



Research article

DOI: <https://doi.org/10.21202/jdtl.2023.26>

# “Pure Rat Country” – Reflections on Case Decision 2022-001-FB-UA of Facebook Oversight Board (Knin Cartoon Case)

Gergely Ferenc Lendvai

Pázmány Péter Catholic University  
Budapest, Hungary

## Keywords

Digital technologies,  
Facebook\*,  
freedom of expression,  
hate speech,  
human rights,  
knin cartoon,  
law,  
Meta\*,  
oversight board,  
regulation

## Abstract

**Objective:** the present paper aims to analyse Case Decision 2022-001-FB-UA of Facebook\* Oversight Board, also known as the Knin cartoon case and attempts to put the case as well as its procedure in a historical and cultural context to set out a critical approach concerning Facebook’s\* content moderation.

**Methods:** the paper uses desk research as the primary source of method. The paper’s resource background builds upon comparative case studies and case analysis as well. The paper uses resources from various disciplines: legal philosophy, international law, media law, platform regulation, history.

**Results:** the paper presents the context of the Knin cartoon case as well as the key findings of the Oversight Board and the reasoning behind its decision. Furthermore, this paper aims to reflect on the idea of hate speech as interpreted by the Oversight Board and makes a tentative to contextualise and introduce the main problems and possible solutions regarding Meta’s content moderation in the scope of the present case.

**Scientific novelty:** the Knin case has not been analysed in such historical and contextual depth before as the case decision was issued in 2022. Only a few analyses from merely legal standpoints were published thus far.

© Lendvai G. F., 2023

This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (CC BY 4.0) (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted re-use, distribution and reproduction, provided the original article is properly cited.

**Practical significance:** the findings regarding the Knin case may be of importance of three main aspects: (1) it could be used for further critical analyses on Facebook's\* content moderation, (2) it could serve as a recommendation regarding platform regulation and guideline development and (3) it presents the paramount relevance and significance of the holistic interpretational perspectives when determining hate speech. As for the latter the present paper argues that the historical, cultural, societal and symbolic interpretation and understanding of hate speech determination is not only instrumental, but the only viable method to understand, determine and judge upon alleged hate speech cases.

## For citation

Lendvai, G. F. (2023). "Pure Rat Country" – Reflections on Case Decision 2022-001-FB-UA of Facebook Oversight Board (Knin Cartoon Case). *Journal of Digital Technologies and Law*, 1(3), 612–628. <https://doi.org/10.21202/jdtl.2023.26>

## Contents

Introduction

1. The details of Knin cartoon case

2. The Oversight Board's decision

Conclusions

References

## Introduction

Harvard Law School professor Noah Feldman coined the idea of a quasi-Supreme Court in late 2018<sup>1</sup> and later approved by Meta (Facebook\* at the time) CEO Mark Zuckerberg (Klonick, 2020; Douek, 2021). Despite certain criticism concerning possible monitoring and objectivity issues (Sale, 2022), the Board was created as an independent, legitimate and authoritative (Bayer, 2022) self-regulation institution (Bayer, 2022; Klonick, 2020), in order to ensure that Facebook\* promotes freedom of expression via balancing concurring values (free speech, safety, privacy to name a few) (Pickup, 2021). As for self-regulation, Medzini proposes the usage of the expression "enhance self-regulation" so as to emphasise the delegation of regulatory responsibilities in addition to the classic intermediation mechanisms (Medzini, 2022). The identification of the Oversight Board as a Supreme Court (Cows & Dominiquo-Schramm, 2022) is a rather grandiose or even naïve narrative

---

<sup>1</sup> Klonick, K.: Inside the making of Facebook's Supreme Court. *The New Yorker*. <https://www.newyorker.com/tech/annals-of-technology/inside-the-making-of-facebooks-supreme-court>

(Schultz, 2021), however, as this independent body established by Meta uses the Community Standards of Facebook\* (Pickup, 2021) as well as international human rights law and decisions (e.g. international human right principles) (Vukčević, 2021; Benesch, 2020; Helfer & Land, 2022), the relevance and importance to understand, interpret and review the Oversight Board's decisions seem more current than ever before. One has to consider that despite the contractual nature between users and Facebook\* (Schultz, 2021; Bayer, 2022), the power structure of freedom of expression, as Schultz rightly said (Shultz, 2021), has drastically changed via the introduction of the Oversight Board. Though the Oversight Board's decisions aim to hold accountable Meta and its decisions and policymaking (O'Kane, 2022), and are therefore solely binding on Facebook\* (Wong & Floridi, 2022), this authority is unique extent-wise, despite Facebook's\* critical position regarding online expression and communication globally (Wong & Floridi, 2022). As Schultz acknowledged (Shultz, 2021): "The members of the OB (the Oversight Board) are not only "judges": they are also partly in charge of their own legislation. This is a unique concentration of power over access to freedom of expression to billions of people. At no time in human history have so few people exercised this much control over so many other people's possibility to be heard." This immense power over people's lives (Chander, 2012) and authority of human rights also come with expectations from the public – is the Oversight Board, for example, capable of solving the polemic presented by the digitalisation of communication, such as online hate speech or cyberbullying (Pongó, 2020)<sup>2</sup>? The answer thus far seems ambiguous as the Oversight Board tends to follow a more conservative approach concerning issues like the above: a minuscule number of cases are even presented before the Board (Wong & Floridi, 2022; Nunziato, 2022), and the legal argumentations are often theoretical. They are based on abstract or general principles (Kulick, 2022). Though the Board (henceforth: "the OB") often takes on culturally fundamental and controversial issues (Takhshid, 2021) (see for example the Zwarte Piet decision as a quasi-landmark case on the issue of blackface<sup>3</sup> or the decision on misinformation concerning COVID-19<sup>4</sup>), the majority of the cases are tackling hate speech-related problems (Wong & Floridi, 2022) and Facebook's\* reaction thereto. In the present writing, the so-called Knin cartoon case

---

<sup>2</sup> Klonick, K. (2019, October 28). Does Facebook's Oversight Board Finally Solve the Problem of Online Speech. *CIGI*. <https://www.cigionline.org/articles/does-facebooks-oversight-board-finally-solve-problem-online-speech/>

<sup>3</sup> Oversight Board decision no. 2021-002-FB-UA. <https://oversightboard.com/sr/decision/2021/002/public-comments>

<sup>4</sup> Oversight Board decision no. 2020-006-FB-FBR. <https://oversightboard.com/sr/decision/006/public-comments>

will be discussed<sup>5</sup>, a relatively new case that was selected to be brought before the OB in March 2022<sup>6</sup> after a Facebook\* user appealed the removal of a video where a Disney cartoon was edited so that it depicted Serbians as rats<sup>7</sup>.

