

THE EMERGENCE OF SOCIAL MEDIA IN (GOVERNMENT) COMMUNICATION AND ITS POTENTIAL EFFECTS THROUGH US AMERICAN EXAMPLES

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In this study, we focus on the question to what extent social media is present in governmental and political communication. Social platforms have provided entirely new opportunities for interaction between individuals, but with the appearance of the internet, the polarization between the private and public sector has undergone significant changes. In the beginning, there was predominantly interaction between smaller communities, but with time communities sharing the same interests started to use these platforms to keep in permanent dialogue with the members. The new social platforms gradually took over public service functions, while slowly "infiltrating" political communication. Nowadays, government officials are rarely left the choice whether or not to be present and to participate on social media, since these platforms offer themselves for a significant presence for both individuals and non-traditional interest groups. Politicians responded rather quickly to the changes brought by this new medium, increasingly using social platforms such as Twitter, Facebook and various blogs, for manifestating themselves online, gaining, thus, ever more support/visibility. As a result, personal profiles originally created by individuals and as such belonging to the private sphere by being politicized take on a public character—especially in Anglo-Saxon countries, where the relationship between public figures and citizens is less formalised. In the United States by the late 2000s, social media appeared as a tool of political campaigns, paving already the way for fake news, too. We briefly explore the psychology of the truth value of statements in political communication and their social and legal perception, as well as their relation to free speech. In this context, we will briefly discuss the role of gatekeepers, bearing in mind the differences in respective regulations in Europe and the United States. We will examine two government cases in the United States and look for answers concerning the results of the 2020 presidential election and President Trump's campaign during the coronavirus pandemic. As to the outcome of the election, we will analyze the decisions of social platforms connected to the social media appearance of former President Trump which resulted in his banning from social media.

Keywords: social media, political conversation, free expressions, voting, pandemic election

1. Introduction

When dealing with digital public administration and the related use of ICT tools, we can no longer avoid the question to what extent public administration can benefit from the opportunities made available through social media reflecting as well as being formed by social change. It is a fact that society has a strong impact on social platforms, but this is not an one-way process. Over time, newly available technologies have changed us, as much as they have provided us with new means of communication and interaction. Before the emergence of social platforms, there were basically two main forms of media used for communication. The first being public media such as television, radio and newspapers. Here practically anyone could join the audience, the broadcaster or publisher having no direct control what's so ever over who constituted the audience. There were also certain media outlets which specifically facilitated private conversation between two people, such as telephone conversations. Although people could engage in one-to-one private encounters over the phone, it could not

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be used for group interaction. With the internet, the polarization between public and private media began to change. Emails could be sent to a group, messages could be posted on billboards, in special forums, chat rooms, and blogging appeared—all of these addressing already a much wider audience—even though, in the beginning daily communication continued to be dominated by the two previously mentioned forms of media, public broadcasting and private conversation. In fact when it came to numbers, social media development in the beginning lagged behind public broadcasting, since a social media group was generally limited to a few hundred people. However, the people who belonged to these groups started to interact, so they contacted each other, for example, by writing comments or commenting on what others have written. At the same time, text messaging and internet services such as MSM and AOL were developed, and this development continued with the growing of the proprietary messaging platforms of smartphones, which can already be considered as the predecessor of WhatsApp. These services included private messaging, but they also improved various group features. They were at first used to create smaller, more private groups, which were mostly comprised of 20 or fewer people. Community platforms have also slowly emerged in political dialogue, creating a number of new situations, raising new questions and regulations worldwide. These new circumstances also had a strong impact on the 2020 U.S. presidential election and on subsequent events. In this study, we will investigate the role of social media in the elections based on the events and related articles and studies.

2. Social platforms and their government presence

The emergence of the above mentioned "pre-social" platforms is a particularly important milestone because for young people this type of text communication has largely replaced the voice-based use of the phone. This process has created communities counting millions of people, and it is the shared contents communicated by this large mass of users, their shared thoughts and opinions which provide the essence and significance of social media. It is the social phenomenon created by these platforms, more specifically the effects of this social phenomenon having already spilled over into public administration, which cannot be ignored.² It is particularly exciting when we see social platforms retreating from public communication, while others move from private communication to public. In the future, new platforms will probably be defined along the lines of public and private.³ Social media has introduced new ways to think and perceive of the political. It has promoted the concept of political action as being expressive and performative, and underlying to some extent state and social supervision. Social media has greatly facilitated the manifestations of political identities and ideas, while at the same time increased the risks and dangers that come with it. As a result, some political ideologies became more visible, while others remained completely hidden. In public social media, the boundaries between visible and invisible had to be reestablished; some conversations received more attention, while others remained even more hidden.⁴ Apparently, social media has also overwhelmed previously established ways of providing information, and it seems that these new communication trends are spreading

² Miller, Daniel, Elisabetta Costa, Nell Haynes, Tom McDonald, Razvan Nicolescu, Jolynna Sinanan, Juliano Spyer, Shriram Venkatraman, Xinyuan Wang, 2016: What is social media? In E. C. Daniel Miller, *How the World Changed Social Media*, 2016., 2:1-8, UCL Press. source: <https://www.jstor.org/stable/j.ctt1g69z35.8> (accessed: 2021.06.15.)

³ More: Miller, Daniel, 2011: *Tales from Facebook*, Cambridge, Polity Press, ISBN-13:978-0745652108

⁴ Costa, Elisabetta, 2016: *Social Media in Southeast Turkey: Love, Kinship and Politics*, UCL Press London, 2016., DOI: 10.14324/111.9781910634547, <http://www.ucl.ac.uk/ucl-press>, p. 128-129., (accessed: 2021.03.15.)

rapidly to ever wider areas of the state trying to connect government bodies with citizens.⁵ According to Mickoleit, social media is capable of building trust between public administration and citizens, but there exists no generally valid solution to be applied in all situations, and in some cases we have to rely on the law for answers. Most government officials are rarely left with the choice to be present in social media, especially, since these social media platforms provide a dominant presence for both individuals and non-traditional interest groups. Politicians reacted relatively quickly to these changes and are increasingly manifesting themselves through social platforms such as Twitter, Facebook and various blogs to gain more support/visibility. At the same time, we must also understand that government institutions, by virtue of their public nature, are only slowly opening up and experimenting with social media. It has also been acknowledged that social media encourages innovation in public services and in the operation of the state by exploiting the 'democratisation' effect of the internet on the public supply of information and services, while also providing an opportunity to meet public expectations in situations where traditional online government services are not able to do so. Nevertheless, state authorities also have to take into account the risks rooted in their institutional obligations, such as the protection of privacy, the reliability of information and public perception. Strategies for the use of social media by the government should therefore pay particular attention to the objectives pursued by an authority or organisation, while the use of social media alone is not a guarantee for catching the attention of social groups disillusioned with public affairs in terms of public services or policy-making.⁶

While in the past the introduction of technological innovations to public administration has typically taken place "from top to bottom", the spillover of social media into government communication takes place, at least in part, in the opposite direction, having been initially less formal and only slowly taking on a more "official" character. This is mainly due to the popularity of social media, and on the other hand, to the increasing demand for information by users on these platforms.⁷ In countries where the interaction between public administration and citizens is less formalised (like in the Anglo-Saxon countries), social media tended to make its way easier into public administrative systems at the 'official' level, but also here the traditional one-way government communication had to face challenges such as the respect for privacy or the right of citizens to free speech.

