

CHAPTER I

FAKE NEWS AS AN IMPORTANT FACTOR IN DIGITAL PLATFORMS' AND SOCIAL MEDIA'S IMPACT ON THE GUARANTEES OF FREEDOM OF EXPRESSION AND THE TRUTH OF INFORMATION



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1. Review of digital platforms and social media in Poland

1.1 Digitization and globalization as a domain of emergence and operation of digital platforms

Nowadays, people have no choice but to use technological advances. In contrast to five or ten years ago, the present is a completely different reality in terms of technological possibilities, the dissemination of information, forging personal relationships, networking, etc. The fast-paced emergence of technological innovations means that everyday and professional life in communities has—or, it would seem, should—become, easier, more interesting, and above all, more effective.

The goal of new technologies, broadly understood, is precisely to shorten certain social and professional distances and facilitate processes that, so far, have been indispensable but highly complex. It is rightly assumed that “new information technologies, with the Internet at the forefront, spread around the world in less than 20

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years, from the mid-1970s to the mid-1990s¹ and have become usual amenities used in everyday life.

One of the outcomes brought about by these changes is the emergence of a parallel, and sometimes even alternative, reality. This is linked to the emergence, rapid growth, and deployment of digitization and digitalization, which have entered various areas of life with extraordinary impetus, bringing solutions that were previously deemed impossible to design and implement. These new possibilities have led to the emergence of a different reality that offers previously unknown options for designing and performing ordinary activities.

For the purposes of this analysis, the fundamental question is what digitization and digitalization actually are, as these appear to be the driving force and the basis for change. They provide the inherent ecosystem (zone) in which momentous changes have and will continue to take place. The zone delimited by digitization and digitalization has been occupied and leveraged, among others, by digital platforms, which have become one of the key accessories to the phenomenon of fake news that we set out to analyze in this paper.

At first impression, when describing digitization as a mechanical activation of a series of tasks undertaken in succession, one may simply point out that it is actually a process inextricably linked with the transformation of the original form of some material or immaterial entity into a complex and new type of digital recording, in which the natural form of the entity being recorded is transformed into a numerical representation, that is, a specific and systemically ordered sequence of numerical values. For example, definitions have been put forward that “scans of historical documents published on the Internet are numbers in digital format, which, in order to be human readable, must be reconstructed using appropriate software.”² This is the simplest possible illustration of the digitization process, which involves changing something’s original form into a digital form.

This is the basic definition of the process, as it assumes that digitization is “the transformation of any analogue form of a document (book, image, sound) into a binary form, (...) or rather digitization is equivalent to scanning analogue material and processing it into a digital form.”³ Going further into another domain, digitalization is the process of transforming individual analogue information streams into digital form, or the way in which countries, organizations, and companies adopt or increase the use of information and communication technologies (ICT).⁴

In dictionary terms, the Polish definition covers both digitization and digitalization, as *firstly*; a change of the form of a signal from analogue to digital, in the process of analogue-to-digital conversion; *secondly*; a set of activities aimed at replacing devices based on analogue technology in technical systems with digital

1 Warzecha, 2017, p. 85.

2 Wilkowski, 2013, p. 10.

3 Mejor, 2012, p. 265.

4 Kuźniar, 2019, p. 275.

systems (digital technology).⁵ The concepts of digitization and digitalization are, therefore, semantically identical, so to avoid unnecessary complications in our analyses, these terms will be used interchangeably.

Without delving into the definitional aspects of digitization or digitalization, one must note that this process has undoubtedly activated a range of other processes in various areas of life that are often incompatible with each other. It is the emerging technological opportunities leading directly to the initiation and dynamic growth of the digitization process that make it the first element in the complicated structure of the creation and operation of digital platforms, which we will, in this analysis, identify as the carriers or vehicles of the fake news phenomenon.

Digitization has therefore become a fact of life, but one must remember that in the context of fake news, there is one more component that is at play with the digitization process, that is, the process of globalization.

The term 'globalization' also encompasses different conceptual meanings. According to the simplest of definitions, it can be best described as a process through which the world is increasingly becoming a single place.⁶ In dictionary terms, Polish studies point out that globalization is defined as a process involving, *inter alia*, an increase in the turnover of international trade, the flows of capital, and people and technology, as well as the blurring of cultural differences.⁷ Globalization assumes the standardization of specific activities aimed at achieving the planned effects on the largest possible scale and is associated—as demonstrated by the attempts to define it in dictionaries—first with commercial and economic processes, then with social and cultural processes, and finally, with technological processes. The globalization phenomenon leads to standardization through the internationalization of, for example, commercial activities, where the visible effect is the presence of the same business entities operating in the broadest possible market and participating in information activities, entertainment or technology activities, etc. Consequently, the ongoing and never-ending process of globalization gives societies in different countries options for purchasing goods and using various other services or flows of people or information to exactly the same extent. This saves a lot of time and effort and makes space barriers obsolete. It is argued that globalization as primarily associated with international trade relations is characterized by the following:

first; increasing mobility of capital and goods, and even services, treated before as non-commercial; *second*; it is accompanied by technical progress on an unprecedented scale, especially the rapid spread of innovation, *third*; sharply reduced transaction costs of economic cooperation with foreign countries, including above all the cost of transport and communication.⁸

5 See: <https://encyklopedia.pwn.pl/haslo/cyfryzacja;4007905.html>.

6 Kaczmarek, 2014, p. 35.

7 See: <http://sjp.pwn.pl/sjp/globalizacja;2559335>.

8 Czarny, 2014, p. 5.

With the two components seen through the prism of digitization and globalization, one can see globalization as the bedrock of digitization, given that instruments are needed to bring to effect its fundamental assumption of the standardization of certain relations, activities, and objectives. Each stage of globalization has stimulated research and inventions for making it fast and effective. However, in this maze of various globalization components, the transfer of information, its subsequent appropriate interpretation, and its global dissemination have always been key.

Therefore, what comes to mind is an interplay of components that comprise the foundation for the creation and action of fake news, which is one of the links in this ecosystem.

The interacting components are as follows:

a) The progress of globalization boosts demand for rapid cooperation, while technological advances that emerge in parallel and are obviously growing significantly improve digitization and digitalization.

b) There is a further targeted need to create instruments/tools that will increase the communication possibilities within globalization, facilitate cooperation, and accelerate and make this activity more effective, especially regarding information transfer. Hence, digital platforms and social media, among others, emerge first on a national scale and then on a global scale.

c) With the above-mentioned demand for the fast transfer, creation, and use of information, it has become possible to transmit information in an appropriate setting and with appropriate content or interpretation, which means that sometimes, in addition to reliable information, false or distorted information is also provided or created, opening a path for the emergence of today's fake news.

d) When fake news appears, there also emerges an immediate need for a defense system against it. This is to be provided based on appropriate interdisciplinary solutions that incorporate both technological and legal aspects.

As a result, digitization has become an effective tool for broadening the reach of globalization (standardization) and a primary transmission belt for information transfer and interpretation, which does not always correspond to the true intention behind the origin or dissemination of this information. The key, therefore, is on the one hand, to master the technology of creating, transferring, and disseminating information, and on the other hand, to create a defense system against false, modified, or misinterpreted information.

1.2 Digital platforms and social media operating in Poland

Globalization has also standardized the operation of digital platforms and social media. As previously argued, both have one concept in common: information. The need to and ease of spreading information today, to which globalization and digitization have contributed, have resulted in the emergence of specific tools that play a major role in creating, delivering, and interpreting information. These tools have taken the form of digital platforms and social media. These concepts are not

presented in the above order by chance. Digital platforms were created first, and improvements to the Internet, along with the development of advanced technologies, resulted in the emergence of the first social media.

From a technical point of view:

A digital platform is a transmission medium of zero-one encoded television signals, data and voice, intended for direct reception and use by individual and collective recipients, and colloquially it is also a collection of content, such as television and radio programs, electronic publications, data, computer programs encoded in the zero-one system in the form of a bundle of compressed streams and organized by a single operator⁹

Therefore, the digital platform was initially identified with the effect of digitization in the domain of television.

In this context, digitization in Poland is mainly associated with:

the launch of DVB-T digital terrestrial television, which took off in Poland in the second half of the 1990s. Its introduction was dictated by the more efficient use of frequencies and the offering of a new type of service, which analogue technology could not warrant.¹⁰

Historically, the first date in the digitization of terrestrial television in Poland is 1997, when the strategy for the launch of the DVB-T network was drafted. Subsequent important dates in this context in Poland include 4 May 2005, when the Council of Ministers signed a regulation titled the Strategy for the Transition from Analogue to Digital Terrestrial Television, and 11 December 2007, when Directive 2007/65/EC of the European Parliament and of the Council on audiovisual media services was enacted, linking these services with television broadcasting technologies and establishing a classification of services provided through analogue and digital television, Internet broadcasting and live streaming, and near video on demand.

The burden of deploying such changes to switching off analogue television and transforming it into digital television rested on a Polish constitutional body, the National Broadcasting Council. The process began in early June 2011.¹¹

Currently, as we should only note for informational purposes, the digital platforms analyzed briefly in this paper include online platforms that appeared much later than digital television platforms. Therefore, “the concept of [the] ‘online platform’ can now be understood in various ways, for example, as identical to ‘Internet website,’ that is, a web page presenting a wide range of thematic content made

⁹ Bryndal and Kochański, 1998.

¹⁰ Myślak, 2019, p. 37.

¹¹ Ibidem.

available to the user.”¹² On the other hand, online platforms can also be defined as “a new business model of virtual intermediation between at least two distinct but interdependent (networked) user groups, being parties in multisided markets.”¹³ European documents indicate that online platforms share some important and specific characteristics. In particular, they have the ability to create and shape new markets, to challenge traditional ones, and to organize new forms of participation or conducting business based on collecting, processing, and editing large amounts of data; they operate in multisided markets but with varying degrees of control over direct interactions between groups of users; they benefit from ‘network effects,’ where, broadly speaking, the value of the service increases with the number of users; they often rely on information and communications technologies to reach their users, instantly and effortlessly; and they play a key role in digital value creation, notably by capturing significant value (including through data accumulation), facilitating new business ventures, and creating new strategic dependencies.¹⁴

Historically, the first Polish digital platform in the television domain was a platform named Wizja TV, which was launched on 18 September 1998 by the American company @Entertainment. On 16 November 1998, the digital platform Canal + started to operate.¹⁵

Currently (2021) in Poland, there are three popular digital platforms: Cyfrowy Polsat, Canal +, and Orange TV. Naturally, these operate mainly in the television domain; however, they offer a wide variety of media services.

