International Comparative Jurisprudence 2022 Volume 8 Issue 2
ISSN 2351-6674 (online) DOI: http://dx.doi.org/10.13165/j.icj.2022.12.002

THE POSSIBILITIES OF COMBATING SO-CALLED DISINFORMATION IN THE CONTEXT OF THE EUROPEAN UNION LEGAL FRAMEWORK AND OF CONSTITUTIONAL GUARANTEES OF FREEDOM OF EXPRESSION IN THE EUROPEAN UNION MEMBER STATES [1]

Jan Kudrna[2]
the Police Academy of the Czech Republic, Czech Republic
E-mail: j.kudrna@polac.cz

Received: 15 September 2022; accepted: 8 November 2022
DOI: http://dx.doi.org/10.13165/j.icj.2022.12.002

Abstract. Freedom of expression and the right of access to and use of information are fundamental human rights that are crucial for the functioning of democracy but also, for example, for the exercise of freedom of thought and scientific research. At present, the public debate on the need to combat so-called disinformation, to create a legal framework for its suppression and, if necessary, even to punish it, including the application of criminal repression, has gained momentum. This complex topic is not only discussed at the national level – it is a global issue. The invasion of Ukraine by the Russian Federation has opened up discussions in this area with new intensity, both in the Member States of the European Union and in the Union itself. This is not a simple issue, because the fight against disinformation and fake news borders very closely on the issue of censorship. All these issues are the subject of the present article, which focuses on the law and decisions of the European Union, the Republic of Poland and the Czech Republic. Restricting and blocking selected websites for political reasons is new in the EU Member States. This is also why the necessary debate on the nature and permissibility of such measures has not yet developed. The present article aims to contribute to this discussion, both from a comparative point of view and by presenting the details of the legal regulation in the Czech Republic in the context of EU law and in comparison with the legal systems of selected member states of the European Union.

Keywords: disinformation, freedom of expression, free access to information, restrictions, Internet.

Introduction

Freedom of expression is one of the most important constitutionally guaranteed rights in the Czech Republic and elsewhere. In the Charter of Fundamental Rights and Freedoms in the Czech Republic (1991; hereinafter – the Charter), this freedom is classified as a political right, but by its nature it is a freedom with content that is much broader. Freedom of expression is closely related to freedom of thought, conscience and religion, but also to freedom of scientific research and artistic creation, which are protected by Article 15 of the Charter. Every person expresses their opinions in normal interpersonal contact throughout the course of every day, and these opinions are largely non-political in nature. It is therefore appropriate to consider freedom of expression in a broader sense and not to limit it to expression of a political nature. After all, the provisions of Article 17 of the Charter deal with speech in its broadest sense, without any substantive definition according to the content of the communication. In this context, it is also worth recalling that people perceive the communication of their own views and opinions as a natural right, corresponding to the very nature of humanity, and not as a right granted by society, and therefore by the State. Therefore, any interference with the freedom of expression by public authorities usually arouses a

[1] The submitted expert material reflects scientific research activities within the framework of the partial task No. 3/1 entitled "Analysis and expected development of competences of the Police of the Czech Republic and police security subjects in selected areas". The article falls under the subtask "Strengthening the competences of subjects in the context of current human rights challenges".
[2] Academic member of the Department of Public Law at the Faculty of Security Management of the Police Academy of the Czech Republic. ORCID number 0000-0001-8009-4294, Scopus ID 57197853204.

great deal of public attention, coupled with discussions as to whether such a restriction is acceptable. Such discussions are all the more intense the wider the range of persons affected.

In recent years, the debate on the acceptability of restrictions on freedom of expression in the case of so-called disinformation or fake news has been gaining momentum, with both phenomena being increasingly associated with hybrid warfare. Discussions on this topic have intensified following the attack by the Russian Federation on Ukraine on 24 February 2022. The complexity of the problem is also demonstrated, among other things, by the fact that no legal solution to this problem has been found in recent years. This is hardly surprising, since, as will be shown below, the debate is about possible restrictions on freedom of expression of a political nature, which directly affects the question of democracy, for which the widest possible freedom of expression is crucial.

The topic also deserves attention because the establishment of prohibitions in law also requires their enforcement in the form of sanctions for violation of these interventions. Thus, possible restrictions on freedom of expression would also imply new tasks for the police. This could result in a qualitative shift in terms of the establishment of new police departments. This is something that has been essentially absent in the Czech Republic for the past 33 years.

In the Czech Republic, there are not only discussions on combating disinformation, but practical steps have already been taken. On 25 February 2022, the CZ.NIC[3] and NIX.CZ[4] associations blocked access to a number of websites that had been labelled as disinformation on the basis of a call from the government and with the methodological support of the National Cyber Operations Centre.[5]

The exact number of these websites is not known, but according to publicly available sources the number is between 8 and about 30.[6] In addition to these measures, individual operators also removed Russian TV channels from their offer to an unspecified extent (Seznam Zpravy, 2022a). These measures raise a number of questions as to their legality or constitutional conformity (Koudelka, 2022).

The whole matter also deserves attention because the Czech Republic adopted restrictive censorship measures before the European Union did so on 1 March 2022 in relation to the news websites Russia Today and Sputnik News. The European Union's measures have given a formal legal basis for the Member States' measures. Among the states that have referred to the decisions of the EU institutions in their measures is the Republic of Poland, whose actions will be shown below. However, the whole matter deserves attention for two reasons. First of all, and this reason applies in all EU Member States, there is a fundamental restriction on freedom of expression and access to information for purely political reasons. The European Union and its Member States have not yet worked with such a measure. However, there is a second reason. Some countries, such as the Czech Republic, explicitly prohibit the possibility of introducing censorship in their constitutions. Here we are faced with a difference in the legal framework of the European Union and some Member States. On the one hand, they are supposed to respect and implement the law of the European Union, which, incidentally, in view of Article 4(2) of the Treaty on the European Union, is supposed to respect, among other things, the constitutional arrangements of the Member States. On the other hand, they are supposed to respect their own constitutional provisions.

[3] CZ.NIC is an association managing the domain CZ. For more information see here: https://www.nic.cz/ [retrieved 15 October 2022].

[4] NIX.CZ is an association of major internet operators in the Czech Republic. For more information see here: https://www.nix.cz/ [retrieved 15 October 2022].

[5] Part of the Military Intelligence Service of the Czech Republic. For more information see here: https://www.vzcr.cz/kyberneticka-obrana-46 [retrieved 15 October 2022].