Barack Obama's 2008 presidential campaign relied largely on social media by consciously putting it to use. While the impact of social media was very limited in the mid-2000s, it was a highly cost-effective tool for political mobilisation and the delivery of messages to target groups, although, it was rudimentary at the time. The proliferation of social media has enabled the targeting of messages more efficiently, thus providing the opportunity to communicate as accurately as possible even to single individuals, without giving up on cost-effectiveness. For this purpose the *my.barackobama.com* community campaign website was created, the aim

⁵ Csáki-Hatalovics, Gyula Balázs: A közösségi média felhasználásának lehetőségei a közigazgatásban - nemzetközi elemzés (*Possibilities of using social media in public administration - international analysis*) In: Homicskó, Árpád Olivér (szerk.) *A digitalizáció hatása az egyes jogterületeken* Budapest, Károli Gáspár Református Egyetem, Állam- és Jogtudományi Kar, (2020) 41: 41-53.

⁶ Mickoleit, Arthur, 2014: „*Social Media Used by Governments: A Policy Primer to Discuss Trends, Identify Policy Opportunities and Guide Decision Makers*”, OECD Working Papers on Public Governance, No. 26, OECD Publishing, Paris, 2014. 3: 1-72, https://read.oecd-ilibrary.org/governance/social-media-use-by-governments_5jxrcmghmk0s-en#page4, (accessed: 2021.06.04)

⁷ Mergel, Ines, 2018: *The Public Manager 2.0: Preparing the Social Media Generation for a Networked Workplace*, 2018. <https://www.tandfonline.com/doi/abs/10.1080/15236803.2012.12001695>, (accessed: 2021.06.15.)

being the aim being that communication through social media, including the thematic choices and content of conversations, takes place in a controlled environment. This way controlled communication and image formation could take place and an emotional attachment was developed through which a social consciousness was generated leading, thus, to concrete actions. Young people in particular have reached out to these social media platforms, and it has become fashionable to be Barack Obama's "friend" on a social networking site. The success of the campaign is illustrated by the fact that before the elections in November 2008, Obama had three million friends on the social media site Facebook, 3.7 million in mid-January 2009. Also in January 2009, he received more than a million supporters on the social media site Myspace. Meanwhile, the email addresses of 13 million Obama supporters were collected, so instead of traditional media, his campaign team opted for online news leaks which were posted either via email or text message or on the video-sharing social networking site YouTube.⁸ The idea of the online platform and its implementation came after Obama's decision in February 2007 to hire Chris Hughes, one of Facebook's founders.⁹ An important innovation by Obama was that he chose social media as the main arena for his official communication, thus, overshadowing traditional media altogether. It was also during his presidential campaign for example that he announced Joe Biden as his candidate as Vice President.

The big-data analytics firm helping the Brexit campaign, Cambridge Analytica, also played a major role in the 2016 U.S. presidential campaign and was used by Donald Trump's campaign team. In fact, Donald Trump's success was also based on the widespread use of social media. Like Obama, Trump aimed at gaining support from common people during his intense social media campaign in which Twitter was used as one of the main platforms.

3. Truthfulness and free speech

In John Milton's theological approach, restricting the freedom to express one's opinion is against God, because it does not allow the "free and knowing spirit" to flourish, so people may find truth amidst the debate of dissenting opinions.¹⁰ Like Milton, John Stuart Mill does not believe in the suppression of opinion, since no one is infallible, and it is very well possible that after all, it is a repressed point of view which carries the truth. At the same time, though, truth must constantly stand the social test, in fact, truth already acknowledged and dogmatized may also benefit from debate—this being in Mill's approach a prerequisite for social development.¹¹ According to Judge Oliver W. Holmes' decision in *Abrams vs. United States*, truth is to be found in the free "marketplace of ideas" where individual opinions conflict, and we can accept as true whatever emerges from the competition of ideas as a winner.¹² It follows that false claims emerging as winners may also be acknowledged as 'truth'. Judge Holmes left the question concerning the market-distorting effect of having true as well as false propositions competing with each other unresolved. Consequently, we can no longer

⁸ Merkovity, Norbert: *Barack Obama elnöki kampányának sajátosságai. Mitől működnek a hálózati közösségek?* (~Peculiarities of Barack Obama's presidential campaign. What makes network communities work?) Médiakutató – Médiaelméleti Folyóirat, 2009, 10. évf. 1. sz. 97-106, https://www.mediakutato.hu/cikk/2009_01_tavasz/08_obama_elnoki_kampanya, (accessed: 2021.06.13.)

⁹ Burján, András, 2010: *Internetes politikai kampány 2.*, Médiakutató 2010, tél, https://mediakutato.hu/cikk/2010_04_tel/03_internet_politika_kampany

¹⁰ Milton, John: *Areopagitica*. In Reményi Édua – Koltay András (editors): *A szólásszabadság káprázata*. Budapest, Wolters Kluwer, 2017. No.62., 75-76 translated by Könczöl Miklós

¹¹ Mill, John Stuart: *A szabadságról. (Freedom)* Budapest, Századvég – Readers International Press, 1994.

¹² US Supreme Court: *Case Abrams vs. the United States* 250 US 616 (1919), <https://supreme.justia.com/cases/federal/us/250/616/>, (accessed: 2021.06.03.)

establish a direct link between freedom of speech and the truth or the search for the truth value of propositions. We should rather interpret the search of justice as taking place in the broader context of public debates and rely on the law when dealing with issues such as the safeguarding and protection of democratic procedures, including the shaping of public comments and debates on social media. However, if we approach this issue from the perspective of free speech, 'truth' can also be understood as justification using democratic procedures, so the freedom of expression is a means for reaching decisions in issues of public relevance. It follows that the main purpose of the right to free speech is for citizens to participate in public debates and the subsequent decisions. So the essence of the law is to create democratic (self)government.¹³

Debates on social media are not suited for revealing objective truth, just as it is the case with journalists or the courts. This is why the decisions that were reached in connection with President Trump's social profiles following the U.S. presidential election are so interesting. Statements made during election campaigns are subject to a number of specific rules that may have dual objectives. On the one hand, strong protection of communication during the campaign: political speech is the most protected inner core of the concept of freedom of speech, and what is said in a campaign is directly connected to safeguarding the functioning of democracy and democratic procedures. On the other hand, also the democratic procedures need to be protected, so that a candidate, a community, or party does not distort the process of democratic decision-making, ultimately harming the democratic system. It is no coincidence that the fake news problem has become most apparent during election campaigns (the 2016 U.S. presidential election, the 2019 European Parliament election, etc.).¹⁴

For John Stuart Mill, truth is a fundamental value that can be found, and by revealing the truth social progress can be maintained. No one is infallible, so we can never be entirely sure that what we think is in fact true. Therefore, restrictions on freedom of expression should not be allowed, since it is possible that it is precisely the suppressed opinion that carries the truth. Free debate, i.e. the expression of an opinion, always helps to reveal possible truth, and is therefore of great social importance, and since it is an attribute of individual freedom, it shall not be restricted as long as it is not injurious to others. In Wragg's view, there is no automatic correlation between truthful thinking and democratic development, and the 'right to speak the truth' does not really exist either—think, for example, of the sharing of national security information. In this approach, silencing or distorting the truth can even be socially beneficial.¹⁵ In *Abrams v. United States*, Judge Holmes ruled that in the free exchange of ideas, each "truth" is as strong as it stands its "competition in the marketplace."¹⁶ His decision on one of the outstanding court cases on the freedom of speech conveyed that in the marketplace of ideas—disregarding of the facts—those ideas are considered true which „win” the competition.¹⁷ Of course, the search for objective truth is much more nuanced than this, in

¹³ Meiklejohn, Alexander: *Political freedom: The constitutional powers of the people*, Greenwood Press, 1979.