The owner of the first one is the joint stock company Cyfrowy Polsat, which is one of the largest operators in Central and Eastern Europe. As a satellite TV operator, it is among the market leaders in terms of the number of subscribers across Europe.¹⁶ In Q1 2020, the Cyfrowy Polsat Group posted revenue of PLN 2.85 billion (+ 2% per annum) and a net profit of PLN 184 million, while EBITDA amounted to PLN 1.027 billion (-1.1%). During this period, the Group’s sales covered 466,000 new service contracts.¹⁷ In 2020, the number of subscribers was approximately 5.55 million.¹⁸ Cyfrowy Polsat’s offerings include paid TV service, i.e., approximately 170 channels broadcast via satellite, terrestrial, and Internet technologies (IPTV, OTT); the provision of modern OTT services (e.g., Cyfrowy Polsat GO, PPV, VOD) and Multiroom, including online video services offered on the subscription and transaction models (PPV) (IPLA service); telecommunications services including voice and data transmission services; as well as various value-added services (VAS), broadband mobile

12 Wyrwińska and Wyrwiński, 2018, p. 97.

13 Śledziewska and Włoch, 2020, p. 99.

14 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 May 2016, COM (2016), p. 288.

15 Nowak, 2019, p. 251

16 See: <https://bit.ly/3nYnwAh>.

17 See: <https://bit.ly/2VWlBjS>.

18 See: <https://bit.ly/3tZjb0H>.

Internet services using modern LTE, LTE Advanced, and 5G technologies; television broadcasting and production services via Telewizja Polsat, offering 36 popular TV channels; and Internet media or wholesale services on the interconnection market, including, *inter alia*, interconnect services, IP and voice traffic transit, and line lease or domestic and international roaming services.¹⁹

Canal Plus is another platform on the market. It is a shared brand incorporating a satellite digital platform and Internet television services offered by the Polish company Canal + Polka S.A., a member of the French media group Groupe Canal +. The Polish Canal + platform was created as a brand replacing nc +.²⁰ Currently, Canal + Polska is a leading producer of premium thematic TV channels, offering a unique combination of premium segment programming, innovative technology, and a wide distribution network. The Canal + Polska Group serves over 2.7 million customers (as at 31 December 2020) as the operator of a satellite platform, offering TV packages that include both its own TV channels and third-party channels, with a particular focus on the premium segment.²¹ It is the second largest distributor of paid TV packages in Poland, commanding a 21% share of the traditional paid TV market.²² It is estimated that at the end of June 2020, Canal + Polska had 2,703 million customers. Their operating profit was approximately PLN 155 million, and net profit amounted to approximately PLN 121 million.²³

The third platform is Orange TV, a digital platform providing telecommunications services in Poland, with a presence in all segments of the telecommunications market. The Group is the owner of the largest telecommunications infrastructure in Poland, providing voice and data transmission services on fixed and mobile networks. As one of the leading telecommunications operators in Europe, Orange S.A. owns 50.67% of Orange Polska's shares.²⁴ According to publicly available data, Orange Polska's entire base of combined package users totaled 1.387 million. The company reaches 4.4 million households in 147 cities. In 80 cities with optical fiber infrastructure, it reaches more than half of the households. Orange Polska's revenue for Q1 2020 increased by 0.9% to PLN 2.804 billion, and the operating profitability ratio EBITDA increased by 6%, up to PLN 676 million, compared to the same period in 2019.²⁵

As the other element of the fake news phenomenon, our analysis will cover social media or social networks, which play the same role here as digital platforms, as they are the relevant domains for the creation, transfer, and dissemination of fake news. In Polish, the term is "a direct translation of the English term 'social media' or 'social

19 See: <https://bit.ly/3AtIc6x>.

20 See: <https://bit.ly/2Zhmp4i>.

21 See: <https://bit.ly/3EEV9Nm>.

22 See: <https://bit.ly/3kq3WKL>.

23 See: <https://bit.ly/3AsZhO1>.

24 See: <https://bit.ly/3lIJu71> and <https://bit.ly/3nSEuQv>.

25 See: <https://bit.ly/3zu9uIH>.

networks.”²⁶ The term ‘social networks’ first appeared in the United States in the 1950s. Historically, the beginnings of social networks, strictly in today’s sense of the term, date back to the 1990s.

In an attempt to explain what a social networking service is, it should be noted that the author of the concept is commonly agreed to have been Professor John Barns, who defined a social network as a group of approximately 100–150 people who share an interest in the same task, job, or hobby.²⁷ In 1995, in the United States, Randy Conrads started a service under the name Classmate.com. The creator of the service set the goal of building a network among people who had once kept in contact with each other so that they could exchange information, strengthen or renew relationships, etc. Similar initiatives were mirrored in Poland with the appearance of the service Naszaklasa.pl, which was created by computer science students at the University of Wrocław, namely Maciej Popowicz, Paweł Olchawa, Michał Bartoszkiewicz, and Łukasz Adziński. It is worth noting that the social networking site Epinions.com was launched in 1999, and in 2003, Tom Anderson and Chris De-Wolfe created MySpace.com.

There is no uniform and universally binding definition of social media in the legal literature or in Poland’s legal system.

However, it is indicated that “the elements shared across the definitions of social media are: creation of information and multimedia content, texts, photos for personal use and dissemination of the same among friends.”²⁸ Social media are often defined as “a group of Internet-based applications that build on the ideological and technological foundations of Web 2.0 and that allow the creation and exchange of user-generated content.”²⁹ It is accepted that:

Media as such are carriers of information (media, tools for recording and transmitting information); they can perform two elementary functions: i.e. information functions – they publish news and all kinds of references to these (opinions, comments, debates, polemics, etc.). Therefore, they are content carriers that serve directly to provide information, acquire and expand knowledge (presenting and describing the world), and entertainment functions — they provide the opportunities of spending time pleasantly.³⁰

On the other hand, the characteristic features of social media are as follows: they can be used on any scale; the means of production are available to everyone interested; the publication of information is only the beginning of the media process; the original information can be modified infinitely; access to the creation and reception

26 Sudomir, 2020, p. 97.

27 See: <https://www.historyofinformation.com/detail.php?id=715>.

28 Tomczak, 2017, p. 145.

29 Kaplan and Haenlein, 2010, pp. 59–68.

30 Kaznowski, 2010.

of content is free; without social participation, the idea of social media cannot be pursued; the final value of information is directly influenced by the participation of the social group (community) that is actually focused around the topics discussed; each interested party has access to their own and other contributors' content at any time and has the option to refer not only to the underlying content but also to the contribution of other authors; no coordination between authors; no elements resulting from the creation (co-creation) process are deleted and they are continuously available; the content is spread through social interaction (which directly translates into the scale of distribution of each piece of information); the delay between the creation of content and its publication is kept to a minimum (no delay); unforced way of content creation.³¹

It is an uncontroversial fact today that:

Social media are an important part of our everyday life. They emerged as a contemporary response of the digital world to the primordial human need, which is the need for social contact, as well as the need to connect into social groups. Social networks are one of the most popular communication tools on the Internet.³²

There is also common agreement that social media have a communication and information function, mainly serving to facilitate the exchange of experiences, opinions, and views.³³

In technical terms, social networking services are classified as Web 2.0 generation media, i.e., a group of media existing and operating online, where the users are in fact responsible for the content posted, and thus are both users and creators.³⁴ Hence, it is emphasized that:

Web 2.0 is an approach to communication on the Internet, which takes into account a change in the position of the recipient, who also becomes a full participant in the dialogue. In Web 2.0, the consumer of content also becomes its producer. Web 2.0 is therefore based on participation via the Internet (...)

This term covers "Internet services that allow users to collaborate and exchange information online through social networking sites."³⁵ The emergence of Web 2.0 was a major breakthrough, as the previous generation, i.e., Web 1.0, was only a

one-way communication model, in which the content posted on various websites was primarily managed by adequately qualified message creators. The recipients

31 Ibidem.

32 A. Bąk, 2016, p. 139.

33 Delińska, 2018, p. 19.

34 Gogołek, 2010, p. 160.

35 Flasiński, 2017, p. 175.

themselves were passive. They could only read the information posted without any options to build or comment on it.³⁶

As is clear, Web 2.0 demonstrates users' multisided joint cooperation and complementarity.

Returning to terminological considerations, however, there is currently no agreement as to the definition of a social networking service. The easiest way is to begin to analyze the structure of the term 'social media.' In Polish usage, it is a direct translation of the English term 'social media.' In this translation, 'social' signifies the social element, and 'media' means an information carrier.³⁷ However, there are no consistent, unambiguous, and relatively simple definitions of the term, nor is it defined by law in the Polish legal system, hence the different terms denoting social media in Poland, such as 'social networks' or 'social networking services,' etc. Social media are defined as, *inter alia*:

an information service on a computer network, publicly and commonly available at a single WWW address, presenting content of interest to all network users, featuring optional, specialized online functionalities (e.g. news, chat, online discussion forum, free e-mail, web hosting, internal and external search options via a search engine).³⁸

In dictionary terms, social media or networks are defined as an online service co-created by a community of Internet users with similar interests that allows them to contact friends and share information, interests, etc.³⁹ It is accepted that "the main operating principle of social networks is to enable building users' own, private or public personality profile, where specific information about a person, company or organization is posted."⁴⁰ Elsewhere:

The term social media most often denotes a set of tools based on online media and mobile technologies that enable the exchange of information in the form of an interactive dialogue between users, bypassing the limitations related to, *inter alia*, the place of residence.⁴¹

A very broad interpretation of this term states that even "every page on the Internet on which users interact is a social medium."⁴²

Whenever a social medium exists, its natural environment is the Internet. Access to the Internet is the basis for social media's reach and degree of interest.

36 Sarowski, 2017, p. 34.

37 Dziwulski and Ogrzebacz, 2017, p. 87.

38 Tytko, n.d.

39 See: <https://sjp.pwn.pl/sjp/serwis-spolecznosciowy;5579205.html>.

40 Donecki, n.d. Available at: <http://www.publikacje.edu.pl/pdf/11046.pdf>.

41 Wicińska, 2017, p. 115.

42 Czaplicka, 2014, p. 10.

According to publicly available data as at January 2021, 31.97 million people use the Internet in Poland. This accounts for approximately 84.5% of Poland's total population. The same source indicates that the average Pole (aged 16–64) spends 6 hours 44 minutes on the Internet per day, including 2 hours on social media. For comparison, the average duration of television consumption in Poland is about 3 hours 15 minutes, and that of online and printed press (combined) is 1 hour 16 minutes.⁴³

The above data show the Internet's enormous power at present. Its status surely warrants a review and characterization of the individual social media sites operating in Poland. It seems that there is no need to describe the exact profile of the selected popular social media in Poland, as, generally speaking, these are globally recognized entities. The only social medium that specifically operates in Poland is Albicla; it is an entity that has just started its activity and precise data for it are not currently available.

However, in the analyzed context, the data related to the operation of these services/sites in Poland are interesting, so let us examine, as far as possible, the domestic landscape.