## 1. The details and Knin cartoon case

The case was selected to be discussed by the OB in March 2022 after a user appeal. In accordance with the official communication on the announcement of the selection of three cases to be brought before the OB, the problematic post concerned a video posted on a Croatian public Facebook\* page (pretjerivač). As the video was captioned in Croatian, Meta used translation to understand the meaning behind the main post. According to Meta's translation, the caption said, "The Player from Čavoglave and the rats from Knin". Before diving into the case's details, I propose a contextual interpretation of the fundamental factors of the case. Čavoglave is a relatively small village in the Dalmatian Hinterland south of Croatia. As per the 2020 Croatian census, Čavoglave has 190 inhabitants<sup>8</sup>.

Croatians took great pride in the village of Čavoglave as a Thompson (Croatian rock band led by frontman Marko Perković Thompson) wrote a patriotic (deemed by some as an ideological call (Robionek, 2017)) and Croatian-nationalist fight song about the town<sup>9</sup>. A Croatian symbol (Robionek, 2017), the Thompson song is of crucial importance as it was the leading factor that led to the nationwide acknowledgment and popularization of it (Melichárek, 2015). Knin is a city with a population of around 8.000–10.000 inhabitants near Čavoglave in the south of Croatia. Historical sight, the city has been an important centre during medieval times and is a relatively well-known city for being the fortress of Serbs during the abovementioned war. Knin was also, for a short time, the capital of the unrecognised Serbian military region, the Republic of Serbian Krajina, in 1991 (Leutloff-Grandits, 2008). Serbs have historically inhabited Knin. In the years leading up to the war, around 80% of the population claimed to be Serbian. This Serbian majority drastically changed after the war, as in 2021, only 21.42 % of the population claimed to be Serbian (Leutloff-Grandits, 2008; Douek, 2020). Knin is not a city free from nationalist controversies. On 5 August 2011, Croatian state officials celebrated the 16th anniversary of "Operation Storm", carried out by Croatian armed forces between August and November 1995 in the Krajina region of Croatia in Knin<sup>10</sup>. Operation Storm is understood as a massive offensive military action against Croatian Serbians (Banjeglav, 2015). Thousands of Serbians

---

<sup>5</sup> Oversight Board decision no. 2022-001-FB-UA. <https://oversightboard.com/news/1629549600777906-oversight-board-overturns-meta-s-original-decision-in-knin-cartoon-case-2022-001-fb-ua/>

<sup>6</sup> Oversight Board, Announcing the Board's next cases. <https://oversightboard.com/news/175638774325447-announcing-the-oversight-board-s-next-cases/>

<sup>7</sup> Oversight Board Selects a Case Regarding a Video of an Edited Cartoon Depicting a Croatian City. *Facebook Transparency Center*. <https://transparency.fb.com/hu-hu/oversight/oversight-board-cases/cartoon-case/>

<sup>8</sup> Opcina Ruzic. *Čavoglave*. <https://www.opcina-ruzic.hr/index.php/naselja/cavoglave>

<sup>9</sup> Thompson-Cavoglave. <https://www.youtube.com/watch?v=tVaYgPBYnOQ>

<sup>10</sup> Amnesty International Public Statement, Croatia: Praise for "Operation Storm" creates climate of impunity. Index: EUR 64/010/2011. <https://www.amnesty.eu/wp-content/uploads/2018/10/AIR12-Report-English.pdf>

had to flee during the operation, and a multitude of Serbians faced inhuman treatment from the Croatian Army (Banjeglav, 2015). Amnesty International expressed concerns about glorifying war criminals and called on Croatia to commence dealing with the legacy of war (Banjeglav, 2015). To pour oil on the already burning “cultural” fire, many crimes were not prosecuted later, including the ones committed in Knin, as it was not a priority for the Croatian judiciary, as per Vesna Terselic, head of Documenta, a Human Rights Committee in Croatia<sup>11</sup>. Though ex-mayor Marko Jelić attempted to smooth the somewhat bitter liaison between Serbian and Croatians<sup>12</sup>, the relation, even to this day, is incredibly vivid and a foundation for many conflicts (recently, for example, the Croatian Ministry of Foreign and European Affairs demanded a public apology from the Serbian delegation who visited Knin for referring to the city “as Serbian and occupied”<sup>13</sup>). Given the above and in full accordance with the Overarching Criteria for Case Selection of the OB<sup>14</sup>, the Knin cartoon was rightly selected as it concerned hate speech in the context of a long-lasting nationalist conflict between Serbians and Croatians and it concerned two towns that are equally relevant both historically and culturally.

Drifting back to the shores of the Knin cartoon case, it is essential to lay down the case details<sup>15</sup>. The “infamous” video was an edit of Disney’s “The Pied Piper” cartoon. The original cartoon is the cartoon interpretation of a renowned German/Saxon folk tale, the Pied Piper of Hamelin (in German: “der Rattenfänger von Hameln”), whose main figure is the pied piper, a man – who is a rat catcher – luring away the rats invading the town of Hamelin with his magic flute. Researchers suggest that the tale of Pied Piper served as a figure of rodent control or as safeguard against infection (Singleton et al., 2003). The cartoon scene, which was edited, depicts the city of Hamelin originally being overrun by a pack of rats. The Croatian narration of the video describes that the rats wished to live in a “pure rat country”. Therefore, the rats continuously aimed to push out the people from the city. In the first part of the video, a clear provocation can be observed as well – above the gates of the city, a clear and well-readable “Knin” title can be read. The word “Knin” is montaged via an intentional edit of the original video. Though Facebook’s\* search engine does not display the Knin cartoon, the original version is available and watchable on Youtube; the above part is the video’s opening scene<sup>16</sup>. As the video progresses, viewers can see a multitude of rats running around the city

