



DISINFORMATION ACTORS IN THE GRAY ZONE OF LAW AND ETHICAL BUSINESS

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INTRODUCTION

Problematic content such as disinformation is difficult to address in a legal space where such content is not defined. However, as this publication shows, the creators of this content generally tend to operate in the gray zone of law and ethical business, and therefore their reach and profit can be limited by the traditional legal and regulatory tools already available.

Previous research by the Prague Security Studies Institute (PSSI) has shown that disinformation can be a profitable business in the Czech Republic. This output builds on research into the financial background of the Czech disinformation landscape, with a focus on its legal aspects.

The legal status of disinformation actors determines their opportunities to monetise disinformation. Companies, civil society organizations and individuals can use various legal and illegal channels to profit from their trade in fear. This research will therefore focus on mapping the legal aspects of Czech disinformation actors in order to identify gaps in national and international laws and regulations that are exploited for harmful (profitable) activities. Finally, the output provides specific recommendations for limiting the income from the dissemination of problematic content.

CASES FROM THE CZECH ENVIRONMENT

Online Media: Problematic Advertising and (No) Protection of Personal Data

For online media that attract clicks with disinformation, conspiracy theories, and sometimes even extremist content, PSSI's researchers have identified several types of unethical practices and even illegal conduct.

One of the most basic offenses is unlabeled advertising. From a legal point of view, advertising is addressed by the Advertising Regulation Act, the Advertising Code and the Consumer Protection Act, and advertising is supervised by the relevant regional trade authority. The legislation does not yet specify the conditions for labeling advertising, but in general the labeling must be clear, as advertising should not mislead the consumer. If a product or service is advertised, a payment was provided in return, and it is not clear that it is advertising, it is covert advertising (as defined in the Advertising Regulation Act) and therefore a prohibited form of advertising. The advertising can be simply and unambiguously labeled "Advertising" or "Paid Collaboration". However, in the case of the websites examined in this project, the labeling is sometimes missing altogether, as illustrated in the screenshot below.

Other types of prohibited advertising, such as paid links to pornographic websites, can also be found on these websites. According to the Advertising Regulation Act, this is advertising contrary to good morals, i.e. prohibited advertising.¹

1 Due to the use of such advertisements, the website should also be penalized in the Google search engine.



Picture 1: Unlabeled ad on the website pravvyprostor.net.

The websites work with various native advertising networks, in other words, advertising providers. When a website becomes part of an advertising network, automated advertising is displayed on the website and the website makes a profit from it. Among the more well-known ad networks are Google AdSense and, in the Czech Republic, Sklik. However, in the case of websites known for spreading disinformation, they often work with foreign providers that are unknown in the marketing industry, non-transparent and often facilitate unethical forms of advertising.² Examples include adskeeper.com or geozo.com.

But more importantly, when using foreign advertising networks, the websites receive income from abroad, which needs to be taxed accordingly. In such a situation, according to Act No. 235/2004 Coll. on Value Added Tax, a taxable person who is not a VAT payer or a legal person not liable to tax must register as an identified person for VAT at the tax office within 15 calendar days from the time when this obligation arose. This obligation also applies to income from advertising on digital platforms such as YouTube or Meta, given that these platforms are also based abroad. Without registration, there is a risk of penalties.

Disinformation actors should be monitored for compliance with these obligations. In the case of legal entities, their registration status can be checked in the publicly available Administrative Register of Economic Entities (ARES). However, in the case of individuals, this is not publicly available information and the ad networks and digital platforms themselves would have to cooperate in the investigation.

Data protection is another area where websites known for spreading disinformation are not fulfilling their obligations. Websites like Pravý prostor use tools like Google Tag Manager to run measurement codes that are subject to user consent. The problem arises when the user is not informed of measurement and data storage when they arrive at the website, nor are they given a choice and option to refuse the measurement. In such cases, this is a violation punishable by a fine, under the jurisdiction of the Office for Personal Data Protection. The baseline legislation regulating the processing of personal data is Regulation 2016/679 of the European Parliament and of the Council (GDPR), adapted to the Czech legal system by Act No. 110/2019 Coll., on the processing of personal data (ZZOÚ).

