

UDC 343

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SPREAD OF 'FAKE NEWS' IN THE PRESENT DAYS

Introduction

Most often, fake news proliferate on online platforms. However, as usually they are less detectable on electronic media surfaces, they are even more harmful, since the recipient person (for example, the reader) usually is not capable to check the reality content of the information read or seen. There can be diverse motives behind disseminating disinformation, such as economic, political or even private interests.

'Fake news' can be defined as one of the tools of information technology warfare, an evolving threat to the internal governance of a country or to dissolve its foreign and international relations.

'Fake news' is understood as verifiably false or misleading information, rumour or insinuation.¹

Apparently, communicating untrue news is an eminently effective and cheap measure of influencing society. Mostly, false and deceptive content

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¹ <https://topszotar.hu/angolmagyar/fake+news> (letöltés: 2020.08.25.)

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appears in written form, however, false images and audio-visual contents also appear due to rapid technological development, that prove to be the most effective means to influence individuals.²

As they may cause grievous damages, 'deepfake' recordings have particular importance among the influential measures, especially when techniques of artificial intelligence are used to implement the image or voice of a person in a video or a picture.

'[...]The term deepfake originated was created and first used by a Reddit-user in 2017, whereas the expression is made up from the combination of the terms deep-learning and fake. Deep-learning (or 'deep structured learning') refers to the method of creating such videos using artificial intelligence and machine learning algorithms to process data. [...]'³

Communication of the European Commission on online disinformation

The exposure of citizens to large scale disinformation, including misleading or outright false information, is a major challenge for Europe. Today, the Internet has not only vastly increased the volume and variety of news available to citizens but has also profoundly the ways citizens access and engage with news. Younger users, in particular, now turn to online media as their main source of information. The easy availability of diverse quality information has the potential to make democratic processes more participatory and inclusive. Disinformation erodes trust in institutions and in digital and traditional media, and harms our democracies by hampering the ability of citizens to make informed decisions. The spread of disinformation also affects policy-making

² Klein Tamás-Tóth András (szerk.): Technológia jog - Robotjog – Cyberjog (<https://uj.jogtar.hu/#lbj109id159834593998182b2> 2020.08.25.)

³ <http://www.atv.hu/belfold/20200113-ami-ellen-semmit-nem-tudsz-tenni-deepfake-jelensegek-a-kampanyokban> 2020.08.26.

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processes by skewing public opinion. Domestic and foreign actors can use disinformation to manipulate policy, societal debates and behaviour in areas such as climate change, migration, public security, health and finance. Disinformation can also diminish trust in science and empirical evidence.⁴

The communication of the Commission define the mechanism of the proliferation of disinformation upon the following measures:

- **Algorithm-based:** The criteria algorithms use to prioritise the display of information are driven by the platforms' business model and the way in which this privileges personalised and sensational content, which is normally most likely to attract attention and to be shared among users. By facilitating the sharing of personalised content among like-minded users, algorithms indirectly heighten polarisation and strengthen the effects of disinformation.
- **Advertising-driven:** Today's advertising model is often click-based, which rewards sensational and viral content. This model relies on advertising networks operated by agencies that ensure real time placement of ads based on algorithmic decision-making. This facilitates the placement of advertisements on websites that publish sensationalist content appealing to users' emotions, including disinformation.
- **Technology-enabled:** Online technologies such as automated services – for example robotics or 'bots' – artificially amplify the spread of disinformation. These mechanics can

⁴ A BIZOTTSÁG KÖZLEMÉNYE AZ EURÓPAI PARLAMENTNEK, A TANÁCSNAK, AZ EURÓPAI GAZDASÁGI ÉS SZOCIÁLIS BIZOTTSÁGNAK ÉS A RÉGIÓK BIZOTTSÁGÁNAK Európai megközelítés az online félretájékoztatás kezelésére COM/2018/236 final

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be facilitated by simulated profiles (fake users' accounts) which have no authentic user behind them, sometimes orchestrated on a massive scale (referred to as 'troll factories').⁵

The 'fake news' phenomenon during the coronavirus period and its legal regulations

The infection of COVID-19 initiated in China in 2019, and last year it has reached the level of pandemic by early 2020, broadly effecting all European countries, including Hungary, whilst there was not any known global solution combating against the disease, thus all countries had to establish their own strategies for prevention and containment the coronavirus.⁶

The spread of false news and rumours further proliferated during the period of the coronavirus as the electronic media has channelled several news that mislead people day by day.