¹⁴ Koltay, András 2020: *A szólásszabadság doktrínája és a fake news jelensége az online platformokon*, (~*The doctrine of free speech and the phenomenon of fake news on online platforms*) In: Kovács Éva Margit (editor) *Ünnepi kötet a 65 éves Imre Miklós tiszteletére*, Budapest, Magyarország, NKE Ludovika University Press 2020., 244: 231-267, http://real.mtak.hu/118396/1/Koltay-Fakenews_ImreMikloskotet.pdf, (accessed: 2021.06.30)

¹⁵ Wragg, Paul 2013: Mill's dead dogma: the value of truth to free speech jurisprudence. *Public Law*, 363-385. <https://link.gale.com/apps/doc/A325348008/AONE?u=anon~31cdc12a&sid=googleScholar&xid=80ba2580> (accessed: 2021.06.21.)

¹⁶ US. Supreme Court: *Abrams v. the United States* 250 US 616 (1919), <https://supreme.justia.com/cases/federal/us/250/616/>, accessed: (2021.03.15.)

¹⁷ Waldman, Ari Ezra 2018: *The marketplace of fake news*, University of Pennsylvania Journal of Constitutional Law, 20. (2018), 845:845-870 <https://scholarship.law.upenn.edu/jcl/vol20/iss4/3/>, (accessed: 2021.03.14.)

fact, very often courts cannot be expected to prove the truthfulness behind a statement (e.g. the existence of God or reincarnation). We are getting closer to finding the truth value of a statement when our search for truth is put in the broader context of the public debates on the specific subject, thus, giving way to democratic procedures, including debates, conversations, newspaper articles, comments published on social media related to respective communication on public affairs or any dialogue that would be regarded as a public matter by an informed citizen.¹⁸

In this sense, "some false statements are inevitable if there is to be an open and vigorous expression of views in public and private conversation"—as shown in *United States v. Alvarez*.¹⁹ The point of the case was that Mr Alvarez claimed to have served in the Army and was awarded the Medal of Honor at an open board meeting of an American corporation. This turned out to be not true. The court ruled that eventhough the claim was false, this would not provide sufficient grounds for being exempt from the protection of the First Amendment, and a severe punishment for a false claim would be deterrent to free debate. In Europe, on the other hand, political advertising and speech may be restricted by law. In *Animals Defenders International vs. United Kingdom*, Lord Bingham supported the view that "[T]he fundamental rationale of the democratic process is that if competing views, opinions and policies are publicly debated and exposed to public scrutiny the good will over time drive out the bad and the true prevail over the false."²⁰ Nevertheless, it is more important that voters have the right "to be protected against the potential mischief of partial political advertising." This approach thus rejects Mill's position on the benefits of false statements and also confronts the perception of free speech in the U.S..²¹ Under the Provisions of the British Representation of the People Act 1983, it is a violation of the law, if any political stakeholder knowingly makes a false statement with the intention of influencing the outcome of the election, unless it is proven that the person in question believed the allegations to be true and had reasonable grounds for doing so.²²

In 2016, the pizzagate case introduced the concept of "fake news". During the 2016 U.S. presidential election, a rumor spread that Hillary Clinton ran a child trafficking network at a Washington pizzeria. The situation turned so severe that there was an armed incident at the restaurant. The claim that Hillary Clinton was a paedophile started in a Facebook post, spread on Twitter, and then went viral using far-right platforms.²³ For now, effective legal action against fake news spreading on online platforms seems very cumbersome, as platforms compete for the attention of the audience, the users, for the seconds that a user spends on a particular content. Thus, an ever more exciting, interesting, and sticky content must be produced, even at the cost of lying, so as to ensure that it gets viral.²⁴ After the 2016 U.S. presidential election, Facebook was heavily criticized for doing nothing to prevent the spread

¹⁸ Barendt, Eric 2005: *Freedom of speech*. 2. edition, Oxford, Oxford University Press, 2005. 162: 1-552

¹⁹ US Supreme Court: *The United States v. Alvarez* 567 US 709 (2012), <https://supreme.justia.com/cases/federal/us/567/709/>, (accessed: 2021.03.16.)

²⁰ European Court of Human Rights: *Case of Animal Defenders International Vs. The United Kingdom*, Strasbourg 2013, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-119244%22%5D%7D>, (accessed: 2021.05.12.)

²¹ Wragg [2013] 369-370

²² Legislation.gov.uk: *Representation of the People Act 1983*, section 106. <https://www.legislation.gov.uk/ukpga/1983/2/contents>, (accessed: 201.05.11)

²³ Robb, Amanda 2017: *Anatomy of a fake news scandal*. *RollingStone*, 2017.11.16., <https://www.rollingstone.com/feature/anatomy-of-a-fake-news-scandal-125877/>, (accessed:2021.06.05.)

²⁴ Hindman, Matthew S. 2019: *The Internet trap: How the digital economy builds monopolies and undermines democracy*. Princeton (US-NJ), Princeton University Press, 2019.

of fake news, and, thus, contributing to Trump's victory and Clinton's defeat.²⁵ At the same time, we must also understand that—for obvious economic reasons—platform providers are interested in creating an increasingly vivid public space which as a consequence is getting more and more shallow and superficial, contributing, thus, to the spreading of fake news. Looking at the mass dissemination of lies from the point of view of protecting free speech, would it be truly considered as contributing to and serving as a tool of democratic decision-making? It is unlikely that deliberate proliferation of lies is in the interests of the democratic public.²⁶

4. Gatekeepers in the online space

The concept of gatekeeper was developed in 1947 by the American-German psychologist Kurt Lewin who was conducting research on the dynamic interaction of various groups. In the traditional sense, a housewife who, while doing her groceries, decides what to put on the dinnertable²⁷ or the receptionist or assistant who prevents information from reaching certain places or persons within an organization can be considered gatekeepers. David Manning White analyzed the work of telegraph editors who selected among communications arriving in the form of telegrams and investigated how news are forwarded from the supplier to the consumer while passing and being filtered by the "gatekeeper". According to his findings, the selection of news stories is a subjective decision based on the editor's set of personal experiences.²⁸ According to the findings of Bruce Westley and Malcolm S. MacLean, gatekeepers are already receiving information through external filters, thus, information from the outside world is already pre-selected in accordance with the given incentives and according to the expectations of a given interest group even before it reaches the gatekeepers. Viewed from this perspective, gatekeepers act as intermediaries, although they also select among the information received.²⁹ Traditionally journalists worked on news sorting and content production, though, they also performed gatekeeping tasks. By sorting the content, they decided what should be made public and what should be left out of the media. Today, in addition to traditional media platforms, online platforms and new types of communication platforms and formats have emerged – blogs, microblogs, social media, etc. According to the filter bubble theory, it is the gatekeepers who based on the browsing habits of the individual users display the news feed that best suits the interests and opinions of the user's social profile. This involves browsing habits based algorithms with separations which ensures that the user is confronted with significantly less content likely to challenge his/her views and opinion³⁰ For those who accept the filter bubble theory, this procedure jeopardizes the democratic dialogue, since it significantly narrows the interaction between users with differing opinions. The outcome being the formation of segregated ideological communities

²⁵ Martínez, Antonio G. 2018: How Trump Conquered Facebook – Without Russian Ads. *Wires*, 2018. 02.23., <https://www.wired.com/story/how-trump-conquered-facebook-without-russian-ads/>, (accessed: 2021.06.30.)