[6] It can be said with certainty that, as of 29 April 2022, eight websites located in the national .CZ domain were blocked by administrative exclusion from the registries. For a current list of blocked websites, but not a historical one, see here: https://www.nic.cz/page/4310/aktualne-administrativne-vyrazene-domeny/ [retrieved 15 October 2022]. However, in addition to the eight mentioned above, there are also less than ten websites located in other first-level domains, which are blocked in different ways by the above-mentioned associations (Seznam Zpravy, 2022a; Cibulka, 2022b). It is evident from these sources that access to other Czech websites in the .CZ domain, but also with an address registered in another country, as well as to foreign websites, often offering Czech content labelled as disinformation, is blocked. For example, Russia Today (www.rt.com) or Sputnik News (www.sputniknews.com). The exact number of such blocked websites is not known, nor is a complete list of them available. Some ISPs block some sites on their own initiative.

It is therefore also appropriate to pay attention to the constitutional enshrinement of freedom of expression (and the related right to information) and what legal and practical problems would have to be dealt with if restrictions on the dissemination of disinformation were to be introduced.

The following passages will compare the approach of the European Union to the problem of combating disinformation and the issue of censorship, in relation to the approach of selected EU Member States that explicitly prohibit censorship in their constitutions. Other constitutional and legal principles will also be highlighted, including those that define the role of criminal law in the legal order of European countries today. Attention will also be paid to the historical experience of restrictions on freedom of expression.

1. Restrictive measures at the European Union level

Key documents at the level of the European Union are Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512 (CFSP) concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and Council Regulation (EU) 2022/350 of 1 March 2022 amending Council Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. Both measures ban the dissemination of content of the news entities Russia Today and Sputnik in the territory of the Member States of the European Union.

The European Union authorities justified the above-mentioned decisions on the grounds that those two entities are, on the one hand, directly linked to and financed by the budget of the Russian Federation and, on the other hand, are the source of constant propaganda and agitation repeatedly and consistently aimed at European political parties, in particular at election time, but also at civil society. According to the European Union institutions, these activities constitute a significant and direct threat to the public order and security of the European Union. Moreover, the European Union authorities have stated in the justification for their action that the restrictive measure is both temporary in nature, i.e., not absolute in time, and does not interfere in any way with the right to property or establishment, since the measures taken "do not prevent the media concerned and their staff from carrying out activities other than broadcasting, such as research and conducting interviews, in the territory of the European Union" (Council Regulation (EU) 2022/350, 2022, p. 1).

These measures did not go unchallenged, as on 8 March 2022 they were challenged before the Court of Justice of the European Union (CJEU) by RT France in an action requesting their annulment as contrary to, among other things, the Charter of Fundamental Rights of the European Union. The EU Commission, Belgium, Poland, France, Estonia, Lithuania, Latvia, and the High Representative for Foreign and Security Policy of the EU sided with the EU measures. The CJEU ruled on the action on 27 July 2022, rejecting it in its entirety and expressing its views on a number of issues related to the pending issue of restrictions on freedom of expression, or in restricting free access to information (*RT France v. Council of the European Union*, 2022).

In the first place, the CJEU has expressed itself on a number of issues which, in terms of the subject matter of this article, could be considered uncontroversial and formal, concerning the competence of the institutions of the European Union to adopt the contested acts. They will not pursued further, as the reasoning of the CJEU in this regard is persuasive.

The key and substantive issue is, whether it is possible to restrict freedom of expression and the right of access to information in accordance with the Charter of Fundamental Rights of the European Union. Article 11 of the Charter of Fundamental Rights of the European Union is decisive here. It guarantees the freedom to hold opinions and to receive and impart information or ideas without interference by public authority and regardless of frontiers. It further stipulates that the freedom and pluralism of the media must be respected. As the explanatory note to the Charter of Fundamental Rights of the European Union shows, the provisions of Article 11 of the Charter have the same meaning and scope as Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.[7] In this context, it is worth noting that the European Union is not a party to the Convention and that both of the cited documents logically treat freedom as a right that can be restricted,[8] but unlike the

[7] See also Article 52(3) of the Charter of Fundamental Rights of the European Union.
[8] See also Article 52(1) of the Charter of Fundamental Rights of the European Union.

constitutions of some member states, whether of the European Union or the Council of Europe, they do not explicitly prohibit the introduction of censorship.

Thus, in the present case, it can be stated that the European Union institutions have adopted measures which fall within their competence and which are in the nature of restrictions on freedom of expression, but which are nevertheless lawful from the point of view of European Union law. It is arguable whether those measures did not infringe the very essence of the applicants' freedom of expression and the essence of the right of access to information of citizens of the European Union, since the contested acts ordered the blocking of any broadcasts by Russia Today and Sputnik. This was without distinguishing the subject of the information. The question is also whether the plurality of the media within the meaning of Article 11(2) of the Charter of Fundamental Rights of the European Union is preserved in substance. However, the main doubt lies in the question of whether the measures taken are not censorial in nature. As stated above, censorship at the level of the European Union is not excluded by its Charter of Fundamental Rights or by any other provision.

It is, however, excluded by the constitutional provisions of certain Member States of the European Union. Let us recall, for example, Poland and the Czech Republic, which will be discussed in more detail below, but also Sweden, which prohibits censorship in Section 1 of the Freedom of the Press Act, which is considered part of the country's constitutional structure. Denmark also prohibits censorship in Article 77 of its constitution. Among the countries that are closely linked to the European Union but are not members, we can mention Norway, which, unlike the countries mentioned above, has not adopted any censorship measures (Dahllof et al., 2022).

2. Restrictive measures in the Republic of Poland

Among the EU Member States that explicitly prohibit preventive censorship in their constitutions is the Republic of Poland. Censorship was abolished in Poland by law on 11 April 1990 (Press law abolishing censorship, 1990). This was as a result of the political and democratic transition that Poland was undergoing (Holda, 2011). As of that date, freedom of expression and the right of access to information were guaranteed in Poland at a level consistent with democratic states governed by the rule of law. The Polish Constitution of 2 April 1997 adopted this standard. Article 14 guarantees pluralism of the public media and Article 54 guarantees freedom of expression and dissemination of information. These rights are, of course, not absolute, but they can be limited within the rules set out in Article 31(3) of the Polish Constitution. This must be done by law if it is necessary in a democratic society to ensure the security of the state, public order, protection of the environment, health, public morals or the rights and freedoms of others (Pelc, 2012). In doing so, the substance and meaning of the rights and freedoms being restricted must be preserved (Garlicki, 2000).[9] Article 54(2) of the Polish Constitution explicitly states that "preventive censorship of the public media is prohibited".

