

Ana Azurmendi

aazur@unav.es

School of Communication

University of Navarra

(Spain)

Freedom of expression, Fake News, Journalism, Democracy, European Court of Human Rights

Is Journalism still the “watchdog” of democracy? The European Court of Human Rights facing fake news in Social Media

Introduction

The European Court of Human Rights has developed a long line of argumentation on the freedom of expression, journalism and the democratic system. Even in cases where freedom of expression has to do with Internet platforms (*Delfi v. Estonia*, 2015) or digital versions of newspapers (*Times Newspapers v. UK*, 2009), still the European Court insists that journalism is essential for the democratic system, and that journalism has the role of “watchdog of democracy”. One of the main values of journalism is credibility. And credibility is based on professional attention to accuracy.

But nowadays online news platforms and Social Media are invaded by fake news, to the extent that fake news has interfered in politics and public opinion, for example, in the 2016 US Electoral Campaign, the 2016 Brexit Referendum Campaign and the 2017 process of independence of Catalonia in Spain. This interference is possible because of the ease of confusion between news and fake news, plus the new propaganda strategies adopted by political campaigners (Coombs, Falkheimer, Heide, Young, 2016). Often, the appearance and the structure of fake news is similar to authentic news; from the point of view of content, sometimes the protagonists of fake news are the usual protagonists of news. Social Media – mainly Facebook – seems to be the natural base where fake news increases its dissemination.

Taking into account this scenario, we will examine the principles referred to by the European Court of Human Rights and their implications for journalism. We are looking for a way of revitalizing journalism in Social Media and Internet in the era of fake news. From the point of view of the media, this is one way of contributing to the renewal of democracy (Rodny-Gumede 2017). There are three core aspects of this contribution: 1. Journalism’s role as the “watchdog” of democracy, scrutinizing politicians and other representatives of power, highlights the need for news corporations to be independent. 2. At the same time, the accuracy of news, which is one of the purposes of journalism, is the polar opposite of the aim of fake news, namely propaganda. 3. The principle of quality content (Giaccardi and Jurgenson 2017), in the sense that journalism must offer facts, ideas and opinions that contribute to social debate.

Methodology:

We analyzed the jurisprudence of the European Court of Human Rights on freedom of expression-journalism for the last 10 years (2007-2017), covering the time when Social Media emerged on the Internet panorama. We pay attention to cases related to Internet platforms and online news. Among the resolutions, the paper analyzes those where the argumentation of the Court focuses on the role of journalism in a democratic society.

At the same time, we present a review of the literature on fake news and its interference in the democratic system (is fake news damaging democracy? In what way? To what extent is fake news easily mistaken for actual news? Would there be any way of identifying genuine news in Social Media?). Related to this issue, we also reviewed the literature on proposals concerning journalists' activity on Internet Platforms.

The jurisprudence of the European Court of Human Rights related to journalism (2007-2017)

The European Convention on Human Rights (1950) is an international Treaty adopted by the majority of European countries after World War II. Its aim is to guarantee human rights in Europe (Ripol Carulla, S., 2007, pp. 17-19). In this sense, the best known institution is the European Court of Human Rights, a quasi-jurisdictional court created within the Convention. The main function of the European Court is to interpret and apply the European Convention on Human Rights. Nowadays, there are 47 signing countries of the Convention; for them (with the exception of Turkey and Malta) the resolutions of the European Court of Human Rights are compulsory, following article 46.1 of the European Convention ("The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties"). Thanks to the relevance of the European Court in so many national jurisdictions, many criteria concerning human rights have become similar in European countries. This is the case with the interpretation of Freedom of expression, Article 10 of the Convention, and, in particular, the issue of the role of journalism in our societies.

However, the influence of the European Court cannot be interpreted as a direct intervention in domestic courts. As the European Court says to this respect: "The Court's task in exercising its supervisory function is not to take the place of the competent domestic courts but rather to review under Article 10 the decisions they have taken pursuant to their power of appreciation (see *Fressoz and Roire v. France* (1999) § 45, and *Björk Eidsdóttir v. Iceland* (2012) §62).

The Convention recognizes Freedom of Expression on the Article 10:

1. "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. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others,

for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”.

Since its creation in 1959, the European Court of Human Rights has resolved many cases on freedom of expression – more than 500 cases until 2015 – and on journalism – over 150 cases up to 2015 – under the umbrella of Article 10 of the European Convention (Azurmendi, A., 2016, p. 44).