<sup>11</sup> Operation Storm Anniversary Highlights Croatia and Serbia’s Bitter Mistrust. <https://balkaninsight.com/2022/08/03/operation-storm-anniversary-highlights-croatia-and-serbias-bitter-mistrust/>

<sup>12</sup> Mayor of Knin: I will invite Serbs to return, this is their city too. RTRS. <https://dijasporars.com/en/gradonacelnik-knina-pozvacu-srbe-da-se-vrate-ovo-je-i-njihov-grad/>

<sup>13</sup> Hina. (2021, January 29). Croatia demands apology from Serbia for calling Knin “Serbian occupied town”. № 1. <https://rs.n1info.com/english/news/croatia-demands-apology-from-serbia-for-calling-knin-serbian-occupied-town/>

<sup>14</sup> Oversight Board. *Overarching Criteria for Case Selection*, 2.

<sup>15</sup> Decision no. 2022-001-FB-UA.

<sup>16</sup> Nestanak Srba iz Knina. <https://www.youtube.com/watch?v=5nQjwH9vHTU>

of Knin. People are trying to harass the animals by hitting them with brooms and sticks, and the video also portrays a scene where rats are devouring a tremendous amount of food in an instant. The hectic circumstances change as the pied piper from Čavoglave appears. First, the rats ignored the pied piper. In a particular scene, the rats are sticking their tongues out as a reaction to the piper appearing in town (the narrator also says that the “great rat aggression” continued). In accordance with the original folklore and the visual presentation, the pied piper starts to play a melody on his magic flute. The rats commence amassing, forming a gigantic crowd of rats, and start to dance harmoniously, standing on two legs, singing their favourite song and following the piper, who leads the “rat mass” out of Knin.

One of the most controversial parts of the video is the audio content which is used to represent the rats’ favourite song as it is a song which intends to commemorate Momčilo Đujić. Momčilo Đujić was a Serbian Orthodox priest and a Chetnik military warlord (also known as a vojvoda). Đujić played a crucial role in leading the Serbian resistance during World War II. However, Đujić’s reputation from a Croatian perspective is not as heroic, as he and the Chetniks he led were enemies of the Croatian state (Ramet, 2011). The Dinara Chetnik Division, led by Momčilo Đujić, is accountable for initiating tens and thousands of violent actions committed against Croatian civilians at the end of 1944. The actions included pillaging villages, murdering people, raping women and robbing inhabitants of their belongings<sup>17</sup>. Author and historian Mihael Sobolevski deems the inhuman terror committed by Chetniks as one of the most egregious tragedies in the Krivi Put community during World War II.

When the last rat left the town of Knin, the people cheered in joy. As the story continues, the cartoon pans over the pied piper leading the rats when a tractor appears in the back of the horizon. The piper herds the rats into the tractor, which then disappears. The pied piper then happily bids farewell to the tractor (a magical tractor, as the narrator sarcastically put it) full of rats, and the narrator ends the video by saying that rats “disappeared forever from the lands” and “everyone lived happily ever after”. The tractor as a form of leaving the town is also historically symbolic. During Operation Storm, a polemic and highly controversial Croatian military action, many of the 200.000 ethnic Serbians who had to flee from Croatia in 1995 used trucks and tractors to leave the region<sup>18</sup>. The fleeing was an “epic scene of chaos” as Associated Press reporter Julijana Mojsilovic told the Los Angeles Times in 1995<sup>19</sup>. Mojsilovic described the scenes in more detail: “Disoriented people were fleeing with any possessions they could grab aboard tractors, cars, horse-driven carts, bicycles – just

---

<sup>17</sup> Sobolevski, M. *Robbery and terror of Dinara Četnik division in the Krivi Put region on 28th and 29th December 1944*. <https://hrcak.srce.hr/clanak/27653>

<sup>18</sup> McLaughlin, D. (2015, August 5). Croatia celebration of 1995 military victory alienates ethnic Serbs. *Al Jazeera*. <http://america.aljazeera.com/articles/2015/8/5/croatia-celebration-of-1995-military-victory-alienates-and-angers-serbs1.html>

<sup>19</sup> Croatia Captures Rebel Serb City; Thousands Flee : Balkans: Takeover of Knin sends refugees on panicked flight to Serb-held areas of Bosnia. U.N. officer tells of bodies lying in the streets. Two more peacekeepers killed. <https://www.latimes.com/archives/la-xpm-1995-08-06-mn-32175-story.html>

about anything that could carry them”<sup>20</sup>. Reports also reported that roads were filled with anxious people stressfully taking flight with tractors. In Topusko, Serbs and Muslims were jammed into vehicles (mainly tractors, buses and trucks) even to have an opportunity to get out of Croatia<sup>21</sup>. Concluding the above, the tractor is a historical metaphor for the suffering, terror and inhuman circumstances that Serbs had to endure during the end of the war.

As for the extent of the content, the page had, at the time, over 50.000 followers. The post was viewed over 380.000 times, and despite the 397 user reports (362 reports concerning hate speech), Meta\* opted not to take down the post and remove the content. The keep-up<sup>22</sup> decision was appealed to the OB, after which Meta\* conducted an additional review (human review) to determine whether the content in question violated the Community Standards or the Hate Speech policy. Meta\* has decided not to remove the content after the human review has been conducted. Interestingly, after the case was announced to be the subject of a full review by the OB, Meta\* made two significant changes to the content moderation of the Knin cartoon. It is worth highlighting that the decision on the full review has concluded in January 2022, so the Knin cartoon has already been up and available on the platform for weeks. Meta\* first decided that the Knin cartoon did not violate the Hate Speech policy per letter but per spirit<sup>23</sup> (quoting directly from the decision: “Meta\* explained that a “spirit of the policy” decision is made when the policy rationale section of one the Community Standards makes clear that the policy is meant to address a given scenario that the language of the policy itself does not address directly”) then later decided again that the offensive cartoon violated the Hate Speech policy per letter as well<sup>24</sup>. Meta\* also concluded that all previous reviews were in error, meaning all three decisions on the keep-up decision were erroneous. To stir some confusion regarding the already – diplomatically – premature proceeding of the taking down-keeping up polemics, Meta\* failed to inform the users of the modification and amendments to the decision after having informed them that the content did not violate Meta’s\* policies. The user who reported the content before the OB argued that: “[t]he Pied Piper symbolises the Croatian Army, which, in 1995, conducted an expulsion of Croatia’s Serbs, portrayed here as rats”.

