

Online hate speech – Hungary

“If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”

John Stuart Mill¹

Freedom of expression is a basic human right, which should be constrained under narrowly defined conditions, if at all. David O. Brink describes two approaches in the hate speech debate: the egalitarian and the libertarian view. Egalitarians say that hate speech increases the cleavages in the society, and it should be restricted for the welfare of the community; meanwhile libertarians assume that hate speech is the price, which every individual has to pay for their fundamental rights; and most importantly that “the correct response to hate speech is more speech.”² More speech increases the 'marketplace of ideas,' which enables citizens to make informed decisions when it comes to elections for instance. Nevertheless, crisis-stricken times foster the spread of – presumably already existing – discriminatory ideas, i.e. blaming a given group or a set of groups for all wrongs in life. Libertarian philosopher John Stuart Mill claimed that there is only one instance, when freedom of expression could be limited: when preventing harm to others.³ The Millian harm principle is somewhat reflected in the Hungarian regulation as well, which poses a ban on incitement.

Nevertheless, laws do not change a population's sentiments, in which prejudices exist. Discriminatory feelings towards the (Jewish, Roma, homosexual and national) minorities seem to have become even stronger with the economic crisis in Hungary. Signs of this phenomena are the 47 seats won by extreme-right wing Jobbik party in the 2010 parliamentary elections and the appearance of the extremist Hungarian Guard, which after banning became the New Hungarian Guard carrying out “permanent hostile propagand campaigns against the Hungarian Roma and Jewish communities”⁴ and other military groupings (Outlaws' Army, National Protection Force Heritage and Civil Guard Association and Soldiers of the Defense Force just to name a few).⁵

In addition, several physical attacks were carried out against members of minority groups. Participants of the Budapest gay pride march were attacked by counter-demonstrators between 2007 and 2009, after

1 *On Liberty*, 1978, Indianapolis: Hackett Publishing, p. 16.

2 David O. Brink, Millian Principles, Freedom of Expression, and Hate Speech. *Legal Theory* 7: 119-157, 2001, Cambridge University Press, p. 119.

3 John Stuart Mill, *On Liberty*, 1978, Indianapolis: Hackett Publishing, p. 9.

4 “New Hungarian Guard,” Athena Institute, May 17, 2013, <http://www.athenainstitute.eu/en/map/olvas/42>. About the relationship between Jobbik and the paramilitary groups see video of Channel4, UK: Brian Whelan, “On the streets with Hungary's far-right,” May 27, 2013, <http://www.channel4.com/news/hungary-jobbik-far-right-militias-jewish-congress>.

5 “Identified domestic extremist groups,” Athena Institute, http://www.athenainstitute.eu/en/hate_groups/.

which the event has been held under heavy police presence.⁶ In recent years there have been several attacks against members of the Jewish community.⁷ Between January 2008 and August 2009 there were nine attacks carried against Roma people using Molotov cocktails and shotguns, causing six deaths, including shooting a four-year old boy as he was escaping from the burning house with his father, who was also shot dead.⁸

Context of the media landscape and the role of online media

The media landscape has been hit hard by the financial crisis, and a new, sustainable business model has not appeared yet solving the problem of audiences migrating online and reluctant to pay for the content. The total advertisement spending has been shrinking, while the state's role as an advertiser (state-owned companies, municipalities, ministries etc.) is becoming more and more important. The most popular media outlets (national commercial television channel RTL Klub and national daily *Blikk*) are mostly apolitical, i.e. if dealing with politics, they rarely provide context for the news. Political press – just like the society itself – is deeply divided along political cleavages, conducting partisan journalism. Based on the methodology of Freedom House, the press was partly free, while the internet was free in 2011.⁹

Online media outlets have been on the rise, a research on news consumption in 2011 revealed that after television, internet has become the second most important platform knocking down radio to the third place.¹⁰ The two most popular news sites, Index.hu and Origo.hu, have the highest average daily visitor numbers in the market of news sites (Origo.hu: 862,108; Index.hu: 685,755 in April 2013).¹¹ The online media landscape might change in the near future, as two news sites (Cink.hu and 444.hu) emerged recently, both of them mainly operated by former journalists and editors of Index.hu

According to the 2011 data of the International Telecommunication Union, 59 percent of Hungarians were using the internet.¹² As a general trend observable in other countries in the region, the number of offline citizens keeps shrinking, in 2012, 26 percent of the population has never used the internet.¹³ A study from 2007 found that there are geographical, socioeconomic, and ethnic differences in the

6 “Gay pride paraded held in Budapest under heavy security,” Politics.hu, July 8, 2012, <http://www.politics.hu/20120708/gay-pride-parade-held-in-budapest-under-heavy-security/>.