We analyzed the jurisprudence of the European Court of Human Rights on freedom of expression related to journalism for the last 10 years (2007-2017), when the Social Media emerged on the Internet panorama. Thanks to the platform HUDOC, the Database of the European Court of Human Rights, we checked, first, the resolutions related to article 10 on Freedom of Expression, on the European Convention of Human Rights of 1950. Within this group of resolutions we extracted those referring to the practice of journalism. Thirty resolutions were found under these criteria (see Annex 1). Ten of them focused on Internet platforms and online news. Among the 30 resolutions, the paper analyzes those where the argumentation of the Court focused on the role of journalism in a democratic society. The purpose of our research is to determine whether the argumentation on this subject is different or similar, depending on whether the context is traditional newspapers and TV and Radio news programs, or Internet platforms.

To this end, we extracted the most frequently repeated argumentation found in these 30 resolutions and we organized these around 4 issues: a) journalism and the democratic system, b) responsible journalism, c) rumors and true facts, d) journalism and Internet platforms.

a) Journalism and the democratic system

Freedom of Expression is one of the most essential pillars of democracies. Since the landmark ruling in 1976, in *Handyside v. U.K.*, the European Court has been constantly repeating this idea; and it continues to do so in 2007-2017:

“(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual’s self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no ‘democratic society’” (...).”

We have found this idea in: §48, *Bédat v. Switzerland* (2016), § 101, *Stoll v. Switzerland* (2007), §58 *Wizerkaniuk v. Poland* (2011), §54, *Kaperzyński v. Poland* (2012), §78, *Axel Springer AG v. Germany* (2012), §124, *Morice v. France* (2015), § 87, *Pentikäinen v. Finland* (2015) and §88, *Couderc and Hachette Filipacchi Associés v. France [GC]* (2015), §40, *Hachette Filipacchi Associés (ICI PARIS) v. France* (2009), §42, *Standard Verlags GmbH v. Austria (no. 2)* (2009), § 29, *Campos Dâmaso c.*

Portugal, 2008, §33, Dupuis and others v. France (2008) ,§ 101 Stoll v. Switzerland (2007) and § 22, Colaço Mestre and SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (2007).

Journalism is considered as a particular way of exercising freedom of expression. The European Court points out that this mentioned right reaches its social dimension when the press divulges information on issues of public interest:

“The press plays an essential role in a democratic society. Although it must not overstep certain bounds, in particular in respect of the reputation and rights of others, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest”.

Resolutions containing this argumentation are §50 Bédat v. Switzerland (2016), §79, Axel Springer AG v. Germany (2012), §55, Kaperzyński v. Poland (2012), §59, Wizerkaniuk v. Poland (2011), §§ §31,32, 33 Pinto Coelho v. Portugal (2011) and § 42, Polanco Torres and Movilla Polanco v. Spain (2010), §43, Standard Verlags GmbH v. Austria (no. 2) (2009), §30, Campos Dâmaso c. Portugal (2008), §34, Dupuis and others (2008), §43, Pfeifer v. Austria (2007), §23 Colaço Mestre and SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (2007).

There is a correlation between the press’s task to impart information and ideas and the public’s right to receive them. This seminal reflection has many consequences for the understanding of accountable journalism in the context of the European Convention of Human Rights, Article 10:

“Not only does the press have the task of imparting information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of “public watchdog” in imparting information of serious public concern”.

An idea founded in: §89, Couderc and Hachette Filipacchi Associés v. France [GC] (2015), §79, Axel Springer AG v. Germany (2012), §§55,56 Kaperzyński v. Poland (2012), §§59,60, Wizerkaniuk v. Poland (2011), §§ §31,32, 33 Pinto Coelho v. Portugal (2011) and § 42, Polanco Torres and Movilla Polanco v. Spain (2010), §43, Standard Verlags GmbH v. Austria (no. 2) (2009), §41, Hachette Filipacchi Associés (ICI PARIS) v. France (2009), §30, Campos Dâmaso c. Portugal (2008), §34, Dupuis and others (2008), §§35, 41, Dupuis and others v. France (2008), §31 Timpul Info-Magazin and Anghel v. Moldova (2008), §43, Pfeifer v. Austria (2007) and §23 Colaço Mestre and SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (2007).

The press can play this essential role even when exaggeration or provocation are present in its activities.