---

<sup>20</sup> Mojsilovic, J. (1995, August 6). Shelling of Knin Causes disbelief, panic, flight. <https://www.washingtonpost.com/archive/politics/1995/08/06/shelling-of-knin-causes-disbelief-panic-flight/5cdb41ed-39c1-4c7f-a8f5-ab012c097039/>

<sup>21</sup> Pomfret, J. (1995, August 7). Thousands of Serb refugees flee Croatian army advance. *The Washington Post*. <https://www.washingtonpost.com/archive/politics/1995/08/07/thousands-of-serb-refugees-flee-croatian-army-advance/2912317d-a965-449e-9c97-62ca900dc6a6/>

<sup>22</sup> Klonick, K. (2021, February 12). Inside the making of Facebook’s Supreme Court. <https://www.newyorker.com/tech/annals-of-technology/inside-the-making-of-facebooks-supreme-court>

<sup>23</sup> Oversight Board Case of Knin Cartoon. *Global Freedom of Expression*. <https://globalfreedomofexpression.columbia.edu/cases/oversight-board-case-of-knin-cartoon/>

<sup>24</sup> Oversight Board Selects a Case Regarding a Video of an Edited Cartoon Depicting a Croatian City. <https://transparency.fb.com/hu-hu/oversight/oversight-board-cases/cartoon-case/>

## 2. The Oversight Board's decision

The OB overturned Meta's\* decision to leave up the Knin cartoon on the platform. After a standard proceeding, the OB found that the video violated Facebook's\* Hate Speech and Violence and Incitement Community Standards. The aim of said Community Standards is to prevent potential offline harm related to Facebook\* content. When using this document, Facebook\* intends to pay close attention to language and context to find the critical cultural, contextual, linguistic and other perspectives that can guide the moderators to interfere with someone's freedom of expression as the content that the user in question has published constitutes a credible threat to the public or personal safety. The Hate Speech policy also prohibits attacks against people based on protected characteristics, including ethnicity<sup>25</sup>. The OB found that portraying Serbians as rats is "dehumanising and hateful". The Board also concluded that the video constitutes a celebration of past acts of discriminatory treatment.

The OB rightly realises the deep historical and contextual connotations: Replacing the name "Hamelin" with the Croatian city of "Knin", the identification of the piper with the Croatian village of Čavoglave (a reference to the anti-Serb song "Bojna Čavoglave" by the band 'Thompson' whose lead singer is from Čavoglave) and the image of rats fleeing on tractors are all references to Croatian military's «Operation Storm.» This 1995 operation reportedly resulted in the displacement, execution, and forcible disappearance of ethnic Serb civilians. The comments on the post confirm that this connection was clear to people who viewed the content<sup>26</sup>.

Rooted in the issues above, the OB found that the post violated Dignity and Safety, two internal and core values/standards of Meta\*.

As it turned out from the review of the OB, 40 Croatian-speaking moderators have worked on this issue, and none of them deemed the content a violation of Facebook\* standards. However, the above is problematic from another aspect as well – as the OB correctly assumed, the hateful video, containing numerous deep discriminatory symbols and comparisons, can be an incitement to violence. Ergo, Meta\* and the moderators not only failed to comply with the Hate Speech policies, but they did fail to comply with their own Violence and Incitement Community Standards.

The OB has raised awareness of two key issues in its decision. Firstly, the escalation of the moderation and the specialised moderation team has failed to encompass and understand the video's implicit and culturally undeniable meanings. As mentioned above, contextual and cultural distinctions should be highly emphasised when determining hate speech on Meta\*, according to their hate speech policies. Secondly, the OB proposed two

---

<sup>25</sup> Oversight Board decision no. 2021-002-FB-UA. <https://oversightboard.com/sr/decision/2021/002/public-comments>

<sup>26</sup> Oversight Board overturns Meta's original decision in 'Knin cartoon' case (2022-001-FB-UA). <https://oversightboard.com/news/1629549600777906-oversight-board-overturns-meta-s-original-decision-in-knin-cartoon-case-2022-001-fb-ua/>



recommendations to Meta\*: (1) the clarification of the Hate Speech Community Standard with a specialised guideline to understanding implicit references and (2) amendment to the modification system in accordance with the changes of Meta's determination of the case in question<sup>27</sup>.

## Conclusions

The OB aimed to involve public opinion on the Knin cartoon issue; therefore, the decision-making process was accompanied by the institution of a public commenting platform where third parties were capable of sharing their views on the case. In the Public Comment Appendix<sup>28</sup>, the OB collected and shared 13 comments without sharing the identity of the authors of the comments. Interestingly, out of the 13 comments, only two originated from Europe, which is highly questionable and raises questions on the contextual and cultural interpretation dilemma. Even more curiously, in the Appendix, only two comments are available to be read.

Meta's\* answer to the issues raised by the OB regarding the fact that the post may be categorised as a form of incitement is also to be examined critically. Meta\* claimed that a violent threat must be supported or accompanied by exclusion or expulsion – ergo, something physically and forcibly violent<sup>29</sup>. This, however, raises a crucial question on the applicability of the Violence and Incitement Community Standard. According to Meta, the rat references, as well as their “fleeing” from the Knin cartoon, can not be undeniably and unmistakably construed as references to a possible violent threat with regard to the displacement of Serbians<sup>30</sup>. This explanation suggests a highly high threshold of the applicability of the abovementioned community standard. Although, naturally, arguing that the Knin cartoon case is an easy-to-decide case would be rather difficult, the threat is undoubtedly present because of the aforementioned historical references clearly and undisguisedly targeting Serbians and the visible and unfiltered mocking of the pain, suffering and loss of Serbians in 1995. In this context, it is also to be underlined that the narrator supposes that Knin lives happily only after every single rat has left the city, which can easily be interpreted even as a call for action.

