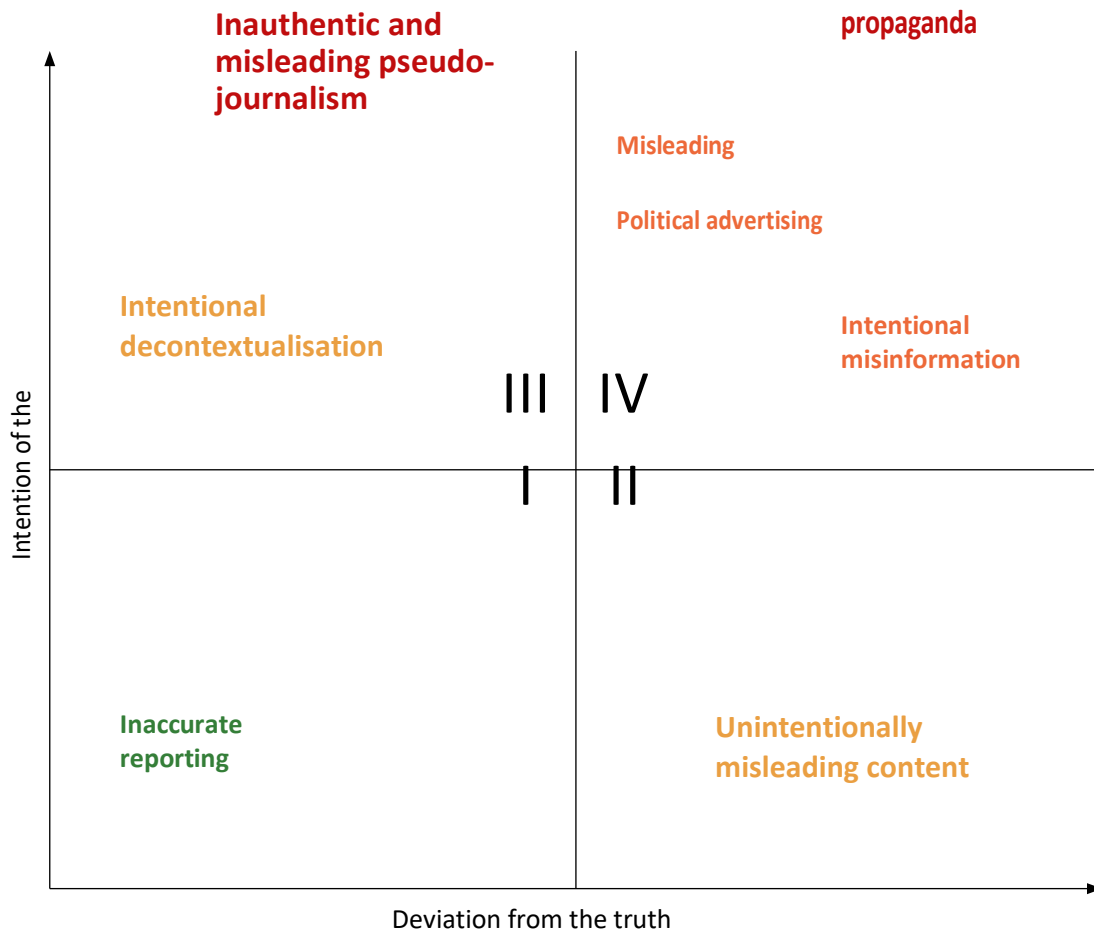
Various types of disinformation and their dissemination from a communication science and legal perspective

This report strives to define various disinformation phenomena that can be observed from the perspective of communication science and differentiate them from each other, to then undertake an initial legal assignment. This should make the concept of disinformation accessible and practicable for further discourse.