Neither an explicit constitutional prohibition nor the historical experience of extensive censorship, whether under the communist regime or in the interwar period, has prevented the Republic of Poland from adopting measures restricting access to selected information sources, such as RT and Sputnik, or even from supporting the position of the EU institutions in the proceedings before the CJEU, as discussed above. At least in this respect, the positions of Poland and the Czech Republic differ.

In the Republic of Poland, the RT and Sputnik servers were blocked by a decision of the President of the Office of Electronic Communications (UKE) issued on 8 March 2022 (UKE, 2022). The President of UKE directly refers to Council of the European Union Regulation 2022/350 as a directly enforceable act. In the Republic of Poland, the national legal basis for the implementation of the cited Regulation is the Telecommunications Act (2004), specifically Article 178 and Article 180(1) thereof.

Article 178 of the Polish Telecommunications Act provides that, in situations of extreme emergency, the President of UKE may order the restriction of certain publicly available telecommunications services. Article 180 of the same Act further provides that the telecommunications service provider is obliged to proceed immediately to

[9] This is also consistent with the established case law of the Polish Constitutional Tribunal. See, for example, ruling K 11/94 of 26 April 1995, which established the so-called proportionality test in Poland.

block telecommunications connections or the transmission of information to the extent specified by the authorised bodies.

As can be seen, in the Republic of Poland, the relevant European Union acts have been perfectly implemented and the Telecommunications Act has been used as the legal basis. The President of UKE relied on the rather general concept of "extraordinary threat" used in Article 178 of the Act. In this context, two legal issues remain open which have not yet been discussed in Poland.

The first issue is whether there has been an extensive interpretation of the concept of "extraordinary danger"; whether the Telecommunications Act, in view of its systematics, does not mean threats directly to telecommunications networks or threats through networks, however direct and immediate. Is propaganda by an adversary, such as the Russian Federation, such a threat within the meaning of the Telecommunications Act? The second question concerns the compatibility of the measure adopted with Article 54(2) of the Constitution of the Republic of Poland. Does it not expressly prohibit the introduction of preventive censorship? No expert articles on this subject have appeared in the Republic of Poland so far.

3. The constitutional framework of freedom of expression (and the right to dispose of information) in the Czech Republic

The basic starting point for examining the legal framework of possible restrictions on freedom of expression (and the right of access to information) in the Czech Republic is the aforementioned Charter of Fundamental Rights and Freedoms. The Charter enshrines the guarantees of freedom of expression and freedom of access to information in Article 17, which will be discussed below.

In addition to the Charter, it is also worth looking at the provisions of international human rights treaties by which the Czech Republic is directly bound in accordance with Article 10 of the Constitution. Among the most important are the European Convention for the Protection of Fundamental Rights and Freedoms, published under No. 209/1992 Coll. (hereinafter referred to as the Convention), and the UN International Covenant on Civil and Political Rights, published under No. 120/1976 Coll. (hereinafter referred to as the Covenant).

Of the European Convention, Article 10, which enshrines the guarantees of freedom of expression and freedom of access to information, is particularly relevant to the selected topic. In particular, Article 10 of the Convention guarantees the right to hold opinions and to receive and impart information or ideas without interference by State authorities in such activities and regardless of frontiers.

The Convention does not conceive of these rights as absolute. In the first place, Article 10(1) still expressly provides that the above rights do not exclude the possibility for States to make the activities of radio, television and film companies subject to special authorisations. However, it may be noted at this point that the dissemination of information or so-called disinformation by other means, including websites, social networks or e-mail, does not fall within the limitation provided for in Article 10(1) of the Convention.

However, Article 10(2) of the Convention allows for restrictions on freedom of expression in forms other than those specifically addressed in Article 10(1). It does so with explicit reference to the fact that the exercise of freedom of expression also involves duties and responsibilities. This provision is noteworthy because, for example, the Charter of Fundamental Rights and Freedoms makes no such reference. The Convention therefore envisages a possible requirement of responsibility for the information and ideas disseminated, which is the basis for any restrictions. The Convention stipulates that any restrictions must have a legal basis and be necessary in a democratic society (i.e., the objective cannot be achieved except by restriction and the restriction itself must be compatible with the notion of a democratic society), all with the aim of protecting the following values: national security, territorial integrity or public safety, the prevention of disorder and crime, the protection of health or morals, the protection of the reputation or rights of others, the prevention of the leakage of confidential information, or the preservation of the authority and impartiality of the judiciary.
In relation to so-called disinformation, perhaps we can think about protecting national security or preventing unrest. The other values mentioned in the Convention are not threatened in the Czech Republic at the moment.

However, even in relation to the notions of national security and riot prevention, it must be stressed that the threatening action would have to be of a considerable intensity.

In the case of the Covenant, Article 19 is key. It guarantees, in the first place, the freedom to hold one's opinion without any hindrance. Within the meaning of the Charter, this is the right to freedom of thought. Furthermore, Article 19 of the Covenant, in paragraph 2, guarantees freedom of expression. This includes, in the words of the Covenant, the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, through the arts or by any other media of one's choice.

However, even the Covenant does not conceive of freedom of expression as an unrestricted, absolute freedom. On the contrary, Article 19(3) of the Covenant explicitly states, in a similar way to the Convention, that the exercise of this freedom also entails specific duties and responsibilities. These in turn imply the possibility of restrictions. However, these must be based on law, in order to protect the rights or reputations of others and to protect national security, public order, public health or morals.

It is evident that the Covenant approaches the question of the restrictiveness of freedom of expression and the right of access to information in a similar way to the Convention. The same partial conclusion as in the case of the Convention also applies to it. The Charter itself enshrines freedom of expression and the right of free access to information in its aforementioned Article 17. First, paragraph 1 implies the natural law nature of both freedom of expression and the right of access to information. This is apparent from the wording, which "guarantees" both rights. The Charter thus assumes that every individual is endowed with these rights, that they do not need public authority, and hence the State, to realise them, and that the nature of every person as a human being corresponds to the fact that they have both curiosity and the desire to communicate their opinions and ideas to others. This fact is important in relation to any restrictions on those rights. For one thing, it is more difficult to justify taking away something of which the public authority is not the originator. It can also be assumed that the more a particular right affects each individual, the more sensitively the restriction of that right will be perceived and the more one can expect such action to be rejected, even if few people actually exercise that right in the sense of political expression in the public sphere.