²⁶ Koltay [2020] 232.

²⁷ Horányi, Özséb - Szabó Levente 2006: A kommunikáció ágenséről. (~*About the communication agent*) In: Horányi Özséb (editor): *A kommunikáció mint participáció*. AKI-Typotex Press, Budapest, 2006. 184: 175-237, <http://www.communicatio.hu/horanyi/bme-tarskomelm-0910osz/horanyi-kommpart.pdf>, (accessed: 201.07.03)

²⁸ Horányi – Szabó [2006] 185

²⁹ Forgó, Sándor: *Kommunikációelmélet – Kommunikációs ismeretek*. E-learning kurzus (~Communication Theory - Communication Knowledge) E-learning course. http://forgos.ektf.hu/wp-content/tananyagok/fs_komm_egyetemi/obj/ie_0001_0_0_0/0001_0_0_0.htm, 2021. június 23.

³⁰ More in: Pariser, Eli 2012: *The Filter Bubble: What The Internet Is Hiding From You*, Penguin Books Ltd., 2012.,

that support even extremist opinions and are in conflict with each other.³¹ Others think that the internet and the social platforms themselves are so wide-ranging and offering such an immense set of information that it is impossible to "isolate" any single user from the plurality of opinions. According to this view, filter bubbles have less affect on available information. In fact, the study "ordered" by Facebook shares this view by confirmings that the algorithm that compiles news feed only minimally filters those news sources which would confront the individual user's personal interests, and that the filtering feature can remove or add other sources, allowing everyone to get a significant amount of "ideologically diversified" news through the service.³²

Looking at it from this angle, politics is also strongly determined by media, thus, politicians have to adapt to media communication expectations, and in the online space they are obliged to accept the norms governing social media. At the same time, they also try to target content at their followers by eliminating gatekeepers or trying to divert attention, also they try to contain two-way communication and use Facebook or Twitter pages for self-broadcasting.³³ In other words, free debate is not a priority aim, when information is shared, they want to do so in a one-way direction. On social media platforms, false information is most often disseminated knowingly for political reasons. Accordingly, the law must also find answers to the newly arising questions. The platforms argue in their self-defense that they are neutral players in communication, only providing space for the actual participants.³⁴ In fact, however, they are capable of actively shaping the communication that takes place through them. They also have economic interest in the accessibility, prohibition or intensity of a post—they arrange, prioritize or reclassify the posts, and based on their very own criteria they can even delete or make inaccessible the posts within their system. Remember for example that in mid-October 2020, platforms mobilized significant forces to make the corruption allegations go away which were aimed at Biden's son Hunter about his business dealings in the Ukraine and China and the influence-peddling he allegedly committed,³⁵ all of this reached little publicity among the masses of voters in the U.S.

Under EU law, social platforms are considered as hosting providers, and since user data and content are stored, organized, and made available in their own systems, they are liable to removing infringing content they become aware of as provided by the e-Commerce Directive. They cannot, however, be obliged to a priori verification or to general monitoring.³⁶ In other words, the European approach focuses on the liability of service providers after acquiring knowledge of an infringement (i.e. failing to remove infringing content after they have

³¹ Polonski, Vyacheslav: The biggest threat to democracy? Your social media feed. *World Economic Forum*, 2016., <https://www.weforum.org/agenda/2016/08/the-biggest-threat-to-democracy-your-social-media-feed/> (accessed: 2021.07.14.)

³² Bakshy, Eytan – Solomon Messing – Lada A. Adamic 2015: Exposure to ideologically diverse news and opinion on Facebook. *Science*, 2015.06.05., <https://science.sciencemag.org/content/348/6239/1130>, (accessed:2021.07.10.)

³³ Larsson, Anders O. - Bente Kalsnes 2014: 'Of Course We Are on Facebook': Use and Non-use of Social Media among Swedish and Norwegian Politicians. *European Journal of Communication*, 2014., Vol. 29, No. 6: 653–667, <https://journals.sagepub.com/doi/pdf/10.1177/0267323114531383>, (accessed: 2021.07.05.)

³⁴ Marantz, Andrew: Facebook and the "free speech" excuse. *New Yorker*, 2019.10.31, <https://www.newyorker.com/news/daily-comment/facebook-and-the-free-speech-excuse>, (accessed: 2021.07.06.)

³⁵ Several articles on subject in New York Post for example: <https://nypost.com/search/hunter+biden/page/3/?sf=year&orderby=date&order=asc> (accessed: 2021.07.15.)

³⁶ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), article 14–15., <https://eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:32000L0031&from=HU>, (accessed: 2021.07.04.)

become aware of their existence). In fact, a false claim is not ipso facto subject to the cancellation obligation, this applying also to cases when no one has indicated to the service provider the infringing nature of a post. Another interesting issue for further consideration is the deletion of content removed by the content provider before the actual court decision concludes that an infringement has taken place in the first place. In the United States, the concept of "collateral censorship" is understood as indirectly restricting free speech. There is a regulation on the activities—or the passivity— of gatekeepers as intermediaries, however, so as the guarantee free speech, they are not being made liable.³⁷ As a consequence, gatekeepers cannot be held accountable for their active participation or their passivity, this being seen as a guarantee of freedom of expression. Eventhough exemptions under the Communications Decency Act of 1996 are incomplete and conditional, a platform could lose immunity based on a respective court decision.³⁸ Nevertheless, in the U.S. President Trump's banning from social media has not invoked judicial proceedings, even though the removal of a politician from social media was unprecedented.