A number of international legal texts were used, such as the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Office of the United Nations High Commissioner for Human

---

<sup>27</sup> Oversight Board decision no. 2021-002-FB-UA. <https://oversightboard.com/sr/decision/2021/002/public-comments>

<sup>28</sup> Oversight Board Public Comment Appendix for Knin Cartoon. <https://oversightboard.com/news/1629549600777906-oversight-board-overturms-meta-s-original-decision-in-knin-cartoon-case-2022-001-fb-ua/>

<sup>29</sup> Oversight Board Case of Knin Cartoon. *Global Freedom of Expression*. <https://globalfreedomofexpression.columbia.edu/cases/oversight-board-case-of-knin-cartoon/>

<sup>30</sup> *Ibid.*

Rights' Rabat Plan of Action or United Nations Human Rights Council Comm., General Comment No. 34, which is not unusual for the OB as it often relies on the principles laid down in these documents during decision-making (Bayer, 2021). These documents' usage further proves the OB's significant ambition to use and apply international principles to the cases brought before it (which is also supported by the fact the numerous judges came from a background based on international law expertise<sup>31</sup>). As Article 19 of the ICCPR was used to examine the interference with the post author's freedom of expression, the OB proposed a more concrete, academic and practical legal point of view. The most crucial part of the 3-part test in the present case is the question of legality. As the OB proposed, the idea, the usage and the application, or even the general understanding of the hate speech stipulations of Meta\* are standing on a weak foot if 40 moderators failed to assume or understand the video posted as hate speech correctly. The proposal for a guideline cannot be constituted as a recommendation, and it is a warning sign for Meta\* that the doctrines and the lack of applicability guides are a systematic problem which lets a hateful, offensive, and profoundly discriminatory post be present despite nearly 400 reports. Secondly, Meta\* should invest more in the more profound appreciation and realisation of linguistic, ethnic, historical and cultural differences. The Board had even mentioned the linguistic aspect before in the Armenians in Azerbaijan case in 2020<sup>32</sup>. The answers of Meta\* seemed to lack the abovementioned aspects, and moderators clearly failed to be cognizant of obvious references, which, again, is not a set of continuous individual mistakes but an inherent, implicit, ingrained and structural one rooted in the community standards. Meta\*, thus far, has not issued a clearer guidebook on either hate speech or violent threats or the detection thereof. A third solution can be viewed as the most radical one. The OB currently does not have the power to directly influence or establish stipulations on policies set forth by Meta\*, and the "house rules" (Goldman & Miers, 2021), therefore, may remain as untouched as ever, including the problematic algorithms that often fail to identify illegal content (Frazier, 2021). Though addressing speech policies is based on the constitutional non-delegation doctrine (Elkin-Koren & Perel, 2020; Cows & Dominiquo-Schramm, 2022), the task of governing online spaces and platforms cannot be wholly and exclusively executed by public authorities and Facebook's\* initiative to oversee moderation is certainly favourable in developing a conjoint mechanism (Balkin, 2018; Arun 2021). Alas, it would be more than interesting to see a recommendation that has a binding power on the policy development of Meta\*<sup>33</sup>, which would serve as a "multi-edged sword": (1) it would undoubtedly inspire Meta to improve the

---

<sup>31</sup> What Kind of Oversight Board Have You Given Us? The University of Chicago Law Review Online. <https://lawreviewblog.uchicago.edu/2020/05/11/fb-oversight-board-edouek/>

<sup>32</sup> Oversight Board decision no. 2021-002-FB-UA. <https://oversightboard.com/sr/decision/2021/002/public-comments>

<sup>33</sup> Facebook Releases an Update on Its Oversight Board: Many Questions, Few Answers. <https://www.lawfareblog.com/facebook-releases-update-its-oversight-board-many-questions-few-answers>

standards, implement guidelines and generally ameliorate content moderation (Douek, 2019) and set standards for the platform (Bayer, 2021) and (2) a more user-based experience could be achieved as Meta\* would be obligated to implement and create policies, standards and mechanisms that better represent user's interests (Klonick, 2020) and Meta\* would evade concerns over "overmoderation" (Rogoff, 2019), and (3) the better implementation of international principles<sup>34</sup> would be more promptly applied to the right to freedom of expression on Facebook\* (Dvoskin, 2022; Helfer & Land, 2022). In conclusion, a more formalised (Douek, 2022) and, at the same time, highly contextualised content moderation guideline system is recommended to provide an adaptable solution (Douek, 2022) to problems like the ones observed in the Knin cartoon case. A firm-specific proposal like the above could evolve the OB to play an even larger and more substantial role regarding Facebook's\* moderation (Gorwa, 2019).

---

\* The organization is recognized as extremist, its activity is prohibited in the territory of the Russian Federation.

## References

- Arun, Ch. (2021). Facebook's Faces. *Harvard Law Review Forum*, 135, 22–37.
- Balkin, J. M. (2018). Free Speech is a Triangle. *Columbia Law Review*, 118, 12–20.
- Banjeglav, T. (2015). A Storm of Memory in Post-War Croatia. *Cultures of History Forum*, 4, 34–39.
- Bayer, J. (2021). Rights and Duties of Online Platforms. In J. Bayer, B. Holznapel, P. Korpisaari, L. Woods (Eds.). *Perspectives on Platform Regulation: Concepts and Models of Social Media Governance Across the Globe*. Baden-Baden, Nomos–Digitalization and the Law. <https://doi.org/10.1002/poi3.298>
- Bayer, J. (2022). A Facebook Ellenőrző Bizottság mint alternatív vitarendező szerv. *Fundamentum*, 3, 5–16.
- Benesch, S. (2020). But Facebook's Not a Country: How to Interpret Human Rights Law for Social Media Companies. *Yale Journal on Regulation Online Bulletin*, 38, 71–86.
- Chander, A. (2012). Facebookistan. *North Carolina Law Review*, 90(5), 56–61.
- Cowls, J-D., & Dominiquo-Schramm, M. (2022). Constitutional Metaphors: Facebook's 'Supreme Court' and the Legitimation of Platform Governance. *New Media & Society*, 3, 23346. <https://doi.org/10.1177/14614448221085559>
- Douek, E. (2019). Facebook's, Oversight Board: Move Fast with Stable Infrastructure and Humility. *North Carolina Journal of Law and Technology*, 21, 123–130.
- Douek, E. (2020). What Kind of Oversight Board Have You Given Us. *The University of Chicago Law Review Online*, 23, 45–59.
- Douek, E. (2021). Governing Online Speech. *Columbia Law Review*, 121(3), 34456.
- Douek, E. (2022). The Siren Call of Content Moderation Formalism. In L. Bollinger, G. Stone (Eds.). *Social Media, Freedom of Speech, and the Future of our Democracy*. Oxford, Oxford University Press. <https://doi.org/10.1093/oso/9780197621080.003.0009>
- Dvoskin, B. (2022). Expert Governance of Online Speech. *Harvard International Law Journal*, 63, forthcoming.
- Elkin-Koren, N., & Perel, M. (2020). Separation of Functions for AI: Restraining Speech Regulation by Online Platforms. *Lewis & Clark Law Review*, 24(3), n.pag. <https://doi.org/10.2139/SSRN.3439261>
- Frazier, K. (2021). Why Meta Users Need a Public Advocate: a Modest Means to Address the Shortcomings of the Oversight Board. *Richmond Journal of Law & Technology*, XXVIII(3), 596–622.
- Goldman, E., & Miers, J. (2021). Online Account Terminations/Content Removals and the Benefits of Internet Services Enforcing Their House Rules. *Journal of Free Speech Law*, 1, 192–225.