“In addition, the Court is mindful of the fact that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation. In cases such as the present one the national margin of appreciation is circumscribed by the interest of democratic society in enabling the press to exercise its vital role of “public watchdog” in imparting information of serious public concern”

Argumentation found in: §65, *Björk Eidsdóttir v. Iceland* (2012), §43, *Pfeifer v. Austria* (2007) § 82, *Haukom v. Norway* (2007), and §82 *Tønsbergs Blad A.S. and Haukom v. Norway* (2007).

b) Responsible journalism

The duty of journalism, following these resolutions, is to impart information and ideas on all matters of public interest:

“its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest”

Idea included in §23, *Rusu v. Romania* (2016) and §89, *Couderc and Hachette Filipacchi Associés v. France* (2015).

One issue that emerges from this reasoning is the correlation between responsible journalism and citizens’ rights to receive information. However, as the European Court insists, this does not mean any kind of information and ideas, but rather important content of general interest, obtained and provided in good faith:

“Article 10 protects the right of journalists to divulge information on issues of public interest provided that they are acting in good faith and on an accurate factual basis and provide “reliable and precise” information in accordance with the ethics of journalism”.

Idea included in §24, *Rusu v. Romania* (2016), §50 *Bédard v. Switzerland* (2016) and §§ 90-91, *Pentikäinen v. Finland* (2015), §131, *Couderc and Hachette Filipacchi Associés v. France* [GC] (2015), §93 *Axel Springer AG v. Germany* (2012), §70, *Björk Eidsdóttir v. Iceland* (2012), §57, *Kaperzyński v. Poland* (2012) and §61, *Wizerkaniuk v. Poland* (2011), §43 *Polanco Torres and Movilla Polanco v. Spain* (2010) and §42, *Hachette Filipacchi Associés (ICI PARIS) v. France* (2009), §46, *Dupuis and others v. France* (2008), §103, *Stoll v. Switzerland* (2007) and §89, *Tønsbergs Blad A.S. and Haukom v. Norway* (2007). And partially in §90, *Pentikäinen v. Finland* (2015), §§ 61 and 63-68, *Kasabova v. Bulgaria* (2011) and §42, *Times Newspapers Ltd v. the United Kingdom* (nn. 1 and 2) (2009).

The notion of responsible journalism connects with two ideas; first, the ethics of journalism, and, in second place, the accuracy of news, which is a core aspect of the standards governing this profession.

Referring to the ethics of journalism, the resolutions mention the inherent “duties and responsibilities”, and also the need to verify whether the journalist has acted professionally:

“The Court emphasizes at the outset the importance that it attaches to journalists’ assumption of their duties and responsibilities, and to the ethical principles governing their profession”.

Argumentation found in §131, *Couderc and Hachette Filipacchi Associés v. France* [GC] (2015), §82, *Axel Springer AG v. Germany* (2012), §63, *Kasabova v. Bulgaria* (2011), §41, *Flux v. Moldova* (no. 7), 2009 and §89 *Haukom v. Norway* (2007).

Concerning the second idea, the accuracy of news, the European Court has developed an interesting distinction between statements of fact and value judgments, both present in the journalism. It is in this reflection that the issue of the truth comes out:

“The Court reiterates its established case-law to the effect that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof”.

Ideas present in §37, *Timpul Info-Magazin and Anghel v. Moldova* (2008), §46, *Pfeifer v. Austria* (2007).

At the same time the European Court insists on the duty of journalists to verify factual statements that are defamatory before these are disseminated. Only the provision of precise, reliable information is protected by Article 10, in the understanding that the reductive and truncated nature of an article can also mislead citizens:

“Thus, special grounds are required before the media can be dispensed from their ordinary obligation to verify factual statements that are defamatory of private individuals. Whether such grounds exist depends in particular on the nature and degree of the defamation in question and the extent to which the media can reasonably regard their sources as reliable with respect to the allegations. (...). The reductive and truncated nature of an article, where it is liable to mislead the reader, is therefore likely to detract considerably from the importance of the said article’s contribution to a debate of public interest”.