5. U.S. Government cases

The first outstanding legal act from our point of view is connected to the Twitter account of the President of the USA. Many social media users expressed their discontent with what was stated in some of the posts shared on U.S. President Donald J. Trump's Twitter page, this resulting in the President blocking users with dissenting opinions. For those who have been blocked, the blocking feature on Twitter does not grant access to the posts, they can neither see them nor comment on them. According to the plaintiffs in Knight First Amendment Institute, et al v. Donald J. Trump, et al, (2018)³⁹, their banning from the site violated the First Amendment of the U.S. Constitution infringing on the freedom of speech. The most important question was, whether the President's account was to be considered a private or an official public account, especially, since in the latter case, the real issue at stake was whether the President's reaction was in fact a violation of the First Amendment. The essence of social media opinion sharing is that the original tweet (post) is followed by comments appearing underneath the main post, this way, forming a chain of comments. And the chain of comments presents itself as a multi-level overlapping of individual and group users. According to the statement issued by the White House on the subject, the President's social media site might not function entirely independently of the administration, the act by which the President blocked certain users, however, was an action performed by him as a private person. The site was created in March 2009 before President Trump's inauguration (@realDonaldTrump), so undisputedly in the beginning it was operated by a private person, and also following his presidency, it would once again become a fully private account. However, during the trial attention was drawn to the fact that President Trump claimed after his inauguration that he would use this channel of communication on his actions and policies as President of the United States as well. The site itself gave the impression of an official government website, and previously, also the White House Press Secretary claimed that President Trump's tweets can be considered official statements which were posted with the assistance of White House

³⁷ Wu, Felix T. 2013: Collateral censorship and the limits of intermediary immunity. *Notre Dame Law Review*, Vol. 87. Issue 1 (2013), 293–349., <https://scholarship.law.nd.edu/ndlr/vol87/iss1/6/>, (accessed: 2021.07.19)

³⁸ Communications Decency Act 1196, 47 USC 230, Section 230., Title 47. <https://www.congress.gov/104/plaws/publ104/PLAW-104publ104.pdf>, 2021. június 18.

³⁹ Case 18-1691-cv: Knight First Amendment Institute v. Donald J. Trump, Global Freedom of Expression, Columbia University, 2019., <https://globalfreedomofexpression.columbia.edu/cases/knight-first-amendment-institute-v-donald-j-trump-2/>, (accessed: 2021.06.25.)

presidential social media official.⁴⁰ The court ultimately ruled that banning users who criticized the president's Twitter page, violated the First Amendment. The President's Twitter account was managed by the President and his staff, and the account was apparently not only used for private purposes, but also provided messages that he wished to share with the public in his capacity as president. Any social media activity cannot be distinguished according to whether or not someone is acting as a private person. Thus, by disabling the users' access to a site on the grounds of their political opinion, they were discriminated against at a public, government-supervised website which is used also for conveying official government statements and policies. Even if an account is created and owned by a private person, it does not automatically mean that this platform is subject to privacy rules, especially, if its content is determined by government officials and used as a channel for government communication—consequently users cannot be selected based on their political opinions. The court decision in *Packingham v. North Carolina*, (2017) had already established as a general rule that social media (electronic, virtual) should be treated in the same way as other types of media.⁴¹

In *Davison v. Randall. Al.*, 2019, the judge took a similar stand on a Facebook page set up by the chairman of the county council's supervisory board.⁴² He called the Facebook page under investigation "the [Supervisory Board] Chairman's page", which he defined as an "official government" page sharing primarily official information, news, and events related to the operation of the board. Among the many comments, there were also critical manifestations concerning the activities of both the board and its chairman, and the defendant occasionally added his own comments, as well. The plaintiff repeatedly voiced criticism that sparked controversy on Facebook, the text contributions were subsequently deleted by the defendant along with the plaintiff's and his own comments. The plaintiff considered this to be a violation of the freedom of speech and requested that his comments be made available again. Since it did not happen, he decided to go to court. The position of the county government before and during the trial was that the profiles of the chairman of the supervisory board could not be considered as a channel for official municipal communication. Finally, the court concluded that although an account could only be managed on Facebook by a private person, it was obvious from the nature of the posts—the majority of which the defendant himself shared—that the defendant acted in his capacity as county council official, thus raising the question whether the First Amendment had been breached. Regarding our subject, from the point of view of constitutional rights, it is irrelevant whether the freedom of expression takes place in a traditional or digital environment.

The 2020 presidential election was preceded by social media and government affairs and their outcome accompanied by the world-threatening pandemic.

6. The U.S. presidential election during the pandemic

In 2020, President Trump's challenger was Joe Biden, the Vice President under President Barack Obama. The election took place under unusual circumstances—in a pandemic sweeping across the world. As political strategist James Carville remarked in March 2020

⁴⁰ Csáki-Hatalovics [2020] 46.

⁴¹ SUPREME COURT OF THE UNITED STATES, *Packingham v. North Carolina*, No. 15–1194., 2017., https://www.supremecourt.gov/opinions/16pdf/15-1194_0811.pdf, (accessed: 2021.06.20)

⁴² UNITED STATES COURT OF APPEALS, *Davison v. Randall et. al.*, No. 17-2003., 2019., <https://cases.justia.com/federal/appellate-courts/ca4/17-2002/17-2002-2019-01-07.pdf?ts=1546889434>, (accessed: 2021.06.23.)

when referring to the presidential election: "I don't think anybody is going to pay attention to anything other than the coronavirus".⁴³ It is difficult to estimate to what extent COVID-19 has changed the election, as candidates could no longer host campaign events, and state governments and municipalities have had to deal with how to ensure alternative ways of voting, while keeping people safe. Trump's policies reflecting his scepticism towards the virus and his opposition to the WHO⁴⁴ divided American society. According to a survey by pollster FiveThirtyEight at the end of October 2020, an average of 57.6% of Americans was opposed to Trump's coronavirus response, while an average of 39.4% approved.⁴⁵ One of the most famous tweets of President Trump dated October 27 is "Fake News Media will be full of Covid, Covid, Covid". By this he meant that it is only the media stirring up a frenzy around the virus, while his opponents would take advantage of the situation, but after the election "you won't hear about it anymore".⁴⁶ At his last campaign rally, he cynically hinted that wearing masks and "inflating" the virus situation was only in the financial interest of doctors, and that the number of approved Covid-19 cases was due solely to the increased testing. Anyone who understands the rationale behind it will easily "see through it." Generally speaking, Trump has consistently underestimated the pandemic, right from the beginnings. He played down the role of the coronavirus in people's lives, while alienating his own party members in connection with other issues as well.⁴⁷ The FiveThirtyEight poll also showed that the President could feel confident about his supporters who share his views on the pandemic, especially since these Republicans did not support Biden's plan to combat the pandemic. By the end of 2020, however, only 36% of the independent voters supported Trump's ideas compared to 60% supporting Biden. Taking into account the "internal Republican opposition", the latter candidate had more favourable prospects among both independents and members of the Republican party. In a Pew Research Center poll, two-thirds of the respondents said that the Trump administration would only occasionally or barely disclose real facts about the outbreak of the pandemic.⁴⁸ All in all, the poll concluded that the economy remains to be the most important issue for voters, thus, reflecting traditional assumptions and points of reference in political literature⁴⁹ on the central role and the importance of economic conditions.

⁴³ Harris, Adam 2020: It's Not Just the Presidential Race Adjusting to the Coronavirus - COVID-19 has overshadowed nearly every facet of American life, including the 2020 elections, *The Atlantic*, 2020.03.26, <https://www.theatlantic.com/politics/archive/2020/03/coronavirus-campaign/608713/>, (accessed: 2021.06.23.)

⁴⁴ Godoy, Maria 2020: Biden Said He'd Walk Back Trump's WHO Walkout. Can All the Damage Be Undone? *NPR*, November 16, 2020., <https://www.npr.org/sections/goatsandsoda/2020/11/09/932065656/biden-said-hed-walk-back-trump-s-who-walkout-can-all-the-damage-be-undone>, (accessed: 201.06.23)

⁴⁵ Mithani, Jasmine, Aaron Bycoffe, Christopher Groskopf, Dhrumil Mehta 2021: How Americans View Biden's Response To The Coronavirus Crisis, *FiveThirtyEight*, 2021, <https://projects.fivethirtyeight.com/coronavirus-polls/>, (accessed: 2021.06.24.)