7 Colin Freeman, “Inside the far-Right stronghold where Hungarian Jews fear the future,” Telegraph.co.uk, May 4, 2013, <http://www.telegraph.co.uk/news/worldnews/europe/hungary/10037188/Inside-the-far-Right-stronghold-where-Hungarian-Jews-fear-for-the-future.html>.

8 *Violent attacks against Roma in Hungary. Time to investigate racial motivation*, Amnesty International, 2010, <http://www.amnesty.hu/item/violent-attacks-against-roma-in-hungary-report>.

9 Freedom House, Freedom of the Press, 2012, <http://www.freedomhouse.org/report/freedom-press/2012/hungary>;

Freedom House, Freedom on the Net, 2012, http://www.freedomhouse.org/sites/default/files/Hungary%202012_0.pdf.

10 “Közvélemény-kutatás a magyar lakosság hírfogyasztási szokásairól és a média megítéléséről” [Public opinion survey of the Hungarian population on news consumption habits and opinions about the media], National Media and Infocommunications Authority [Nemzeti Média- és Hírközlési Hatóság], Budapest, 12 December 2011, pp. 4–5.

11 WebAudit, April 2013, total average, <http://webaudit.hu/>.

12 International Telecommunication Union, “Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions,” 2006 & 2011, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

13 “Individuals who have never used the internet. Percentage of individuals aged 16 to 74,” Eurostat, <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tin00093>.

internet penetration: access was lower in rural areas and within the Roma communities.¹⁴ An industrial expert noted that internet use was determined by age and education – the explanatory factors behind urban-rural internet use differences. He added that in 2012, among users of 15–24 years of age the internet penetration was over 90 percent, just like among users having a degree.¹⁵ The national Core Curriculum for 2013 decreased the number of IT classes in primary and high schools,¹⁶ even though ICT infrastructure and the use of ICT in education in such schools were below the EU average according to a 2012 study.¹⁷ The decrease might add to the differences in digital literacy.

Regulation of hate speech

Legal framework

After the landslide victory in the 2010 parliamentary elections, conservative Fidesz and its Christian Democrat ally, enabled by the two-thirds parliamentary majority, have launched the complete overhaul of the legislative framework without meaningful public consultation with opposition parties or other actors.¹⁸ The new media regulation has been subject to wide domestic and international criticism, including that the members of the Media Council, the decision-making body of the National Media and Infocommunications Authority, are nominated by the governing party only and that the authority can impose high fines based on media outlets under vaguely circumscribed rules. The regulation has been amended several times, however, Dunja Mijatovic, representative of OSCE said that the amendments “only add to the existing concerns over the curbing of critical or differing views in the country.”¹⁹

The new media regulation has some stipulations, by which hate speech could be banned. It states that “the media content may not incite hatred against persons, nations, communities, national, ethnic, linguistic and other minorities or any majority as well as any church or religious groups” nor can “offend or discriminate against” these very same groups.²⁰ This rule has been applied once since the introduction of the law – see the case study below.

Hate speech as such is not banned in Hungary, but incitement is. Both the current and the newly adopted Penal Codes stipulate that “a person, who incites to hatred before the general public against a) the Hungarian nation, b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offense with imprisonment up to three years.”²¹

14 Anna Galács, Ithaka Kht, eds., “A digitális jövő térképe. A magyar társadalom és az internet. Jelentés a World Internet projekt 2007. évi magyarországi kutatásának eredményeiről” [The map of the digital future. The Hungarian society and the internet. Report on the results of the 2007 World Internet Project’s Hungarian research], (Budapest: 2007), p. 20.

15 Imre Kurucz, “Hogyan tovább, internetpenetráció?” [What’s next internet penetration?], In: *Marketingkutató* [Marketing Researcher] Nr. 3, 2012 winter, p. 24.

16 “Digitális analfabétákat képeznek az iskolák,” [Schools educate digitally illiterates], Miklós Hargitai, NOL.hu, October 22, 2012, http://nol.hu/belfold/20121022-digitalis_analfabetakat_kepeznek.

17 Survey of schools: ICT in Education. Country profile: Hungary, November 2012, European Schoolnet and University of Liège, <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Hungary%20country%20profile.pdf>.

18 For details about the overhaul see “Democracy and Human Rights at Stake in Hungary. The Viktor Orbán Government’s drive for centralisation of power.” Norwegian Helsinki Committee, 2013, http://nhc.no/admin/filestore/Publikasjoner/Rapporter/2013/Rapport_1_13_web.pdf.

19 “Revised Hungarian media legislation continues to severely limit media pluralism, says OSCE media freedom representative”, 25 May 2012, <http://www.osce.org/fom/90823> (accessed 30 August 2012).

