

X. REGULATION OF DIGITAL OFFENCES IN THE 21ST CENTURY WITH SPECIAL REGARD TO THE CRIME OF DANGEROUS ELECTRONIC HARASSMENT IN SLOVAKIA

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1. Regulatory aspects of hate speech

In the legal order of the Slovak Republic, the concept of hate speech (*nendávistný prejav*) is not defined. However, EU instruments and the case law of the European Court of Human Rights (hereinafter referred to as the ECtHR) are of great help in defining this term. The jurisprudence of the ECtHR derives the concept of hate speech from Recommendation No. R (97) 20 of the Committee of Ministers of the Council of Europe of 30 October 1997 on hate speech,¹ as a *soft law* document. The Recommendation proposes a comprehensive approach combating hate speech, based on the seven principles detailed in its appendix, with a particular focus on hate speech disseminated through the media and its social, economic, political, cultural, and other causes.² Moreover, it defines hate speech as any expression of opinion that disseminates, promotes, justifies or incites racism, xenophobia, anti-Semitism or other forms of intolerance.³

1 Recommendation No. R (97) 20 of the Committee of Ministers to member states on 'hate speech'.

2 Boytha, 2008, pp. 10–20.

3 Kondorosi, 2015, p. 92.

In its decision, the Constitutional Court of the Slovak Republic (*Ústavný súd Slovenskej republiky*) stated⁴ that it agrees with the definition given above and describes the most common forms of hate speech. Accordingly, hate speech can be carried out by means of defamation, i.e., the public dissemination of statements, images, or videos with offensive or seriously defamatory content against a group of persons, and by means of incitement to hatred, i.e., the public dissemination of statements, images, videos or calls for hate and violence against certain groups of persons.⁵

Výborný is much more precise concerning the definition of hate speech. In his view, hate speech is speech that contains elements of hatred towards the group to which the speech is directed, or speech based on such hatred. In addition, hate speech is based on negative prejudices of the speaker against certain groups in society, which he insults, attacks, humiliates, calls for the restriction of their rights or acts of violence against them, or otherwise tramples on their human dignity. The words spoken affect not only the specific addressee, but the entire group to which the victim belongs.⁶

In general, a democratic society and the rule of law guarantee the right of every individual to express his or her views orally, in writing, in print, in images or otherwise, and to seek, receive and impart ideas and information freely, regardless of frontiers.⁷ It should be pointed out that freedom of expression and the right to free access to information is guaranteed⁸ by the highest source of law in the country, the Constitution of the Slovak Republic (*Ústava Slovenskej republiky*).⁹ The Slovak Constitution also provides for an explicit prohibition of censorship¹⁰ by declaring that freedom of expression and the right to seek and impart information may be restricted by law only where such restriction is necessary in a democratic society in order to protect the rights and freedoms of

4 See the decision of the Constitutional Court of the Slovak Republic No. PL ÚS 5/2017 of 9 January 2019.

5 Decision of the Constitutional Court of the Slovak Republic No. PL ÚS 5/2017 of 9 January 2019, p. 51.

6 *Výborný*, 2013, p. 18.

7 *Hulkó*, 2021, p. 246.

8 Article 26 of the Constitution of the Slovak Republic provides a constitutional framework for freedom of expression (*sloboda prejavu*) and right to information (*právo na informácie*). Article 26(1) of the Constitution of the Slovak Republic provides for freedom of expression and constitutional protection of the right to information in the territory of the Slovak Republic.

9 *Ústavný zákon č. 460/1992 Zb., Ústava Slovenskej republiky*. Hereinafter referred to as the Constitution of the Slovak Republic, or the Slovak Constitution.

10 Constitution of the Slovak Republic, Article 26(2) and (3).

others, or where justified on grounds of national security, public order, public health or public morality.¹¹

Freedom of expression guarantees citizens the right to express their thoughts and opinions. According to the Slovak constitutional approach, freedom of expression is a human right, and, moreover, a political right that ensures the dissemination of different political views and allows citizens to influence political developments in the state and participate in public events. It also allows for the holding of protest rallies and the uncensored dissemination of public information on public affairs, as well as the confrontation of citizens' ideas with the opinions of other citizens. Since an individual's freedom ends where another person's right to freedom begins, freedom of expression must not be abused to infringe another person's right. Negative information, even if untrue, can diminish a person's social credibility, and authority in the workplace, and disrupt social relationships. It is prohibited to report untrue information about events and to abuse freedom of expression to commit acts of violence.¹² In this context, extremism should also be highlighted as a legitimate limit to freedom of expression.¹³

Freedom of expression shall be enjoyed by natural and legal persons, and also by stateless persons and groups of persons without legal personality. The right to freedom of expression is constitutionally protected by Article 26 of the Slovak Constitution.^{14,15}

Although hate speech is not explicitly defined in the Slovak criminal law system, two forms of hate speech, defamation (*hanobenie*) and incitement to hatred

11 Constitution of the Slovak Republic, Article 26(4).

12 Hulkó, 2021, p. 246.

13 In this context, see the relevant provisions of the Slovak Criminal Code (paras. 421, 423 and 424).

14 Filip, 1998, p. 625.

15 Examining the level of statutory provisions, it can be seen that there are several legal acts that are more narrowly or broadly related to freedom of expression, such as the Act No. 40/1964 Coll., the Civil Code, as amended (*zákon č. 40/1964 Zb., Občiansky zákonník*); Act No. 300/2005 Coll., the Criminal Code, as amended (*zákon č. 300/2005 Z. z., Trestný zákon*); Act No. 22/2004 Coll. on Electronic Commerce, as amended (*zákon č. 22/2004 Z. z. o elektronickom obchode*); Act No. 211/2000 Coll. on Free Access to Information, as amended (*zákon č. 211/2000 Z. z. o slobodnom prístupe k informáciám*); Act No. 18/2018 Coll. on the Protection of Personal Data, as amended (*zákon č. 18/2018 Z. z. o ochrane osobných údajov*); Act No. 185/2015 Coll. on Copyright, as amended (*zákon č. 185/2015 Zb., Autorský zákon*); Act No. 308/2000 Coll. on Broadcasting and Retransmission, as amended (*zákon č. 308/2000 Zb. o vysielaní a retransmisii*); Act No. 167/2008 Coll. on Periodical Press Products and News Agencies, as amended (*zákon č. 167/2008 Zb. o periodickej tlači a agentúrnom spravodajstve*); Act No. 372/1990 Coll. on Administrative Offences, as amended (*zákon č. 372/1990 Zb. o priestupkoch*); Act No. 351/2011 Coll. on Electronic Communications, as amended (*zákon č. 351/2011 Z. z. o elektronických komunikáciách*).