Argumentation present in §132, *Couderc and Hachette Filipacchi Associés v. France* [GC] (2015), §82, *Axel Springer AG v. Germany* (2012), §70, *Björk Eidsdóttir v. Iceland* (2012) §152, *Stoll v. Switzerland* (2007) and §89 *Haukom v. Norway* (2007). And partially present in §53, *Rusu v. Romania* (2016) and §71, *Björk Eidsdóttir v. Iceland* (2012).

c) Rumors and true facts

The European Court of Human Rights pays attention to the standards of journalism; particularly, it considers the factual basis for news and the evidence proving the facts to be important. The truth derived from this process makes it different from rumors, in the sense that rumors are statements without any evidence that could prove them:

“The Court notes that at no time did the applicant company allege that the rumours were true. However, even public figures may legitimately expect to be protected against the propagation of unfounded rumors relating to intimate aspects of their private life”.

Argumentation founded in §53, *Standard Verlags GmbH v. Austria* (no. 2) (2009).

The only possibility for a rumor to come under the umbrella of journalism's activities protected by Article 10 of the European Convention is to have some foundation in evidence. This is only possible after the journalist has made an effort to obtain the verification of the rumor:

“In this context, the Court reiterates that, as part of their role of a “public watchdog”, the media's reporting on “stories' or 'rumours' (...) or 'public opinion’” is to be protected where they are not completely without foundation. The lack of any detailed information (...) despite the applicant newspaper's attempts to obtain such details, and the other uncontested facts raising legitimate doubts (...) could reasonably have prompted the journalist to report on anything that was available, including unconfirmed rumours”.

An idea included in §36, *Timpul Info-Magazin and Anghel v. Moldova* (2008).

d) Journalism and Internet Platforms

Many challenging innovations are introduced by new technologies in journalism. As the European Court assumes, changes affect not only the different ways information is disseminated but also the growing number of players in the world of communication and the fact that individuals are facing an immense amount of information. Far from denying the journalist's role in this new panorama of communication technologies, the European Court insists on the essential role of journalism:

“These considerations play a particularly important role nowadays, given the influence wielded by the media in contemporary society: not only do they inform, they can also suggest by the way in which they present the information how it is to be assessed. In a world in which the individual is confronted with vast quantities of information circulated via traditional and electronic media and involving an ever-growing number of players, monitoring compliance with journalistic ethics takes on added importance”.

Argumentation in §104 *Stoll v. Switzerland* (2007).

At the same time, the Court acknowledges a new step forward related to Freedom of Expression, consisting of the ease of storage and access to information thanks to Internet. Therefore the European Court distinguishes two functions of the press depending on whether it is present in Internet or not. The first function is the traditional role of the press in a democracy, acting as a “public watchdog”. The second function is the contribution of the press through Internet to historical information archives. The Court admits that different responsibilities are involved according to these two different functions. Current affairs concerning media means perishable information, then, there is a correspondent demand of accuracy. But the demand for accuracy is higher when it tackles historical information, which can be consulted for years in Internet:

“According to the case-law of the Court, Internet archives fall within the ambit of the protection afforded by Article 10 (...) The Court stressed the substantial contribution made by Internet archives to preserving and making available news and information. Such archives constitute an important source for education and historical research, particularly as they are readily accessible to the public and are generally free. While the primary function of the press in a democracy is to act as a “public watchdog”, it has a

valuable secondary role in maintaining and making available to the public archives containing news which has previously been reported”.

Argumentation found in §§ 27, 45, *Times Newspaper (nn. 1 y 2) v. U.K.*(2009) and §59, *Węgrzynowski and Smolczewski v. Poland* (2013).

Due to the different capacity of news dissemination among traditional and new communication technologies, the European Court recommends the creation of specific regulations for Internet, in order to secure the protection of citizens’ rights and freedoms:

“The Court has held that the Internet is an information and communication tool particularly distinct from the printed media, especially as regards the capacity to store and transmit information. The electronic network, serving billions of users worldwide, is not and potentially will never be subject to the same regulations and control. The risk of harm posed by content and communications on the Internet to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life, is certainly higher than that posed by the press. Therefore, the policies governing reproduction of material from the printed media and the Internet may differ. The latter undeniably have to be adjusted according to technology’s specific features in order to secure the protection and promotion of the rights and freedoms concerned”.

We find these ideas in §58, *Węgrzynowski and Smolczewski v. Poland* (2013) and § 63 *Editorial Board of Pravoye Delo and Shtekel v. Ukraine* (2011).

Principles of journalism and proportionality, according to the new technological circumstances, are needed for assessing the responsibilities of the players in this new communication framework:

“The Court further reiterates that all persons, including journalists, who exercise their freedom of expression undertake “duties and responsibilities”, the scope of which depends on their situation and the technical means they use”

Idea present in §102, *Stoll v. Switzerland* (2007).