20 Act CIV of 2012 on the freedom of the press and the fundamental rules on media content, Art. 17.

21 Act IV of 1978 on the Penal Code, Art. 269; and Act C of 2012, Art. 332.

The Penal Code bans defamation, slander, the humiliation of national symbols (anthem, flag, and coat of arms), the denial of the sins of national socialism or communism, the dissemination of totalitarian symbols (swastika and red pentagram),²² and public scare-mongering through the media.²³ The current Civil Code (and the newly adopted Civil Code planned to operate from 2014) recognizes inherent rights (right to good reputation, protection against defamation) and pose a ban on insulting an individual's honour.²⁴ So far, libel cases have demonstrated that courts generally protect freedom of expression, except when conflicting with another basic right. Defamation cases have decreased since a 1994 Constitutional Court decision, which claimed that a public figure's tolerance of criticism should be higher than an ordinary citizen's.²⁵

The parliamentary majority accepted a new constitution called the Fundamental Law of Hungary, which has been in operation since January 2012. By its fourth amendment,²⁶ accepted in March 2013,²⁷ the jurisprudence of hate speech might change. As the adopted new Penal and Civil Codes have been amended several times and further modifications could be expected, the regulatory framework constraining (hate) speech is in flux.

The current Civil Code recognizes one's inherent rights, however, groups could not use this legal tool against hate speakers. Previous courts' rulings prove that one can claim he or she was offended or harmed, if the subject of the hate speech can be clearly identified, i.e. no groups could step up with such a claim. To change this practice, in 2008, the then-incumbent Socialist party's parliamentary majority accepted a bill, which would have enabled groups to bring hate speakers to court, however, the then-president of the republic referred it to the Constitutional Court for constitutional review. The latter has never made a decision about it and never will under the new constitution. The fourth amendment of the Fundamental Law aims the very same: it enables groups to claim their inherent right being harmed as it states: "the exercise of one's right to free speech cannot be aimed at violating the dignity of the Hungarian nation or the dignity of any national, ethnic, or religious minority group."²⁸ A media law expert claims that introducing this stipulation into the constitution is a prerequisite to apply the new Civil Code,²⁹ as according to the Fourth Amendment of the Fundamental Law, the Constitutional Court is not be able to constitutionally review the Fundamental Law itself. Based on the new Civil Code "upon being threatened," members of a group could claim that their inherent rights have been harmed. The Code would even introduce the 'damnification fee,'³⁰ which might encourage groups even further to

22 The ban on disseminating the totalitarian symbols was ruled unconstitutional by the Constitutional Court in February 2013, however the parliamentary majority decided to include it again into the Penal Code in April 2013.

23 Act IV of 1978 on the Criminal Code, Art. 179, 180, 269/A, 269/B, 269/C, Art. 270, 270/A. Act C of 2012, Art. 226–227, 332–335.

24 Act IV of 1959 on the Civil Code, Art. 75–85; Bill Nr. T/7971 on the Civil Code, Art. 2:45.

25 Péter Bajomi-Lázár and Krisztina Kertész, "Media Self-Regulation Practices and Decriminalization of Defamation in Hungary," pp. 177–183, in *Freedom of Speech in South East Europe: Media Independence and Self-Regulation*, 2007, ed. Kashumov, Alexander (Sofia: Media Development Center pp. 162–193).

26 Kim Lane Scheppele, "Constitutional Revenge," *Nytimes.com*, March 1, 2013, <http://krugman.blogs.nytimes.com/2013/03/01/guest-post-constitutional-revenge/>.

27 "Hungary defies critics over change to constitution," *Bbc.co.uk*, March 11, 2013, <http://www.bbc.co.uk/news/world-europe-21740743>.

28 Fundamental Law of Hungary, Art. IX, par. 5.

29 "Magyarország Alaptörvényének negyedik módosítása (a médiával kapcsolatos részek)" [Fourth amendment of Hungary's Fundamental Law (parts related to the media)], *Mediajogfigyelo.hu*, February 8, 2013, <http://mediajogfigyelo.hu/index.php?do=a&id=3132>.

30 "Magyarország Alaptörvényének negyedik módosítása (a médiával kapcsolatos részek)" [Fourth amendment of

take cases to court.

Another novelty will be introduced by the new Penal Code planned to be in operation from July 2013, which basically enables authorities to block websites committing crimes³¹ including the abuse of classified data. For the blocking, the National Media and Infocommunications Authority will create a database of the black list, which will not be public nor transparent.³²

Codes of ethics, self-regulatory initiatives

There are several self-regulatory initiatives: there are four major journalists' associations, each of them having their codes of conduct.³³ Major online outlets (Index.hu and Origo.hu) are members of the Association of Hungarian Content Providers (MTE), having its own code of ethics. The recently founded Editors' Forum also has its self-regulatory ethical guidelines.³⁴

The Media Council has launched a public consultation on the questions of regulating hate speech in February 2013 waiting for answers of experts and any citizens until September 2013.³⁵