The YouTube service is perhaps the best starting point for a review of social media in Poland. At present, it is the most popular social media site in Poland, used, on average, by approximately 92.8% of users. The site reaches over 24 million people in Poland. Statistics show that Polish women spend an average of 40 minutes on YouTube.⁴⁴ YouTube's viewership in Poland is over 91% of Polish Internet users. As the data demonstrate, out of this number, 10 million YouTube viewers are aged 24–44, and in total, YouTube reaches 24.6 million viewers in the country.⁴⁵

In terms of popularity, Facebook is next. Its community includes approximately 89.2% of Polish Internet users. More in-depth data indicate that approximately 96.6% of these users use Facebook on their mobile device. The average user posts at least one like per day, and three comments in a 30-day period (with women leaving comments as much as five times more often than men, who comment twice, on average, over the same period). The overall community of Polish Facebook users numbers approximately 18.3 million people, with the largest group among them belonging to the 25–34 age group (27.8%).⁴⁶ Facebook Messenger, which operates as an independent platform, has been installed by approximately 76.5% of the community, which is about 16,018,455 users.

Third in the popularity ranking is Instagram, with 60.6% of Internet users, meaning that in Poland, it is used by nearly 9.2 million people. It is followed by Twitter, with a 37.5% user base or 1.35 million people in Poland.

43 See: <https://empemedia.pl/social-media-w-polsce-2021-nowy-raport/>.

44 See: <https://bit.ly/2XxaH15>.

45 See: <https://spidersweb.pl/2020/11/youtube-polska-statystyki-2020.html>.

46 See: <https://www.whysosocial.pl/uzytownicy-social-media-w-polsce-i-na-swiecie/>.

Next is LinkedIn, with 24.6%, corresponding to 4.10 million users in Poland. The service is popular among middle and senior management, as according to statistics, on average, 97% of managers using social media have reported using LinkedIn.

It is noteworthy that the most popular sites in Poland include Snapchat, with 28.9%, and TikTok, with a 28.6% user base.⁴⁷

Social media as an information source:⁴⁸

Country	Score
Greece	74%
Brazil	72%
Hungary	64%
Poland	58%
Denmark	56%
Turkey	73%
Portugal	66%
Spain	60%
Sweden	56%

2. An attempt to determine the scale of influence, benefits, and dangers of digital platforms' and social media's existing operating structure

At the outset, one should agree with the statement that:

For people today, technological progress in the field of social media saves time and money, and also facilitates everyday activities, communication and interpersonal contacts. Like any invention, innovation or advanced solution, however, social media also carry risks, dangers and negative effects.⁴⁹

This statement very accurately reflects the present situation, in which social media and digital platforms are key features. While digital platforms are intended

47 See: <https://empemedia.pl/social-media-w-polsce-2021-nowy-raport/>.

48 See: <https://biznes.newseria.pl/files/raport-fake-news-newseria.pdf>.

49 Stecuła, 2017, p. 230.

for the presentation of information, entertainment, educational content, etc., usually associated with a specific decision making place (editorial office) where the content is prepared in advance, social media operate on their own rights, as—being entities based on the Web 2.0 philosophy—they allow active content management by those who create it from scratch, remake existing content, or become transmitters of information created by other actors. Content transfer is very dangerous; while digital platforms have a permanent entity owner, an editorial office, or certain action plans, there are no such fixed elements with social media. For social media, the user only utilizes the tools an entity creates and offers to independently generate or promote specific content.

It is impossible to catalogue the greatest social media-related risks, as this would depend on the area and direction selected for the purposes of the analysis. Therefore, it is not possible to present a specific catalogue of these risks, or even benefits. This depends precisely on the area of operation and the target profile of a specific entity falling within the scope of the term 'social media' or 'digital platform.'

Therefore, if one is to analyze the fake news phenomenon, the obvious area of interest is mainly information, and solely in this context, it is worth considering the general risks associated with the inextricable links between the terms 'information' and 'social media.' There is also no doubt that it is much easier to present the general advantages of social media than their disadvantages. The advantages include, *inter alia*, ease of communication, rapid access to information, fast information sharing, the opportunity to learn about various types of information sources, etc.⁵⁰

As mentioned above, information is at the core of the fake news phenomenon. The data quoted above representing the number of digital platform and social media users demonstrate the enormity of the scale of influence. These data demonstrate that in Poland, like in other countries in the world, the number of users is counted in millions. This translates into the huge influence these entities have on community members. There is no doubt that these entities can use their power of influence in various ways and not necessarily for the common good. Therefore, in every country, a security system is extremely important to ensure protection against the promotion of vast amounts of content and information through these entities, which everyone will naturally consider negative. We assume that "information transferred or used is or should be based on reliability, understood as [a] full-fledged, credible source of information and truth as the essential content of information, being consistency of thought with its object."⁵¹

In view of the above, it seems that the primary negative influence digital platforms and social media exert is the planned or incidental creation and dissemination of untruths, or simply put, falsehoods, both these concepts denoting 'lies'

50 Jankowski, 2019, p. 268.

51 Dębowski, 2014, pp. 12–15.

(mendacium) and thus *locutio contra mentem*, i.e., ‘speaking contrary to one’s mind,’ that is, a statement inconsistent with one’s conviction.⁵²

If one of the activities of social media is related to information, the opposition to this term is disinformation distributed by entities using their reach and technological capabilities.

Information and its creation, transmission, and interpretation generate interest among the general public. Further, this interest generates authority. It turns out that it is those who transfer their own content or content prepared by others via a digital platform or social media that often become an authority, i.e., a person or an institution enjoying particular recognition.⁵³ The distribution of disinformation entails a kind of overturn in the hierarchy of authorities as regards knowledge, interpersonal relations, state authorities, etc.⁵⁴ This conversion of authority consists of creating, transmitting, and commenting on information, news, or data in a way that is contrary to the truth. In this way, it is possible to subvert the natural axiology of things and, through false actions, lose natural values in favor of anti-values. Confronted by a flood of information, a person must evaluate and segregate it, without knowing which pieces are true and which are false. Information, in turn, usually reaches us after it has been captured and processed by algorithms created in a predetermined model and directed to perform a specific action. Mastering algorithms seems to be key.

Further, it is not without significance that to check the credibility of information is to investigate its sources, and this requires a considerable amount of activity and intellectual effort, which are quickly declining in today’s society. After all, information is what has been said or written about someone or something, and the communication of something.⁵⁵ Information creates reality, gives an edge, and resolves many issues. Reality creation motivated by untrue information cannot be allowed to trigger other even more harmful activities. It is also important that the proposal address “ethical and axiological dilemmas relating to communication via, for example, social media, and . . . talk more about the need for ethics in these media (..).”⁵⁶

Perhaps the catalyst shielding us from dangers lies simply in ethics and axiology. For this, it is necessary to understand these terms as they are—a task which is very difficult at present. It is difficult because the multifaceted evolution of human civilization, accompanied by scientific and technical progress, the multiplication of human expectations, and the persistent emergence of needs and options to meet them, has put a very strong hold on the ethical and moral attitudes that have proven effective for centuries. This is especially visible with information, as it is not uncommon that information based on truth cannot penetrate the public domain, while false information is immediately propagated as simply more attractive.

52 Wolniewicz, 2012, p. 5.

53 See: <https://sjp.pwn.pl/sjp/autorytet;2551342.html>.

54 Werner and Trzoss, 2019, p. 148

55 See: <https://sjp.pwn.pl/sjp/informacja;2466189.html>.

56 Laskowska, 2012, p. 9.

Humans should act ethically and morally; that is, we should try to apply standards of the highest order to ourselves and act in line with our conscience toward others. A moral person is an individual that adheres to specific principles that have been set and which operate in human communities to allow for the distinction between good and evil and between proper and improper conduct. Morality contains the characteristics of truthfulness, credibility, and humility.

Therefore, it seems that the only panacea to challenge the falsehood that underlies fake news and thus poses grave danger is returning to the basics of human existence by returning to natural law. Disinformation is wrong at its roots, as in the context analyzed here, it promotes untruth and falsehood or anti-values. The response lies in the principles of natural law, since

from the philosophical point of view, natural law allows us to establish that law exists in human nature, to know its nature and significance, and thus to realize that it is a criterion that enables us to distinguish good from evil, determines the principles of conduct and the strength of the moral obligation under positive legal norms⁵⁷

A return to the natural system of values—understood as something absolute that sets the direction of positive action⁵⁸—seems to be the key to controlling the current negative influence of the fake news phenomenon. Values should be the basis for designing new legislation concerning the operating domain of fake news.

3. A review of national legislation for the admission of digital platforms and social media to individual country markets (organizational form, country branch office, legal obligations, operating restrictions, etc.)

Let us now focus our analysis on a review of the legislation under which digital platforms and social media operate in Poland.

At the level of European legislation, there is currently a debate over the Regulation of the European Parliament and of the Council on the single market for digital services (i.e., the Digital Services Act, DSA). Briefly, the act sets out to improve the functioning of the digital single market and ensure effective supervision over service providers operating on the Internet; enhance security and protect freedom of expression online; increase the transparency of the operation of online platforms, e.g., for Internet advertising or content moderation; ensure that very large online platforms act responsibly in order to limit the risks arising from the use of their

57 Laskowski, 1991, p. 151.

58 Wielec, 2017, p. 32.

services ('very large online platforms' are those whose services are used by at least 10%, or 45 million users in the European Union [EU]).⁵⁹

Poland's national legislation classifies digital platforms as entities of economic law that are subject in the first place to laws and regulations as any economic entity.

Hence, each of the digital platforms described above is a commercial company. These are joint-stock companies incorporated and existing under the Code of Commercial Companies, where the joint-stock company in the Polish legal system is defined as:

a body corporate whose structure consists of members who, through the contribution of shares, set up the assets of the body corporate and under their rights and obligations direct its activities. A joint-stock company is a capital society (organization) with a varying personal composition and having its own assets.⁶⁰

In addition to the legislation on companies, there are also a number of additional legal acts that regulate business activity in Poland and provide the basis for the operation of digital platforms.