Article 17(2) defines the content of the rights guaranteed by Article 17 of the Charter. First, it provides a demonstrative list of the types of expression protected by the Charter. Given the demonstrative nature of the list, this means that freedom of expression in any form is protected. This includes via the internet, whether in the form of websites, e-mail or posts on social networks. Due to its demonstrative nature, this provision cannot become technologically obsolete.

The second part of the above provision guarantees the right to seek, receive and impart ideas and information regardless of national borders. It is clear that the right of access to information, as well as the freedom of expression, should be universal in nature according to the drafters of the Charter and should not be limited by the state only to its territory. This is important in relation to the issue of blocking websites located or registered abroad.[10]

Article 17(3) of the Charter is particularly interesting because it explicitly prohibits censorship. This can be understood as interference by the state, or public authorities,[11] where such interference is driven by political considerations. A systematic interpretation already leads us to the conclusion that interference with the rights and freedoms guaranteed by Article 17, which are provided for in paragraph 4 of the Charter, is not considered censorship. It shows that there may be constitutionally protected interests to which both freedom of expression and the right to free access to and use of information must give way.

[10] This provision was added to the Charter in the wake of the experience with the cancellation of radio stations, particularly Free Europe and Voice of America, by the Communist government in Czechoslovakia.

[11] The use of the term *public authority* is probably more appropriate, since it cannot be excluded that the State, in the context of the transfer of the exercise of administration, may entrust such a task to an entity separate from it, as is the case, for example, in the operation of technical inspection stations in the Czech Republic. After all, the operation of the internet itself is carried out by purely private entities. They have also implemented the blockages.

A clear summary of what can be considered censorship and what forms it can take is given by Dr. Z. Koudelka (2022) in his overview article related to the current situation. The CZ.NIC and NIX.CZ associations, on the other hand, did not show any knowledge of the matter, and on 25 February 2022 they began blocking individual websites on the grounds that they are so-called disinformation websites. Six years earlier, the same association had launched a public campaign called The Censor is Coming, the aim of which was to block the adoption, or at least the repeal, of Act No. 186/2016 Coll. on gambling (Novinky.cz, 2016). Section 82 of the Act allows the Ministry of Finance to order internet service providers to prevent access to websites with unauthorised internet gambling games. These measures are not politically motivated but fall within the regime of Article 17(4) of the Charter.

Article 17(4) of the Charter provides for possible restrictions on freedom of expression and the right of access to and use of information. It lays down three conditions for the establishment of a possible restriction, the fourth condition being derived from the general provisions of the Charter, namely Article 4(4) thereof.

The rights guaranteed by Article 17 of the Charter may therefore be restricted under the following conditions, which must be met cumulatively:

- the restriction must be laid down directly by law (statutory reservation);
- the restriction must be necessary in a democratic society (necessity proviso);
- the restriction must be for the sole purpose of one of the five enumerated protected values;
- any restriction must not be of such a scale or nature as to negate the essence and purpose of the rights being restricted (see Article 4(4) of the Charter).

As regards the first condition, which is the reservation of the law, its purpose is to guarantee the high legitimacy of the restriction adopted. The latter results both from the fact that the people, at least indirectly through Parliament, decide on the restriction and from the fact that the discussion of bills is public. Thus, the public is at least informed about such sensitive measures and can react at its own discretion.

The second condition is already of a significant content and value character and is crucial for the eventual defence of the constitutionality of the approved restriction, for example in proceedings before the Constitutional Court of the Czech Republic (hereinafter – the Constitutional Court). The Charter insists that restrictions on the freedom of expression and the freedom to obtain and freely dispose of information must be an extreme, ultima ratio measure if the desired objective cannot be achieved otherwise. At the same time, this condition means that the restriction approved must be compatible with the existence of a democratic society. In other words, the restriction must not destroy democracy. This is consistent with the above distinction between censorship expressly prohibited by Article 17(3) of the Charter and permissible restrictions under Article 17(4).

The third condition is that the freedoms protected by Article 17 may be restricted only in the interests of protecting the rights and freedoms of others, the security of the State, public safety, public health and morals. It can already be stated here that the protected values listed fully correspond to the values which both the Convention and the Covenant provide for the protection of. It has also already been mentioned above that it is difficult in the current situation to subsume the blocking of websites under any of the listed protected values without a very extensive interpretation of them. It is not constitutionally correct to do so, because in the event of any doubt as to how the constitutionally guaranteed rights and freedoms should be interpreted, the principle of *in dubio pro libertate*, to which the Constitutional Court of the Czech Republic has repeatedly subscribed, must be applied.[12] This is moreover in the context of, for example, the Constitutional Court's ruling published under No. 91/1994 Coll., which expressly addresses the conflict between freedom of expression and other constitutionally protected values (Ústavní soud, 1993).

The fourth condition means that any restriction fulfilling the previous three conditions must not be of such scope, character or intensity that it would negate the very essence of the rights and freedoms protected by the Charter. Thus, measures necessary in a democratic society, introduced by law to protect some of the values protected by the Charter, must still allow the exercise of freedom of expression, or the right to free access to and use of

[12] See, e.g., the decision in case No. III ÚS 924/06 in particular, but furthermore also III. ÚS 276/96, I. ÚS 22/99, IV. ÚS 273/02, IV. ÚS 666/02, II. ÚS 669/02, I. ÚS 3930/14 or III. ÚS 2264/13, and a number of other cases.

information. Thus, limiting these rights to, for example, one hour, preferably at night, per month would exceed this limit and would constitute an interference with the essence and meaning of the protected rights and freedoms.

There are a number of laws restricting freedom of expression within the meaning of Article 17(4) of the Charter in the Czech Republic. An exemplary list of these can begin with the Civil Code (2012) and its provisions ensuring the protection of personality and continue with the Criminal Code (2009), which provides for the most serious cases of violation of personality rights and the subsequent criminal protection.[13]

In this context, the aforementioned Gambling Act may also be mentioned. Reference may also be made to the Law on the protection of classified information (2005), the existence of which can be linked to the interest in protecting national security. As far as the protection of public security is concerned, mention may be made, for example, of the Act on the Police of the Czech Republic (2008).

In order to protect public health, the Advertising Regulation Act (1995) or the Medicines Act (2007) provide for the possibility to restrict speech specifically in Section 101c, which allows the blocking of illegal websites offering medicines within the meaning of this Act. An example of a law regulating freedom of expression to protect morality is the Broadcasting Act (2001), which imposes a number of obligations and restrictions on broadcasters.