---

<sup>34</sup> The Oversight Board: Operationalizing the UN Guiding Principles on Business and Human Rights. <https://www.wbcd.org/contentwbc/download/2248/28541>

- Gorwa, R. (2019). The platform governance triangle: conceptualising the informal regulation of online content. *Internet Policy Review*, 8, 1–22. <https://doi.org/10.14763/2019.2.1407>
- Helfer, L. R., & Land, M. K. (2022). The Facebook Oversight Board's Human Rights Future. *Cardozo Law Review*, 44(6), 1–70.
- Klonick, K. (2020). The Facebook Oversight Board: Creating an Independent Institution to Adjudicate Online Free Expression. *The Yale Law Journal*, 129, 2418.
- Kulick, A. (2022). Corporations as Interpreters and Adjudicators of International Human Rights Norms – Meta's Oversight Board and Beyond. *The Law and Practice of International Courts and Tribunals*, 5, 8–17.
- Leutloff-Grandits, C. (2008). Claiming in Postwar Croatia: The Dynamics of Property Relations and Ethnic Conflict in the Knin Region. *Journal of Refugee Studies*, 21(1), 34–45. <https://doi.org/10.1093/jrs/fen004>
- Medzini, R. (2022). Enhanced self-regulation: The case of Facebook's content governance. *New Media & Society*, 24(10), 1–29. <https://doi.org/10.1177/1461444821989352>
- Melichárek, M. (2015). Národná symbolika a mýtus v srbských vojenských piesňach z obdobia r. 1991–1995. *Porta Balkanica*, 7(2), 25–34.
- Nunziato, D. C. (2022). Protecting Free Speech and Due Process Values on Dominant Social Media Platforms. *Hastings Law Journal*, 73(5), 1255.
- O'Kane, R. (2022). Meta's Private Speech Governance and the Role of the Oversight Board: Lessons from the Board's First Decisions. *Stanford Technology Law Review*, 25(2), 167–209.
- Pickup, E. L. (2021). The Oversight Board's Dormant Power to Review Facebook's Algorithms. *Yale Journal on Regulation Bulletin*, 39(1), 2–21.
- Pongó, T. (2020). Új Korszak Az Online Véleménynyilvánítás Korlátozásában? Gondolatok a Facebook Oversight Board működéséről. *Iustum Aequum Salutare*, XVI(4), 147–162.
- Ramet, S. P. (2011). *Serbia and the Serbs in World War Two*. Berlin, Springer. <https://doi.org/10.1057/9780230347816>
- Robionek, B. (2017). Musik als Transportmittel für Ideologie. In K., Bozay, D. Borstel (Eds.). *Ungleichwertigkeitsideologien in der Einwanderungsgesellschaft*. Wiesbaden, Springer. [https://doi.org/10.1007/978-3-658-14245-2\\_14](https://doi.org/10.1007/978-3-658-14245-2_14)
- Rogoff, Z. (2019). Five Free Expression Safeguards from a Facebook User's Perspective. *TPRC47: Research Conference on Communications, Information and Internet Policy*. <http://dx.doi.org/10.2139/ssrn.3428062>
- Sale, H. A. (2022). Monitoring Facebook. *Harvard Business Law Review*, 12. <https://ssrn.com/abstract=4213540>
- Schultz, M. (2021). Six Problems with Facebook's Oversight Board. In J. Bayer, B. Holznagel, P. Korpisaari, & L. Woods (Eds.), *Perspectives on Platform Regulation: Concepts and Models of Social Media Governance Across the Globe*. Baden-Baden, Nomos. <https://doi.org/10.5771/9783748929789-145>
- Singleton, F. Hinds, L. A., Krebs, Ch., & Spratt, D. M. (2003). *Rats, mice and people: rodent biology and management*. Canberra, Australian Centre for International Agricultural Research.
- Takhshid, Z. (2021). Regulating Social Media in the Global South. *Vanderbilt Journal of Entertainment & Technology Law*, 24(1), 1–55.
- Vukčević, I. (2021). Facebook Oversight Board's Decision on the Indefinite Suspension of Donald Trump's Account. *Pravni Zapisi*, 12(1), 295–311. <https://doi.org/10.5937/pravzap0-32521>
- Wong, D., & Floridi, L. (2022). Meta's Oversight Board: A Review and Critical Assessment, Minds and Machines. <https://doi.org/10.1007/s11023-022-09613-x>

## Author information



**Gergely Ferenc Lendvai** – Juris Doctor, dr. and Pázmány Péter Catholic University (PhD candidate)

**Address:** Hattyú utca 17, Budapest, Hungary

**E-mail:** [lendvaigergely@me.com](mailto:lendvaigergely@me.com)

**ORCID ID:** <https://orcid.org/0000-0003-3298-8087>

**Web of Science Researcher ID:**

<https://www.webofscience.com/wos/author/record/ISU-4560-2023>

**Google Scholar ID:** <https://scholar.google.com/citations?user=CVKzt1AAAAAJ>

## Conflict of interest

The author declares no conflict of interest.