An interesting issue here is the supervision of these platforms' activities. Firstly, it should be noted that under the system of Polish law, supervision takes the form of constitutional control. The Constitution of the Republic of Poland of 1997 provides for a body referred to as the National Broadcasting Council. Specifically, according to Article 213 of the Constitution, the National Council of Radio Broadcasting and Television safeguards the freedom of speech, the right to information, and the public interest regarding radio broadcasting and television. The National Council of Radio Broadcasting and Television issues regulations and, in individual cases, adopts resolutions. In organizational terms, the Council's members are appointed by the Sejm, the Senate, and the president of the Republic. A member of the National Council of Radio Broadcasting and Television may not belong to a political party or a trade union, or perform public activities incompatible with the dignity of their function. On the other hand, the rules and procedures of the National Broadcasting Council, its organization, and detailed rules for appointment of its members are specified in a statute, i.e., the Broadcasting Act of 29 December 1992. According to these provisions, the National Council safeguards freedom of expression in radio and television, the independence of media service providers, and the interests of recipients, and ensures the open and pluralistic nature of radio and television broadcasting. In this context, the Council's tasks include: 1) to draw up, in agreement with the Prime Minister, the directions of the State policy in respect of radio and television broadcasting; to determine, within the limits of powers granted to it under this Act, the terms of conducting activities by broadcasters; 2) to make, within the scope set forth by the Act, decisions concerning broadcasting licences to transmit and retransmit programme

59 See: <https://bit.ly/3zxF2gx>.

60 Sołtysinski, 2016. Available at: <https://bit.ly/3AtJ9f7>.

services, entry in the register of programmes, hereinafter referred to as the 'register', and to keep the register; 3) to grant to a broadcaster the status of a social broadcaster or to revoke such status, on terms laid down in the Act; 4) to supervise the activity of broadcasters within the limits of powers granted to it under the Act; 5) to organise research into the content and audience of radio and television programme services; 6) to monitoring the market of on-demand audiovisual services in order to identify the group of entities providing on-demand audiovisual services and assess the performance of their obligations under the Act; 7) to determine fees for the award of broadcasting licences and registration; 8) to determine licence fees in accordance with the principles set forth in the Licence Fees Act; 9) to act as a consultative body in drafting legislation and international agreements related to radio and television broadcasting or on-demand audiovisual services; 10) to initiate research and technical development and training in the field of radio and television broadcasting; 11) to organise and initiate international co-operation in the field of radio and television broadcasting, including co-operation with regulatory bodies of Member States of the European Union competent for radio and television programme services; 12) to co-operate with appropriate organizations and institutions in respect of protecting copyright as well as the rights of performers, producers and broadcasters of radio and television programme services; 13) to initiate and supporting self-regulation and co-regulation concerning the provision of radio and television programme services; 14) to promote media literacy (media education) and to co-operate with other state bodies, non-governmental organizations and other institutions in respect of media education. The National Council consists of five members, of which two are appointed by the Sejm, one by the Senate, and two by the president, from among persons with a distinguished record of knowledge and experience in public media. The chairman of the National Council is elected and dismissed by the Council from among its members. Upon a motion from its chairman, the National Council elects a vice-chairman from among its members. Council members' term of office is six years from the most recent member's day of appointment. Council members perform their functions until the appointment of their successors. A member may not be appointed for another full term of office. The body empowered to appoint members dismisses members solely in cases when the said person has resigned; has become permanently unable to discharge of duties for reasons of ill health; has been sentenced for a deliberate criminal offence and the said sentence is valid and enforceable; or has submitted an untruthful screening statement, as confirmed by a final and valid decision of the court; or has committed a breach of the provisions of the Act and the said breach has been confirmed by the decision of the Tribunal of State.

The situation is completely different when it comes to social media. In the Polish legal system, there is, so far, no law dedicated to the organization and operation of social media. Therefore, these are mainly governed by EU legislation and general legal principles often derived from constitutional rules.

One of the few acts with a certain degree of influence on the social media market is the Electronic Services Act of 18 July 2002, which specifies *first*; obligations of the

service provider related to the provision of electronic services; *second*; rules for excluding the service provider's liability for the provision of electronic services; *third*; rules for the protection of personal data of natural persons using services provided electronically. The Act lays down definitions of a number of terms, including *first*; providing services by electronic means, being such a way of rendering a service, which comprises transmitting and collecting data by means of electronic processing devices, including digital compression and data storage systems, at the individual request of a service recipient, without the parties being simultaneously present (remotely), while the data are transmitted through telecommunications networks; *second*; electronic communication means, being technical measures, including teleinformation equipment and software tools co-operating with it, enabling individual distant communication by using data transmission between teleinformation systems, in particular electronic mail; *third*; service provider, being any natural person, body corporate or organizational unit without legal personality, who, while performing, even as side activities, commercial or professional activities provides services by electronic means; *fourth*; service recipient, being any natural person, body corporate or organizational unit without legal personality, who uses services provided by electronic means. The Act also contains penal provisions, under which any person who fails to submit or submits false or incomplete data is liable to fines, and any person who transmits unsolicited commercial information by electronic communications means is liable to fines.

The above legal acts constitute the general core of the legislation concerning the operation of digital platforms and social media.

As indicated at the outset, there is currently no single act in the Polish legal system that comprehensively organizes the functioning of social media specifically.

4. The concept of fake news

The phrase 'fake news' was borrowed into the Polish language from English. The term is made up of two words, of which the first means, in the Polish translation and understanding, falsehood, imitation, counterfeit, forgery, fraud, deception, or fabrication, while the second, means recent or new events, information, intelligence, or report. The combination of these two terms is quite specific, as while 'fake' is by definition a negative concept associated with something wrong (false, fraud, etc.), 'news,' meaning information, is neutral.

4.1 Dictionary terms

The term 'fake news,' apart from the above etymology, does not have a binding definition in Polish law. To be precise, it does not have a legal definition that is often

employed in various jurisdictions. Polish law makes frequent use of legal definitions, which are deemed to be “a statement by the legislator that specifies the sense and meaning of a word or expression being defined, or gives an unambiguous characteristic of the object being defined.”⁶¹ It is rightly pointed out that:

The legal definition is one of the legislative measures used in the law-making process, aimed at clarifying a concept used in the text of a normative act, and thus at facilitating the understanding of a legal norm in accordance with the intention of the legislator.⁶²

4.1.1. ‘Word of the year’ designation.

Nevertheless, none of the above acts concerning the operation and organization of digital platforms or social media contains a legal definition of ‘fake news’ or any other juridical definition of the concept. A legal act with a legal definition of ‘fake news’ would certainly be a very positive step forward. For the time being, however, the only available option is to define this concept on a doctrinal basis.

Inter alia, it is emphasized that the term ‘fake news’ is a neologism with no formal definition. In rough translation, one can say that this is a message intended to mislead the recipient. It is neither truth nor a lie. Fake news is usually based on disinformation or a prank, often containing elements of truth. “Fake news can pretend to be real information, articles, social media posts, memes, etc. It can be created with a variety of intentions, ranging from fraud, propaganda tools, [or] sensationalism, to a prank.”⁶³

The term was singled out as the Collins Dictionary Word of the Year 2017 due to its ‘ubiquitous use,’ marked by a 365% increase in usage frequency over the several months prior to its ‘word of the year’ designation. According to the editors of the Collins Dictionary, the word combination ‘fake news’ is ‘ubiquitous’ and extremely popular.⁶⁴

In Poland, the term ‘fake news’ was submitted as a candidate for the Youth Word of the Year 2017, which is a ranking organized by Wydawnictwo Naukowe PWN scientific publishers in cooperation with the Key Words project as part of the National Centre for Culture Poland initiative Native Tongue – Add to Favourites.⁶⁵

In dictionary terms, ‘fake news’ is defined as untrue or false information most often disseminated by tabloids with a view to causing controversy or slandering or libeling someone (usually a politician).⁶⁶

61 Malinowski, 2005, pp. 215–216.

62 Bąkowski, 2017, p. 57.

63 See: <https://cik.uke.gov.pl/news/fake-news-czyli-falszywa-prawda,191.html>.

64 See: <https://tvn24.pl/kultura-i-styl/slowo-roku-2017-fake-news-ra787106-2483140>.

65 See: <https://sjp.pwn.pl/mlodziezowe-slowo-roku;/202298;3.html>.

66 See: <https://sjp.pwn.pl/mlodziezowe-slowo-roku/haslo/fake-news;6368870.html>.

To some extent, it is a neologism that is extremely difficult to frame in definitions, as it can mean a media message that is neither true nor untrue and is based on disinformation, though often containing elements of truth.⁶⁷

‘Fake news’ also denotes information that may have multiple significant financial or political implications.⁶⁸ There is common agreement that:

Technological progress, broadly understood globalization, the growth of the Internet and social networks, the relativization of the truth, cultural and moral changes, the race to be the first to publish information, and the resulting decline of reliable journalism, overstimulation of consumers, a decline in trust in media institutions — these are just a few factors that have made fake news triumph at this point.⁶⁹

‘Fake news’ also describes “individual posts, messages or even entire news channels where the transmitted data (to varying degrees) turn out to be false or distorted.”⁷⁰ Therefore, “the concept of fake news is often referred to as various cases of information manipulated or tampered with by authors/broadcasters.”⁷¹ Further, fake news is said to be “false, often sensational news, disseminated as an objective information message.”⁷² Elsewhere, it is emphasized that “the concept of fake news is most often defined as misrepresentation, often of a sensational nature, published in the media with the intention to mislead the recipient for financial, political or prestigious benefit.”⁷³ In another approach, fake news refers to post-truth. This view highlights that:

Another form of post-truth that thrives in social media is the fake news. Its power is driven by the emotions of the recipients; hence it is often based on religious beliefs, values, stereotypes or bias. For fake news to be effective, it must refer to some concept that already exists.⁷⁴

According to a complementary approach:

‘Post-true’ content is called fake news. Its popularity among recipients is driven not by facts but emotions, therefore it is often based on religious beliefs, values, stereotypes, prejudices, etc. In order for fake news to be effective as a tool of mass persuasion, it must refer to concepts already existing in the consciousness of some social group. Otherwise, it would take a long-term process and mutual effort to build ideas

67 Bąkiewicz, 2019, p. 281.

68 Woźniak and Zapór, 2017, p. 100.

69 Podlecki, 2017, pp. 128–129.

70 Waszak, 2017, p. 175.

71 Daniel, 2018, p. 99.

72 Brenda and Mańkowska, 2019, p. 11.

73 Wójcik, 2019. Available at: <https://bit.ly/39mgVXR>.

74 Flader, 2018, p. 52

from scratch in the minds of recipients.”⁷⁵ It is noted that “fake news, as information made up by Internet users, travels *en masse* and instantly on the web, especially with the help of social networks.”⁷⁶

For the purposes of a broad description of the concept, one can use any of the approaches, according to which:

Fake news is: (1) a false message having the characteristics of a true one; (2) a satirical message created deliberately for entertainment purposes; (3) which one thinks is true, but [which] is [actually] false; (4) designed to mislead for financial, political and prestige gains; (5) a false message, regardless of the intention of the sender.⁷⁷

5. Classifying fake news

Classification is an ordering operation guided by a predetermined criterion.

Among the current fake news classifications, fake news is categorized as *first*; satire or parody, *second*; false combination of a headline, image or caption incompatible with the content, *third*; misleading content, *fourth*; false context, *fifth*; fraudulent content, *sixth*; manipulated content, *seventh*; fabricated content.⁷⁸

Moreover, fake news can be divided into 1) intentionally untrue fake news, satirical ‘with a pinch of salt’ (satire news, etc.), sometimes referred to as truthiness; 2) fake news which imitates real news but is completely fabricated; 3) fake news created on the basis of real news, subjected to manipulation; 4) real news referred to as fake only because someone did not like it.⁷⁹

All the above classifications, however, give criteria that are not related to the legal system, which is problematic because our analysis sets out to define them in legal terms. Though these divisions may be interesting, they are from the point of view of social science or society itself and do not necessarily reflect the legal effects.

Therefore, when classifying fake news, one can—using the criterion of its power of influence in conjunction with its scale of liability under the law—propose the following categorization/divisions in the legal domain:

75 Bakalarski, 2017, p. 12.

76 Łyszczarz, Sierocki and Sokołowski, 2018, pp. 5–6.