The above list of laws restricting freedom of expression is not exhaustive. However, it can be generalized that there is no such law in the Czech Republic that would restrict the expression of opinions of a purely political nature on current social events, whether national or international, in the sense of what is currently referred to in general discourse as so-called disinformation. There is one exception: unless it is quite clear that such conduct is in the nature of a criminal offence.

4. On selected issues of possible criminal punishment of so-called disinformation

The following passage aims to highlight only some selected aspects of the problem of criminal punishment of so-called disinformation, especially those in the nature of statements offering an alternative view of the conflict in Ukraine, or the activities of the Russian Federation towards Ukraine, or the attitude of the Czech Republic towards this conflict and its participants. In addition, there may be statements endorsing, for example, the targeted killing of civilians or other actions that have the characteristics of war crimes.

The Criminal Code in the Czech Republic has a number of elements that could be used in this case. First of all, the offence of denying, questioning, approving or justifying genocide under section 405 of the Criminal Code may be considered. However, it should be pointed out that the fulfilment of the facts of this offence cannot be achieved at all by statements of the first kind referred to above.

Depending on the nature of a statement aimed, for example, at approving the invasion of Ukraine itself, the facts of the above-mentioned offence could probably be fulfilled. However, in this context, it should be pointed out that the offence under section 405 of the Criminal Code is a deliberate offence and the perpetrator must be aware that they are fulfilling its constituent elements. As stated by Robert Fremr[14]: "The perpetrator must therefore be aware that he is denying, disputing, approving or justifying crimes that have been proven, so that the perpetrator is aware of the falsity of his argument." Therefore, according to Fremr, it would not be sufficient for criminal liability "if such conduct was the result of the perpetrator's ignorance" (Draštík et al., 2015, p. 2975).

It is worth emphasizing Fremr's words on proven crimes. Thus, questioning whether the current events in Ukraine constitute genocide or war crimes cannot lead to the commission of that crime, because the circumstances in

[13] The Criminal Code itself naturally contains a wider range of verbal offences and provides protection not only for the rights and freedoms of others, but in principle for all the protected values listed in Article 17(4) of the Charter. However, a list of these will not be given here, as the purpose of this paper is different.

[14] A specialist in criminal law and public international law, Fremr is one of the world's foremost experts on genocide, war crimes and their investigation and prosecution. Judge of the International Criminal Tribunal for Rwanda from 2006 to 2008 and 2010 to 2011, judge of the International Criminal Court from 2012 to 2021 and its 1st vice-president from 2018 to 2021.

which the massacre of the population in some Ukrainian villages took place have not yet been established, much less proven to be crimes under Article 405 of the Criminal Code (2009).

Successful prosecution and final conviction of the perpetrator may perhaps occur in the matter of possible positive statements regarding the invasion of Ukraine by the Russian Federation. However, even here doubts may arise in connection with the above commentary by R. Fremr, for it is clear that not every military intervention by one state (or group of states) against another state has in the past been described as a crime against peace. Consider, for example, the bombing of Yugoslavia in 1999, or the attack on Iraq in 2003 (Bílková & Drápal, 2022). Let us add that the conflicts taking place everywhere else in the world, as well as the opinions expressed by various people about them, are completely outside the attention of politicians and law enforcement authorities. This ultimately contradicts the principle of legality.

In principle, for the same reasons, I consider it doubtful to consider in this context the assessment of the aforementioned actions as a misdemeanour offense of approval of a criminal act under section 365 of the Criminal Code. This is primarily because, again, this is a deliberate offence and the perpetrator should have known that they were committing an approval, and specifically a crime. In the Czech Republic, it is not a crime to approve offences. Thus, the perpetrator should have a certain awareness of the criminality of the act that they are approving within the meaning of the Criminal Code (2009), as well as of its basic legal qualification. While such a consideration can fairly be required – even with reference to the principle of *ignoratia iuris non excusat* or, in the Czech Republic, to the provisions of Article 4(1) of the Civil Code (2012),[15] which establishes a rebuttable presumption that everyone is endowed with the reason of an average person and can be presumed to use it – in the case of easily recognizable crimes such as murder, robbery, rape or theft, it is difficult to do so in the case of possible crimes under international law. This is due both to the lack of available information and to the difficulty for the layman to legally qualify them. This is currently also difficult in view of the less than clear-cut behaviour of many states in the world towards, for example, the Russian Federation or Belarus.

The ambiguity of the conduct also applies to law enforcement authorities in the Czech Republic. On the one hand, their representatives talk about investigating and prosecuting not only war crimes committed in Ukraine, but also certain publicly expressed views on the conflict.[16] On the other hand, however, there is no evidence that the same officials have taken any steps, even if of a purely formal and symbolic nature, to prosecute the actual perpetrators of the Russian-Ukrainian war, for example, for committing the crime of aggression under Section 405a of the Criminal Code. In this respect, the actions of the aforementioned officials appear to be somewhat disproportionate.

In view of the above arguments, I consider that the use of provisions § 365 and § 405 of the Criminal Code (2009) to sanction statements directly endorsing war crimes may encounter a number of problems. However, these statements are not what has long been referred to as so-called disinformation.

Such statements are referred to as attitudes towards the current policy of the Czech Republic in relation to Ukraine or the Russian Federation, attitudes towards the causes of the war and their assessment, attitudes towards the consequences or possible consequences of the war for the Czech Republic, etc. It is obvious that the expression of attitudes of this type is completely outside the scope of the Czech Criminal Code (2009). For the sake of completeness, let us add that, for example, the offence of spreading an alarm report under Section 357 of the Criminal Code does not apply to the above-described actions at all. After all, the discussion of a country's foreign policy is an essential element of democracy and it is difficult to find justification as to why a citizen of a democratic country should be denied the right to express their opinion on the policy of their own government, the consequences of whose decisions they bear.

However, it is apparent that some members of the Government of the Czech Republic view the impossibility of sanctioning the above type of statements negatively – they are equally critical of the lack of a legal basis for

[15] It states, "Every person of capacity is presumed to have the mind of an average person and the ability to use it with ordinary care and caution, and that every one may reasonably expect this of him in legal dealings."
[16] See, for example, the statement of Lenka Bradáčová, head of the High State Prosecutor Office in Prague (Seznam Zpravy, 2022c), or the statement of Igor Stříž, head of the Supreme State Prosecutor Office (Supreme State Prosecutor's Office, 2022).

blocking so-called disinformation websites (Seznam Zpravy, 2022b). As a side note, they are legally problematizing the crackdown on selected servers that took place in the Czech Republic on 25 February 2022. Other politicians, however, are saying that disinformation is a problem – in fact, the Czech Republic has established a government commissioner to combat disinformation (Government of the Czech Republic, 2022) – but politicians' statements about whether new legislation is in the pipeline to provide a legal basis for punishing it are contradictory (Cibulka, 2022a; Loudová, 2022).