Fake news and its interference in the democratic system, a literature review

Even though the phenomenon of fake news in social media and Internet is relatively recent, its impact has been immense. The US 2016 election campaign, the UK Brexit referendum in 2016, and the controversial referendum in Catalonia in October 2017 have aroused considerable concern about whether the news we receive is true or false. As Allcott and Gentzkow note (2017, p.212), social networks like Facebook have meant a radical change from the traditional media. On the one hand, the information that is broadcast does not have to pass through any checking mechanism, as might be the case in traditional media. On the other, a user with no professional or institutional backing can come to have as many followers as major world newspapers. What is decisive in the circulation of news is its spreadability, which depends simultaneously on users’ activity and the algorithms that manage the visibility of contents and social networks (Vittadini 2017, p. 462).

Most authors consider that fake news means news items that are intentionally created in the knowledge that they are false, and which are intended to spread confusion among citizens (Allcott and Gentzkow 2017, p.214; Vittadini 2017, p.462). There are various explanations as to why this type of news is spread mainly via social networks Allcott and Gentzkow (2017, pp. 221 and 222). First, it is very cheap to gain access to audiences in this way; this is consistent with the short-term planning strategies of the people and institutions who promote fake news. The main object is to create an effective message, albeit by causing confusion, frustration, deception, or perhaps by inspiring enthusiasm. This contrasts with what happens in mainstream news media, who seek medium- and long-term reputation based on the quality of the product. Secondly, the fact that the fragments of information appear on mobile phones or in other windows where we obtain news makes it difficult for us to check the information. Thirdly, as Bakshy, Messing and Adamic (2015) point out, Facebook friendships generally reflect homogeneous ideological groups. In this sense, the credibility of fake news is greater when it comes through channels that are ideologically closer to the person who receives it, as Allcott and Gentzkow (2017) have analysed, following Cassino and Jenkins (2013).

It is also important to note that the rise of fake news is not an isolated phenomenon, but an aspect of a complex technological and cultural change in our society. As Young and Åkerström (2017, pp. 11-12) note, the communicative habits of digital users – they use the term “digital natural”- include routine access to digital platforms (Smartphone, broadband, etc.) and habitual access to Internet to obtain news, chat, get information, as well as the tendency to share information, opinions and emotions; they also involve a certain skill at discerning sources and contents in Internet.

Some solutions that have been devised to combat fake news consist of involving the new protagonists of communication technology. It could not be otherwise (Wingfield; Isaac; Benner 2016). Both Facebook and Google have intervened either to eliminate fake news or, at least, to label it in such a way that the users are made aware that this information is false. Facebook has gone further, and in March 2018 – after the Cambridge Analytica scandal revealed the violation of privacy in this social network – it announced that it would intensify its efforts in the area of fact-checking and improving ad transparency, double its security team and work to prevent “misleading or divisive” memes from going viral (Levin, 2018).

But at the same time as effective solutions are put into place, it is also necessary to reflect on the type of risk inherent in a public sphere invaded by fake news. As Giaccardi and Jurgenson (2017, p. 387) point out, the tide of fake news, hate speech and hoaxes constitute a public space in which emotions mean more than facts. Perhaps this has always been the case. If we ask what is special about the present time, it is highly likely that we will answer in a very obvious way. We are looking at a massive change in the way news and information are spread, as the traditional media step back and their place is taken by the maelstrom of Internet platforms.

Three aspects of this change are particularly important. First, from the point of view of the reach of the media, Internet platforms have meant that communication is truly global. Regarding the contents, these platforms provide information of all kinds, as well as news and entertainment. Finally, in terms of philosophy, these social media also have a different sharing culture, an aspect which makes the user an essential player in the

platforms themselves. It is precisely this point that – paradoxically – leads to their vulnerability when it comes to spreading “fake news”: the “gatekeepers”, that is, the people responsible for filtering the information that is published, simply do not exist.

Journalism always considered itself to have this function. Of course, the role of the journalist is complex, as Hellmuler and Mellado (2015, p. 6) have shown, but for our present purposes it is enough to point to the gatekeeper function as one of the main ones exercised by journalism in the pre-Internet era.