(*podnecovanie k nenávisti*), are declared as criminal offences.¹⁶ These are covered by the sections of the Criminal Code on defamation of nationality, race and beliefs (*hanobenie národa, rasy a presvedčenia*) and incitement to national, racial and ethnic hatred (*podnecovanie k národnostnej, rasovej a etnickej nenávisti*).¹⁷

Freedom of expression and hate speech are often seen to ‘collide’. It is very difficult to find the right balance between the two categories. It is the duty of the law to determine in a reasonable and fair way where freedom of expression ends and where a statement becomes defamatory or hate speech.

Freedom of expression is of paramount importance in a society because it makes social debate more likely to reveal the truth and eliminate political error. However, this process can be fraught with emotion, criticism, and even insults and mockery, which is necessary if society is to move forward by confronting criticism. Therefore, freedom of expression, by its very nature, always entails the risk of conflict between individuals, whether in private or in public communication. On this basis, freedom of expression should be understood as a so-called conflictual freedom: a freedom that in most cases entails confrontation and potential sources of conflict.¹⁸

However, the unclear definition of hate speech and the lack of a uniform definition creates significant problems in drawing the line and also creates a perceived legal uncertainty. This is both apparent and perceptible in EU and national legislation.

2. Cyberbullying in Slovakia

As today’s society is often described as an information society, the 21st century is often referred to as the digital age. Communication and information technologies are not only pervasive, but they are also an integral part of society. All age groups of the population, from children to young people, from the productive population to the elderly, fit into this framework. It also paints a picture of the intertwining of information technologies and population, of how these technologies are integral not only to the modern age but also to different aspects of the lives of individuals, groups and populations.¹⁹

¹⁶ Erdősová, 2019, pp. 448–449.

¹⁷ Act No. 300/2005 Coll., as amended (*Zákon č. 300/2005 Z. z., Trestný zákon*). Hereinafter referred to as the Slovak Criminal Code or Criminal Code.

¹⁸ For more information, see Lalík, 2016, pp. 1054–1066.

¹⁹ Kurucová, 2018, p. 37.

However, with the evolution of modern technology, a new problem has emerged in our society that the older generation is not yet aware of. The cyber-space environment is evolving and constantly developing, and with it a new form of 'danger'. In our case, we are talking about a form of bullying that is directly dependent on these technologies. We call this form of intimidation cyber intimidation.²⁰

In relation to freedom of expression, the Slovak Constitution declares that everyone has the right to freedom of speech and information, the right to express his or her opinion orally, in writing, in the press, in images or in any other form, and the right to seek, receive and impart ideas and information freely, regardless of frontiers.²¹ In contrast to the Hungarian legislation,²² the Slovak Constitution contains only enabling provisions on the exercise of freedom of expression, but no restrictive or prohibitive provisions.

Looking at the statutory level, it can be seen that the Slovak Criminal Code is the most relevant legislation for the research topic.²³ Under the Slovak Criminal Code, an offence is a qualified case if it is committed with a 'special motive'. Such a special motive could be, for example, when the offence is committed out of hatred of a group or individual on the basis of race, nationality, nationality or ethnic origin, race, colour, sex, sexual orientation, political or religious beliefs.²⁴

The list of substantive offences with more serious penalties for specific motives (direct intention) includes murder, assault, trafficking in human beings, threats, violence against a specific group of citizens or against a person, violation of personal liberty, kidnapping, robbery, extortion, restriction of religious freedom, violation of privacy of correspondence, theft, abuse of power, sexual violence, assault and rape.²⁵

20 Valihorová és Surovcová, 2018, p. 42.

21 Constitution of the Slovak Republic, Article 26(1) and (2).

22 Article IX (5) of the Hungarian constitution: "*The exercise of freedom of expression may not be directed against the dignity of the Hungarian nation, national, ethnic, racial or religious communities. Persons belonging to such communities shall have the right, in accordance with the law, to assert their claims before the courts against the expression of opinions that offend the community and violate their human dignity.*"

23 In addition to the Slovak Criminal Code, the Criminal Procedure Code [Act No. 301/2005 Coll., as amended (*Zákon č. 301/2005 Z. z., Trestný poriadok*)] is also an important source of law.

24 Criminal Code, para. 140 point e).

25 For further see the publication of the European Union Agency for Fundamental Rights named *Hate crime recording and data collection practice across the EU* c. page 79, online available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf

In addition, the Criminal Code penalises the creation, support or promotion of a group, movement or ideology which aims to suppress fundamental rights and freedoms, or which incites racial, ethnic, national or religious hatred or hatred against another group or person. In addition, the law prohibits the promotion of any group, movement or ideology which has in the past aimed at the suppression of fundamental rights and freedoms. This provision is supplemented by the Criminal Code, paras. 422 and 422a)–422c), which prohibit public manifestations of support for these groups, movements or ideologies, as well as the production, distribution and possession of extremist material (e.g., publications and leaflets).²⁶

In addition, the Criminal Code defines as a criminal offence the public defamation of any nation, its language, any racial or ethnic group, or of any person or group of persons on the basis of any race, nation, nationality, colour, ethnic group, political opinion, religion or lack thereof.²⁷

Finally, para. 424 of the Criminal Code is also remarkable, which defines the offence of incitement to national, racial and moral hatred. In conclusion, the concept of cyberbullying has not been defined in the Slovak Republic.²⁸ The Criminal Code does not regulate neither bullying (*šikanovanie*) nor cyberbullying (*kyberšikanovanie*), nor does it define these categories.²⁹

On 8 June 2021, the Head of State Čaputová signed a proposal to amend the law,^{30, 31} effective from 1 July 2021, which, among others, introduces a new offence of dangerous electronic harassment³² (*nebezpečné elektronické obťažovanie*) into the Slovak Criminal Code, which essentially covers the most serious cases of cyberbullying.³³

It should be stressed that dangerous electronic harassment as a criminal offence was introduced into the Slovak legal system essentially without any precedent, as electronic harassment *per se* was not a criminal offence before the entry into force of the provision in question.³⁴

26 Criminal Code, paras. 422 and 422a)–422c).

27 See: Criminal Code, para. 423. In this context, see also: European Union Agency for Fundamental Rights: *Hate crime recording and data collection practice across the EU* page 79. Online available: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf

28 Hulkó, 2021, p. 302.

29 Parti, 2016, p. 117.

30 The Slovak Parliament approved the proposed amendment on 27 May 2021.

31 The full text of the proposal in Slovak can be found at: <https://www.najpravo.sk/clanky/prezidentka-podpisala-zakon-ktorym-sa-doplna-trestny-zakon.html>

32 For more on this topic, see Šmigová, 2023, pp. 165–197.

33 See para. 360b of the Criminal Code.

34 Bielik, 2022.

Under the new regulation, a person who intentionally humiliates, intimidates, unlawfully acts on behalf of another person, or intentionally harasses another person in a persistent manner through an electronic communications service provider, computer network or system, may be sentenced to up to three years imprisonment. It is also a criminal offence to unlawfully disclose or make available to another person a visual, audio or visual and audio recording of a personal speech obtained with the consent of the person concerned, provided that the recording is capable of endangering the human dignity or otherwise seriously prejudicing the rights of the person concerned. If the offender commits the offence with a specific motive (direct intention) or commits the offence against a protected person, the perpetrator may be sentenced of up to one to four years. If the offender causes substantial damage by committing the offence, or commits the offence with the intention of obtaining a substantial benefit, or has been convicted of such an offence one or more times in the previous 24 months, he shall be punished with imprisonment for a term of between two and six years.³⁵

The definition of dangerous electronic harassment includes the most serious and dangerous cases of cyberbullying, i.e., crimes that are intended to cause long-term, intentional harm to the victim's quality of life. The publication of personal (visual and/or audio) recordings obtained by the offender with the consent of the victim is only punishable if they are recordings of personal expressions that are capable of causing serious harm to the victim. This latter specification is intended to avoid disproportionate punishment.³⁶

In conclusion, regulating dangerous electronic harassment is very timely, as cyberbullying is a modern, widespread phenomenon that causes serious problems in the online space.³⁷

In Slovakia, the following offences are the most frequent in the context of cyberbullying: dangerous threat (*nebezpečné vyhrážanie*),³⁸ dangerous persecution (*nebezpečné prenasledovanie*),³⁹ production and distribution of child pornog-

35 Criminal Code, para. 360b(1)–(4).

36 Ružarovský, 2021.

37 Vanc, 2021.

38 Criminal Code, para. 360.

39 Prior to the entry into force of the amendment in this amendment, this provision was the provision that covered cyberbullying the most. See in particular Article 360a(1) point c) of the Criminal Code:

“(1) Whoever regularly or persistently harasses another person or, with respect to him, his relative, in a manner likely to cause fear or disruption of his daily life, by:

(a) threatening to commit an act prejudicial to the health or integrity of that person or, with respect to that person, of a relative,

(b) seeking or following his or her proximity,

raphy (*výroba detskej pornografie, rozširovanie detskej pornografie*),⁴⁰ possession of pornographic recordings of children and participation in child pornographic performances (*prechovávanie detskej pornografie a účasť na detskom pornografickom predstavení*),⁴¹ endangering the moral development (*ohrozovanie mravnosti*),⁴² endangering the moral education of young people (*ohrozovanie mravnej výchovy mládeže*),⁴³ extortion (*vydieranie*),⁴⁴ coercion (*nátlak*),⁴⁵ sexual abuse (*sexuálne zneužívanie*)⁴⁶ and defamation (*ohováranie*).^{47,48}

2.1. Bullying at schools

A general examination of the legislation in this area,⁴⁹ as well as the government decrees (*nariadenia vlády*), regulations (*vyhlášky*) and directives (*smernice*) issued by individual ministries, shows that they do not explicitly address bullying in schools. Under Act No. 596/2003 Coll. on the State Administration of Education and School Self-Government, as amended⁵⁰ the Ministry directs the activities of the State Administration of Education by developing concepts under the above-mentioned Act and by issuing generally binding legislation, directives, instructions and by standardising their application, and monitors their implementation.⁵¹ It should be noted, however, that directives, ministerial decrees

(c) by contacting him or her with the assistance of a third person, by electronic means of communication, in writing or otherwise, against his or her will,

(d) misuses his or her personal data for the purpose of establishing a personal or other relationship; or

(e) otherwise interferes with his or her daily activities, shall be punishable by a maximum term of imprisonment of up to one year.

(2) The punishment shall be imprisonment for a term of six months to three years if the act referred to in paragraph 1

a) to the detriment of a protected person,

b) in a more serious manner,

c) with special motive, or

(d) committed in a public place.”

40 Criminal Code, paras. 368 and 369.

41 Criminal Code, para. 370.

42 Criminal Code, paras. 371 and 372.

43 Criminal Code, para. 211.

44 Criminal Code, para. 211.

45 Criminal Code, para. 192.

46 Criminal Code, paras. 201, 201a and 201b.

47 Criminal Code, para. 373.

48 Izakovič, 2021.

49 Hrášková, 2015.

50 Zákon č. 596/2003 Z. z. o štátnej správe v školstve a školskej samospráve.

51 Act No. 596/2003 Coll. on the State Administration of Education and School Local Authorities, as amended, para. 14(1).

and methodological instructions, as internal professional documents, are not published in the Collection of Laws of the Slovak Republic (*Zbierka zákonov Slovenskej republiky*) and are therefore not considered to be statutory legislation in this sense, but are binding on schools and educational institutions and their implementation can be monitored.⁵²

Among those mentioned above, Directive 36/2018/EU on the Prevention and Treatment of Bullying of Children and Pupils in Schools and Educational Establishments should be highlighted,⁵³ which repealed Methodological guidance No. 7/2006-R of 28 March 2006 regarding the prevention and dealing with bullying of students at schools and school facilities.⁵⁴ The Directive, which is still in force, defines the basic signs, forms and manifestations of bullying of children and pupils, as well as the possibilities for preventive measures and methods of dealing with bullying of pupils.⁵⁵

It should also be noted that schools currently have a number of relevant methodological materials and manuals, as well as a few websites that take a comprehensive and interactive approach to bullying and cyberbullying in schools.⁵⁶ Close cooperation between schools and educational counselling and prevention services is also an important part of tackling these dangerous social phenomena.⁵⁷

On the basis of the requirements of the Ministry of Education, Science, Research and Sport of the Slovak Republic (*Ministerstvo školstva, vedy, výskumu a športu Slovenskej republiky*)⁵⁸ at the Department of Prevention and Youth Research of the Scientific and Technical Information Centre of the Slovak Republic [*Centrum vedecko-technických informácií Slovenskej republiky* (CVTI SR), *Oddelenie prevencie a výskumov v oblasti mládeže*] has been mapping the problems of bullying in schools for a long time. Through data collection, the research focuses on the following areas of the problem under study: prevalence and manifestations, methods of treatment, cooperation with the different actors, and organisation of prevention activities/programmes. Among the

⁵² Havrila, 2021.