On the communication science part:

Disinformation is usually defined as the *intentional* dissemination of *false* information. The concept of misinformation comprises the *unintentional* dissemination of *false* information. In this study, we analyse various subforms of disinformation and misinformation, which differ from each other in two core elements of the definition: On the one hand, we observe the degree in which the information deviates from the factual truth; on the other hand, we differentiate based on the intention of the sender. As regards the two core elements of the definition, there are major differences between the individual forms of disinformation and misinformation that occur in reality. An online advertisement that promises one to lose ten kilograms in a single week using a simple trick, is purely fictional, but probably not politically motivated. On the other hand, a picture of migrants in a soup kitchen with an inflammatory headline might be very close to the truth, but has clear political consequences. To better understand the phenomena of disinformation and misinformation, it is also necessary to more precisely differentiate between the types of disinformation and misinformation. This not only allows for a targeted analysis of risks, but also makes it possible to provide specific and customised recommendations for how to counteract them. When differentiating between the types, we follow the two core elements of the definition: Factuality (truth) and intention. These dimensions also serve as a starting point for legal recommendations on the regulation of the various forms of disinformation. In our report, we additionally analyse which types of disinformation come with risks to democratic society and must be regulated. We also identify the less dangerous forms, which are ultimately a crucial element of democratic communication.

On the basis of a systematic analysis of the available research, we recommend a two-dimensional matrix, in which we depict seven types of disinformation:



Explanation: (1) inaccurate reporting; (2) unintentionally misleading content; (3) intentional decontextualisation of factually true information; (4) intentional misinformation; (5) misleading political advertisement; (6) inauthentic and misleading pseudo-journalism; and (7) propaganda. Green indicates a lower risk; the larger and redder a font, the larger the risks for society and democracy.

Illustration 1: Seven types of misinformation and disinformation in four squares of the disinformation space; Source: own research

Misinformation

Inaccurate, unintentionally decontextualised reporting

Inaccurate reporting describes the factual reality in a false context, without deceitful intention. This can happen in four ways: Film material is dated incorrectly, empirical evidence is placed in the wrong context in texts, or pictures and videos are assigned to an incorrect place. These decontextualisation practices are, however, not the result of malicious intent. Communicators are often pressed for time as they work and are confronted with the task of selecting a large quantity of evidence.

Unintentionally misleading content

Unintentionally misleading content is based on false information, for example false figures, misleading empirical evidence, and/or inaccurate expert analyses. Unintentional misinformation includes, for example, citing an expert who offers inaccurate information on the consequences of a complex political or scientific matter. In principle, every communicator might accidentally send incorrect information: citizens, politicians, scientists, journalists, NGOs, companies, institutions, etc. A common reason for the dissemination of misinformation is negligence.

Disinformation

Intentional decontextualisation of real information

Of all forms of disinformation, which is *intentional* false information, intentional decontextualisation sticks closest to the actual truth. We define it as correct information in an incorrect context. Citizens are targeted to convince them of an alternative reality, promoting an ideological or economic objective. It is therefore frequently directed against state institutions and mainstream media. One example of intentional decontextualisation is the #filmyourhospital campaign, which spread across social media in the first months after the outbreak of the coronavirus. (Amateur) news platforms and citizens all over the world used real videos of empty hospitals and their parking lots to spread doubt on the dimension of the COVID-19 pandemic. With the presented material being factually correct, and the underlying argumentation usually close to the truth and therefore not obviously false, it is easy for recipients to be tricked by the alternative interpretation. Therefore, this form of disinformation bears risks at both the individual and the societal level.

Intentional false information

Intentional false information is not underpinned by any factual basis; it is the intentional dissemination of entirely fictional narratives. The aim behind false information is generally to mislead the public and manipulate the public opinion and/or election results. For example, a relationship between growing migrant figures and higher criminality rates is conjured up to seek support for an extreme right-wing political agenda. Or graphs and figures are manipulated to cast doubt on the consequences of climate change. Even with the information entirely made up in this case, and it therefore classifying as false information, it gains a false claim to truth through its presentation in a seemingly professional news article.

The false information is frequently also economically motivated and disseminated by fraudsters. False information often has great visual and emotional appeal, which is why such information makes for highly lucrative advertisements. The advertisement is similar to the articles on the news website into which it is embedded (*native advertising*) and, for example, promotes alternative health tips or quick-money strategies. In the end, the author gains commercial benefit with every click (*clickbaiting*).