⁴⁶ Berenson, Tessa, Brian Bennett 2020: Donald Trump's Closing Message to Americans: Ignore COVID-19, *TIME*, 2020.10.31., <https://time.com/5905855/donald-trump-election-coronavirus/>, (accessed: 2021.06.23.)

⁴⁷ Berenson, Tessa, Alana Abramson 2020: Revenge of the Never Trumpers: Meet the Republican Dissidents Fighting to Push Donald Trump Out of Office, *TIMES*, 2020.07.23., <https://time.com/5870475/never-trumpers-2020-election/>, (accessed: 2021.06.24.)

⁴⁸ Jurkowitz, Mark 2020: Majority of Americans disapprove of Trump's COVID-19 messaging, though large partisan gaps persist, *Pew Research Center*, 2020.09.15., <https://pewrsr.ch/35RFuLN>, (accessed: 2021.06.25.)

⁴⁹ Lewis-Beck, Michael S., Mary Stegmaier: *Annual Review of Political Science* Vol. 3. 2000, 183-219, <https://doi.org/10.1146/annurev.polisci.3.1.183>, (accessed: 2021.06.25.)

As the epidemic progressed, at least 16 states postponed their pre-elections or switched to mail, and litigations related to this caused a lot of confusion.⁵⁰ Tony Evers, the Democratic governor of Wisconsin for example, signed an executive order postponing the presidential primary scheduled for April 7 and moving it to a postal vote, but the Republican members of the state legislature took the case to the Supreme Court of Wisconsin, and with the court decision were able to block Evers' order just hours before voting began. To make matters even more challenging, officials in many communities reduced the number of polling stations by referring to a shortage of district employees.⁵¹ Most people preferred postal voting anyway, but no one bothered to look into the prevailing conditions and whether federal post offices and the predominantly elderly constituency workers and ballot counters were prepared for this,⁵² creating thus a very delicate situation which could have led to the collapse of the electoral system.⁵³ A month before the election, President Trump and his family members, as well as more than three dozen members of his team, were infected with the coronavirus, as well as White House staff and Secret Service members. The president was a very dismissive patient, at first, he even refused to go to the hospital and refused to consent to any public proclamation on his health condition. By the way, he was given a very expensive experimental treatment, but his doctors were not allowed to comment on the lesions of his lung, officially the President suffered a decrease in blood oxygen levels. After four days in hospital, he returned to the White House and posted a tweet video: " Now I'm better, and maybe I'm immune. I don't know. But don't let it dominate your life. Get out there. We have the best medicines in the world and they are all getting approved."⁵⁴

It took a long time until the results of the election were available and the once Democratic Vice President, Joe Biden, would begin to prepare for his inauguration as the 46th President of the United State. President Donald Trump and his allies refused to accept the results of the election and launched a series of lawsuits. Though these lawsuits were doomed to fail, they invoked further uncertainty in the already unconventional presidential campaign and election. Biden won the presidency but the Democrats could not get hold of the expected number of seats in the Senate and they failed to hold a majority in any state legislature—at this point, the personal presence of Republicans at the campaigns resulted in actual votes.⁵⁵ According to Aldous, Prakash and Vergano (2020), the impact of COVID-19 measures on the economy could have been better "exploited" by Trump, especially, since he proclaimed that Biden's plans to fight COVID-19 would shut down the economy. This way he could have gained over those states in which the governors were less willing to introduce mask-wearing or other

⁵⁰ Corasaniti, Nick, Stephanie Saul 2020: 16 States Have Postponed Primaries during the Pandemic. Here's a List. *New York Times*, 2020.08.10., <https://www.nytimes.com/article/2020-campaign-primary-calendar-coronavirus.html>, (accessed: 2021.06.24.)

⁵¹ Johnson, Shawn 2020: To the Polls in a Pandemic: How Wisconsin Went Ahead with an Election Amidst a Public Health Crisis, *Wisconsin Public Radio*, 2020.04.13. <https://www.wpr.org/polls-pandemic-how-wisconsin-went-ahead-election-amidst-public-health-crisis>, (accessed: 2021.06.25.)

⁵² Cornwall, Warren 2020: I'm Worried about Voters Screwing Up.' Election Scientist Tackles 2020 US Vote *Science*, 2020.09.18. <https://www.sciencemag.org/news/2020/09/i-m-worried-about-voters-screwing-election-scientist-tackles-2020-us-vote>, (accessed: 2021.06.24.)

⁵³ Hansen, Richard L. 2020: What Happens in November if One Side Doesn't Accept the Election Results? *Slate*, November 16, 2020.03.30. <https://slate.com/news-and-politics/2020/03/2020-election-meltdown-coronavirus-delay.html>, (accessed:2021.06.24.)

⁵⁴ Berenson – Bennett 2020

⁵⁵ Jaspers, Bret 2020: 5 Reasons Why Republicans Won in Texas, *KERA News - News for North Texas*, 2020.11.11., <https://www.keranews.org/politics/2020-11-11/5-reasons-why-republicans-won-in-texas>, (accessed: 2021.06.25.)

measures to reduce the spread of the virus.⁵⁶ Another issue was that the death of Supreme Court Judge Ruth Bader Ginsburg in September 2020 initiating one of the most, if not fastest, inauguration and confirmation processes in Supreme Court history. Shortly after the New York Times revealed in an article how little income tax Trump paid and how he was indebted to foreign banks. The president was eventually acquitted during his impeachment hearing, but all of this undermined his election "defeat" only further. It should also be remembered that the elections were further nuanced by nationwide protests over racial inequality at the commemoration of the murder of George Floyd in Minneapolis.

The impact of the coronavirus situation on political participation also extended to electoral policy. There were other countries besides the United States in which local and national political authorities decided to postpone elections⁵⁷ or rethink electoral procedures and practices. For example in Singapore social distancing was required to guarantee health and safety.⁵⁸ Political rallies undoubtedly posed health risks regarding the spreading of the virus,⁵⁹ and this became a sensitive issue after former U.S. President Donald Trump resumed his political campaign shortly after tackling COVID-19.⁶⁰ Some have tried online rallies, here we should mention the Democratic Party presidential nominee's announcement in August 2020 in Delaware.⁶¹ On the whole, the pandemic changed the content of political campaigns and party politics. While certain issues such as public health or socio-economic and racial inequality received greater attention, differing opinions traditionally situated on the dividing line such as fiscal responsibility and public spending could now be brought closer together.⁶² In light of the U.S. presidential election and its consequences, we can agree that trust is a valuable asset in politics, whether it is about in-person communication or communication conducted via social media. High-profile events connected to politicians who ignore restrictive measures or publicly contradict and undermine the official positions of health experts can lead to confusion and a loss of trust in state officials. Putting issues such as mandatory masks or ignoring public health measures on a political level can lead to greater distrust not only of politicians but also of law enforcement authorities.⁶³ In addition, media can have a powerful impact on public confidence (or lack thereof) by using concept techniques based fabricated created, or by only providing specific content and information to

⁵⁶ Aldhous, Peter, Nidhi Prakash, Dan Vergano 2020: Trump Was Expected to Lose More Votes in Places Where More People Died of COVID-19. He Didn't. *BuzzFeed News*, 2020.11.11. <https://www.buzzfeednews.com/article/peteraldhous/coronavirus-deaths-unemployment-trump-election-results?ref=bfinsplash>, (accessed: 2021.06.25.)