⁵³ *Smernica č. 36/2018 k prevencii a riešeniu šikanovania detí a žiakov v školách a školských zariadeniach*

⁵⁴ *Metodické usmernenie č. 7/2006-R z 28. marca 2006 k prevencii a riešeniu šikanovania žiakov v školách a školských zariadeniach*. Available at: <https://www.minedu.sk/data/att/16073.pdf>

⁵⁵ For more on this subject, see the Directive 36/2018/EU on the Prevention and Treatment of Bullying of Children and Students in Schools and Educational Establishments.

⁵⁶ See, for example, <https://www.odpisemeti.sk/> (translated as www.wewillwriteback.sk). and also <https://www.kybersikanovanie.sk/index.php/slovník>

⁵⁷ For further, see Hrašková, 2015.

⁵⁸ Hereinafter referred to as the Ministry of Education.

directly managed and involved organisations of the Ministry of Education, Science, Research and Sports of the Slovak Republic, the Research Institute of Child Psychology and Pathopsychology (*Výskumný ústav detskej psychológie a patopsychológie*), which carries out a number of professional and methodological activities, should be mentioned.⁵⁹

2.2. *Bullying at work*

Neither international, nor EU, but even national legislation not defines precisely the legal definition of bullying at work. Research and various sources on the subject are based on different definitions developed by other social sciences, such as bullying and its forms (mobbing, bossing). The lack of a legal definition of bullying also implies a lack of a legal definition of cyberbullying.⁶⁰

Anti-discrimination legislation includes the concept of bullying as defined in Council Directive 2000/78/EC,⁶¹ which sets out a general framework for equal treatment in employment and occupation.

In Slovakia, the Labour Code⁶² states among its basic principles that ‘natural persons have the right to free choice of employment and occupation, fair and satisfactory working conditions and protection against arbitrary dismissal in accordance with the principle of equal treatment in the field of labour law, as laid down in the special Act on the Principle of Equal Treatment in Certain Areas and the Act on Protection against Discrimination (Anti-Discrimination Act), as amended and supplemented several times.’⁶³ The Labour Code also lays down as a fundamental principle the rule prohibiting the abuse of rights and obligations arising from the employment relationship to the detriment of the other party to the employment relationship and of the group of workers.⁶⁴ In cases where the legal framework is exceeded by the actions of either the employee or the employer to the extent that violence (mainly psychological, but physical violence cannot be excluded) is used, we are talking about bullying and its various forms.⁶⁵

⁵⁹ Havrila, 2021.

⁶⁰ Minčíčová, p. 130.

⁶¹ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. See: <https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX%3A32000L0078>

⁶² Act No. 311/2001 Coll., as amended (*Zákon č. 311/2001 Z. z., Zákonník práce*)

⁶³ Labour Code, Principles, para. 1, 1st sentence.

⁶⁴ Labour Code, Principles, para. 1, 2nd sentence.

⁶⁵ Beznosková, 2020.

Examining the practice of bullying in the workplace, we found a number of relevant cases.⁶⁶ One of the facts can be summarised simply as follows: the employee was working in a job that the employer had classified in its internal rules of employment as a position for which an appointment by the employer was required.⁶⁷ The employer removed the employee from his position and subsequently dismissed the employee for failure to comply with the work requirement under para. 63(1) point d) and (2) of the Labour Code. The issue of discrimination was also examined during the proceedings. As the issue of bullying is relevant for the purpose of this chapter, the question of the nullity of the termination of employment and the discriminatory conduct of the employer will not be analysed separately. According to the Court's judgment, bullying shall be distinguished from discrimination. According to the judgment, the basis for discrimination is defined by the anti-discrimination law. The purpose of the Anti-Discrimination Act is to enforce the principle of equal treatment and to regulate the means of legal protection in the event of a breach of this principle. According to the Anti-Discrimination Act, compliance with the principle of equal treatment also means compliance with the prohibition of discrimination on the grounds set out in the Act. These grounds may be: sex, religion or belief, race, nationality, ethnic or national affinity, disability, age, sexual orientation, marital status, colour, language, political or other opinions, national or social origin, property, birth, or other status.⁶⁸

In general, in labour law, discrimination is defined as any discrimination, exclusion, or favouring based on discriminatory characteristics and intended to jeopardise or completely prevent equal opportunities or equal treatment of workers within the employment relationship. According to the Labour Code, discrimination consists primarily in the fact that the discriminated employee is the bearer of a certain characteristic. If a worker is persecuted

66 Judgment of the District Court of Banská Bystrica, case no.16 CoPr 11/2012 (*Rozsudok Krajského súdu v Banskej Bystrici sp. zn. 16 CoPr 11/2012*). Bullying is not explicitly mentioned in the Labour Code. By analogy, bullying can be considered a specific type of abuse of rights. The prohibition of abuse of rights is enshrined in the Labour Code in para. 2 of the Fundamental Principles. This formulation contains a legal prohibition and a legal injunction, which are the limits to the exercise of rights, the exercise of rights and the fulfilment of obligations. The 'prohibition of abuse of rights' in para. 2 of the Fundamental Principles of the Labour Code constitutes a legal norm, the violation of which by those entitled to it constitutes an unlawful act. The specificity of such an unlawful act is that it does not result from the breach of a legal obligation, but occurs in the exercise of a right in a manner prohibited by law.