Manipulative (political) advertisement

Manipulative and misleading advertisement deviates from decontextualisation and false information through its intention, which tends to be instrumental and less ideological. Misleading advertisement is strategically used for political campaigns, to either directly influence electoral behaviour (sway issue publics) or to generate financial resources for the campaign through donations. The perhaps most famous example of manipulative election advertising: the Brexit Bus. The Bus drove through Great Britain in 2016 at the time of the referendum, as part of the Leave Campaign. The message on the Bus, that Great Britain were to send 350 million pounds to the EU on a weekly basis, was demonstrably false. The intention behind manipulative advertisement is to influence the voting behaviour of its recipients. Manipulative advertisement can also be tailored to very small groups (**microtargeting**), to reach exactly those citizens who are most susceptible to this type of disinformation.

Unauthentic and misleading pseudo-journalism

We define pseudo-journalism to be the reporting of misleading or manipulated content in the same or similar forms as established news sources. On closer inspection, it becomes apparent that journalistic standards such as the two-source principle or verification of facts are not observed. This makes it hard for the public to separate facts from fiction.

On the one hand, a difference is made between independent journalistic titles and brands who consciously and systematically fail to comply with the press code standards. The content in and of itself does not necessarily have a disinforming function. An example is the reporting on the 2018 Münster attack on alternative news website Tichys. It was falsely reported that the assassin imitated Islamic terrorists. As such, the facts were decontextualised and interpreted in a rabidly ideological, anti-Islamic manner.

On the other hand, a subform of pseudo-journalism can be identified, which – at least in Germany – is more economically motivated, depending on the underlying advertising principle. These are short-lived Internet pages that imitate existing news brands down to the smallest detail and exploit the reader's trust in classic journalism. With pseudo-journalism gaining a high degree of trustworthiness in both form (trustworthy source of news) and content (usually decontextualised), it has great influence.

Propaganda

We define propaganda to be the strategic manipulation by governments and players in positions of power of either one's own or a foreign population. It is frequently used to sustainably disrupt societal order and unilaterally manipulate public opinion. One example is the reporting on the alleged rape of victim "Lisa" in 2016, with a completely erroneous report by a Russian television station spreading widely via social media and Russia Today.

Types of disinformation					
	Decontextualisation	Misinformation	Manipulative (political) advertisement	Pseudo-journalism	Propaganda
Degree of deviation from factuality	slight	major	varies	rather slight	major
Typical intention	Disseminating a manipulative narrative to support a political ideology; economical (clickbait)	Economical; ideological (de)mobilisation	Political mobilisation	Economical; ideological (de)mobilisation	Geopolitical and ideological (de)mobilisation
Typical senders	Political actors, media, alternative media	Internet fraudsters, conspiracy theorists, alternative media	Political actors, NGOs	Internet fraudsters Alternative media	State governments and (international) organisations
Typical dissemination	Broad dissemination: occurs in all media, can frequently be found in alternative media, wide dissemination by users	Restricted dissemination: frequently through social media, sometimes supported by coordinated inauthentic behaviour	Paid dissemination: frequently through social media; however, also through other media	Restricted dissemination: through proprietary online media or through social media, wide Dissemination by users	Professional dissemination: through all communication channels, including actor-owned media organisations and with the support of coordinated inauthentic behaviour
Typical risks for the individual	Cognitive, emotional, poor (political) decisions (to a varying degree)				
Typical risks for society	Misinformed electorate, polarising	Misinformed electorate, divisive, threat to democracy	Polarising	Misinformed electorate, polarising, divisive	Geopolitical, divisive, threat to democracy

Explanation: political = tactical, short-term interference in elections, ideological = strategic, long-term interference, polarising = at the overall societal level, divisive = concerns segments, threat to democracy = highly manipulative

Table 1: Types of disinformation, dissemination, and risks; Source: own research

On the legal part:

Every legal reaction to disinformation also constitutes a (potential) restriction of the constitutional right of freedom of expression and freedom of disseminating opinions. Even if, following the jurisprudence of the Federal Constitutional Court (*Bundesverfassungsgericht, BVerfG*), factual claims that are undoubtedly proven as false or are deliberately untrue already do not fall within the scope of protection of freedom of expression, an assumption is made in favour of the protection of factual claims. The use of instruments against disinformation may neither grant state nor private institutions the power to direct the opinion-forming process to its benefit. At the same time, the objective-legal dimension of constitutional rights of communication also substantiates the obligation of the state to protect the opinion-forming process against (excessive and dangerous) disinformation.