⁵⁷ Barron, Laignee 2020: Lessons From Hong Kong's Decision to Postpone Elections, *Time*, 2020.08.07. <https://time.com/5877242/coronavirus-elections-postpone-delay-hong-kong-covid19/>, (accessed: 2021.06.24.)

⁵⁸ Reuters (Anonymous): Singapore to Hold General Elections Amid Covid-19: What Is at Stake?, *The Indian Express*, 2020.06.25. <https://indianexpress.com/article/explained/singapore-general-elections-coronavirus-6473772/>, (accessed: 2021.06.24.)

⁵⁹ Murphy, Sean 2020: Health Official: Trump Rally "Likely" Source of Virus Surge, *AP NEWS*, 2020.07.09., <https://apnews.com/article/ad96548245e186382225818d8dc416eb>, (accessed:2021.06.26.)

⁶⁰ BBC News (Anonymous): *White House Rally: Trump Holds First Public Event Since Covid Diagnosis*, BBC News, 2020.10.10. <https://www.bbc.com/news/election-us-2020-54493575>, (accessed: 2021.06.20.)

⁶¹ Sprunt, Barbara 2020: Harris, as Biden's Running Mate, Says Case Against Trump Is "Open And Shut", *NPR*, 2020.08.12. <https://www.npr.org/2020/08/12/901462712/biden-and-harris-to-introduce-their-presidential-ticket-in-delaware>, (accessed: 2021.06.28.)

⁶² McCutcheon Peter 2020: How COVID-19 Is Changing the Political Debate on Queensland's Debt, *ABC News*, 2020.07.25. <https://www.abc.net.au/news/2020-07-25/coronavirus-queensland-debt-analysis-election-alp-1np/12488184>, (accessed: 2021.07.03.)

⁶³ Koob, Simone Fox, Jewel Topsfield 2020: Mask-Dodging Woman Allegedly Smashed Female Cop's Head into Concrete, *The Age*, 2020.08.04. <https://www.theage.com.au/national/victoria/mask-dodging-woman-allegedly-smashed-female-cop-s-head-into-concrete-20200804-p55ica.html>, (accessed: 2021.07.02.)

the public which is taken out of the original context. The social media can further weaken political trust by being a popular channel for politicians and, as we could see, for disseminating misinformation about COVID-19 and related measures.⁶⁴

7. Disabling the President and related questions

Trump posted more than 57,000 posts on his Twitter account⁶⁵—34,000 of these as president—and had nearly 90 million followers.⁶⁶ As outlined earlier, twitter operators faced multiple times serious challenges when having to deal with this account and the intolerable and sometimes untrue statements posted here, as well as the racist manifestations from which the House of Representatives distanced itself in a resolution.⁶⁷ Several human rights organizations requested Twitter to delete the President's profile, but at that time the chief executive of the platform, Jack Dorsey, refused to give in arguing that the people have the right to get first hand information from their President.⁶⁸ Obviously, social platforms also had to bear in mind that the loss of Trump-generated user interactions and the free advertising provided by it would have caused them significant financial losses, especially, since their revenues also depend on the number of their users and the intensity of their activity on those platforms.⁶⁹ This supportive attitude began to vanish following Trump's defeat during the 2020 elections. The first major reaction from the service provider was when Twitter tagged some of the President's posts in connection with the Black Lives Matter protests. Remember his famous tweet that he was considering deploying the National Guard, adding that "when the looting starts, the shooting starts."⁷⁰ Though, Twitter condemned this post as inciting violence, it was still available. Later, Trump published two "fake" posts about the postal vote which was also tagged by the service provider.⁷¹ After the labelling of the presidential posts, the President responded with an executive order compelling service providers who edit users posts and uploaded content on the grounds of fact-checking, obviously out of "political bias", to take responsibility for the truth content of their statements—thus, imposing stricter regulations on service providers.⁷² During and after the election, Twitter continued to label

⁶⁴ Kelly, Heather: Facebook Removes a Coronavirus Misinformation Post from Trump for the First Time Ever, *The Washington Post* 2020.08.07. <https://www.washingtonpost.com/technology/2020/08/05/trump-post-removed-facebook/>, (accessed: 2021.06.30.)

⁶⁵ Madhani, Aamer, Jill Colvin 2021: Farewell, @realDonaldTrump: Looking back at the Twitter account's provocative history. *USAToday*. 2021.01.08. <https://eu.usatoday.com/story/tech/2021/01/08/president-donald-trump-twitter-accounthistory/6607069002/> (accessed: 2021.07.04.)

⁶⁶ Guynn, Jessica: President Trump permanently banned from Twitter over risk he could incite violence, *USAToday*, 2021.01.08. <https://eu.usatoday.com/story/tech/2021/01/08/twitter-permanently-bans-president-trump/6603578002/>, (accessed: 2021.07.04.)

⁶⁷ Bíró, Marianna 2021: Donald Trump Twitter-bejegyzéseit elítélő határozatot fogadott el az amerikai képviselőház (~The U.S. House of Representatives passed a resolution condemning Donald Trump's Twitter posts), *Index* 2019.07.17. https://index.hu/kulfold/2019/07/17/trump_twitter_kepviselelo_hatarozat/, (accessed: 2021.07.05.)

⁶⁸ News Talk: Why Twitter Won't Ban @realDonaldTrump, *iHeartRadio/News Talk*, 2017.07.27. <https://www.iheartradio.ca/newstalk-1010/news/why-twitter-won-t-ban-realdonaldtrump-1.2943534>, (accessed: 2021.07.05.)

⁶⁹ Koltay, András 2021: Trump elnök Twitter-fiókja és a szabadság halványodó amerikai álma (~President Trump's Twitter account and the fading American dream of freedom), *Index*, 2021.01.18, https://index.hu/velemeney/2021/01/18/trump_elnok_twitter_fiokja_es_a_szabadsag_halvanyodo_amerikai_alma/, (accessed: 2021.07.14.)

⁷⁰ Sprunt, Barbara 2020: The History Behind 'When The Looting Starts, The Shooting Starts'. *NPR* 2020.05.29. <https://www.npr.org/2020/05/29/864818368/the-history-behind-when-the-looting-starts-the-shootingstarts?t=1610984928076>, (accessed: 2021.07.05.)

⁷¹ BBC News: Twitter tags Trump tweet with fact-checking warning. *BBCNews* 2020.05.27. <https://www.bbc.com/news/technology-52815552>, (accessed: 2021.07.06.)