The Internet Hotline was established in 2005 by the Hungarian Association of Content Industry, and since 2011, the National Media and Infocommunications Authority operates the site, which aims at providing a platform to report content for removal, which might be “detrimental or dangerous to the development of minors.”³⁶ Among others, such content includes racism and xenophobia.³⁷ The Internet Hotline received 415 reports of racist or xenophobic content from users out of 1836 reports since September 2011, but made only one denouncement toward the police, as in all other cases investigations were already taking place.³⁸

The Council of Europe has launched the “No hate speech movement,” which is a campaign aiming at

Hungary's Fundamental Law (parts related to the media)], Mediajogfigyelo.hu, February 8, 2013, <http://mediajogfigyelo.hu/index.php?do=a&id=3045>. The Fourth Amendment can be accessed in English here: http://www.google.hu/url?sa=t&rct=j&q=fourth%20amendment%20hungary&source=web&cd=2&ved=0CDUQFjAB&url=http%3A%2F%2Flapa.princeton.edu%2Fhosteddocs%2Fhungary%2FFourth%2520Amendment%2520to%2520the%2520FL%2520-Eng%2520Corrected.pdf%3Futm_source%3Dmandiner%26utm_medium%3Dlink%26utm_campaign%3Dmandiner_hungarianglobe_201303&ei=ZB47UbDdGeOM7Qb7-4CoBw&usq=AfQjCNFck4g8gF8l3fO5gGgOamybTJcW-w&bvm=bv.43287494,d.ZGU

31 Act C of 2012 on the Penal Code, Art. 77.

32 “Abandoning safe harbours: Hungarian online freedoms at risk, European Digital Rights, November 21, 2012, <http://www.edri.org/edriagram/number10.22/hungarian-online-freedoms-abandon>.

33 Péter Bajomi-Lázár and Borbála Tóth, “Challenges to Media Self-Regulation in Hungary.” In: Freedom of Speech in South East Europe: Media Independence and Self-Regulation, 2007. Ed.: Kashumov, Alexander. Sofia: Media Development Center. pp. 455–481

34 Editors' Forum, “Self-regulatory Ethical Guidelines,” 2012, http://foszerkesztokforum.files.wordpress.com/2012/01/english_ethical-guidelines_-final.pdf.

35 “Gyűlöletbeszéd-kutatást indít a Médiatanács” [The Media Council launches a hate speech-research], Nmhh.hu, February 2, 2013, http://nmhh.hu/cikk/156077/Gyuloletbeszedkutatast_indit_a_Mediatanacs.

36 “Objective of the Internet Hotline,” National Media and Infocommunications Authority, <http://english.internethotline.hu/objective/>.

37 “Operation of the Internet Hotline,” National Media and Infocommunications Authority, <http://english.internethotline.hu/operation/>.

38 E-mail communication (IM/27566-2/2013), Gábor Dr. Németh, Internet Hotline, NMHH, May 27, 2013.

younger generations, calling the attention on online hate speech using methods such as awareness raising and advocacy equipping “young people and youth organisations with the competences necessary to recognize and act against such human rights violations.”³⁹

Situation of online hate speech

To have a clearer view on online hate speech, a brief introduction to the general attitude towards minorities is going to be introduced based on opinion surveys. In general, Hungarians have been anti-Roma since at least the democratic transition. According to the opinion surveys, an overwhelming majority of the population believe that “the problems of the Roma would evaporate if they finally started to work” (in 1994 89 percent, in 2011 84 percent agreed), and that the “criminality is in the blood of the Roma” (1994: 64 percent, 2011: 60 percent agreed).⁴⁰ Surveys on attitudes toward immigrants show that xenophobia has been increasing in last years, in 2012 40 percent of the population could be considered as xenophobic, and only 11 percent as friendly with foreigners, i.e. that asylum-seekers should be accepted. The remaining 49 percent would reject most of the nationalities, even the fictional Pirezians, only fellow Hungarians from the neighbouring countries would be admitted according to them.⁴¹ In a recent study, over 69 percent of respondents believed that “Jews have too much influence in Hungary,”⁴² another one found that 63 percent of respondents considered to be true at least three out of four anti-Semitic stereotypes.⁴³ Among the minorities, homosexuals are the most accepted among Hungarians, but the acceptance of LGBT people is lower than in other European countries.⁴⁴ The existence of racism, anti-Semitism, xenophobia and homophobia is also indicated by Jobbik, an extreme right-wing parliamentary party, which gained 47 out of 386 seats in the 2010 legislative elections.⁴⁵ It has to be noted that it is not the first time that an extreme-right wing party made it to the national assembly. Between 1998 and 2002, MIÉP, the radical Hungarian Justice and Life Party had 14 MPs in the parliament.

Case study: Kuruc.info

A well-know 'fountain of hatred' is Kuruc.info, which had over 70,000 visitors in average in April 2013.⁴⁶ This racist, homophobic and anti-Semitic website is operated from a host abroad. The independent hate-watchdog Athena Institute qualifies it as “one of the most active and most significant

39 Welcome to the No Hate Speech Movement, Campaign of Young People for Human Rights Online, <http://www.nohatespeechmovement.org/>.