The German legal system reacts to disinformation phenomena with a range of instrument groups, of preventive and repressive effect: Preventive instruments ensure the removal of an expression, the correction of an expression, or lay down transparency obligations for certain expressions. Transparency regulations will above all often demonstrate themselves to be a proportionate and desirable instrument in dealing with disinformation when compared to other, more invasive measures, as they support citizens when forming their individual opinion without modifying or oppressing expressions. Repressive instruments result in the prosecution of an expression as a criminal or an administrative offence, and determine an expression to be the basis for compensation. Additionally, both private companies – above all the operators of intermediaries – as well as other legal entities have developed further instruments, which, for example, include those that reduce the visibility of content as well as the use of so-called fact-checkers.

In principle, the task of monitoring compliance with regulations to combat disinformation lies with the Media Authorities, designed to be independent actors, as long as the institution of voluntary self-control is not the primarily responsible institution in the field of telemedia offers designed in a journalistic-editorial manner, in line with the new supervisory architecture of the Interstate Media Treaty (*Medienstaatsvertrag, MStV*). Having said that, the new supervisory architecture is proving to be inadequate, particularly because it is neither clear to the Media Authorities nor to recipients to which supervisory institution an offer is subject. Lawmakers are called upon to adapt the regulations.

Type of reaction	Instrument group	Instruments provided for by the law in Germany	Other instruments
<i>Preventive reaction</i>	Removal	<ul style="list-style-type: none"> • Follows after a criminal or administrative offence • Claim to cease and remove under civil law • Deletion or blocking in accordance with the Network Enforcement Act (Netzwerkdurchsetzungsgesetz, NetzDG) 	<ul style="list-style-type: none"> • Deletion procedure during an election campaign (France) • Removal by intermediaries • Possible reduction of visibility by intermediaries
	Correction	Counterstatement or correction claim	<ul style="list-style-type: none"> • Reprimand by the German Press Council • Fact-check by intermediaries • Fact-check by the EU East StratCom Task Force
	Transparency	<ul style="list-style-type: none"> • Labelling obligation for advertisements • Labelling obligation for social bots 	Labelling obligation for paid political advertisements on social networks (France)
	Criminal offence	Punishable, e.g. as defamation or libel	–
<i>Repressive reaction</i>	Administrative offence	e.g. infringement against (advertisement and bot) labelling obligations under the State Media Treaty	–
	Other	Claims for damages under civil and competition law	Contractual penalties (e.g. temporary account blocks by intermediaries)

Table 2: Instrument groups and associated instruments

Furthermore, the Interstate Media Treaty does not affect the right of media intermediaries to establish its own criteria of admission and order. As such, intermediaries can also sanction disinformative content in line with their own ideas, as long as this does not constitute an infringement on the discrimination prohibition of Art. 94 Interstate Media Treaty. If this fundamentally grants media intermediaries the right to proceed against (also legal) disinformation as they exercise their positions under constitutional rights and a resulting “virtual householder’s right”, their decisions in individual cases should at least be legally embedded, to curb their possibility of influencing the opinion-forming process: To this end, operators of networks should be subjected to structural and procedural requirements to impose sanctions on disinformation. (Relatively) specific requirements in terms of content should be avoided to the extent possible, to prevent the sanctions regime under private law from being shaped by the state.

The subdivision of disinformation into seven types from a communications science perspective can be helpful in designing legal requirements to comply with journalistic due diligence duties. Inaccurate reporting generally does not constitute an infringement, whereas there is indication of infringement from the dissemination of unintentionally misleading content onward. In the event of intentionally incorrect information, the margin of discretion of the supervisory authorities can regularly be reduced to zero.