Covach and Rosenstiel (2014) take the view that this function has disappeared. These authors strongly defend the idea that journalism is essential for civic life in democracy, (Covach and Rosenstiel 2014, p.4), and state that the “first task of the new journalist/sense maker is to verify what information is reliable and then order it so people can grasp it efficiently.” In some sense, one consequence of Internet is that journalists’ responsibilities have increased. The main reason for this is that they have the new task of providing “citizens with the tools they need to extract knowledge for themselves from the undifferentiated flood of rumor, propaganda, gossip, fact, assertion, and allegation the communications system now produces.” (Covach and Rosenstiel, 2014, pp.8-10). Whatever the truth of this, citizens still need to have accurate and reliable news, and while this need exists, journalism has a meaning. In these authors’ view, the kind of journalism characteristic of Internet platforms has a “collaborative” nature, and adapts to the new ways that news is written and distributed. For Covach and Rosenstiel, anyone who takes on the journalist’s role should realise when he/she is dealing with a rumour, should be able to weigh up its impact, and should know how to show why this information is not credible, or at least indicate that further checking is needed before this fact can be shown to be true.

Tutheride (2018) also reflects on the idea that, in the age of social networks, the traditional role of gatekeeper attributed to journalists no longer has any meaning. The selection of facts and their transformation into news articles requires no more than a certain amount of time and skill. Nonetheless, he concludes with Groshek and Tandoc (2017) that precisely because of the high percentage of clicks – rates of clickbait – indicating consumption of fake news and non-journalist-generated news on social media pages, professional journalists are now needed in order to fulfil the role of gatekeeper. In short, journalists are required to apply “the process of selecting, writing, editing, positioning, scheduling, repeating, and otherwise massaging information to become news” (Shoemaker; Vos; Reese, 2008, p. 73).

How should journalism develop in order to integrate in Internet platforms without relinquishing its true role? Is the dynamics of journalism compatible with that of Facebook, Twitter or Google?

Facebook, for example, works with effective algorithms to encourage user activity: the more radical, the more activity, the more polarization (Giaccardi; Jurgenson 2017, p. 390). What is more, the logic of “click appeal”, based on the public’s urge to be intrigued and entertained rather than informed, has invaded the traditional media and is now displacing the logic of newsworthiness (Colombo; Murru, Tosoni 2017, p. 453). Facebook, like Google, adds news, that is, relaunches what it finds in its platforms to make it more visible and, if possible, viral. As Van Dijck (2013, p. 46) reminds us, the mediation of algorithms provides us with ‘economies of attention’. But, we ask, does

this dynamism to, or does it disrupt, the democratic life of a national or international community? As for journalism, does this shift towards the logic of “click appeal” mean that journalists should stop providing serious news and concentrate on issues that are sensational or striking in the hope of going viral?

In February 2017, Mark Zuckerberg published the declaration “Building a Global Community on Facebook” on Facebook in which he acknowledged that giving voice to people is not enough, and that it would also be necessary to have professionals who could handle information. However, as Vittadini (2017, p. 461) points out, to do this, Facebook does not apply the methods of traditional journalism, but instead relies on automated management provided by algorithms. In January 2018, the founder of Facebook published another advertisement stating that his priority would be to spread high-quality news, by allowing its users to rank news sources that they regard as the most credible and trustworthy (Frenkel; Maheshwari, 2018). In March 2018, in the context of the “Cambridge Analytica” case, Mark Zuckerberg, in the US Congress and then the European Parliament, admitted, as regards the activities of Facebook, that “Whether it’s fake news, foreign interference in elections or developers misusing people’s information, we didn’t take a broad enough view of our responsibilities. That was a mistake, and I’m sorry”.

As far as another Internet platform is concerned, namely Twitter, Vosoughi, Roy, Aral, S. (2018) studied the spread of fake news between 2006 and 2017. Their paper shows that 126,000 rumors were spread by 3 million people more than 4,5 million times. Their most surprising finding was that fake news spread more swiftly than genuine news. These authors attribute this phenomenon to the novelty factor that acts as a hook to draw people to fake news, and to the type of emotions that such stories arouse. As they say, “Contrary to conventional wisdom, robots accelerated the spread of true and false news at the same rate, implying that false news spreads more than the truth because humans, not robots, are more likely to spread it”.