77 Palczewski, 2019, p. 17.

78 Bąkiewicz, 2019, p. 285.

79 Palczewski, 2017, p. 31.

First degree fake news would represent the gravest misrepresentation, false information, and content load, with the biggest impact. Examination would cover who and what such fake news concerns and whether the creation and publication of fake news threatens the highest values enjoying protection under the law, such as public order, the health and life of citizens, etc. In this case, such action should be penalized under the criminal law. In other words, the construction of an appropriate criminal provision should be envisaged, which would penalize fake news as a cause of action with enormous effects on multiple levels. Examples would include alteration, manipulation, falsification of indisputable historical facts or presentation of the course of a certain event carrying a huge social load in a manipulated, falsified manner with a view to misrepresenting, ridiculing or discrediting key historical facts or state leadership, or creation and dissemination of such information that will endanger public security. However, the constituent elements of the crime must be precisely defined and should include, *inter alia*, the intent and purpose of creating or disseminating fake news.

Second degree fake news would be an act with a much more limited impact, affecting more the repute of a person or a fact and violating only the private area of the person or fact. There is no major impact on the public, but the entity that is the main subject of fake news is discomforted. In this case, the message is so satirical or distorted that, in principle, any reasonable bystander would point to a significant transgression of, for example, aesthetic or moral norms. Although private interest is violated, it is not necessary to use penal measures. Therefore, the best domain of legal liability is civil law or civil action, along with the use of any tools that exist even now (court action, redress, etc.). In this case, it is under civil law that all issues related to the creation, dissemination, and use of fake news will be resolved.

Third degree fake news would be the use of manipulated content or false information within one's professional group. This is a much more limited area of impact than that indicated above. An important factor here is the professional or social group, which functions according to generally established principles of professional deontology. In this case, disciplinary/professional liability comes into play, i.e., a type of liability reserved for a specific group of entities.

Fourth degree fake news would finally be a minor, essentially non-punitive, formal-only (i.e., non-consequential) production and dissemination of fake news for satire, fun, etc., without a major consequence for such production, distribution, or use. This type of fake news is not penalized in any way.

Of course, the classifications presented above are only proposals, as to have this idea signed into law would require strong legislative support, targeting amendments to various areas of law. However, these are proposals that refer directly to the criterion of legal liability.

6. Fake news and deep fakes – differences and similarities

Fake news research cannot ignore a specific type of fake news called the 'deepfake,' which has, in terms of social correlations, emerged as a special type. There is undoubtedly a close correlation between fake news and deepfakes. It is rightly emphasized that "deepfakes are a breakthrough innovation that sets new frontiers of human cognitive abilities in a digital environment, a technology that is used for various purposes, from '(video) hate speech' to laudable social campaigns (...)." ⁸⁰ It is also indicated that:

It is an image synthesis technique based on artificial intelligence. It is used to combine and overlay existing images and videos onto source images using a special machine learning technique. Deepfake is a human imaging technology that uses artificial intelligence to alter human images. ⁸¹

Deepfakes are simply information communicated using artificial intelligence (AI) that can combine, replace, and overlay images and video clips to create fake videos that appear authentic. Deepfake technology can depict someone's behavior in a video in a humorous, serious, emotional way, etc., but the acting takes place without the person's consent.

Deepfake is always about a certain load of information presented for a predetermined purpose, using artificial intelligence, which, through its capabilities, enables distortion, creation, modification, etc., of the entire human figure, including its image, manner of movement, gestures, or distortion of any other type of information carrier, etc. As a result, highly credible information is created, e.g. a very realistic but also highly manipulated and false video, presenting activities that did not and do not take place in real time. One must agree that the use of 'deepfake' implies the use of machine learning algorithms and face mapping technology to digitally manipulate people's voices, bodies and faces. ⁸²

A deepfake prepared by professional experts will be a very sophisticated artefact, e.g., a distortion of voice and image used to convey information falsely. If the combination is perfect, the result will be a false reality devoid of any flaws that is essentially indistinguishable from the original.

80 Kreft, 2020.

81 Dąbrowska, 2020, p. 90.

82 Wasiuta and Wasiuta, 2019, p. 20.

7. Reasons for and ways of creating fake news and the role and importance of creating, disseminating, and using fake news

Due to the extremely rich diversity of the impact fake news exerts, it is impossible to present a complete and accurate catalogue of the reasons and methods for its creation.

Nevertheless, studies conducted in Poland suggest that the incidence of fake news will continue to rise, as indicated by as many as 91% of respondents. However, regarding the main reasons for the creation and dissemination of fake news, the same study reports that these include: a) progressing tabloidization of the media, which consists of the transformation of news into strongly simplified formats, capturing the recipient's attention through the use of flashy and controversial headlines, captions, and graphics;⁸³ b) competition in the information search market; and c) shortage of time to verify the information received due to the specific nature of today's times.⁸⁴ The response scores for the first, second, and third reasons were 67%, 66%, and 53%, respectively.

To generalize, it can be assumed on the basis of the doctrine that fake news is created and disseminated essentially for all sorts of reasons and in different domains, including political, financial, ideological, and advertising, as well as for entertainment, fun, attention, or publicity. It is often emphasized that fake news serves a) to increase the click-through rates, followed by specific financial gains; b) to manipulate on various levels, whereby it takes the form of a negative action, which undoubtedly poses very dangerous consequences; c) to commit strictly criminal acts such as fraud or phishing through linking to fake news; d) to promote trolling,⁸⁵ i.e., an act that is evidently "anti-social conduct characteristic of online groups, discussion forums, chat rooms and social networks, consisting in intentionally influencing other users in order to ridicule or offend them by sending offensive, controversial, often untrue messages."⁸⁶

83 Całek, 2013, p. 312.

84 The survey was carried out using the CATI method on 24-28 April 2017 by the ARC Rynek i Opinia research institute. One hundred and fifty-four journalists participated in the study. Available at: <https://bit.ly/2XJ1s1H>.

85 See The Information Security Doctrine of the Republic of Poland. Available at: <https://bit.ly/3nPxFiB>.

86 See: <https://www.sunrisesystem.pl/blog/2180-po-co-komu-fake-newsy.html>.

8. Legal liability for the creation, dissemination, and use of fake news (criminal liability)

Criminal liability carries a specific load of arbitrariness and authority on the part of public administration bodies in relation to the individual's legal position. Certain behaviors should always only be penalized under the criminal law regime as *ultima ratio*. Contemporary growth of the fake news phenomenon has not been met with any response, whereby the Polish legislator would decide, at this stage, to construe criminal law provisions dedicated to fake news. In the criminal law system in Poland, there is no provision that would provide for direct criminal liability for the creation, dissemination, use, etc., of information considered to be fake news. However, this does not mean that it is impossible to find indirect Polish criminal law provisions that would trigger criminal liability for broadly understood false information.

Firstly, it should be noted that the Criminal Code is the basic legal act in the Polish criminal law system.⁸⁷

Where fake news takes the form of stalking, discrediting, or harming the good name of a person, etc., the above legal act provides for the offense of persistent harassment. Pursuant to Article 190a of the Polish Criminal Code, any person who by persistent harassment of another person or their next of kin evokes in them a justified sense of threat, humiliation, or distress, or significantly violates their privacy is subject to the penalty of deprivation of liberty for a term of between six months and eight years. Any person who pretends to be another person and uses their image, personal data, or other data serving their public identification with a view to causing them property or personal damage is liable to the same penalty. If an act specified above results in a suicide attempt of the person, the offender is liable to the penalty of deprivation of liberty for a term of between two and twelve years. The offense is prosecuted upon the aggrieved party's complaint.

If the fake news involves presenting, for example, a person, institution, etc., damagingly, then it is an offense of defamation. In this case, according to Article 212 of the Criminal Code, any person who slanders another person, a group of persons, body corporate, or an organizational unit without legal personality for conduct, or characteristics that may discredit them in public opinion or result in a loss of confidence necessary to perform duties in their position, occupation, or type of activity is liable to fines or the penalty of restriction of liberty. If the offender commits the above act through the mass media, they are liable to fines or the penalty of restriction or deprivation of liberty for a term up to one year. The offense of defamation is also subject to private prosecution.

A similar regulation can be found in Article 216 of the Criminal Code concerning the offense of insult, under which any person who insults another person in their presence or publicly in their absence, or with the intention that the insult will reach

⁸⁷ Criminal Code Act of 6 June 1997, Journal of Laws No. 2020, item 1444.

the person is liable to fines or the penalty of restriction of liberty. It is also provided that any person who insults another person using the mass media is liable to fines or the penalty of restriction or deprivation of liberty for a term up to one year. Private prosecution also applies in the case of this offense.

Further, if the act of the entity that uses fake news leads to a disposal of property contrary to the person's intention, then Article 286 of the Criminal Code applies, i.e., concerning the offense of fraud. Pursuant to Article 286 of the Criminal Code, any person who, with the intent to achieve a material benefit, causes another person to unfavorably dispose of their property, or the property of a third party by misleading the person or by taking advantage of a mistake or an inability to properly understand the action undertaken is liable to the penalty of deprivation of liberty for a term of between six months and eight years.

Another group of crimes where fake news may be used are prohibited acts committed to the harm of the state. Article 132 of the Criminal Code can serve as the best example; according to it, any person who, while providing intelligence services to the Republic of Poland, misleads a Polish state authority by delivering counterfeit or altered documents or other items, or by concealing the true information or furnishing false information of essential importance to the Republic of Poland is liable to the penalty of deprivation of liberty for a term of between one and ten years.

A count of a fake news offense can also be considered where a group of people or a person is insulted because of their ethnic or national affiliation. In this case, the provision of Article 257 of the Criminal Code applies, concerning the offense of racism. It stipulates expressly that any person who publicly insults a population group or an individual because of their national, ethnic, racial, or religious affiliation, or irreligiosity, or for these reasons violates the personal integrity of another person is liable to the penalty of deprivation of liberty for a term of up to three years. Article 256 of the Criminal Code is construed in the same way; according to it, any person who publicly promotes a fascist or other totalitarian system of state or incites hatred based on national, ethnic, racial, or religious differences, or on the grounds of irreligiosity is liable to fines or the penalty of restriction or deprivation of liberty for a term of up to two years.

If fake news is used to report a non-existent event, Article 224a of the Criminal Code applies, according to which any person who, knowing that there is no danger, reports an event that threatens the life or health of many persons or property of substantial value, or creates a situation that is meant to persuade others that such a danger exists, as a result of which a public utility institution or an authority responsible for ensuring public security, order, or health is induced to act in order to eliminate such a danger is liable to the penalty of deprivation of liberty for a term of between six months and eight years.

To complete the picture, one should mention that criminal liability for fake news is provided for in the Act of 18 December 1998 on the Institute of National

Remembrance – Commission for the Prosecution of Crimes against the Polish Nation.⁸⁸ Pursuant to Article 55 of this Act, any person who publicly and contrary to the facts denies crimes committed against the Polish nation is liable to fines or the penalty of deprivation of liberty for a term of up to three years. It is also important that, in this case, the sentence is made public.