67 Labour Code, para. 42(2).

68 Beznosková, 2022.

for other reasons, this does not constitute discrimination, but may amount to bullying.⁶⁹

The above-mentioned decision of the court makes a distinction between bullying and discrimination. The judgment states that bullying is not explicitly provided for in the Labour Code, and therefore, by analogy, bullying can be considered a specific type of abuse of rights. Simply put, the judgment was about bullying by the employer, i.e., bossing. Both the employer and the manager have both the right and the duty to control subordinate employees, to give them instructions, and to require them to perform their work in accordance with the mandatory conditions of employment laid down in the employment legislation. A simplified interpretation of this relationship is that the employer and the manager exercise certain rights and obligations over the subordinate workers and that within this relationship there may be an abuse of rights.⁷⁰

3. Legislation on prevention and case law

Cybersecurity has become an increasingly popular topic in Slovakia over the past few years, as evidenced by the fact that the Government of the Slovak Republic (*Vláda Slovenskej republiky*)⁷¹ has drafted a new cybersecurity law in the country during this period, which amended the Common and Uniform Practices for Cyber Defence.⁷² The preparations were complex, involving not only experts from the public administration but also the academic community, civil society, and many other experts. In addition to the Cybersecurity Act, Slovakia has already had a National Strategy for Information Security (*Národná stratégia kybernetickej bezpečnosti*) since 2008, and a technical document, the Cybersecurity Concept 2015–2020, prepared by the National Agency for Network and Electronic Services (*Národná agentúra pre sieťové a elektronické služby*) and the National Security Authority (*Národný bezpečnostný úrad*) and adopted by the Government in June 2015. The National Cybersecurity Strategy 2021–2025⁷³ was approved by the Slovak Government on 7 January 2021 by Decision No. 5/2021. It was the first strategy document

⁶⁹ Beznosková, 2022.

⁷⁰ Švec, 2019, pp. 12–17.

⁷¹ Hereinafter referred to as the Slovak government or government.

⁷² Act No. 69/2018 Coll., as amended (*Zákon č. 69/2018 Z. z. o kybernetickej bezpečnosti*).

⁷³ *Koncepcia kybernetickej bezpečnosti Slovenskej republiky na roky 2015–2020*

that comprehensively defined the Slovak Republic's strategic approach to cybersecurity.⁷⁴

The issue of child protection in the digital space, and the evolution and nature of threats, is a very dynamic and rapidly changing phenomenon. Therefore, a coordinated, coherent and transparent response, as well as adequate political and institutional support, is needed to address the situation. For the period 2020–2025, the Slovak Government has developed a National Strategy for the Protection of Children in the Digital Space (National Strategy).⁷⁵ Given that this is a rapidly evolving area, the National Concept for the Protection of Children in the Digital Space proposes measures for each specific objective, which will be reflected in a short-term action plan. In addition to the concept, three action plans will be prepared for a two-year period, taking into account the current situation and evolution of the protection of children in the digital space and their vulnerability.

The National Strategy lists the actors involved in institutional and policy support for the protection of children in the digital space, but does not clarify their responsibilities and roles.⁷⁶

In Slovakia, there are a number of non-profit organisations working on cyberbullying issues and running various websites. For example, the website www.pomoc.sk (translated as www.help.sk)⁷⁷ provides useful advice and assistance to those concerned about aggressive, violent and abusive behaviour, misuse of personal data, communication on social networks and inappropriate content.

74 Available online on the official website of the Slovak National Security Office: https://www.nbu.gov.sk/wp-content/uploads/kyberneticka-bezpecnost/Strategia_kybernetickej-bezpecnosti_2021.pdf

75 National concept for the protection of children in digital space. Online available: https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/narodna-koncepcia-ochrany-deti-v-digitalnom-priestore-1.pdf

76 The organisations involved in the technical work were the following: Office of the Government of the Slovak Republic; Office of the Deputy Prime Minister for Investments and Informatization; Ministry of the Interior of the Slovak Republic – Government Council for Crime Prevention; Ministry of Education, Science, Research and Sports of the Slovak Republic; Ministry of Culture of the Slovak Republic; Ministry of Justice of the Slovak Republic; Ministry of Labour, Social Affairs and Family of the Slovak Republic; Ministry of Health of the Slovak Republic; the Ministry of Finance of the Slovak Republic; the Office of the Commissioner for Children's Rights; the Office for Personal Data Protection of the Slovak Republic; the Office for the Protection of Industrial Property of the Slovak Republic; the Police of the Slovak Republic, the Prosecutor's Office, the Courts; universities, the Slovak Academy of Sciences, the Audiovisual Fund, registered churches and religious associations, NGOs, other representatives of civil society, psychologists, municipalities, schools, educational institutions, health care providers and other organisations.

77 The page is available at <http://www.pomoc.sk>

People in need of help and those affected can contact the organisation 24 hours a day by e-mail (chat) or telephone at potrebujem@pomoc.sk (translated as ined@help.sk). Also worth mentioning is the website www.stopline.sk, which allows you to report inappropriate or illegal content and activities. Reporting is completely anonymous and can be done by filling in an online form.⁷⁸

The project, operated by the eSlovensko civil association⁷⁹ – *Zodpovedne.sk* (translated as *Responsibly.sk*)⁸⁰ – aims to raise awareness, educate people about responsible use of the internet, mobile communications and new technologies, and prevent related crimes. The organisation's activities focus on all forms of aggression in cyberspace, including cyberbullying. In addition, other projects of this civil association, such as *Nehejtuj* (translated as *Do not hate*)⁸¹ and *Ovce.sk* (translated as *Sheep.sk*),⁸² which highlight the pitfalls and harmful and dangerous consequences of cyberspace activities in an age-appropriate way for the target audience, should also be mentioned. They also include *Kyberšikanovanie – narodení pre výhru* (translated as *Cyberbullying – born to win*), *Rythmus – sídliskový sen* (translated as *Rhythm – a dream in a housing estate*) and *No Problemos*, which focus on preventing cyberbullying and online exclusion.⁸³

Within this chapter, we also need to address the question of whether national law provides for any form of blocking of access to hate speech or cyberbullying in online spaces and, if so, what are the limits of this measure? In the course of our research, we found that neither the Criminal Code nor the Criminal Procedure Code⁸⁴ explicitly mention the terms 'inaccessibility' or 'electronic data'. In contrast, a provision of the Criminal Procedure Code explicitly provides for the retention, release and withdrawal of computer data. In cases where the retention of electronically stored computer data, including operational data stored by means of a computer system, is necessary for the evidentiary procedure, the prosecutor may, before the commencement of the procedure or during the

⁷⁸ See the websites mentioned.

⁷⁹ For a definition of civil association, see para. 2(1) of Act No. 83/1990 Coll., on Association of Citizens, as amended (*Zákon č. 83/1990 Z. z. o združovaní občanov*): "Citizens may establish and join associations, associations, federations, movements and other civil associations, as well as trade unions (hereinafter referred to as 'associations')."

⁸⁰ The project is available not only in Slovak, but also in English by following the link <https://www.zodpovedne.sk/index.php/en/>

⁸¹ The project for secondary school students deals with intolerance.