5. On some issues related to the possible legal restriction and sanction of so-called disinformation

As has been repeatedly mentioned above, the topic of the need to combat so-called disinformation resonates in the public space not only in the Czech Republic (Mamak, 2020). This is not an entirely new topic at the moment. In January 2017, the Ministry of the Interior of the Czech Republic established the Centre against Terrorism and Hybrid Threats (Government of the Czech Republic, 2017). However, it does not have executive powers, and at the same time no legal framework has been adopted to define what so-called disinformation is and to restrict its dissemination, for example. The previous government also commented on the appropriateness of addressing this issue in 2021 (Janochová, 2021). As mentioned above, the current government appointed its Anti-Disinformation Commissioner on 23 March 2022. Current developments in the drafting of a law that would give a legal framework for the suppression of so-called disinformation are unclear. Following strong statements by politicians calling for its creation, the situation has changed, with the relevant ministries apparently discussing the whole issue and considering possible solutions, including all their legal implications.

The legal side of the whole issue of misinformation is not simple. First, this is because there is no legal definition of what so-called disinformation is. The Ministry of the Interior itself (MVCR, n.d.-b) defines so-called disinformation as "dissemination of deliberately false information, especially by state actors or their offshoots vis-à-vis a foreign state or the media, with the aim of influencing the decisions or opinions of those who receive it" (MVCR, n.d.-a).

However, we are currently witnessing the dissemination of a range of information where is difficult to prove not only whether the information is *deliberately* false, but whether and to what extent it is true or false at all. If we take into account the originator of so-called disinformation and its objectives, it is again questionable in how many cases so-called disinformation is spread by state actors against the state or the media. The vast majority of information of a dubious nature is unlikely to meet this criterion, or at least it will be very difficult to prove.

In order to limit the possible dissemination of disinformation, a completely new legal framework is needed. This may be a rather complex matter, but it must start with the Charter. However, it is difficult to find a reason in Article 17(4) for restricting freedom of expression in the form of what is termed *disinformation* which would not already be restricted or even penalised by law. In recent months, the need to protect the security of the state has been raised in this context. Naturally, some so-called disinformation can be so dangerous, either in terms of its content or in the overall narrative, that it can undermine citizens' confidence in the state itself, its leaders, the political system, etc. However, this is an extreme case, and it is difficult to apply this scale to the current situation. Thus, at the present time, it is difficult to bring the sanctioning or restriction of what can be read mainly on alternative websites or in news disseminated by e-mail under the conditions set out in Article 17(4) of the Charter.

However, if we are to restrict something as unlawful, we must first determine what is lawful. Thus, if we want to restrict and punish *disinformation*, we must say in the first place what is meant by *information*. Or rather, what is *truth*. Here is the crux of the matter, so to speak. Napoleon declared that history is a fable agreed upon by men (Vaněk, 2009, p. 345); in the area of today's Czech Republic, we have seen these "agreements" change at least five times in the last 120 years. This should lead us to some caution about social truth.

It is also worth remembering that in the Czech Republic, the state itself has unfortunately become a candidate for the biggest disinformer over the past 2 and a half years. It is easy enough to look up everything that state officials have officially said on the subject of coronavirus and vaccination against it. Almost invariably, they have done so without adding words such as "probably", "we believe" or "in view of the scientific knowledge to date, it appears that...". On the contrary, they were absolutely clear and without any doubt. Subsequently, it transpired almost without exception that what the opponents of the official statements claimed was confirmed within a few months,

in the form of another official communication from the Minister of Health. On 26 April 2022, the Iniciativa21 association asked both the Government Commissioner for Disinformation and the Prime Minister to investigate the statements of the Minister of Health as disinformation (Iniciativa21, 2022). This way of acting and expressing oneself has shaken public confidence in official information in the Czech Republic.

So how do we define so-called disinformation? The only robust definition of *disinformation* is that disinformation is anything that differs from the official message. This definition, while rather cynical, is largely true to reality. Above all, this shows the difficulty and delicacy of the whole issue.

Where then do we find the yardstick for what is and what is not *information*? Here again we come back to the need for a law to determine this. One option is to set up an authority to deal with this issue – for example, the Information Authority.

It would be totally inappropriate for any restrictive law to contain vague provisions, for example, prohibiting the dissemination of misinformation or unverified information, without providing a more detailed definition of these terms. The problem of determining what to restrict or penalise and what not to restrict or penalise would then be delegated to the authorities with such repressive powers. They would then have to act in each individual case at their own discretion, on their own responsibility, and to prove the grounds for restriction or even sanction each time. Naturally, such legislation may exist, but it is doubtful whether it can meet the requirements of the rule of law if we are talking about a democratic state governed by the rule of law.

Above all, such a solution would conflict with Article 39 of the Charter, according to which only the law determines what conduct constitutes a criminal offence. One of the basic principles of criminal law is *nullum crimen sine lege certa*. Thus, a law complying with this provision should be sufficiently specific. It is true that the use of non-specific terms in criminal law is neither unusual nor unconstitutional (Ústavní soud, 2021).

However, if we know what *information* is, it will not be difficult to sanction everything else at the discretion of the legislator. There is no need to use foreign models in this matter, as we have several historical solutions of our own.

For example, the provisions of Section 100 of the Criminal Code of 1961, which until 30 June 1990 defined the crime of *sedition*, come to mind. For the sake of completeness, let us recall the wording of these provisions.

> (1) Whoever, out of hostility to the socialist social and state system of the Republic, outrages at least two persons
> (a) against the socialist social and state establishment of the Republic,
> (b) against the territorial integrity, defence or independence of the Republic, or
> (c) against the allied or friendly relations of the Republic with other States,
> shall be punished by imprisonment for six months to three years.
>
> (2) Anyone who, out of hostility to the socialist social and state establishment of the Republic, allows or facilitates the dissemination of the seditious speech referred to in paragraph (1) shall be punished in the same way.
>
> (3) The offender shall be punished by imprisonment for one to five years,
> (a) if he commits the act referred to in paragraph 1 by means of the press, film, radio, television or other similarly effective means, or
> (b) if he or she commits the act referred to in paragraph 1 or 2 while the State is on national emergency alert.