9. Legal liability for the creation, dissemination, and use of fake news (civil liability)

Civil law is an area characterized by specific regulations that are of a different nature than, for example, criminal regulations. Civil law belongs to the domain of private law, which governs relations between autonomous subjects who have their own areas of property interests, as well as non-property (personal) interests, subject to protection under law.⁸⁹ With its specific nature, civil law regulates property and non-property relations between individuals and bodies corporate and other entities on the equal rights basis.⁹⁰ There is no room for arbitrariness on the part of public authorities to the extent present, for example, in the domain of criminal law. The peculiarity of civil law is clearly seen in the provision of Article 1 of the Civil Code,⁹¹ according to which the Code governs civil law relations between individuals and bodies corporate.⁹²

Hence, the civil law system also contains regulations that indirectly apply to the fake news phenomenon under our analysis. If the information contained in fake news violates an individual's or institution's personal interests, then it activates the entire mechanism of personal rights protection.

In Poland, the legal basis for broadly understood civil law is the Civil Code. In the context of fake news, Article 23 of the Civil Code is important. This provision stipulates that a human being's personal interests, particularly health, freedom, dignity, freedom of conscience, name or pseudonym, image, privacy of correspondence, inviolability of the dwelling, and scientific, artistic, inventive, or improvement achievements, remain under the protection of civil law, irrespective of any protection enjoyed under other regulations.

Related to the above provision is Article 24 of the Civil Code, according to which, any person whose personal interests are threatened by another person's action may demand that the action be ceased unless it is not unlawful. In the case of

88 Act of 18 December 1998 on the Institute of National Remembrance — Commission for the Prosecution of Crimes against the Polish Nation. *Journal of Laws* of 2021, item 177.

89 Radwański and Olejniczak, 2015, p. 2 ff.

90 Gniewek and Machnikowski (ed.), 2014, p. 4 ff.

91 Act of 23 April 1964, Civil Code, consolidated text *Journal of Laws* of 2017, item 459, 933 and 1132.

92 Bielski, 2015.

infringement, they may also demand that the person committing the infringement perform the actions necessary to remove its effects, including that the person make a declaration of the appropriate form and substance. Under the terms provided for in the Code, they may also demand monetary compensation, including payment of an appropriate amount to a specific public cause. If damage to property has been caused as a result of infringement, the aggrieved party may demand that the damage be remedied under the generally applicable laws.

Under these two basic provisions, a person whose good name has been damaged by the creation and spread of false or deceitful information (fake news) will have the right to bring civil action for infringement of personal interests within the Polish legal system. In this type of lawsuit, a person whose personal interests have been violated by fake news may claim *first*; property remedies to protect their personal rights, including compensation for material damage, or pecuniary compensation for non-property damage; *second*; non-property remedies to protect their personal rights, including a demand to cease such an offensive act, an action for determination (basically to demand determination of whether the personal interest has been infringed or threatened), or a demand for removal of the effects of the infringement.

10. Legal liability for the creation, dissemination, and use of fake news (administrative liability)

Administrative law is another legal domain that governs fake news-related acts. The area of administrative law is a special domain of legal regulations. Legal doctrine commonly defines public law as an area that regulates legal relations, where at least one party is a state, central or local government body, or another organization established by law to pursue the interests of the state community or narrower groups of the population (public interests).⁹³

Therefore, the key concept here is the concept of authority as characteristic of public bodies, the powers of which extend far beyond the individual's legal position. In other words, while in civil law, individuals can position themselves in a binding legal relation on equal rights, under administrative law, individuals no longer have such a privilege and freedom. A public body, by virtue of its authority, conferred by the legislator, has the power to independently shape individuals' legal position.⁹⁴ Public authorities' broad range of activity results from the scope of public tasks assigned to them. Therefore, scholarly literature rightly emphasizes that the concept of public authority is exceptionally broad and

93 Korycki, Kuciński, and Trzciniński et al., 2010, p. 92.

94 Cieślak (ed.), 2012, p. 19.

is not limited to the sphere of a strictly understood public power, but covers all forms of performance of public tasks, even those where no element of power is exercised but with influence on the legal position of an individual.⁹⁵

In this area, it is clear that there is a certain state of inequality between subjects in the domain of administrative law, which is quite different to civil law or, more broadly, to private law, as mentioned before. As a result, a public body is stronger in terms of competence, organization, and powers than an individual, which enables it to arbitrarily (authoritatively) influence an individual by influencing (shaping) the legal position of a person or other organizational units through the issuance of a decision, which is defined as one of the forms of public administrative activity.⁹⁶

Fake news in the domain of administrative law will manifest itself, *inter alia*, in terms of decision-making powers. It may happen that information issued by a public authority based on fake news may be used as the basis for an administrative decision. This, of course, should be treated as an example only, since administrative decisions may concern an unlimited number of cases arising in various areas of administrative law. However, there is currently no legal regulation in Poland falling under the scope of administrative law that would provide for some kind of liability, for example, for issuing a decision taken as a result of fake news.

11. Legal liability for the creation, dissemination, and use of fake news (professional or corporate disciplinary liability)

Disciplinary liability is a specific type of legal liability. In dictionary terms, 'discipline' means subordination to the law regulating the internal relations of a certain community, organization, social group, or professional group.⁹⁷ Disciplinary regulations are those aimed at maintaining order within a social or professional structure. Hence, at the root of disciplinary liability is an attempt to ensure, by means of legal regulations, that the members of a professional group discharge their duties properly. The due performance of such duties is a guarantee of reliable outcomes, while adherence to professional ethos guarantees integrity in such performance.

The basic assumption is that disciplinary liability has an ordering and corrective power in relation to potential professional negligence. What comes to the fore is the preventive aspect of disciplinary liability regulations. Corporation members are subject to an *a priori* normative duty of care model in the performance of official

95 Bączyk–Rozwadowska, LEX 191278/1.

96 Knosala, 2011, p. 23.

97 Skorupka, Auderska and Lempicka, 1968, p. 147.

tasks. This requirement is complemented by moral standards, which are set and play a crucial role especially in those professional groups that are counted among public servants (public administration).

The highest measure of duty of care in a professional group member's activities and ethical requirements form the model of disciplined corporate operation. Assigned tasks determine the type of profession and make it possible to distinguish certain corporations and social groups from others.⁹⁸ Infringement upon the above models of conduct is considered an act contrary to a corporation's professional deontology. In view of the above, on the one hand, it is emphasized that disciplinary laws and procedures are a set of legal provisions governing liability for acts that violate the official duties established for a profession or social group, and the types of penalties for such acts, as well as the rules and procedures to be followed in the event of a breach of official duties.⁹⁹ On the other hand, it is noted that the formula of disciplinary liability provides for a straight-line connection between a model of due care/ professionalism in the performance of official duties with a model of an ethical and moral attitude among individuals working professionally in a specific corporation, which, apart from the substantive requirements specific for that group, abides by the values that group recognizes as key or primary. Elsewhere, it is noted that the rules of disciplinary laws are intended to raise and guarantee the prestige and ethos that distinguish a social group. This is achieved, *inter alia*, by guaranteeing the jurisdictional independence of members within institutions or corporations operating according to specific rules.¹⁰⁰ There is also a view that disciplinary liability is a measure that imposes self-discipline and self-control on organizationally and legally separated social groups.¹⁰¹

In view of the above, there is no doubt that liability for fake news under disciplinary laws will arise—as elsewhere under the legal liability types analyzed above—for the creation, dissemination, or both of false news. A few constituent elements are important here, including: *first*; whether the person involved in the act related to fake news belongs to a specific professional group governed by its disciplinary rules, *second*; whether the context of the fake news used is associated with the professional activities of such person; *third*; whether the content of the fraudulent message harms in any way the good name, prestige, or confidence in a member of a professional group.

All legal professions provide for this type of disciplinary liability as a general rule. *Inter alia*, the profession of an advocate (attorney) in Poland is organized under the Bar Act of 26 May 1982.¹⁰² A special Section VIII of the Act provides for the rules of disciplinary liability. As a rule, according to Article 80 of the Bar Act, advocates

98 Wielec (ed.), 2018, p. 21.

99 Paśnik, 2000, p. 8.

100 Zubik and Wiącek, 2007, p. 70.

101 Kozielowicz, 2011, p. 85.

102 Journal of Laws of 1982, No. 16, item 124.

and advocate trainees are subject to disciplinary liability for conduct contrary to the law, ethics, or dignity of the profession or for breach of their professional duties, and for advocates, failure to comply with the obligation to conclude an insurance contract. The following disciplinary penalties apply: 1) warning; 2) reprimand; 3) financial penalty; 4) suspension from professional activities for a term of between three months and five years; 6) expulsion from the bar. Additionally, the Code of Advocate Bar Ethics and Dignity of the Profession (Code of Bar Ethics) applies.¹⁰³ According to the Code, the principles of bar ethics result from ethical standards adapted to the profession of an advocate. A violation of the dignity of the advocate profession is such conduct of an advocate as could degrade them in public opinion or undermine confidence in the profession. It is the duty of an advocate to observe ethical standards and protect the dignity of the advocate's profession. It is the duty of an advocate practicing abroad to comply with the standards contained in the Code as well as with the standards of the bar ethics in the host country.

Similar provisions are contained in the act on attorneys-at-law (legal advisers),¹⁰⁴ where Chapter 6 stipulates that attorneys-at-law and trainee attorneys-at-law are subject to disciplinary liability for conduct contrary to the law, ethics, or the dignity of the profession, or for breach of their professional duties. Attorneys-at-law are also subject to disciplinary liability for failure to comply with the obligation to conclude an insurance contract. The following disciplinary penalties apply here: 1) warning; 2) reprimand; 3) financial penalty; 4) suspension of the right to practice as an attorney-at-law for a term of between three months and five years, and for trainee attorneys-at-law, suspension of the rights of a trainee for a term of between one and three years; 6) deprivation of the right to practice as an attorney-at-law, and for trainee attorneys-at-law, expulsion from the traineeship.

As with advocates, attorneys-at-law are bound by the Code of Ethics of Attorneys-at-Law.¹⁰⁵ According to the Code, an attorney-at-law who practices the profession in a free and independent manner serves the interests of the justice system as well as those whose rights and freedoms have been entrusted to them for safeguarding. The profession of an attorney-at-law as protected under the Constitution of the Republic of Poland is one of the guarantees of respect for the law. It is a profession of public trust that respects the ideals and ethical obligations formed in the course of its

103 Announcement of the Praesidium of the Bar Council of 27 February 2018 on the publication of the consolidated text of the Code of Advocate Bar Ethics and Professional Dignity (Code of Bar Ethics). Pursuant to Resolution No. 52/2011 of the Bar Council of 19 November 2011, the consolidated text of the Collected Rules of Advocate Bar Ethics and Dignity of the Profession (the 'Code of Bar Ethics') is hereby published as adopted by Resolution of the Bar Council on 10 October 1998 (Resolution No. 2/XVIII/98), as amended by Resolution of the Bar Council No. 32/2005 of 19 November 2005, Resolutions of the Bar Council Nos. 33/2011 - 54/2011 of 19 November 2011 and Resolution of the Bar Council No. 64/2016 of 25 June 2016.