⁸² The online project Sheeplive.eu/*Ovce.sk* is aimed primarily at pre-school children, where the website aims to raise awareness of the pitfalls of online communication through short animated stories.

⁸³ Hollá et al., 2017, p. 44.

⁸⁴ *Zákon č. 301/2005 Z. z., Trestný poriadok*.

preparatory procedure, issue a factual order requiring the suspect to: preserve and maintain the integrity of such data, allow copies of such data to be made and preserved, prevent access to such data, remove such data from the computer system, disclose such data for evidentiary purposes without delay.⁸⁵

However, this legal provision implies the complete inaccessibility of the data, since the order under paragraph 1(a) to (c) of the above-mentioned provision must specify the period of retention of the data, which may not exceed 90 days. If justified, a new order may be issued for a further period of 90 days.⁸⁶

The fact that cyberbullying is an increasingly serious threat to society is confirmed by a survey by the insurance company Uniqua.⁸⁷ It shows that around 90% of respondents do not know how to protect themselves in such cases. The insurance company's cyber insurance package offers a solution. According to the call, if someone is a victim of bullying on the internet, they simply need to call Uniqua's helpline and the insurer will ensure that such information is removed or deleted from the internet. The victim is also entitled to legal representation and reimbursement of related costs. In such a case, the insurer will ensure that the offensive or defamatory messages are deleted, block the profile of the attacker and provide other legal and IT assistance. Cyber insurance not only covers cyberbullying, but also provides comprehensive protection against damage to an online person's reputation. It also covers the theft and publication of photographs taken from a mobile phone, if the theft is due to misuse of the identity of the insured or if the publication damages the online reputation of the customer. Defamation, insulting or unlawful disclosure of private information is considered a breach of online reputation.⁸⁸

4. Responsibilities of service providers and institutions

A major problem in the country remains that Slovak legislation does not clearly define how to deal with and prosecute offences committed in the digital space. In the context of cybercrime, the prosecution deals mainly with cases of child pornography, harassment, sexual abuse and similar offences, as domestic

⁸⁵ Criminal Procedure Code, para. 91(1).

⁸⁶ Criminal Procedure Code, para. 91(2).

⁸⁷ For further see: <https://www.uniqua.sk/o-nas/aktuality/urazy-pocas-prestavky-kradeze-kybersikana-kto-nesie-zodpovednost-za-skody-ktore-stanu-ziakom-skole.html>

⁸⁸ For further see: <https://www.finreport.sk/banky-a-poistovne/z-kybersikany-sa-stal-trestny-cin-ochranu-obetiam-poskytuje-nielen-zakon-ale-aj-kyberpoistenie/>

legislation does not recognise other forms of online abuse and exploitation of children, such as sexting or hate speech.⁸⁹

Currently, there is no legislation in Slovakia that imposes specific obligations on internet service providers and website (social networking) operators, but there are some obligations under certain laws. One example is the obligation of prevention, which is laid down in the Civil Code. It states that “*everyone has the duty to act in such a way as to prevent damage to health, property, nature and the environment.*”⁹⁰ This applies not only to those who suffer damage but also to those who cause it. It can also apply to the operator of a social network if it is aware that its network is being widely used for cyberbullying, yet does nothing to prevent it.

The legal regime for internet broadcasters is much lighter than that for traditional broadcasters between licences. The legislation in question⁹¹ does not regulate all content on the internet, but only covers content broadcast over the internet and content that is part of an on-demand audiovisual media service.⁹²

In Slovakia, most website operators do not substantially restrict children’s access to pornographic content. Content intended exclusively for over 18 years is unrestricted and can be accessed by simply clicking on the OK button, which does not even require reading the warning text (which usually contains information that the pages to be opened contain pornographic content and a warning that such content is not accessible to under 18 years of age). This also applies to specific cases of sexting, where the ‘perpetrator’ is very often the victim, and thus punished by the laws originally designed to protect the victim.⁹³

In addition, content providers in Slovakia are making increasing efforts to combat discriminatory and other illegal or harmful content through self-regulation, in particular in the form of codes of conduct. Some websites also display

89 National Concept for the Protection of Children in the Digital Space (*Národná koncepcia ochrany detí v digitálnom priestore*), p. 4. Available online: https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/narodna-koncepcia-ochrany-deti-v-digitalnom-priestore-1.pdf

90 Slovak Civil Code, para. 415.

91 Act No. 308/2000 Coll. on Broadcasting and Retransmission, as amended (*Zákon č. 308/2000 Z. z. o vysielaní a retransmisii a o zmene zákona č. 195/2000 Z. z. o telekomunikáciách v znení neskorších predpisov*).

92 For internet broadcasting to be covered by the regulation, it must fully comply with all the characteristics of broadcasting services as defined in para. 3(1) of Act No. 220/2007 Coll. on Digital Broadcasting, as amended.

93 National Concept for the Protection of Children in the Digital Space (*Národná koncepcia ochrany detí v digitálnom priestore*), p. 7. Available online: https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/narodna-koncepcia-ochrany-deti-v-digitalnom-priestore-1.pdf

a label for each code of conduct, indicating that the site complies with the code of conduct. In addition, content providers are working to develop and facilitate access to child-friendly content, for example through the creation of special websites and search engines for children. It remains a concern that progress in this area is still significantly weak. In the future, existing measures against illegal or harmful content for children will need to be continuously monitored to ensure their effectiveness.⁹⁴

The Slovak legal system does not specifically regulate social media. The only legislation in force that has some direct relevance to the liability of community media is Act No. 22/2004 Coll. on Electronic Commerce, as amended, which was adopted to transpose the provisions of the Directive on electronic commerce into national law. The law is not specifically aimed at regulating social media platforms, but it also applies to these platforms.⁹⁵

Slovak legislation does not define the concepts of illegality and infringement, neither for e-services nor for social media. As a general rule, the removal of infringing content and the infringement suffered online may lead the victim to take legal action. In the area of personal data protection and copyright protection, there is a sectoral public administration supervisory body, and therefore intervention is possible under sectoral legislation. The Slovak legislation does not distinguish between infringements committed online and offline and therefore the nature of the medium is not relevant for the availability of legal remedies.⁹⁶

For these reasons, it would be very difficult to hold the largest group of service providers liable for the data and information they store or transmit. The exceptions to this are news portals, online radio and television channels, because they produce the information and news themselves or have significant influence over it. Such providers moderate their own forums and remove posts that violate rights or public morals, following the ECtHR' judgment in *Delfi AS v. Estonia* of 10 October 2013.⁹⁷