Measures such as letting users rank the sources that they consider credible so that Facebook can factor this in, or improving the algorithms to eliminate bots more effectively and identify fake news in both Facebook and Twitter, are very important. They serve as an indication that Internet platform providers are starting to take on their responsibilities in the exercise of freedom of expression. But it may not be enough to identify and delete fake news: to make a significant contribution to the dynamism of democratic life, Internet platforms would need to do something more. It is highly likely that what is needed in this sense is the kind of journalism described by Covach and Rosenstiel (2014), Groshek and Tandoc (2017) and Frenkel and Maheshwari (2018): journalism that is carried out within the workings of the present communication system, controlled by the Internet platforms.

Discussion

Even if the concept of freedom of expression embraces the reality of fake news, as a sample for freedom of expression, journalism is dealing with something different. Essential journalistic values like the role of “watchdog of democracy”, credibility and quality contents make the difference. These are the principles that can help a renewal of democracy nowadays. The debate on fake news puts on the table, more than ever, the need of professional journalism and also the need to know what is the place for news in Social Media.

The resolutions of the European Court of Human Rights confirm the essential role of journalism in democracies and highlight the responsibility of the new players in Internet, in this area.

The review of authors dealing with Fake News, Internet Platforms and Journalism converge in this same idea. Las economías de la atención, prevalentes para estos nuevos agentes de la comunicación global, presentan riesgos importantes para la vida democrática –como las interferencias en procesos electorales, o su contribución a una polarización de las opiniones de los ciudadanos-. Precisamente, frente a estos riesgos, hace falta que el periodismo continúe realizando su papel, también dentro de las plataformas de Internet. Por lo tanto, siguen vigentes las tres notas características de 1. Journalism’s role of the “watchdog” of democracy, scrutinizing politicians and other representatives of power, highlights the need for independence of news corporations. 2. At the same time, accuracy of news, that is one of the purposes of journalism, and 3. The principle of quality content (Giaccardi and Jurgenson 2017) in the sense that journalism must offer facts, ideas and opinions that contribute to the social debate. And it will be necessary to add a new one, such as the participative action of citizens in journalism activities through Internet Platforms (Covach and Rosenstiel, 2014, p. 6). Something that implies also rights and responsibilities.

REFERENCES

Azurmendi, A., 2016. *Derecho de la Comunicación. Guía jurídica para profesionales de los Medios*. Pamplona: Eunsa.

Allcott, H.; Gentzkow, M. (2017) Social Media and Fake News in the 2016 Election, *Journal of Economic Perspectives*, vol. 31, 2, pp. 211–236, <https://doi.org/10.1257/jep.31.2.211>

Bakshy, E.; Solomon M.; Lada A. A. (2015) Exposure to ideologically diverse news and opinion on Facebook, *Science*, vol.348, n. 6239. Pp. 1130-1132.

Cassino, D.; Jenkins, K. (2013) Conspiracy Theories Prosper: 25% of Americans Are “Truthers.” Fairleigh Dickinson University’s Public Mind Poll. January 17. <http://publicmind.fdu.edu/2013/outthere>.

Colombo, F.; Murru, M.F.; Tosoni, S. (2017) The post-intermediation of truth.

- Giaccardi, Ch.; Jurgenson, N. (2017) The Remaking of Truth in the Digital Age, *Comunicazioni Sociali*, 3, pp. 448-461.
- Covach, B.; Rosenstiel, T. (2014) *The elements of Journalism*. Revised and Updated 3rd Edition. New York: Random House.
- Covach, B.; Rosenstiel, T. (2001) *The elements of Journalism*. New York: Random House.
- Frenkel, Sh.; Maheshwari, S. (2018) Facebook to Let Users Rank Credibility of News, *The New York Times*, January 19th, 2018. Accessible at <https://www.nytimes.com/2018/01/19/technology/facebook-news-feed.html>
- Giaccardi, Ch.; Jurgenson, N. (2017) The Remaking of Truth in the Digital Age, *Comunicazioni Sociali*, 3, pp. 387-394.
- Grohsek, J.; Tandoc, E. (2017) The affordance effect: Gatekeeping and (non) reciprocal journalism on Twitter. *Computers in Human Behaviour*, 66, pp. 201-210.
- HUDOC, Database of the European Court of Human Rights, accesible at <https://hudoc.echr.coe.int/eng>
- Levin, S. (2018) Facebook offers plan to tackle fake news ahead of US midterms, *The Guardian*, March, 29th.
- Madison, E.; Dejarnette, B. (2018) *Reimagining Journalism in a Post-Truth World: How Late-Night Comedians, Internet Trolls, and Savvy Reporters Are Transforming News*. Santa Barbar, Cal: Praeger.
- Mellado, C., & Hellmueller, L. (2015). Professional roles and news construction: a media sociology conceptualization of journalists' role conception and performance. *Communication & Society*, 28(3), 1–11. doi:10.15581/003.28.3.1–11
- Ripol Carulla, S., 2007. *El sistema Europeo de protección de los derechos humanos y el Derecho español*. Barcelona: Atelier.
- Shoemaker; Vos; Reese (2008) Journalists as gatekeepers. Jorgensen, V.; Hanitzsch, T. (eds) *Handbook of journalism studies*, pp. 73-87. New York: Roudledge.
- Sundin, E., The role of media content in everyday life. To confirm the nearby world and to shape the world beyond our reach, Kramp, L.; Carpentier, N.; Hepp, A.; et alia (2015) *Journalism, Representation and the Public Sphere*, Bremen; Lumière, pp. 83-92.
- Tutheridge, G. (2017) What is the role of gatekeeping journalist's in today's media environment? Medium, May 18. www.medium.com
- Vosoughi, S., Roy, D; Aral, S. (2018) The Spread of True and False News Online, *Science*, vol. 359, n. 6380, pp.1146-1151. DOI: 10.1126/science.aap9559