² The observations were consulted with a marketing specialist from the private sector.

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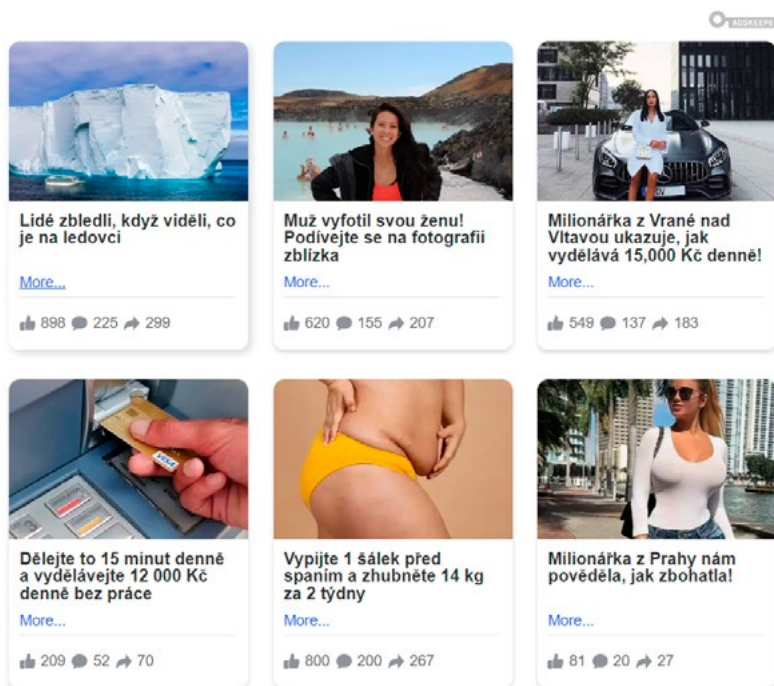
}
</style>
<style>.cmplz-hidden {
  display: none !important;
}</style><meta name="google-site-verification" content="K2YEXW8G2z0YqZ4Che-vT68I280HL1tXiwCdt-j-y_8" />
<script type="text/plain" data-service="google-analytics" data-category="statistics" async data-cmplz-src="https://www.google.com/tagmanager/gtag/js?id=UA-36548233-12"></script>
<script>
window.dataLayer = window.dataLayer || [];
function gtag(){dataLayer.push(arguments);}
gtag('js', new Date());