Even though there are no legislative provisions (independent statutory definitions) referring directly and expressly to 'fake news' or to the 'deepfake' phenomenon, however, indirectly they may be part of the perpetrator's action. Spreading fake news, rumours and insinuations numerous criminal acts were conducted during the coronavirus period, initially conducting the felony of threat of public endangerment and later the felony of scaremongering, furthermore, such illicit actions could assist the conduct of other criminal acts (e.g. theft, fraud).

⁵ A BIZOTTSÁG KÖZLEMÉNYE AZ EURÓPAI PARLAMENTNEK, A TANÁCSNAK, AZ EURÓPAI GAZDASÁGI ÉS SZOCIÁLIS BIZOTTSÁGNAK ÉS A RÉGIÓK BIZOTTSÁGÁNAK Európai megközelítés az online félretájékoztatás kezelésére COM/2018/236 final

⁶ 2020. évi XII. törvény végső előterjesztői indokolása a koronavírus elleni védekezésről

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Hungarian police officers caught the editors of fake news websites using ‘Clickbait’ topics at the outbreak of the coronavirus epidemic. Under reasonable suspicion of threat of endangerment they initiated investigations against unknown perpetrators who communicated untrue news on diverse sites of the Internet, misinforming the public on massively larger number of infections in Hungary than the true facts, moreover, they stated that several people have dropped unconscious and died at different railway stations in Budapest due to the epidemic. The detectives came to the conclusion that couple dozens of ‘fake portals’ belong to the same network sharing articles on contents actually most concerned by the people and the public’s perception based upon untrue statements. The perpetrators tagged the contents capable to disturb the public peace with clickbait topics, ensuring that they reach as many users as possible, that is a couple hundred thousand people in each case. Editors of the sites intended to spread the fake news as extensively as possible, counting on advertisement incomes after the number of searches or clicks.⁷

According to Act C of 2012 on the Criminal Code the provisions of threat of public endangerment are:

‘338 (1) Any person who states or disseminates any untrue fact intended to disturb the public peace, or gives the impression that there is imminent danger for the occurrence of an event that is likely to bring harm to the general public is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the threat of public endangerment has resulted in grave disturbance of public peace.’

⁷ <http://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/bunugyek/fake-news> 2020. 08.26.

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Fake news, rumours and insinuations effected the everyday proceedings of the people, moreover, in particular cases they may have adverse effects on the economy or business life. Consequently, Act XII of 2020 on the containment of coronavirus was implemented, whereas Section 10 (2) replaced Section 337 of the Criminal Code with the following provisions:

‘337 (1) A person who, at the site of public danger and in front of a large audience states or disseminates any untrue fact or any misrepresented true fact with regard to the public danger that is capable of causing disturbance or unrest in a larger group of persons at the site of public danger is guilty of a felony and shall be punished by imprisonment for up to three years.

(2) A person who, during the period of special legal order and in front of a large audience, states or disseminates any untrue fact or any misrepresented true fact that is capable of hindering or preventing the efficiency of protection is guilty of a felony and shall be punished by imprisonment for one to five years.’

‘Containment and protective measures related to the qualified legal order is conditioned by the reason of the qualified legal order and its effect to the country. The state of danger ordered at the outbreak if the coronavirus epidemic affects the entire country, whereas governmental actions and instruments related to all aspects of society from healthcare, through education and crossing of the border limitations to economic actions. Amplified criminal law protection is essential for this complex and diverse legal subject, ensuring that the statement or dissemination of untrue and therefore disturbing facts can not hinder or prevent the efficiency of protective measures aiming to eliminate the state of danger’.⁸

Summary

⁸ 2020. évi XII. törvény végső előterjesztői indokolása a koronavírus elleni védekezésről

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Due to the heading of artificial intelligence the ‘fake news’ phenomenon increasingly proliferates, as it shall affect all aspects of our lives in the future. Detection of the false or ‘fake news’ is a serious challenge for the officers of the investigating authority, since they may initiate a flow of information with false / untrue content, moreover they may also affect the execution of particular evidentiary procedures and the checking of such measures.

False and ‘fake news’ shall effect political elections in the future, as they may alter the decisions and political affinity of the voters, consequently, manipulating domestic policies and foreign affairs of the countries.

IRODALOMJEGYZÉK

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Abstract

Today, digitalisation, technical development and modern media have extended the scale of influential measures. One of the methods of the new phenomenon is the category of the so-called ‘fake news’, appearing on either digital, written, photo or other recording platforms. Often, regardless of any careful awareness or thorough circumspection, such information may mislead or affect the reader, data user or recipient. The study aims to present particular cases of ‘fake news’ and to introduce the background of the issue from the aspect of criminal law.

Key words: ‘fake news’, ‘deepfake’, coronavirus, false news, rumours and insinuations

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