104 Attorneys-at-law Act of 6 July 1982.

105 Appendix to Resolution No. 3/2014 of the Extraordinary National Assembly of Attorneys-at-Law of 22 November 2014.

practice. Defining the rules of conduct in professional and corporate life contributes to dignity and integrity in the practice of the profession of legal adviser.

It is therefore clear that the above rules provide for disciplinary liability for the creation, use, etc., of fake news within these corporations.

12. Attempts to formulate proposals for international and national level legal regulations on mitigating or combating fake news

In Poland, there is currently a debate on the shape of the legal regulations regarding fake news analyzed in this paper. There is no doubt that the presence of fake news has become so widespread that it warrants the drafting of a single act to comprehensively regulate issues related to its creation and dissemination. There is also no doubt that, in this case, the object of regulation is extremely sensitive. The 1997 Constitution of the Republic of Poland guarantees the freedoms of communication and expression, as well as the freedom to source and disseminate information. The Constitution also stipulates that preventive censorship of the means of social communication and licensing of the press are prohibited. Therefore, the proverbial golden mean is needed between the above key constitutional guarantees and the reliability and truth of information created, held, and disseminated.

In view of the above, it should be noted that the legislative work in progress on the subject matter in Poland includes a draft act on the protection of the freedoms of social network users, which was sent on 22 January 2021 to the Chancellery of the Prime Minister with a request for entry on the list of the Council of Ministers' legislative work.¹⁰⁶

For the purposes of briefly presenting this regulation, one should first note that the act sets out to establish conditions for: 1) supporting freedom of expression; 2) guaranteeing the right to truthful information; 3) improving the degree of protection of human rights and freedoms on online social networks made available in the territory of the Republic of Poland, with at least one million registered users; 4) observance by online social networks of the freedom of expression, the freedom to source and disseminate information, the freedom to express religious and philosophical views and beliefs, and the freedom of communication.

The draft act contains a glossary of statutory terms, i.e., a number of legal definitions previously mentioned in our study that are extremely important to analyzing the fake news phenomenon. The glossary provides the definitions, *inter alia*, of the following terms:

¹⁰⁶ See: <https://bit.ly/3EG1Kqy>.

- first*, an online social network service, understood as an electronically-provided service that allows users to share any content with other users or the general public and is used by at least one million registered users in the country;
- second*, a service provider or the provider of online social network services consisting of the storage of user-provided information on the online social network at their request, with at least one million registered users;
- third*, a country representative, which is an individual or a body corporate with a place of residence or registered office in the territory of the Republic of Poland, having the exclusive right to represent the service provider in the territory of the Republic of Poland and to conduct internal audit and control procedures on its behalf;
- fourth*, a user, i.e., the service recipient and an individual, a body corporate, or an organizational unit without legal personality that uses the online social network service, even in the absence of a user profile;
- fifth*, a user profile, which is understood as settings comprising a social network service user's working environment;
- sixth*, disinformation, which is false or misleading information produced, presented, and disseminated for profit or violation of the public interest;
- seventh*, content of criminal nature, which is understood as content that praises or incites the commission of prohibited acts as specified under articles of the Criminal Code¹⁰⁷ or which meet the criteria of a prohibited act;
- eighth*, illegal content, which is content that violates personal rights, disinformation, or content of a criminal nature, or content that violates morality, particularly by disseminating or praising violence, distress, or humiliation;
- ninth*, a limitation of access to content, which covers all acts and omissions taken in any form with a view to limiting access to content posted on an online social network service, including by deleting user-posted content that is not illegal content, or a limitation of access to content through the algorithms used by a service provider or tags that indicate possible violations in the published content;
- tenth*, a limitation of access to the user's profile, which is removing or preventing access to the user's profile, limiting or preventing the sharing of content on the user's profile with other users, including through the algorithms used by the service provider, which limit the display of content posted by the user, or tags that indicate possible violations in the published content.

The most important body examining the reliability and truthfulness of information under this draft act is the Freedom of Speech Council. It will be a public administration body upholding social network services' observance of the freedom of

¹⁰⁷ These are Articles 117–119, 127–130, 133, 134–135, 137, 140, 148–150, 189–189a, 190a, 194–204, 222–224a, 249–251, 255–258 and 343 of the Criminal Code Act of 6 June 1997.

expression, the freedom to source and disseminate information, the freedom to express religious and philosophical views and beliefs, and the freedom of communication.

The Council would be composed of a chairman in the rank of a secretary of state and four members. As member of the Council, a person may be appointed who: 1) has only Polish citizenship and enjoys full public rights; 2) has full legal capacity; 3) has not been validly convicted for an intentional crime or an intentional fiscal crime; 4) in the period from 22 July 1944 to 31 July 1990, has not worked or served in state security bodies within the meaning of Article 2 of the Act of 18 October 2006 on disclosure of information on documents of state security bodies from the years 1944 to 1990 and the content of such documents (Journal of Laws of 2020, item 2141) and has not cooperated with these bodies; 5) has an unblemished reputation; 6) has a university degree in law or the necessary knowledge in the field of linguistics or new technologies. Further, a deputy of the Sejm, senator, member of the European Parliament, councilor, community head (mayor), deputy community head (deputy mayor), community secretary, community treasury officer, district board member, district secretary, district treasury officer, province board member, province treasury officer, or province secretary may not be appointed as a member of the Council. Council members' term of office is six years. The chairman is appointed by the Sejm of the Republic of Poland by a 3/5 majority of votes with at least half of the statutory number of deputies attending. If, in the first vote concerning the appointment of the chairman, none of the candidates wins a 3/5 majority of votes, the vote is to be repeated, with the Sejm of the Republic of Poland appointing the chairman by a simple majority of votes.

The process of dealing with fake news is a staged procedure, where:

Stage 1 is the detection of information that meets the criteria of fake news, which has been disseminated via a specific social network service.

Stage 2 is the submission of a complaint to the service provider, specifying that a piece of information detected in the service is information that meets the criteria of fake news. The service has a time limit of 48 hours to consider the complaint.

Stage 3 is the response from the service that has disseminated the fake news. When considering complaints, the service has two options: either it accepts the complaint and the procedure ends at this point, or it rejects the complaint, which warrants the right to appeal the rejection decision before the Freedom of Speech Council, within a time limit of seven days. Thus, the fourth stage of the procedure opens.

Stage 4 is the activation of the Freedom of Speech Council, which, after receipt of the appeal, has a time limit of seven days to analyze it and decide. The Freedom of Speech Council may uphold the service's decision and dismiss the appeal, or it may uphold the appeal and thus, under the force of the Council's decision, have the content on the service rectified. Dismissing the appeal begins the fifth stage of the procedure, and accepting the appeal ends the procedure for the case.

Stage 5 is opened by the above-mentioned dismissal of the appeal and provides the option to bring a complaint to the Supreme Administrative Court¹⁰⁸ within a time limit of 30 days. In such a case, the interested parties become subject to the administrative court procedure, while the application of the act on the protection of the freedoms of social network users ends.

It should also be noted that, based on the draft act, options are being analyzed for the introduction of a 'name-blind civil action.' In short, this provision would be construed so that a person whose personal rights are violated online by another unidentified person will be able to bring action for the protection of their rights without providing the respondent's details. For action to be effectively brought before the court, it is sufficient to identify the URL where the offensive content was published, the date and time of publication, and the name of the user profile or login.

Currently, the act is at the draft stage, but the procedure laid down in it is the first and, so far, the only attempt to comprehensively regulate the issue of fake news, *inter alia*, in the Polish legal system.

108 The Polish legal system features administrative courts that administer justice through the control of the activities of public administration and the resolution of competence and jurisdiction disputes between the bodies of local government units, local government appeal boards, and Between these bodies and government administration bodies. Administrative courts comprise the Supreme Administrative Court and provincial administrative courts. Cases falling within the jurisdiction of administrative courts are examined in the first instance by provincial administrative courts. The Supreme Administrative Court supervises the activity of provincial administrative courts as regards adjudication, in the manner specified by statutes. In particular, it examines appeals to these courts' decisions and adopts resolutions clarifying legal issues. It also examines other cases within the jurisdiction of the Supreme Administrative Court under other acts. The legal basis for the organization of the Supreme Administrative Court is the Act of 25 July 2002 – Law on the System of Administrative Courts.

Bibliography

- BĄCZYK–ROZWADOWSKA, K. ‘Glosa do wyroku SN z dnia 7 marca 2013 r., II CSK 364/12’, *LEX* 191278/1.
- BAK, A. (2016) ‘Serwisy społecznościowe – efekt Facebooka i nie tylko’, *Media i Społeczeństwo*, 2016/6, pp. 134–146.
- BAKALARSKI, K. (2017) ‘Postprawda’, *Studia Bobolanum*, 28(3), pp. 115–136.
- BAKOWICZ, K. (2019) ‘Wprowadzenie do definicji i klasyfikacji zjawiska fake newsa’, *Studia Medioznawcze*, 20(3), pp. 280–289.
- BAKOWSKI, T. (2017) ‘Kilka krytycznych uwag i spostrzeżeń dotyczących formułowania definicji legalnych we współczesnym prawodawstwie’, *Gdańskie Studia Prawnicze*, Vol. XXXVI, pp. 57–67.
- BIELSKI, P. (2015) ‘Glosa do uchwały SN z dnia 5 grudnia 2014 r., III CZP 93/14’, *LEX* 270731/1.
- BRENDA-MAŃKOWSKA, A. (2019) ‘Fake news, clickbait, żebrołajki - problemy mediów w dobie postprawdy’ in Tanaś, V., Welskop, W. (ed.) *‘Mass media we współczesnym świecie’*, Łódź: Wydawnictwo Naukowe Wyższej Szkoły Biznesu i Nauk o Zdrowiu.
- BRYNDAL, D., KOCHAŃSKI, P. (1998) ‘Multimedialne platformy cyfrowe’, *Rzeczpospolita, Prawo supplement*.
- CAŁEK, A. (2013) ‘Tabloidyzacja a konwergencja mediów – obraz wzajemnych zależności w polskim dyskursie publicznym. Analiza przypadku Tomasza Lisa’, *Środkowoeuropejskie studia polityczne*, 2013/2, pp. 311–328; <https://doi.org/10.14746/ssp.2013.2.17>.
- CIEŚLAK, Z. (ed.) (2012) *Nauka administracji*. Warsaw: Wolters Kluwer Polska.
- CZAPLIKA, M. (2014) *Zarządzanie kryzysem w social media*. Gliwice: Helion.
- CZARNY, E. (2004) ‘GLOBALIZACJA od A do Z’ [Online]. Available at: <https://www.nbp.pl/publikacje/globalizacja/> (Accessed: 10 April 2021).
- DANIEL, K. (2018) ‘Media wobec fake newsów - motywy kreowania, przyjmowane postawy, podejmowane działania’, *Polityka i Społeczeństwo*, 16(3), pp. 95–114.
- DĄBROWSKA, I. (2020) ‘Deepfake, Nowy wymiar internetowej manipulacji’, *Zarządzenie Mediami*, 8(2), pp. 89–101.
- DELIŃSKA, L. (2018) ‘Media społecznościowe jako determinanta rozwoju usług turystycznych’, *Ekonomiczne Problemy Usług*, No. 130, pp. 17–25; <https://doi.org/10.18276/epu.2018.130-02>.
- DĘBOWSKI, J. (2014) ‘O klasycznej koncepcji prawdy i jej filozoficznych podstawach. Czy w Matrixie możliwa jest prawda?’ in Kiklewicz, A., Starzyńska-Kościszko, E. (ed.) *‘Oblicza prawdy w filozofii, kulturze, języku’*, Olsztyn: Instytut Filozofii – Uniwersytetu Warmińsko-Mazurskiego w Olsztynie.
- DONECKI, D. ‘Portale społecznościowe w życiu młodzieży szkolnej’ [Online]: Available at: <http://www publikacje.edu.pl/pdf/11046.pdf>. (Accessed 17 April 2021).
- DZIWIŃSKI, J., Ogrzebacz, T. (2017) ‘Media społecznościowe jako element strategii zarządzania relacjami z klientem w dobie globalizacji’ in Harasim W. (ed.) *‘Wpływ zglobalizowanego świata na zarządzanie’*, Warsaw: Wyższa Szkoła Promocji, Mediów i Show Businessu.
- FLADER, M. (2018) ‘Postprawda jako efekt błędnego poszukiwania prawdy’, *Teologia i człowiek*, no. 4.
- FLASIŃSKI, K. (2017) ‘Web 2.0’ in Iwasiów S., Madejski J. (ed.) in *‘Interpretatywny słownik terminów kulturowych 2.0’*, Zachodniopomorskie Centrum Doskonalenia Nauczycieli and Wydawnictwo Naukowe Uniwersytetu Szczecińskiego.
- GNIEWEK, E., MACHNIKOWSKI P. (ed.). (2014) *Kodeks cywilny. Komentarz. Wydanie 6’*.