gtag('config', 'UA-36548233-12');
</script>

```

Picture 2: Use of Google Tag Manager on the website pravyprostor.net which does not allow user consent or refusal.

In addition to potential offenses in the area of advertising regulation and data protection, softer cases of unethical advertising can be found on the websites mentioned. In addition to the vaguely labeled advertisement mentioned above, there are cases of advertisement that purposely create the impression of content that is part of the website. In other words, it directs the user to an advertising message under the guise of original content, which generates additional profit for the website owner. These unethical practices are made possible, for example, by the aforementioned adskeeper.com advertising network.



Picture 3: Use of the ad network adskeeper.com for advertising that is not properly labeled and presented as a part of the website's original content.

Other problematic practices include boosting advertising profits by generating false impressions, in other words, fake ad views. In practice, this can be done by stretching ads in such a way that the user can scroll on the page virtually indefinitely, while more and more banner ads keep appearing and disappearing. Each banner impression represents potential extra income. An example is the website protiproud.info, which exploits the Google Display Network in this way. Similar practices constitute circumvention of the advertising networks' ad placement policies.



Picture 4: Infinite scroll on the website protiproud.info with re-appearing ads.

Mainstream media and other types of companies that profit from advertising are under the scrutiny of the authorities and the public, so such transgressions and unethical practices would not go unnoticed nor unsanctioned. However, websites known for spreading disinformation are unlikely to have been structurally addressed yet and therefore continue to thrive because of their gray area activities.

Moreover, it appears that the control mechanisms of ad networks for approving websites as partners, profiting from advertising, are not fully functional. For large advertising networks, the problem may be that the evaluation and approval process is handled by artificial intelligence, or outsourced to other regions or continents where the responsible employees do not have the necessary knowledge of the language and realities of the country where the website operates. Another possible scenario is that the websites did meet the requirements at the time of their approval as partners and only started to violate them after their inclusion in the program. For these reasons, it is also important to alert ad providers to problematic cases. However, advertising is still a business and therefore a potential factor for some ad networks is a shifting boundary of what is ethical. This is also suggested by the fact that across the disinformation landscape, we can observe the use of similar, lesser-known providers (such as the aforementioned Adskeeper and Geozo), who arguably provide the disinformation landscape with an avenue to profit knowingly, in spite of their unethical practices.

To conclude this section, it is necessary to mention that websites known for spreading disinformation operate in a gray zone also because the Czech media legislation still lacks a definition of online media. Disinformation websites often pose as news media. At the moment, the obligations for news media are mainly **determined** by the Press Act, but it only applies to print periodicals. The definition of periodical press is further reflected in a number of relevant laws, such as the Advertising Regulation Act or the Conflict of Interest Act. This causes many loopholes, such as the lack of advertising regulation for online news, or the fact that online media can still be owned by a public official. In short, a legal definition of online media is essential for improving the transparency and ethics of online media.

Abuse of Crowdfunding (Public Fundraising Campaigns)

Disinformation actors have adapted to the current online environment by adopting the functioning of influencers and the associated funding schemes, especially crowdfunding – collecting donations from their supporters. **Data** collected by PSSI's researchers show that the popularity of this method

of profit has increased significantly in recent years, and disinformation actors increasingly rely financially on loyal fans rather than on advertising revenue.

However, they do not use transparent platforms like Donio and rarely use transparent accounts to collect the money. They usually ask their supporters to send money to a current, non-transparent account.³ This in itself makes it very difficult for donors to keep track of whether the donations are really being used for their stated purposes, which usually include fighting for freedom, against censorship, against the government and government measures.

In the Czech Republic, public fundraising campaigns are regulated by the Act on Public Collections. It means a collection of funds for a publicly beneficial purpose and the basic characteristic is that anyone can contribute – even the general public. When a collection is published on a public platform such as Facebook, it becomes a public collection, so even people who have not been approached directly can contribute.

Public collections can only be organized by legal entities which must apply for a permit in time to the relevant regional court and use a transparent account for the collection. Public collections are traceable in the publicly accessible Central Register of Public Collections. Thus, when someone decides to set up a collection on their own, without the intermediary of a crowdfunding platform, they face heavy administrative requirements and a number of obligations involved. Donations are subject to tax return disclosure and a 15% tax if they are not used for charitable or humanitarian purposes. There is also a requirement to prove that the donations have been used by the end of the calendar year following the year of receipt.

It is this route, outside of official crowdfunding platforms, that disinformation actors usually choose, likely to avoid the transparency that the platforms require. It is therefore important to check whether their independent crowdfunding fulfills the above-mentioned obligations. The main problem in this regard is the lack of human resources in the regional courts that are supposed to supervise public fundraisers. Especially typical is the overload of the Prague authorities, where a large number of legal entities are based.

Apart from the (non-)observance of the basic prerequisites of legal crowdfunding, there are examples of other unethical practices by disinformation actors who often operate in a gray area in this regard. These include individuals with financial problems. As they often face multiple foreclosures or insolvencies, they do not collect financial donations via accounts linked to their person where the authorities can get their hands on them. Instead, the money flows to bank accounts of their relatives or partners. This further increases the lack of transparency regarding the use of these financial donations.