## Financial disclosure

The research had no sponsorship.

## Thematic rubrics

**OECD:** 5.05 / Law

**ASJC:** 3308 / Law

**WoS:** OM / Law

## Article history

**Date of receipt** – December 20, 2022

**Date of approval** – May 1, 2023

**Date of acceptance** – August 15, 2023

**Date of online placement** – August 20, 2023



Научная статья

УДК 34:34.096:7.091.5:7.097:004

EDN: <https://elibrary.ru/xoftaw>

DOI: <https://doi.org/10.21202/jdtl.2023.26>

# «Чисто крысиная страна» – размышления о решении по делу 2022-001-FB-UA Наблюдательного совета Фейсбука (Дело мультфильма о городе Книн)

Гергели Ференц Лендваи

Католический университет Петера Пазманя  
Будапешт, Венгрия

## Ключевые слова

Мета\*,  
мультфильм о городе Книн,  
Наблюдательный совет,  
права человека,  
право,  
регулирование,  
свобода выражения мнения,  
Фейсбук\*,  
цифровые технологии,  
язык ненависти

## Аннотация

**Цель:** в работе представлен анализ решения Наблюдательного совета Фейсбука\* по делу 2022-001-FB-UA, известному как «Дело мультфильма о городе Книн». Цель исследования – определение места данного дела в историческом и культурном контексте и выработка критического подхода к проблеме модерирования контента в компании «Фейсбук»\*.

**Методы:** основным методом, используемым в работе, является изучение источников. Исследование опирается на сравнительное изучение и анализ кейсов. Используются положения различных дисциплин, таких как философия права, международное право, право в области средств массовой информации, регулирование деятельности платформ, история.

**Результаты:** в работе представлен контекст дела мультфильма о городе Книн и основные решения Наблюдательного совета Фейсбука\* с их обоснованиями. Кроме того, отражена концепция языка ненависти в понимании Наблюдательного совета и сделана попытка показать контекст и описать основные проблемы и возможные решения в области модерирования контента в компании Мета\* на примере данного дела.

**Научная новизна:** с момента опубликования решения по делу мультфильма о городе Книн в 2022 г. он не подвергался глубокому историческому и контекстуальному анализу. До настоящего времени вышли лишь несколько работ, анализирующих его с юридической точки зрения.

© Лендваи Г. Ф., 2023

Статья находится в открытом доступе и распространяется в соответствии с лицензией Creative Commons «Attribution» («Атрибуция») 4.0 Всемирная (CC BY 4.0) (<https://creativecommons.org/licenses/by/4.0/deed.ru>), позволяющей неограниченно использовать, распространять и воспроизводить материал при условии, что оригинальная работа упомянута с соблюдением правил цитирования.

**Практическая значимость:** полученные результаты важны в трех основных аспектах: (1) они могут быть использованы для дальнейшего критического анализа модерирования контента в компании «Фейсбук»\*, (2) они могут служить в качестве рекомендаций в области регулирования деятельности платформ и разработки инструкций и (3) они показывают исключительную актуальность и важность целостного подхода к определению языка ненависти. В рамках последнего аспекта работа доказывает, что историческая, культурная, общественная и символическая интерпретация и понимание проблемы определения языка ненависти является не только практически применимым, но и единственным целесообразным методом для распознавания, определения и вынесения суждения о предполагаемом использовании языка ненависти.

## Для цитирования

Лендваи, Г. Ф. (2023). «Чисто крысиная страна» – размышления о решении 2022-001-FB-UA Наблюдательного совета Фейсбука (Дело мультфильма о городе Книн). *Journal of Digital Technologies and Law*, 1(3), 612–628. <https://doi.org/10.21202/jdtl.2023.26>

## Список литературы

- Arun, Ch. (2021). Facebook's Faces. *Harvard Law Review Forum*, 135, 22–37.
- Balkin, J. M. (2018). Free Speech is a Triangle. *Columbia Law Review*, 118, 12–20.
- Banjeglav, T. (2015). A Storm of Memory in Post-War Croatia. *Cultures of History Forum*, 4, 34–39.
- Bayer, J. (2021). Rights and Duties of Online Platforms. In J. Bayer, B. Holznapel, P. Korpisaari, L. Woods (Eds.). *Perspectives on Platform Regulation: Concepts and Models of Social Media Governance Across the Globe*. Baden-Baden, Nomos–Digitalization and the Law. <https://doi.org/10.1002/poi3.298>
- Bayer, J. (2022). A Facebook Ellenőrző Bizottság mint alternatív vitarendező szerv. *Fundamentum*, 3, 5–16.
- Benesch, S. (2020). But Facebook's Not a Country: How to Interpret Human Rights Law for Social Media Companies. *Yale Journal on Regulation Online Bulletin*, 38, 71–86.
- Chander, A. (2012). Facebookistan. *North Carolina Law Review*, 90(5), 56–61.
- Cowls, J-D., & Dominiquo-Schramm, M. (2022). Constitutional Metaphors: Facebook's 'Supreme Court' and the Legitimation of Platform Governance. *New Media & Society*, 3, 23346. <https://doi.org/10.1177/14614448221085559>
- Douek, E. (2019). Facebook's, Oversight Board: Move Fast with Stable Infrastructure and Humility. *North Carolina Journal of Law and Technology*, 21, 123–130.
- Douek, E. (2020). What Kind of Oversight Board Have You Given Us. *The University of Chicago Law Review Online*, 23, 45–59.
- Douek, E. (2021). Governing Online Speech. *Columbia Law Review*, 121(3), 34456.
- Douek, E. (2022). The Siren Call of Content Moderation Formalism. In L. Bollinger, G. Stone (Eds.). *Social Media, Freedom of Speech, and the Future of our Democracy*. Oxford, Oxford University Press. <https://doi.org/10.1093/oso/9780197621080.003.0009>
- Dvoskin, B. (2022). Expert Governance of Online Speech. *Harvard International Law Journal*, 63, forthcoming.
- Elkin-Koren, N., & Perel, M. (2020). Separation of Functions for AI: Restraining Speech Regulation by Online Platforms. *Lewis & Clark Law Review*, 24(3), n.pag. <https://doi.org/10.2139/SSRN.3439261>
- Frazier, K. (2021). Why Meta Users Need a Public Advocate: a Modest Means to Address the Shortcomings of the Oversight Board. *Richmond Journal of Law & Technology*, XXVIII(3), 596–622.
- Goldman, E., & Miers, J. (2021). Online Account Terminations/Content Removals and the Benefits of Internet Services Enforcing Their House Rules. *Journal of Free Speech Law*, 1, 192–225.