40 Bernát et al., *A radikalizmus és a cigányellenesség gyökerei a szélsőjobboldal szimpatizánsai körében* [The roots of radicalism and anti-Roma sentiments among the sympathizers of the extreme-right], Társadalmi riport [Social report], 2012, Tárki Budapest.

41 Bori Simonovits and Boglárka Szalai, *Idegellenesség és diszkrimináció a mai Magyarországon* [Xenophobia and discrimination in contemporary Hungary], Magyar Tudomány, 2013 March.

42 Zick et al., *Intolerance, prejudice and discrimination. A European report*, Friedrich Elbert Stiftung, 2011, p. 57.

43 *Attitudes toward Jews in ten European countries*, Anti-Defamation League, March 2012, p. 6. The four stereotypes were: “Jews have too much power in the business world/in international financial markets,” Jews are more loyal to Israel than to Hungary,” “Jews still talk too much about what happened to them in the Holocaust.”

44 Judit Takács and Ivett Szalma, *Homophobia and same-sex partnership legislation in Europe*, In: Equality, diversity and inclusion 30:(5) pp. 356–378, 2011, p. 362.

45 *View of parliament, Parliamentary election of 2010*, National Election Office, http://valasztas.hu/en/parval2010/298/298_0_index.html.

46 WebAudit, April 2013, total average, <http://webaudit.hu/>.

hate groups operating in Hungary.”⁴⁷ The site regularly publishes personal data such as mobile phone numbers of politicians, judges, and basically anyone, who the editor(s) believe to be harmful. There were some attempts to close down the site, for instance in 2008, which was just a temporary closure, and despite many's disgust, the stakeholders of the day seemingly remain impotent against the site. In September 2012, as a police officer professed, there were ten investigations involving Kuruc.info, but as the site is operated from the United States, and there are “differences in the interpretation of the law” between the two countries, the Hungarian police could do nothing.⁴⁸

Balázs Molnár, the alleged editor-in-chief of Kuruc.info was brought to court because after the 2006 riots of Budapest the site was publishing personal data, including addresses and phone numbers of four judges and a prosecutor involved into the legal cases of the participants of the riots at the same time calling them traitors. The judges were threatened and harassed several cases. The indictment against Molnár said that he was responsible for misuse of personal data and defamation. Both the court of first and second instances ruled that he was not guilty, as the court could not find evidence that Molnár was really the editor-in-chief of the site, nor that he could have access to that. (A delicate twist of the case was that the main witness of the prosecution was the blogger Tomcat (see below), but his statement was weak due to the fact he and Molnár have been in conflict since 2008.)⁴⁹

In May 2013, a bill⁵⁰ was introduced to the parliament, which could be also called as “lex Kuruc.info.” If accepted, it would enable the Hungarian state to block sites operated from abroad. If a domestic court finds a website illegal, the minister of justice calls the attention of the given country about the court's decision, and if the foreign authority does not respond or act for 30 days, the Hungarian authorities can block the site.⁵¹

In general, posting online was rarely investigated by authorities. Launching criminal proceedings for online activities is a recent phenomenon. In November 2012, the police launched an investigation based on comments that appeared on Nepszava.hu⁵² and the news site Hir24.hu⁵³ that criticized Ferenc Papcsák, a Fidesz MP and mayor of a district in Budapest. The police ordered the release of the personal data connected to these comments, including the users' IP addresses and e-mail addresses, although in case of the latter site, commenters log-in via Facebook rather than providing a user name and e-mail address.

The comments posted online are not subject to the media regulation, thus the legal implications of comments posted online are unclear. As Péter Nádori, the chair of MTE noted, court decisions are diverse in cases of libel committed in a comment online. Based on analyzing case studies, he concludes

47 Athena Institute, Kuruc.info, March 6, 2013, <http://www.athenainstitute.eu/en/map/olvas/26>.

48 “Megúszhatják a Kuruc.info üzemeltetői” [The operators of Kuruc.info can get away], September 6, 2012, Origo.hu, <http://www.origo.hu/itthon/20120906-orfk-tovabbra-sem-indulhat-eljaras-az-egyesult-allamokban-a-kurucinfo.html>.

49 Péter Cseri, “Jogerősen nem tudjuk, hogy ki a kuruc.info főszerkesztője” [It is final and binding that we do not know who is the editor-in-chief of kuruc.info], November 7, 2011, Nol.hu, http://nol.hu/belfold/jogerosen_is_homalyban_maradt_a_kuruc_info_foszerkesztoje.

50 T/11105 on the modification of some laws related to criminal offence

51 “Jön a lex Kuruc.info” [Here comes the lex Kuruc.info], May 10, 2013, Origo.hu, <http://www.origo.hu/itthon/20130510-jon-a-lex-kurucinfo.html>.