The gray area in which disinformation actors operate in their increasingly active crowdfunding activities deserves increased attention. It is important to prevent them from manipulating their audience not only in the information domain but also in the financial domain.

3 In previous [research](#) in 2023, PSSI's researchers looked at 36 websites known for spreading disinformation which are funded by donations from their supporters. 80% of them (29 cases) used a current, non-transparent account to collect donations.

Hiding Behind Civil Society Organizations

In recent years, disinformation actors have been setting up civil society organizations (CSOs) more and more frequently. Examples include Pavel Zítko's Heart for the Homeland or the Czech Republic on the 1st Place founded by Ladislav Vrabel. They likely want to add legitimacy and institutional background to their activities. The main thing to note about this trend is its expediency. Disinformation actors use CSOs to complement and expand their political and commercial activities. For them, CSOs and related civic projects serve as an opportunity, or rather a pretext, for another source of income, for example to set up another account to collect donations. The purposefulness of setting up these CSOs is also illustrated by the fact that the CSOs in question have a relatively short lifespan and remain almost inactive after a while.

In this way, disinformation actors turn the CSOs into a business and damage the public image of civic initiatives. In this regard, it is important to recall cases such as the anti-covid project [Zdravé fórum](#), whose two co-founders were paid 60,000 crowns each month and together received more than 1.2 million crowns from the CSO's account. One of them, Tomáš Nielsen, received payments for legal services for the CSOs, although he [claimed](#) to the media that he did not take money for his activities in the CSO.

Another example is Pavel Zítko and his Heart for the Homeland CSO, to whose account he [collected](#) money for his presidential candidacy, much of which was subsequently withdrawn in cash or used for gas. In doing so, he also circumvented the electoral law-imposed obligation of candidates to open their own transparent account in their own name, as confirmed by the Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSPH). Not only were campaign financing rules not followed, but his supporters received misleading information about the use of their financial donations, which Zítko collected under the pretext of running for office even after the Ministry of the Interior rejected his candidacy due to non-compliance with the conditions.

RECOMMENDATIONS

Based on the trends observed above, we propose recommendations aimed at increasing the transparency of the activities of disinformation actors and limiting their profit. The recommendations are based on the assumption that the existing Czech legal framework can be used to limit disinformation activities and thus avoid controversial content-based interventions.

Definition of online media: Disinformation actors continue to influence public discourse through online media, which are often non-transparent and do not respect journalistic and ethical standards. A basic prerequisite for improving the situation is an update of media legislation and introducing a definition of online media to set rules for their operation, transparency of ownership and strengthen advertising rules, especially in the case of news media.

Enforcing compliance with advertising regulation: Prosecuting non-compliance with advertising regulation under the Advertising Regulation Act, the Advertising Code and the Consumer Protection Act can be one tool to limit the income of websites known for spreading disinformation. A typical transgression, and one that is relatively easy to detect, is a lack of labeled advertising. Flagged potential violations should be directed to the respective trade authorities.

Personal data protection compliance checks: Another tool to limit the profit of these websites lies in the hands of the Office for Personal Data Protection, based on the GDPR and the Czech law on personal data processing. We recommend cooperating with the Office in reporting potential violations of user consent to the measurement and storage of personal data.

Investigations into taxation of foreign income: Income from advertising on websites and digital platforms is usually foreign income. Working with the tax authorities can help verify the tax treatment of such income, especially in cases where tax authorities are overburdened and lack the resources to conduct comprehensive compliance oversight. In the case of legal entities, the publicly available Administrative Register of Economic Entities (ARES) can be helpful.

Investigations into public fundraising: In the case of fundraising via transparent bank accounts, we recommend increased attention to the correct taxation of income outside humanitarian and charitable purposes, and to the use of donations within the time limits set by law. On issues of compliance with the general conditions for public fundraising, we recommend working with the regional courts, which also face work overload, and using information from the publicly available Central Register of Public Collections.

Strengthen regulation of funding political campaigns: Most disinformation actors are connected to politics either through past political activity or current attempts to enter politics.⁴ In such cases, we recommend increased attention by the Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSPH) to prevent further financial manipulation of potential voters as in the case of Pavel Zítko.

Cooperation with advertising networks: Online media spreading disinformation benefit from cooperation with advertising networks, which have shown a weak ability to filter out websites with problematic content and unethical advertising from their partner programs. Whether they are global large providers like Google or regional companies (Czech Internet Billboard, Polish Vidverto or Slovenian Content Exchange), it is important to alert them to the fact that they are working with such websites. Advertising networks might find it controversial to crack down on websites because of their problematic content, but violating ad placement policies strengthens the argument for intervention.

Raise public awareness about exploiting the civil society organization status: We recommend that journalists and the civil society raise awareness about how disinformation actors purposefully exploit the CSO status to increase their profit and manipulate their supporters not only in terms of information but also financially. It is important to encourage their supporters to demand transparency and accountability.

⁴ According to previous PSSI's [research](#), more than 60% of the most influential disinformation actors are involved.