From the legal evaluation on the individual types of disinformation, the following individual recommendations to act are given to the legislator:

- The transparency of institutions of voluntary self-control within the meaning of Art. 19 para. 3 sentence 1 Interstate Media Treaty is to be increased through legal obligations. The institutions of voluntary self-control must disclose its members in a suitable manner. At the same time, the providers of journalistic-editorially designed telemedia offers within the meaning of Art. 19 para. 1 Interstate Media Treaty must be obligated to name the supervisory authority competent for it in the imprint.
- By complementing the accreditation requirements in Art. 19 para. 4 Interstate Media Treaty, the institutions of voluntary self-control should be instructed to obligate their members to the disclosure of reprimands following the example of self-control set by the German Press Council.
- The use of preventive or repressive instruments by intermediaries of particular importance should be regulated more closely in law. The legislator should obligate the intermediaries to structural and procedural requirements if decisions are made on a case-by-case basis. The Media Authorities should be tasked with monitoring compliance of these rules.
- The legislator should introduce labelling obligations for paid political advertisements on social networks; the label should also be preserved if users share the content. In the event of micro-targeting, the legislator could additionally prescribe that users are to be shown the fact that they are addressed for the advertisement together with the reason why.
- Political parties should be prohibited from using social bots. Art. 93 para. 4 Interstate Media Treaty should be complemented to obligate social networks to monitor this measure.
- The legislator should legally obligate operators of media intermediaries to delete or block content that obviously infringes on the rights of journalistic-editorially designed offers and is thus capable of misleading users as concerns the actual origin of the content within 24 hours after receiving a complaint.

- To identify all (pseudo-)journalistic formats, the condition of a commercial purpose laid out in Art. 19 para. 1 sentence. 2 Interstate Media Treaty should be deleted. Instead, the condition should apply to all content designed for a lasting period.
- Following the example of Art. 53 para. 3 Interstate Media Treaty, both domestic and foreign state authorities should be prohibited from offering journalistic-editorial telemedia. For domestic state authorities, it should be added that such telemedia offers which inform the public on relevant processes falling within the scope of responsibility of a state authority are permissible.
- The legislator should expand the obligations to provide an imprint for broadcasters, press publishers, and providers of journalistic-editorially designed telemedia. In it, providers should disclose their beneficial owners, possibly together with additional shareholders who have a special potential to influence the design of the offer.
- Domestic as well as foreign state authorities should be prohibited from using social bots. Art. 93 para. 4 Interstate Media Treaty should be complemented to obligate social networks to monitor this measure.
- General fact-check institutions such as the EU East StratCom Task Force should be designed free of state control.

Final remark

An essential part of the answer to disinformation is the diversity and accessibility of high-quality information as well as widespread competency among the population to distinguish between the two. In order to reach the first steps toward information integrity, the following aspects are particularly important in our opinion:

- There is currently no publicly accessible list of media that have signed the Press Code or comparable recognized regulations and that implement sanctions of voluntary self-regulation, such as printing corrections. Thus, citizens lack an important opportunity to check the quality of news media and possibly also to report violations. Greater transparency can help the media to be disciplined and to reduce the spread of disinformation in the long run.
- It is currently impossible to measure the spread of disinformation among intermediaries on their platforms and to assess the effectiveness and accuracy of the measures taken by operators to curb disinformation. Among other things, this is a result of the operators' refusal to disclose data to regulators and the scientific community. In addition, it is unclear how the balance between the fight against disinformation and the overriding importance of freedom of expression is weighed. Legislation should be put in place to direct the potential of intermediaries to influence the opinion-forming process.
- Transparency is also elementary in connection with microtargeting in social networks: If individual users come into contact with the same or similar disinformation repeatedly without the opportunity for corrective discussion in the general public (and not addressed by the sender), the effectiveness of the disinformation increases considerably. In addition, AI methods are continually improving the capacity to tailored content more and more precisely to the individual user, which further increases its effectiveness. Progressive technical development in this field requires close monitoring by science, regulators, and legislators.

With serious cases of disinformation, it may not seem sufficient to rely on information integrity alone. More drastic reactions may be appropriate and justified, especially when it comes to preventing coordinated inauthentic behavior. However, prohibiting certain targeted content must remain the well-founded exception: Instead, a vital opinion-forming process should be sought and ensured through structural guard rails and positive incentives.