52 “Latest Papcsák case may infringe on freedom of the press,” Civilmedia.net, November 13, 2012, <http://en.civilmedia.net/latest-papcsak-case-may-infringe-on-freedom-of-the-press/>.

53 “Feljelentették a Nepszava és a Hir24 kommentelőit” [Comments of Nepszava and Hir24 denounced], Gepnarancs.hu, November 10, 2012, <http://gepnarancs.hu/2012/11/feljelentettek-a-nepszava-kommenteloit/>.

that the Act CVIII of 2001 on Electronic commerce is not applied frequently (which would consider sites with commenting option web-hosting services); moderating does not mean a solution as even a comment posted but deleted minutes later can be brought to court. Pre-comment moderating by website administrators is problematic, as it could be considered editing, which would exclude the use of the Act on Electronic Commerce. Websites operated from abroad can be cited to the court too. The most sensible solution is to disable the commenting option.⁵⁴ A discussion paper was elaborated by MTE on how to deal with comments.⁵⁵

Case studies

In June 2012, the Supreme Court condemned the publishers of two blogs for defamation committed in comments posted on their sites based on the right of good reputation as described in the Civil Code regardless of the fact that the comments had been deleted. The Supreme Court ruled that the plaintiff was harmed in his right to good reputation, and defendants needed to pay for the costs incurred.⁵⁶

In January 2013, a blogger called 'Tomcat,' alias Tamás Polgár, was condemned for incitement getting one year and two months to serve in prison, suspended for five years based on the Penal Code – the defendant appealed, thus the court's decision is not final.⁵⁷ In his blog post in 2009, Tomcat called upon beating up Romani people⁵⁸ by the time six Roma people were killed in a murder series. The suspects have been facing trial since 2011.⁵⁹ This case is exceptional, as it is the first time that anyone was sentenced for incitement committed in an online post, as based on the decisions of the Supreme Court, one always need to prove the clear and imminent danger in case of incitement, which is hard to prove.⁶⁰

A piece published in right-wing quality daily *Magyar Hírlap* and on the daily's website on January 5, 2013 provoked turmoil by columnist Zsolt Bayer to the. He wrote: “A significant part of the Gypsy population is unfit to live in a community. They are unfit to live among people. These Gypsies are animals and behave like animals. When they meet with resistance, they kill. [...] These animals shouldn't be allowed to exist. Not under any circumstances. This must be dealt with – immediately, and by any means necessary.” The author is a member of the governing party, and also long-time friends with its prominent representatives.⁶¹ Even though Bayer was denounced for incitement, the prosecution

54 Péter Nádori, “Kommentek a magyar interneten: a polgári jogi gyakorlat” [Comments on Hungarian internet: civil code practice], In *Medias res*, I, Nr. 2, 2012, Pp. 319–333.

55 MTE, “Kommentek a magyar interneten: problémák és lehetőségek [Comments on Hungarian internet: problems and opportunities], 2012, <http://m.blog.hu/mt/mte/file/MTE%20komment%20lehetosegek%20vitaanyag.pdf>.

56 Pfv.IV.20.217/2012/5, June 13, 2012.

57 Act IV of 1978, Article 269 says: “A person who incites to hatred before the general public against a) the Hungarian nation, b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offense with imprisonment up to three years.”

58 Zoltán Somogyvári, “Mikor Tomcatet elítélik” [When they condemn Tomcat], [Helsinkifigyelo.hvg.hu](http://helsinkifigyelo.hvg.hu), January 9, 2013, <http://helsinkifigyelo.hvg.hu/2013/01/09/mikor-tomcatet-elitelik/>.

59 Pablo Gorondi, “Trial in Hungary for serial murders of Gypsies,” *Guardian.co.uk*, March 25, 2011, <http://www.guardian.co.uk/world/feedarticle/9564871>.

60 Zsolt Zádori, “Büntethető-e Bayer véres szájálása?” [Can they condemn Bayer's bloody words?], [Helsinkifigyelo.hvg.hu](http://helsinkifigyelo.hvg.hu), January 8, 2013, <http://helsinkifigyelo.hvg.hu/2013/01/08/buntetheto-e-bayer-veres-szajalasa/>.

61 Keno Verseck, “Hungary's racism problem: Orbán friend says 'Roma shouldn't be allowed to exist'”, *Spiegel.de*, January 11, 2013, <http://www.spiegel.de/international/europe/hungarian-journalist-says-roma-should-not-be-allowed-to-exist-a-876887.html>.

dropped the case reasoning that the piece could not be classified as incitement.⁶² Several companies decided to withdraw advertisements from the daily as a protest against the racist column.⁶³ In May 2013, the Media Council has imposed a fine to *Magyar Hírlap* and obliged it to publish the decision in the paper.⁶⁴ Imposing a fine on a written press product based on the new media regulation has been unprecedented.