Van Dijck, J. (2013) *The Culture of Connectivity*. Oxford: Oxford University Press.

Vittadini, N. (2017) *Social Media: Truth Will Out, Eventually*, *Comunicazioni Sociali*. Giaccardi, Ch.; Jurgenson, N. (ed.) *The Remaking of Truth in the Digital Age*, 3, *Comunicazioni Sociali*.pp. 462-472.

Wingfield, N., Isaac, M. and Benner K. (2016) *Google and Facebook Take Aim at Fake News Sites*. New York Times, November 14.

Young, Ph. and Åkerström, M. (2016) *What do digital natives demand from democracy?*, Coombs, W.T., Falkheimer, J., Heide, M. and Young, Ph. (eds) *Strategic Communication, Social Media and Democracy. The challenges of the digital natives*, London-New York: Routledge, pp. 83-94.

Zuckerberg, M. (2017) *Building Global Community*. Facebook post, February, 18th.

-EP Conference of Presidents with Mark Zuckerberg, founder of Facebook, May, 22, 2018. www.europarl.europa.eu

Annex 1

Resolutions of the European Court of Human Rights related to Journalism and its relation to the democratic system

A. Traditional Newspaper, Radio, TV programs

Bédat v. Switzerland (2016)

Rusu v. Romania (2016)

Couderc and Hachette Filipacchi Associés v. France (2015)

Von Hannover v. Germany (No. 3) 2013

BJörk Eid Sdottir v. Iceland (2012)

Axel Springer AG v. Germany (2012)

MGN Ltd. v. United Kingdom (2012)

Kaperzyński v. Poland, (2012).

Kasabova v. Bulgaria (2011)

Pinto Coelho v. Portugal (2011)

Mosley v. the United Kingdom (2011)

Sapan v. Turkey (2010)

Polanco Torres and Movilla Polanco v. Spain (2010)

A v. Norway (2009)

Standard Verlags GmbH v. Austria (no. 2), (2009)

Hachette Filipacchi Associés (ICI PARIS) v. France (2009)

Wojtas-Kaleta v. Poland (2009)

Dupuis and Others v. France (2008) (ES UN LIBRO)

Campos Dâmaso c. Portugal (2008).

Timpul Info-Magazin and Anghel v. Moldova (2008)

Saygılı and Falakaoğlu v. Turkey (2008)

Stoll v. Switzerland (2007)

Dupuis and Others v. France (2007)

Tønsbergs Blad A.S. and Haukom v. Norway (2007)

Colaço Mestre and SIC – Sociedade Independente de Comunicação, S.A. v. Portugal (2007)

Pfeifer v. Austria (2007)

B. New Media: Internet Platforms

Butkevich v. Russia (2018)

Tamiz v. the United Kingdom (2017)

Ólafsson v. Iceland (2017)

Pentikäinen v. Finland 2015.

Delfi AS v. Stonia (2015)

Wegrzynowski and Smolczewski v. Poland (2013)

Editorial Board of Pravoyedelo and Shtekel v. Ukraine (2011)

Wizerkaniuk v. Poland 2011

Times newspapers Ltd. (1 y 2) v. United Kingdom (2009)