Service providers are under no obligation to monitor users' content, and the regulation explicitly prohibits service providers from pre-filtering users' data

94 National Concept for the Protection of Children in the Digital Space (*Národná koncepcia ochrany detí v digitálnom priestore*), p. 18. available online: https://detstvobeznasilia.gov.sk/web_data/content/upload/subsubsub/2/narodna-koncepcia-ochrany-deti-v-digitalnom-priestore-1.pdf

95 Hulkó, 2021, p. 250.

96 Ibid., p. 251.

97 The case *Delfi AS v Estonia* can be accessed by clicking on the following link: <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D,%22itemid%22:%5B%22001-126635%22%5D%7D>

without their consent. If the service provider becomes aware of the illegality of such information (for example, through the notice and take-down procedure), it is obliged to remove it or prevent access to it as soon as possible. Searching for user information is therefore generally excluded, and the provider is not obliged to actively search for infringing content. Currently, there is no uniform legal or academic position in Slovakia on the interference of social media platforms with unlawful user content. The literature cites the court case *Stacho v. Klub Strážov*, in which a website was challenged for a post (comment) that violated the human dignity of a specific person.⁹⁸

4.1. Responsibilities of educational institutions

The school, together with the family, has a decisive and determining influence on the development of the young generation. In addition, the role of the school is gradually shifting from its current educational and training function to a social, emotional and preventive role against the undesirable influences of society.⁹⁹ The preventive function of schools in the school environment, in extra-curricular activities and in leisure time activities has also become an often-debated topic. What is more, school as an institution provides pupils with a place for education and training that should lead to positive changes in the development of the pupil.¹⁰⁰

However, today's schools have to deal more and more intensively with pupils' learning difficulties, which are on the rise. Aggressive behaviour has consequences for pupils, especially in the areas of social relationships, communication between pupils, interaction, cooperation, trust, participation in problem solving, belonging and discipline. At the same time, the impact of aggressive behaviour in school is to reduce the emotionality of the pupils, to create a collective lack of socially accepted values and to create a fear of the school environment. Fear arises in situations where the satisfaction of certain needs, especially the need for safety and security, is threatened, either in reality or in the imagination.¹⁰¹

The learning environment, by which we mean primarily the school environment, provides an opportunity to develop the learner's resilience. For students who have a less stimulating and more stressful than average home environment, this school environment is very important and the school should provide them

⁹⁸ Hulkó, 2021, p. 252.

⁹⁹ Hollá et al., 2017, p. 49.

¹⁰⁰ Ibid.

¹⁰¹ Vágnerová, 1994, p. 273.

with a sense of achievement, which is important for the student's self-esteem. The compensatory function of the school environment is important for all learners. It is particularly valuable for pupils who come from a non-affirming family background. In this case, the school environment is of particular importance to the pupil, who needs to feel a sense of belonging, a sense of belonging to a group and a sense of achievement. As part of the extra-curricular activities in which children participate, activities that help them to make decisions are important. They teach children the real responsibility that comes with resilience and contribute to their sense of identity.¹⁰²

Schools and educational establishments play an important role in prevention systems at regional and local level, as the majority of young people attending school become the direct target of prevention measures. Skácelová defines the practical role of schools in prevention activities as follows: children's first serious behavioural problems, which usually require specialised care, are most often encountered in primary school; the Ministry of Education has an extensive network of counselling institutions and the counselling services they provide; children usually show the first signs of problem behaviour long before they come into the care of the social assistance services of the Department of Social Work; the social and health services come to the rescue when intervention is needed in the family and usually when comprehensive preventive activities initiated by the school need to be implemented; school and school facilities are often the only environment in which peer influence can be systematically corrected, especially in the case of disorganised individuals.¹⁰³

Effective prevention in the school environment requires first and foremost a safe school atmosphere.

4.2. Responsibility of the employer

Traditional cases of bullying show that if an employee suffers damage as a result of abusive behaviour at work, he or she can claim compensation through the institution of general employer's liability.¹⁰⁴

According to the Slovak Labour Code,¹⁰⁵ the employer is liable to the employee for damages caused to the employee by a breach of statutory obligations or intentional conduct contrary to good morals in the course of or directly related to the performance of his/her duties. It is irrelevant in law whether the damage was

¹⁰² Kardos, 2007, p. 576.

¹⁰³ Skácelová, 2003, p. 329.

¹⁰⁴ Labour Code, para. 192.

¹⁰⁵ Labour Code, para. 192(1).

caused by another employee, by an employee acting on behalf of the employer or by a third party. It follows from the above that an employee who suffers damage caused by an act of a person outside the employment relationship is also entitled to claim compensation from the employer. In view of the above-mentioned specificities of cyberbullying, the possibility to claim compensation is limited by the presumption that the damage occurred in the course of or in direct connection with the performance of work duties within the meaning of the Labour Code.¹⁰⁶ If, even in these cases, the law were to include a presumption of liability in relation to the performance of the work tasks, it would be possible for an employee abused by a third party to bring a claim for compensation.¹⁰⁷ The employer's general liability for damages is supplemented by a third cause of action, which is no longer linked to the presumption that the damage occurred in the course of or in direct connection with the performance of the work. The employer is liable to the employee for damage caused by the breach of statutory obligations by employees acting on behalf of the employer in the performance of their employer's duties.

Given that suicide is mentioned in the literature as one of the possible consequences of cyberbullying, it is also worth considering whether 'survivors' can claim compensation under the employer's liability for an accident at work. No relevant judgments were found in Slovakia on this point, but – regularly cited in the Slovak literature – the Constitutional Court of the Czech Republic (*Ústavní soud České republiky*) handed down a decision in a case of suicide of an employee, which the plaintiff (the employee's wife) claimed was caused by bullying behaviour at work. The Constitutional Court of the Czech Republic ruled that the employee's suicide did not meet the criteria of an accident at work because it was not caused by external, involuntary influences. The court stressed that the suicide was not committed in the course of or in direct connection with the performance of his work duties and that the suicide was therefore not directly linked to the alleged abusive behaviour of the plaintiff. The employee's psychiatric disorders, as established by expert evidence, were also taken into account. Without tying the employer's liability for the employee's suicide to the work-related injury, the absence of a provable causal link between the suicide and the work or working conditions is a bar to a successful employer liability claim.