Recurring hate speech topics in comments

An analysis of forum comments were carried out by Áron Monori in 2005 focusing on anti-Semitic discourse, which found that “great many of the topics, theories and stereotypes already familiar from anti-Semitic literature, from traditional anti-Judaism, through Judeo-bolshevism, to the Jewish world conspiracy theory” appeared in the analysed forums. The author concluded that “generally speaking, the actual content of the anti-Semitic outpourings in the internet forums hardly differs from that of traditional public forums, that is, from the anti-Semitic writing that appears in the Hungarian press.” The author still found two differences: that posts are “more overt and threatening, and therefore they give a better insight into the emotions and thoughts of today's Hungarian anti-Semites than similar content in the traditional media” and that commenters rather rely on international anti-Semitic literature than to Hungarian publications of the same nature.⁶⁵

Based on personal judgement and anecdotal evidence, the most frequent targets of online hate speech are members of the Roma, the Jewish and the LGBT community in Hungary. To have a picture about the hatred appearing related to minorities, a review is provided below on the echo of Amnesty International's (AI) report about Hungary, in which several criticisms were formulated, including the problems related to minority groups, such as the Roma people, LGBT people, migrants and asylum-seekers.⁶⁶ To provide an in-depth analysis of comments and forums, a separate study should be carried out. However, to have a glance on the recurrent issues, comments on extreme-right wing Kuruc.info⁶⁷ and right-wing Mandiner.hu⁶⁸ below articles related to the AI report were reviewed.

62 “Bayer's anti-Roma remarks “unacceptable”, says Reding”, Freehungary.hu, January 11, 2013,

<http://www.freehungary.hu/component/content/article/1-friss-hirek/1676-bayers-anti-roma-remarks-quanacceptableq-says-reding.html>.

63 Hungarian Helsinki Committee, “Advertisers withdraw from Hungarian newspaper over anti-Roma statements”, March 5, 2013, <http://helsinki.hu/en/advertisers-withdraw-from-hungarian-newspaper-over-anti-roma-statements>.

64 “A Médiatanács első alkalommal szabott ki pénzbírságot nyomtatott lappal szemben” [The Media Council imposes a fine onto a print newspaper for the first time], Mediatanacs.hu, May 18, 2013, http://mediatanacs.hu/cikk/157889/A_Mediatanacs_elso_alkalommal_szabott_ki_penzbirsagot_nyomatott_lappal_sze_mben.

65 Áron Monori, “*The Jew*” on the Web. *Anti-Semitic prejudices on internet forums (A case study)*, In: *Anti-Semitic Discourse in Hungary in 2004–2005. Report and Documentation*. Eds. János Dési et al., B'nai B'rith Budapest Lodge, Budapest, 2005, Pp. 195–214. P. 196 and 212.

66 *Hungary*. In: Amnesty International Report 2013. The state of the world's human rights, Amnesty International, 2013, http://www.amnesty.hu/index.php?option=com_k2&id=167_dd66dab96285afbee39ceb32ed77cea1&lang=hu&task=download&view=item Pp. 117–119.

67 “Az Amnesty szerint még mindig nem bánunk elég szépen a cigányokkal, a buzikkal és a bevándorlókkal” [According to Amnesty we still do not treat nicely enough the Gypsies, the faggots and the migrants], Kuruc.info, May 23, 2013, <http://kuruc.info/r/2/112575/>.

68 “Kireskesztő családfogalom miatt aggódik az Amnesty” [Amnesty is worried about the discriminatory concept of family], Mandiner.hu, May 23, 2013, http://mandiner.hu/cikk/20130523_kirekeszto_csaladfogalom_miatt_aggodik_az_amnesty.

On both Kuruc.info and Mandiner.hu similar topics were mentioned most often, namely: AI is and/or financed by the Jews; the “paid worriers”/“parasite human rights activists” should move together with the filthy Gypsies, asylum-seekers etc.; the minority is dictating to the silent majority; “they” should move back to their homeland; AI is defending the minorities, but not defending those, who were attacked by Gypsies; and the head of AI Hungary is ugly, homosexual, needs a man; gays are “deviants”/“aberrants”. The difference between the two sites is that on Mandiner.hu a real debate formulated on gay marriage including commenters with conservative and liberal values; while on Kuruc.info basically only the extremist views appeared, except for the comment of one single, self-admittedly lesbian commenter defending gay rights and the Roma people. Most of the comments on Kuruc.info clearly satisfies the definition of hate speech adopted by the Committee of Ministers of the Council of Europe.⁶⁹ (Examples: “I would deal with them nicely for sure, I would feed them with bullets!!!”; “Indeed, they are not treated well, because there are still many of them!”; “I think the faggots should not be marching on Andrásy út, but in a zoo in the countryside, where the stock is small, but even then they should be displaying themselves with the animals during the night...”) Instead of an in-depth analysis of comments, this short review still provides a hint on what is going in the depths of internet in Hungarian. Note that a Facebook login is required to comment on Kuruc.info, while Mandiner.hu asks users to register with their site only: those who post on Mandiner.hu can keep their anonymity as they register with a nick whatever they like, while on Kuruc.info the Facebook account of the commenter appears. The importance of anonymity vs revealing one's true identity is reflected in a recent survey among commenters.