- GOGOŁEK, W. (2010) 'Komunikacja sieciowa. Uwarunkowania, kategorie, paradoksy'.
- JANKOWSKI, J. (2019) 'Wpływ mediów społecznościowych na kulturę i subkulturę', *Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej im. Witelona w Legnicy*, No. 31, pp. 267–275.
- KACZMAREK, B. (2014) 'Ekonomiczne i społeczne następstwa globalizacji', *Annales. Etyka w życiu gospodarczym*, 17(1), pp. 35–46.
- KAPLAN, A. M., HAENLEIN, M. (2010) 'Users of the world, unite! The challenges and opportunities of Social Media', *Business Horizons*, 53(1), pp. 59–68; <https://doi.org/10.1016/j.bushor.2009.09.003>.
- KAZANOWSKI, D., (2010) 'Definicja social media' [Online]. Available at: <https://networkeddigital.wordpress.com/2010/04/17/definicja-social-media/>, (Accessed 14 May 2021).
- KORYCKI, S., Kuciński, J., Trzeciński, Z., et. al. (2010) *Zarys prawa*. LexisNexis.
- KOZIELEWICZ, W. (2011) 'Odpowiedzialność dyscyplinarna i karna notariusza – wzajemne relacje', *Rejent*, 21(10), pp. 82–102.
- KNOSALA, E. (2011) *Zarys teorii decyzji w nauce administracji*. Warsaw: Wolters Kluwer Polska.
- KREFT, J. (2020) 'Współczesne media' in Hofman, I., Kępa-Figura, D. (ed.) 'Przemoc w mediach', Vol. 1.
- KUŻNAR, A. (2019) 'Cyfryzacja polskiej gospodarki i wykorzystanie innowacji informatycznych oraz big data przez polskie przedsiębiorstwa', in Kowalski, A.M., Weresa, M.A. (ed.) 'Polska – raport o konkurencyjności, konkurencyjność międzynarodowa w kontekście rozwoju przemysłu 4.0' [Online], pp. 275–294. Available at: <https://bit.ly/3CIcgvN>.
- LASKOWSKA, M. (2012) 'Komunikacja za pomocą social media – możliwości i zagrożenia. Zarys problematyki' in Biedroń M., Wawrzak-Chodaczek M. (ed.) 'Komunikacja – (po) rozumienie – obecność społeczna'.
- LASKOWSKI, J. (1991) 'Prawo naturalne', *Prawo Kanoniczne: kwartalnik prawno-historyczny*, 34(1-2), pp. 151–162.
- ŁYSZCZARZ, M., SIEROCKI R., SOKOŁOWSKI M. (2018) 'Wprowadzenie. W stronę socjologii mediów. Tematy (nie)obecne', *Media – Kultura – Komunikacja Społeczna*, 14(3), pp. 5–12.
- MALINOWSKI, A. (2005) 'Definicje legalne w prawie polskim', *Studia Iuridica*, Vol. XLIV, pp. 214–240.
- MEJOR, J. D. (2012) 'Digitalizacja – garść refleksji', *Z badań nad książką i księgozbiórami historycznymi*, Vol. 6, pp. 265–266.
- MYŚLAK, D. A. (2019) 'Telewizja cyfrowa i jej cyfrowe pochodne a oczekiwania współczesnego odbiorcy', *Media - Kultura - Komunikacja Społeczna*, 13(1), pp. 31–57; <https://doi.org/10.31648/mkks.2987>.
- NOWAK, P. (2019) 'Telewizja lat 90 vs telewizja XXI wieku' in Hess A., Nowina – Konopka M., Świerczyńska – Głowina, G. (ed.) 'Dynamika przemian w mediach'.
- PALCZEWSKI, M. (2017) 'Fake news. A continuation or rejection of the traditional news paradigm?', *Acta Universitatis Lodzianis Folia Litteraria Polonica*, 43(5), pp. 23–34; <http://dx.doi.org/10.18778/1505-9057.43.02>.
- PALCZEWSKI, M. (2019) 'Dyskurs fake newsa', *Annales Universitatis Paedagogicae Cracoviensis. Studia de Cultura*, 11(1), pp. 15–31.
- PAŚNIK, J. (2000) *Prawo dyscyplinarne w Polsce*. Warsaw: Muza.
- Podlecki, M. (2017) 'Fake news jako zjawisko (nie tylko) medialne – część I', *BEM*, 2017/2, pp. 125–135.
- RADWAŃSKI, Z., Olejniczak A. (2015) *Prawo cywilne – część ogólna*, 3rd ed. Warsaw: C.H. Beck.
- SAROWSKI, Ł. (2017) 'Od internetu WEB 1.0 do internetu WEB 4.0 – Ewolucja form przestrzeni komunikacyjnych w globalnej sieci', *Rozprawy Społeczne*, 11(1), pp. 32–39.

- SKORUPKA, S., Auderska, H., Łempicka, Z. (1968) *Mały słownik języka polskiego*. Warsaw: Wydawnictwo Naukowe PWN.
- SOŁTYSIŃSKI, S. (ed.) *Prawo spółek kapitałowych. System Prawa Prywatnego. Tom 17B*. Warsaw: C.H. Beck.
- STECUŁA, K. (2017) 'Zagrożenia związane z postępem techniki na przykładzie facebooka', *Systemy Wspomagania w Inżynierii Produkcji. Jakość, Bezpieczeństwo, Środowisko*, 6(7), pp. 223–232.
- SUDOMIR, B. (2020) 'Młode pokolenie w mediach społecznościowych' in Sawicki, A. (ed.) *Wybrane problemy zarządzania*, Pelplin: Wydawnictwo „Bernardinum”.
- ŚLEDZIEWSKA, K., Włoch, R. (2020) 'Gospodarka cyfrowa, jak nowe technologie zmieniają świat' [Online]. Available at: <https://bit.ly/39wVZxk>.
- TOMCZAK, J. (2017) 'Media społecznościowe w mikroprzedsiębiorstwach', *Zeszyty Naukowe Politechniki Łódzkiej, Organizacja i Zarządzanie*, 68(1217), pp. 143–160; <https://doi.org/10.34658/oiz.2017.68.143-160>.
- TYTKO, M.M. 'Portal społecznościowy jako środek w pracy socjalnej' [Online]. Available at: <https://core.ac.uk/download/pdf/53117938.pdf>. (Accessed 27 April 2021).
- WARZECHA, K. (2017) 'Portale społecznościowe formą rozrywki i komunikacji współczesnej młodzieży – analiza statystyczna', *Studia Ekonomiczne. Zeszyty Naukowe Uniwersytetu Ekonomicznego w Katowicach*, Vol. 318, pp. 84–107.
- WASIUTA, O., WASIUTA, S. (2019) 'Deepfake jako skomplikowana i głęboko fałszywa rzeczywistość', *Studia de Securitate*, 9(3), pp. 19–30; <https://doi.org/10.24917/26578549.9.3.2>.
- WASZAK, M. (2017) 'Postprawda i fake news czy weryfikacja treści i źródeł informacji?', *Refleksje*, 2017/16, pp. 173–188; <https://doi.org/10.14746/r.2017.2.13>.
- WERNER, W., TRZOSS, A. (2019) 'Czy cyfrowe media wywołują społeczną paranoję? Dwugłos w sprawie obecności teorii spiskowych w mediach społecznościowych i kulturze masowej', *Nauka*, 2019/3, pp. 147–169.
- WICIŃSKA, K. (2017) 'Media SPOŁECZNOŚCIOWE jako narzędzie rozwijające działania marketingowe przedsiębiorstw', *Rynek – Społeczeństwo – Kultura*, 24(3), pp. 115–121.
- WIELEC, M. (2017) *Wartości – analiza z perspektywy osobliwości postępowania karnego*. Lublin: Wydawnictwo Academicon.
- WIELEC, M. (ed.) (2018) *Odpowiedzialność dyscyplinarna. Standardy polskiego systemu prawnego na przykładzie wybranych zawodów prawniczych*. Warsaw: IWS.
- WILKOWSKI, M. (2013) *Wprowadzenie do historii cyfrowej*. Gdańsk: Instytut Kultury Miejskiej.
- WOLNIEWICZ, B. (2012) 'O pojęciu kłamstwa i zasadzie prawdomówności', *Edukacja Filozoficzna*, Vol. 54, pp. 5–27.
- WOŹNIAK-ZAPÓR, M. (2017) 'Fake news – niebezpieczeństwo w mediach', *Bezpieczeństwo. Teoria i Praktyka*, 2017/4, pp. 99–108.
- WÓJCIK, M. (ed.) (2019) *Mały leksykon postprawdy - Fake news* [Online]. Available at: <https://bit.ly/3EMBe3L> (Accessed: 29 April 2021).
- WYRWIŃSKA, K., Wyrwiński, M. (2018) 'Platformy internetowe jako narzędzia ekonomii współdzielenia', *Transformacje Prawa Prywatnego*, 2018/2, pp. 91–112.
- ZUBIK, M., WIĄCEK, M. (2007) 'O spornych zagadnieniach z zakresu odpowiedzialności dyscyplinarnej sędziów Trybunału Konstytucyjnego – polemika', *Przegląd Sądowy*, 15(3), pp. 69–84.