⁷² Executive Order on Preventing Online Censorship. <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-preventing-online-censorship/>, (accessed: 2021.07.15.)

the posts as false claims.⁷³ And then—presumably—after Trump’s post about the election results, his supporters stormed the Capitol building. The service provider considered Trump’s subsequent tweets as a violation of the user agreement's fair citizen behaviour regulations, so the provider called on Trump to delete the posts. In one of the tweets, the President encouraged his voters, promising them that they would have a voice in the future, and that they would not be treated disrespectfully or unfairly. In the other, he was short and to the point saying that he would not attend Biden's inauguration on January 20. According to Twitter, the two messages posted shortly after pro-Trump protesters entered the Capitol encouraged further violence. Since the President did not delete the posts, his account was first suspended for 12 hours and then permanently, while the reasons for doing so were listed in a long blog post.⁷⁴ Facebook, Instagram, You Tube, Snapchat, and all the social media providers where the President was registered followed Twitter. Facebook at first issued a 24-hour ban which on the following day was extended for another 14 days—issuing its final decision at the same time as Twitter. The decision deeply divided public opinion raising a number of questions. According to a Supreme Court ruling in *Knight First Amendment Institute, et al v. Donald J. Trump, et al*, (2018), blocking individual users based on their political opinions is contrary to the First Amendment of the Constitution. *United States v. Alvarez'* showed that a claim being false (or untrue) does not provide sufficient grounds for being exempt from the First Amendment, and by imposing a harsh punishment on false claims would be a deterrent to free debates, this being not compatible with free speech deeply rooted in the Constitution of the United States. The president's political opponents also acknowledged that although the decision was not an infringement per se, since it was a decision reached by a private company concerning its own platform, it set a very jeopardizing precedent,⁷⁵ especially, since it is to be considered a classic editorial decision (censorship), including editorial responsibility.⁷⁶ The Supervisory Board of Facebook also acknowledged that their decision was not in breach of the terms of use, and that the posts flagged did not violate the limits of free speech. As referred above, any form of expression published on the Internet should be regarded from a constitutional point of view and regarded as any other opinion expressed in the traditional way. Looking at it from this angle, the decision was a categoric one, especially when we consider that the organizers of the Black Lives Matter protests—which resulted in numerous fatalities and significant material damage—were not blocked by the platforms. President Trump's case actually made it to the Supreme Court via a district court, but by then the filing of a new litigation was ordered due to a change in circumstances (Trump lost the election and his account was already deleted from Twitter).

⁷³ Lee, Janet W. 2020: Twitter Updates Label on Trump’s Tweets After Electoral College Certifies Biden Presidency, *Variety* 2020.12.19., <https://variety.com/2020/digital/news/twitter-donald-trump-label-1234867067/>, (accessed: 2021.07.10.)

⁷⁴ Twitter Inc. 2021: Permanent suspension of @realDonaldTrump, *Twitter*, 2021.01.08. https://blog.twitter.com/en_us/topics/company/2020/suspension.html, (accessed:2021.07.12.)

⁷⁵ Marantz, Andrew 2021: The Importance, and Incoherence, of Twitter’s Trump Ban. *The New Yorker* 2021.01.15., <https://www.newyorker.com/news/daily-comment/the-importance-and-incoherence-of-twitters-trump-ban>, (accessed: 2021.07.16.)

⁷⁶ Lewis, Becca 2021: The Trump ban across social media wasn't censorship — it was a series of editorial decisions by media companies that call themselves social platforms. *Business Insider* 2021.01.17. <https://www.businessinsider.com/trump-ban-wasnt-censorship-it-was-an-editorial-decision-2021-1>, (accessed: 2021.07.15.)

This new litigation would also require a decision, though, not on the original issue but on Joe Biden's Twitter account.⁷⁷

8. Conclusions

The new online platforms have fundamentally changed the structure of the public, having a decisive impact on the evolvement of social dialogue. Today, the goal is not only to understand ongoing processes, but legislation also has to find answers to individual events and their consequences. The role of social media in social communication is already so great that understanding its different functions and impacts is a serious challenge. This form of communication has reached ever greater areas of the state, so the presence on community platforms is no longer just a matter of opportunity for most government actors. Accordingly, some of the political communication has shifted to the online space provided by e. g. Facebook, Twitter, or Instagram. Undoubtedly, social platforms ensure that anyone's opinion reaches a very large audience, while the technical-economic constraints in connection with traditional media would not make this possible so quickly and unrestrictedly. By providing a space less restricted by gatekeepers, the democratic principle of freedom of speech can flourish, especially, where it is not up to newspaper or TV owners, editorial staff, or even journalists, but first of all up to the person speaking up, to get his/her opinion across.⁷⁸ In the United States, the most dominant public approach to community interfaces is that they should be subject to a minimum of regulation, so as to ensure the protection of free speech. This way, however, private companies are free to do whatever they want. In Europe, the respect for civil rights being understood as guaranteed by constitution extends in some cases to private actors as well—especially regarding political communication mobilizing large masses of people. The examples taken from the U.S. show that the protection of free speech, the freedom of expression enjoys undoubtedly top priority status. It is of similar importance whether or not an account created by a private person qualifies as a governmental, i. e. "official" account. Court decisions show that all social media accounts will be treated as an official, "government" profile when the owner shares posts connected to his or her official duties. In this sense, social media sites linked to a private person and operating within the framework of personal freedoms are being shifted towards the public sphere, thus, weakening the private character of their owner. The court cases presented, also highlight that there are constitutional rights and obligations behind the posts and the comments—these being manifestations presented in the community space—which must be respected even when quasi-official communication takes place. Opinion formation through social media and its effects were unquestionably prevalent during the U.S. presidential elections. However, parallel to the importance of freedom of speech regarding private and political issues, attention was also drawn to the issue of health and healthy life due to the emergency situation created by the pandemic, so much so that economic considerations were pushed to the background. Issues such as public health and socio-economic and racial inequality played a greater role, while the distance between traditionally differing opinions seemed to diminish. It became apparent during the presidential elections in the U.S. how by tagging presidential tweets, community platforms can form opinions—willingly or unwillingly. The level of content moderation on

⁷⁷ SUPREME COURT OF THE UNITED STATES: Joseph R. Biden, Jr., President of the United States, et al., Petitioners v. Knight First Amendment Institute at Columbia University, et al. No. 20–197. 2021.04.05. https://www.supremecourt.gov/opinions/20pdf/20-197_5ie6.pdf, (accessed: 2021.07.20)

⁷⁸ Török, Bernát 2021: Donald Trump különös esete a szólásszabadsággal (~Donald Trump's special case of free speech), *Telex.hu*, 2021.01.16., <https://telex.hu/velemenyt/2021/01/16/szolasszabadsag-es-kozossegi-media>, (accessed: 2021.07.14.)

social platforms which is clearly aimed at revealing illegal content--e.g. incitement to hatred or violence or the support of terrorism—is in line with the expectations of the public on safeguarding democracy and democratic values. democracy. However, it raises serious concerns when platforms set their self-defined rules and also apply them, pretending, thus, to be judges in public social debates. In my opinion, when someone can be banned from online communication with one click, there is an urgent need for regulation. It is open to academic discussion whether to leave regulation to private companies or to the state. I agree with Gosztonyi that when the state is granted only restricted means or requires a court decision to ban or block content on the internet with the adequate appeal mechanisms in line, then the same quarantees should apply to the social platform as well, thus, making their filtering mechanism more predictable.⁷⁹

⁷⁹ Gosztonyi, Gergely 2020: The European Court Of Human Rights: Internet Access as a Means of Receiving and Imparting Information and Ideas. *International Comparative Jurisprudence* 2020/6(2). 139: 134-140., <https://ojs.mruni.eu/ojs/international-comparative-jurisprudence/article/view/6292/5283>, (accessed: 2021.08.01.)

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