What commenters think?

In November 2011, the Ipsos Media, Advertisement, Market, and Opinion Research Institute based on the commission of Magyar Telekom and Origo Ltd. in collaboration with the Association of Hungarian Content Providers conducted a research among internet users, out of whom 82.2 percent knew what 'comment' (i.e. subjective readers' opinions next to edited content) meant – which group served as a basis throughout the study (and the percents cited below). A quarter of them (26 percent) regularly wrote, 44 percent regularly read comments, while 24 percent rarely wrote or read, and six percent did not read or write comments. Internet users frequently encountered the following phenomenon: meaningful debates, but also obscenity, off-topic posts, trolling, flaming, and various political prejudices (insulting political figures, Communists, Gypsies).⁷⁰

The respondents did not believe that commenters represented the majority's opinion, but there was a consensus that everyone had the right to express his or her opinion about a given topic or article considering commenting as a form of freedom of expression. Sixty percent of respondents thought that constraining or terminating the commenting option meant that the given online news source was narrow-minded and/or biased.

69 “The term «hate speech» shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigration origin" Appendix to RECOMMENDATION No. R (97) 20 of the Committee of Ministers on “hate Speech” adopted by the Committee of Ministers of the Council of Europe on 30 October 1997 at the 607th meeting of the Ministers' Deputies.

70 *Kommentek megítélése. Elemzés.* [Judgement of comments. Analysis.], Association of Hungarian Content Providers, Origo, Ipsos, 2012, http://mte.hu/dokumentumok/mte_komment_kutatas.pdf.

Every second respondent would have preferred that commenters revealed their true identity, and they believed that terminating anonymity would decrease the number of extreme comments. Fifty-six percent of respondents thought that moderating was indispensable to filter extreme, obscene and off-topic comments – even though mainly the regular readers of comments believed so. Internet users would have preferred a moderating method based on the users themselves. Another solution could be terminating anonymity, which would be lauded as obscenity and trolling would disappear, at the same time many feared that commenters would stop commenting.

Conclusion

Racism, anti-Semitic sentiments, homophobia and other discriminatory ideas were present long before the emergence of massive internet use. The prolonged economic crisis has just added to flame such sentiments and internet made them visible. Having websites with the commenting option is a prerequisite for netizens to have a view about the 'marketplace of ideas' – even though sometimes in very crude form. If someone does not want to read various opinions about the same topic, he or she can easily avoid comments and other fora of online posts. However, any kind of an attempt – denouncements, penalizing based on the media regulation – might provoke self-censorship on the one hand, and pushing the internet-savvy users towards the use of Tor and other systems, on the other making their views harder to find. Distorting the 'marketplace of ideas' only disables citizens to have a clear view about the plethora of views, including extremist ones.

Recommendations

Content regulation of written press products

The content regulation of both print and online written press is obscure. Regulations concerning public speaking is becoming problematic. The stipulations banning inciting hatred, offending or discriminating against listed minorities or “any majority” is vague, its application by a media authority, whose members were nominated exclusively by the governing party, might be misused. The new regulation on defamation might trigger a series of court cases causing self-censorship among content providers of all kinds.

Any kind of content regulation concerning (print and) online written press products should be repealed from all laws.

Blocking sites

A bill introduced in May 2013 empowers the Hungarian state to block sites, even ones operated from abroad. Such a measure would definitely not change the attitudes of the content providers or the readers of a site, it would only make a martyr out of them and on the other hand in times of Tor, such measures make no sense.

No sites should be banned under any circumstances.

Isolation of hate speakers

The state or those in power in general should not intervene into questions of taste and style, should not decide what could or could not be said or written. Censoring must be avoided. If it seems to be inevitable, in dubious cases, an independent court should decide when it comes to questions regulated by the Civil Code. A boycott against a written press product could be more powerful than a sentence against it.

A call for a boycott could be used against hate speakers.

Moderation of comments

In the survey cited above, internet users would have preferred a moderation method based on the users themselves. The commenters considered rating of users as a best form of moderation, especially those, who frequently post comments. The post-comment moderating and filtering by the users were also quite popular among the respondents. Pre-comment moderating was the least-preferred form of moderation.

Web service providers, i.e. sites, blogs etc., should offer a user-based moderation method, by which the decision about what can be accessed on a site is decided by the user, and not by the editorial board.