- Gorwa, R. (2019). The platform governance triangle: conceptualising the informal regulation of online content. *Internet Policy Review*, 8, 1–22. <https://doi.org/10.14763/2019.2.1407>
- Helfer, L. R., & Land, M. K. (2022). The Facebook Oversight Board's Human Rights Future. *Cardozo Law Review*, 44(6), 1–70.
- Klonick, K. (2020). The Facebook Oversight Board: Creating an Independent Institution to Adjudicate Online Free Expression. *The Yale Law Journal*, 129, 2418.
- Kulick, A. (2022). Corporations as Interpreters and Adjudicators of International Human Rights Norms – Meta's Oversight Board and Beyond. *The Law and Practice of International Courts and Tribunals*, 5, 8–17.
- Leutloff-Grandits, C. (2008). Claiming in Postwar Croatia: The Dynamics of Property Relations and Ethnic Conflict in the Knin Region. *Journal of Refugee Studies*, 21(1), 34–45. <https://doi.org/10.1093/jrs/fen004>
- Medzini, R. (2022). Enhanced self-regulation: The case of Facebook's content governance. *New Media & Society*, 24(10), 1–29. <https://doi.org/10.1177/1461444821989352>
- Melichárek, M. (2015). Národná symbolika a mýtus v srbských vojenských piesňach z obdobia r. 1991–1995. *Porta Balkanica*, 7(2), 25–34.
- Nunziato, D. C. (2022). Protecting Free Speech and Due Process Values on Dominant Social Media Platforms. *Hastings Law Journal*, 73(5), 1255.
- O'Kane, R. (2022). Meta's Private Speech Governance and the Role of the Oversight Board: Lessons from the Board's First Decisions. *Stanford Technology Law Review*, 25(2), 167–209.
- Pickup, E. L. (2021). The Oversight Board's Dormant Power to Review Facebook's Algorithms. *Yale Journal on Regulation Bulletin*, 39(1), 2–21.
- Pongó, T. (2020). Új Korszak Az Online Véleménynyilvánítás Korlátozásában? Gondolatok a Facebook Oversight Board működéséről. *Iustum Aequum Salutare*, XVI(4), 147–162.
- Ramet, S. P. (2011). Serbia and the Serbs in World War Two. Berlin, Springer. <https://doi.org/10.1057/9780230347816>
- Robionek, B. (2017). Musik als Transportmittel für Ideologie. In K., Bozay, D. Borstel (Eds.). *Ungleichwertigkeitsideologien in der Einwanderungsgesellschaft*. Wiesbaden, Springer. [https://doi.org/10.1007/978-3-658-14245-2\\_14](https://doi.org/10.1007/978-3-658-14245-2_14)
- Rogoff, Z. (2019). Five Free Expression Safeguards from a Facebook User's Perspective. *TPRC47: Research Conference on Communications, Information and Internet Policy*. <http://dx.doi.org/10.2139/ssrn.3428062>
- Sale, H. A. (2022). Monitoring Facebook. *Harvard Business Law Review*, 12. <https://ssrn.com/abstract=4213540>
- Schultz, M. (2021). Six Problems with Facebook's Oversight Board. In J. Bayer, B. Holznagel, P. Korpisaari, & L. Woods (Eds.), *Perspectives on Platform Regulation: Concepts and Models of Social Media Governance Across the Globe*. Baden-Baden, Nomos. <https://doi.org/10.5771/9783748929789-145>
- Singleton, F. Hinds, L. A., Krebs, Ch., & Spratt, D. M. (2003). *Rats, mice and people: rodent biology and management*. Canberra, Australian Centre for International Agricultural Research.
- Takhshid, Z. (2021). Regulating Social Media in the Global South. *Vanderbilt Journal of Entertainment & Technology Law*, 24(1), 1–55.
- Vukčević, I. (2021). Facebook Oversight Board's Decision on the Indefinite Suspension of Donald Trump's Account. *Pravni Zapisi*, 12(1), 295–311. <https://doi.org/10.5937/pravzap0-32521>
- Wong, D., & Floridi, L. (2022). Meta's Oversight Board: A Review and Critical Assessment, Minds and Machines. <https://doi.org/10.1007/s11023-022-09613-x>



## Информация об авторе



**Гергели Ференц Лендваи** – доктор права, докторант, Католический университет Петера Пазманя

**Адрес:** Венгрия, г. Будапешт, улица Хаттью, 17

**E-mail:** [lendvaigergely@me.com](mailto:lendvaigergely@me.com)

**ORCID ID:** <https://orcid.org/0000-0003-3298-8087>

**Web of Science Researcher ID:**

<https://www.webofscience.com/wos/author/record/ISU-4560-2023>

**Google Scholar ID:** <https://scholar.google.com/citations?user=CVKzt1AAAAAJ>

## Конфликт интересов

Автор сообщает об отсутствии конфликта интересов.

## Финансирование

Исследование не имело спонсорской поддержки.

## Тематические рубрики

**Рубрика OECD:** 5.05 / Law

**Рубрика ASJC:** 3308 / Law

**Рубрика WoS:** OM / Law

**Рубрика ГРНТИ:** 10.19.65 / Правонарушения в области информатики. Ответственность в информационном праве

**Специальность ВАК:** 5.1.2 / Публично-правовые (государственно-правовые) науки

## История статьи

**Дата поступления** – 20 декабря 2022 г.

**Дата одобрения после рецензирования** – 1 мая 2023 г.

**Дата принятия к опубликованию** – 15 августа 2023 г.

**Дата онлайн-размещения** – 20 августа 2023 г.