It is clear that Section 100 of the Criminal Code (1961) can serve as an inspiration in this regard. In principle, it is sufficient to substitute a few adjectives in its wording in order to bring it up to date for present-day conditions. For example, it would suffice to replace “socialist establishment” with “democratic rule of law”.

Another option is to dig even deeper into the past and look at the Austrian Penal Code of 1852. Section 308 of the Criminal Code (1852) established the offence of *spreading false alarming rumours or predictions*. Its provision read as follows:

> Whoever by means of public announcement (by nailing on the wall, by public speeches or lectures, etc.) disturbs or spreads a false rumour which is alarming to public safety, without sufficient reason to believe it to be true, or whoever disturbs or spreads something in this manner which passes for a prediction, is guilty of a misdemeanour, and shall be punished by rigorous imprisonment from eight days to three months.

In this case, too, it is apparent that the construction of the quoted provision may be applicable even today.

However, the crucial question is whether to follow the suggested path. Above all, this would mean abandoning the current approach to freedom of expression. At the same time, however, it would also be an admission that the developments of the past 33 years, based on the non-prosecution of political speech, or speech consisting in the expression of opinions on current social issues, has been a dead end. It would also mean the need to create "political police", which would have a major impact on the public perception of the police. If after 1989 the police made great efforts to rid themselves of the label of a repressive regime organ in the eyes of ordinary people, then, together with the prosecution of so-called disinformation, the results of these efforts may very quickly be wasted. This all comes back to the basic question of whether we should have a police force to investigate, for example, the letter "Z" made up of cucumbers and peppers on sandwiches (Idnes.cz, 2022). It should be also remembered, that where criminal sanctions are concerned, these are to be the last resort (Novotný et al., 1997; Gerloch, 2004).

Conclusion

It is obvious that the issue of combating disinformation has been resonating in society for many years, and not only in the Czech Republic. This is a transnational phenomenon that is likely linked to the development and availability of the internet. This has led to an extraordinary expansion of the possibilities for sharing information. At the same time, it has meant the loss of a number of filters which in the past, when the means of sharing information were concentrated in the hands of a few individuals or institutions and their operation was demanding and exclusive in every respect, allowed considerable control over public discourse. The development and accessibility of the internet has democratised the process of information sharing, but without correspondingly restrictive mechanisms.

The fight against so-called disinformation is one aspect of the process of finding a new balance between the free sharing of information and accountability for it. However, this is not a new phenomenon. European society has already gone through similar processes several times. First with the invention of the printing press, which marked the end of ideological unity in a space originally dominated by the Catholic Church. Then with the development of newspapers and the rise of mass political parties in the 19th century. In the 20th century, a similar move was the privatisation of radio and television broadcasting. The only difference today from the past is that the means of sharing information is available to virtually everyone. There is no difference, however, in the actions of two antagonistic forces, one striving for the freest possible expression and plurality of opinion, the other for more or less control over what is published and for unity of opinion, at least as far as basic social assumptions are concerned.

Interference with freedom of expression and information sharing, or access to it, should primarily take place within the framework set by the Charter of Fundamental Rights and Freedoms. The latter takes a distinctly liberal view, allowing the rights set out in Article 17 to be restricted only in the most extreme case, if there is no other way. Thus, it is naturally possible to restrict these freedoms in the case of flagrant crimes, flagrant violations of the rights and freedoms of others or other objectively socially harmful conduct. The introduction of new criminal offences or misdemeanours may be considered. Where criminal sanctions are concerned, these are to be the last resort. The same applies to administrative interference in the exercise of freedom of expression, for example in the form of blocking websites.

However, views on domestic and foreign policy should stand outside these constraints. To do otherwise would risk limiting democracy itself, for which freedom of expression is essential. In any case, the question is whether the measures taken both at the level of the European Union and at the level of its Member States do not constitute censorship, which is expressly prohibited not by European Union law but by the constitutions of some of its Member States.

References:

Bílková, V., Drápal, J. (2022, March 2). *Agrese hodná odsouzení, ale nikoliv českým trestním právem*. Respekt. https://www.respekt.cz/respekt-pravo/agrese-hodna-odsouzeni-ale-nikoli-ceskym-trestnim-pravem
Charter of Fundamental Human Rights and Basic Freedoms (1991), Act No. 23/1991 Coll.
Charter of Fundamental Rights of the European Union. OJ C 326, 26.10.2012, p. 391–407. http://data.europa.eu/eli/treaty/char_2012/oj
Cibulka, J. (2022a, March 18). *Zákon nevzniká, analýzy nejsou. Legislativa proti dezinfu bude mít minimální dopad, varují právníci*. iRozhlas. https://www.irozhlas.cz/zpravy-domov/dezinformace-blokovani-cenzura-zakon_2204180500_cib
Cibulka, J. (2022b, April 5). *"Hybridně působí ve prospěch Ruska." Vojenští rozvědčíci zveřejnili dopis, proč žádali blokaci webů*. iRozhlas. https://www.irozhlas.cz/zpravy-domov/vz-rozvedka-armada-blokace-webu-cenzura-svoboda-projevu_2204050644_cib
Civil Code (2012), as amended, Act No. 89/2012 Coll.
Constitution of the Republic of Poland (1997), Dz. U. 1997 nr. 78, poz. 483.
Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512 (CFSP) concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. OJ L 65, 2.3.2022, p. 5–7. http://data.europa.eu/eli/dec/2022/351/oj
Council Regulation (EU) 2022/350 of 1 March 2022 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. OJ L 65, 2.3.2022, p. 1–4. http://data.europa.eu/eli/reg/2022/350/oj
Criminal Code (1852), Imperial patent published under No. 117/1852 Reg.
Criminal Code (2009), as amended, Act No. 40/2009 Coll.
Dahllof, S., Jorgensen, A. S., & Buch, R. (2022, October 7). Russian media "censorship" overrules Swedish & Danish Constitution. *EU Observer*. https://euobserver.com/opinion/156235
Draštík, A., Fremr, R., Durdík, T., Růžička, M., & Sotolář, A. (2015). *Trestní zákoník. Komentář*. Praha: Wolters Kluwer.
Garlicki, L. (2000). *Polskie prawo konstytucyjne. Zarys wykladu*. Warszawa: Liber.
Gerloch, A. (2004). *Teorie práva*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk.
Government of the Czech Republic. (2017, January 27). *Premiér Sobotka: Úkolem Centra proti terorismu a hybridním hrozbám je chránit občany a stát*. https://www.vlada.cz/cz/media-centrum/aktualne/premier-sobotka-ukolem-centra-proti-terorismu-a-hybridnim-hrozbam-je-chranit-obcany-a-stat-152983/
Government of the Czech Republic. (2022, March 24). *Novým vládním zmocněncem pro oblast médií a dezinformací se stal Michal Klíma*. https://www.vlada.cz/cz/media-centrum/aktualne/novym-vladnim-zmocnencem-pro-oblast-medii-a-dezinformaci-se-stal-michal-klima-195260/
Holda, J. (2011, October 21). *Wolność wypowiedzi*. Narodowe Centrum Kultury. https://nck.pl/szkolenia-i-rozwoj/aktualnosci/wolnosc-wypowiedzi
Idnes.cz. (2022, April 21). *Chlebíčky byly pro Zuzanu, zdůvodnil politik „Z" policii. Případ odložila*. https://www.idnes.cz/liberec/zpravy/chlebicky-z-valka-ukrajina-politik-spd-jilemnice.A220421_113951_liberec-zpravy_gabr
Iniciativa21. (2022, April 26). *Iniciativa 21 oficiálně nahlásila závažné dezinformace a lži ministra Válka dle vládní výzvy k „boji" s dezinformacemi* [Press release]. https://iniciativa21.cz/26-04/
Janochová, D. (2021, December 2). *Babišův kabinet chce bojovat proti dezinformacím. Možná i novou legislativou*. TN. https://tn.nova.cz/zpravodajstvi/clanek/449692-babisuv-kabinet-chce-bojovat-proti-dezinformacim-mozna-i-novou-legislativou
Koudelka, Z. (2022, March 16). *Cenzoři mlčí*. Česká justice. https://www.ceska-justice.cz/blog/cenzori-mlci/
Law on pharmaceuticals (2007), as amended, Act No 378/2007 Coll.
Law on the operation of radio and television broadcasting (2001), as amended, Act No 231/2001 Coll.
Law on the Police of the Czech Republic (2008), as amended, Act No 273/2008 Coll.
Law on the protection of classified information and security clearance (2005), as amended, Act No 412/2005 Coll.
Law on the regulation of advertising (1995), as amended, Act No. 40/1995 Coll.
Loudová, B. (2022, 11 May). *Nejsem ministr, ale novinář. Média můžu dál kritizovat a hodnotit, tvrdí vládní zmocněnec Klíma*. DenikN. https://denikn.cz/876598/nejsem-ministr-ale-novinar-media-muzu-dal-kritizovat-a-hodnotit-tvrdi-vladni-zmocnenec-klima/
Mamak, K. (2020). *Prawnokarne sposoby walki z fake newsami*. Centrum Cyfrowe. https://centrumcyfrowe.pl/wp-content/uploads/sites/16/2020/06/Raport_walka-z-fake-newsami.pdf
MVCR. (n.d.-a). *Definice dezinformací a propagandy*. https://www.mvcr.cz/cthh/clanek/definice-dezinformaci-a-propagandy.aspx
MVCR. (n.d.-b). *Trestněprávní úprava*. https://www.mvcr.cz/cthh/clanek/dezinformacni-kampane-trestnepravni-uprava-trestnepravni-uprava.aspx
Novinky.cz. (2016, May 17). *Přichází cenzor: Nová iniciativa bojuje za svobodu internetu v Česku*. https://www.novinky.cz/internet-a-pc/clanek/prichazi-cenzor-nova-iniciativa-bojuje-za-svobodu-internetu-v-cesku-351916
Novotný, O., Dolenský, A., Jelínek, J., Vanduchová, M. (1997). *Trestní právo hmotné. I. obecná část*. Praha: Codex.
Office of Electronic Communications. (2022, March 8). *Zakaz nadawania programów Russia Today i Sputnik*. https://www.uke.gov.pl/akt/zakaz-nadawania-programow-russia-today-i-sputnik,416.html
Pelc, P. (2012, May 7). O granicach wolności wyrażania poglądów. *Rzeczpospolita*. https://www.rp.pl/opinie-prawne/art13751381-o-granicach-wolnosci-wyrazania-pogladow
Press law abolishing censorship (1990), Dz. U. 1990 nr 29, poz. 173.
RT France v. Council of the European Union, CJEU, Judgment of 27 July 2022, Case No. T-125/22. ECLI:EU:T:2022:483

Seznam Zpravy. (2022a, March 1). *Jsou zablokované další dezinformační weby, tentokrát od operátorů*. https://www.seznamzpravy.cz/clanek/domaci-zivot-v-cesku-jsou-zablokovane-dalsi-dezinformacni-weby-tentokrat-od-operatoru-191290
Seznam Zpravy. (2022b, March 21). *Vypneme dezinformační weby, chystáme k tomu zákon, plánuje ministr*. https://www.seznamzpravy.cz/clanek/domaci-kauzy-vypneme-dezinformacni-weby-chystame-k-tomu-zakon-planuje-ministr-194370
Seznam Zpravy. (2022c, April 26). *Svoboda projevu není neomezená, říká Bradáčová*. https://www.seznamzpravy.cz/clanek/domaci-kauzy-bradacova-kvuli-zlocinum-na-ukrajine-muze-vzniknout-tribunal-jako-v-norimberku-199653
Supreme State Prosecutor's Office. (2022, February 26*). Informace k možným trestněprávním limitům svobody projevu ve vztahu k situaci na Ukrajině*. https://verejnazaloba.cz/nsz/informace-k-moznym-trestnepravnim-limitum-svobody-projevu-ve-vztahu-k-situaci-na-ukrajine/
Telecommunications Act (2004), Dz. U. 2004 Nr 171 poz. 1800.
Treaty on European Union (Consolidated version). OJ C 326, 26.10.2012, p. 13–390. http://data.europa.eu/eli/treaty/teu_2012/oj
Ústavní soud. (1993). Decision Pl. ÚS 43/93: Disparagement of State Bodies. https://www.usoud.cz/en/decisions/1993-04-12-pl-us-43-93-disparagement-of-state-bodies
Ústavní soud. (2021). Decision of the Constitutional Court of the Czech Republic published under No. 206/2021 Coll., paragraph 38.
Vaněk, Z. (2009). *Kaleidoskop. Moudré, poetické, humorné i rozverné střípky*. Plzeň: Z. Vaněk.