¹⁰⁶ Labour Code, para. 220(1) and (2).

¹⁰⁷ As in para. 220(3) of the Labour Code in the context of an accident at work.

Summary

In Slovakia, the concept of hate speech has not been defined. The relevant literature is based on the case law of the ECtHR, which is based on the Recommendation of the Committee of Ministers of the Council of Europe. The recommendation defines hate speech as any form of expression that disseminates, promotes, justifies, or incites hatred based on racism, xenophobia, anti-Semitism, or other forms of intolerance. The Constitutional Court of the Slovak Republic has stated in a decision that it agrees with this definition and that the most common forms of hate speech in Slovakia are defamation and incitement to hatred.¹⁰⁸

The Constitution of the Slovak Republic declares that freedom of expression and the right to freedom of information is guaranteed to all. In addition, everyone has the right to express his or her opinion orally, in writing, in the press, in images, or in any other form, and the right to seek, receive and impart ideas and information freely, regardless of frontiers.¹⁰⁹ The Slovak Constitution, unlike the Hungarian Constitution, contains only enabling provisions on the exercise of freedom of expression, but no restrictive or prohibitive provisions.¹¹⁰ The Slovak Constitution also provides for an explicit prohibition of censorship and stipulates that freedom of expression and the right to seek and impart information may be restricted by law only if the measure is necessary in a democratic society to protect the rights and freedoms of others or if justified by the protection of national security, public order, public health or morals.¹¹¹

Although hate speech has not been defined, two forms of hate speech, defamation and incitement to hatred, are criminal offences. These are set out in paras. 423 and 424 of the Criminal Code, entitled “Defamation of nation, race and belief” and “Incitement to national, racial and moral hatred”. In Slovak legislation, there is no specific legal definition of cyberbullying, and the concept of cyberbullying is not defined, nor does the Criminal Code regulate or define the concept of cyberbullying.

The amendment of the Slovak Criminal Code, effective as of 1 July 2021, introduced a new offence of ‘dangerous electronic harassment’, which essentially covers the most serious cases of cyberbullying. Under the dangerous e-harassment definition, the most serious and dangerous cases of cyber-harassment are included, i.e., offences that aim to cause long-term, intentional damage

108 See the decision of the Constitutional Court No. PL ÚS 5/2017 of 9 January 2019.

109 Constitution of the Slovak Republic, Article 26(2).

110 Constitution of the Slovak Republic, Article 26(3).

111 Constitution of the Slovak Republic, Article 26(4).

to the victim's quality of life. Under the new provision, anyone who intentionally humiliates, abuses, unlawfully acts on behalf of another person or intentionally harasses another person in a persistent manner through an electronic communications service provider, computer network or system, is liable to imprisonment of up to three years. In addition, it is also a criminal offence to unlawfully publish or make available to another person a visual, audio or visual and audio recording of a personal speech obtained with the consent of the person concerned, provided that the recording is capable of endangering the dignity or otherwise seriously prejudicing the rights of the person concerned. In cases where the offender commits the offence with a specific motive (direct intent) or commits the offence against a protected person, the punishment is imprisonment from one to four years. If the offender causes substantial damage by committing the offence or commits the offence with the intention of obtaining a substantial benefit, or has been convicted of such an offence one or more times in the previous 24 months, he shall be punished with imprisonment for a term of between two and six years.¹¹²

In Slovakia, the following offences are also the most common in the context of cyberbullying: dangerous threats, dangerous persecution, production and distribution of child pornography, possession of pornographic recordings of children and participation in child pornography performances, endangering moral development, endangering the moral education of young people, extortion, coercion, sexual abuse, defamation.¹¹³

A study of the legislation in this area, as well as the laws, government decrees, and regulations issued by the various ministries, shows that they do not specifically address bullying in schools, but are merely internal, mainly informative, non-legislative materials. Among those already mentioned, Directive No. 36/2018 on the Prevention and Treatment of Bullying of Children and Pupils in Schools and Educational Institutions,¹¹⁴ which regulates the basic signs, forms, and manifestations of bullying of children and pupils, the possibilities of preventive measures and the methods of dealing with bullying of pupils, is not considered as legislation.

Neither international, nor EU, nor even national legislation defines the legal concepts of workplace bullying and cyberbullying. The research and the various sources are based on different definitions developed by other social sciences, such as bullying and other forms of bullying.

¹¹² Criminal Code, para. 360b.

¹¹³ See the relevant provisions of the Criminal Code, as described above.

¹¹⁴ *Smernica č. 36/2018 k prevencii a riešeniu šikanovania detí a žiakov v školách a školských zariadeniach.*

It should be noted, however, that in Slovakia there are a number of non-profit organisations dealing with the problem of cyberbullying, with websites where people can ask for help.

A major problem remains that Slovak legislation does not clearly define how crimes committed in the digital space are to be handled and prosecuted. In the context of cybercrime, the prosecution deals mainly with cases of child pornography, harassment, sexual abuse, and similar offences, as domestic legislation does not recognise other forms of online abuse and exploitation of children, such as sexting or hate speech. Legal regulation of internet broadcasters is much lighter than that of licensed traditional broadcasters. Act No. 308/2000 Coll. on Broadcasting and Retransmission, as amended, does not regulate all content on the internet, but only covers content broadcast over the internet and content that is part of on-demand audiovisual media services. Furthermore, the Slovak legal system does not specifically regulate social media platforms. The only legislation in force that has any direct relevance to the liability of social media is based on Act No. 22/2004 Coll. on Electronic Commerce, as amended, which was adopted to transpose the provisions of the e-commerce Directive into national law.

The Ministry of Education has an extensive network of counselling centres and the counselling services they provide; the child usually shows the first signs of problem behaviour long before he or she is referred to the social assistance services of the Department of Social Work; social and health service institutions are called upon when intervention is needed in the family and usually when comprehensive preventive activities initiated by the school need to be implemented; school and school facilities are often the only environment in which the positive influence of peers can be systematically corrected, especially in the case of disorganised individuals.

Traditional cases of cyberbullying show that if an employee suffers harm as a result of bullying behaviour at work, he or she can claim compensation through the institution of general employer's liability. According to the Labour Code, the employer is liable to the employee for damage caused to the employee by a breach of statutory obligations or intentional conduct contrary to good morals in the course of or directly connected with the performance of his/her duties. It is irrelevant in law whether the damage was caused by another employee, an employee acting on behalf of the employer or a third party.¹¹⁵

115 Labour Code, para. 192(1).

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