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theses of the PhD study of

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Legal liability of social media service providers

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I.1. Research objectives and process

A few years ago, in the introduction to on of my study, I wrote: it may seem like a waste of character to emphasize the social significance of social sites in the 21st century towards the end of the first decade of the twentieth century. Now, at the beginning of 2022, the cautious conditional formulation of my previous train of thought can now be replaced by a way of declaring it. Social networking sites have not only become part of our everyday lives - for example, we use them as the primary platforms for the flow of information, we keep in touch with our friends through the communication applications belonging to these platforms - but the scientific discourse is now showing great interest in social media. We can call it a hot topic without any doubt.

At the beginning of the research it was necessary to spend a lot of time finding at least foreign Internet resources, as there was essentially no Hungarian-language, printed or online literature on the topic. At this initial point, I was more inclined to agree with positions that apostrophize the Internet as a "illegal" sphere like the Wild West, but at least to acknowledge the legitimacy of the logic behind the analogy.[1] Mankind and jurisprudence have come a long way from this state to the moment when Mark ZUCKERBERG, Facebook founder and CEO, published an article in The Washington Post on the need to regulate social media.[2]

Becoming a mass product, social networking sites has legitimately brought to light a number of tensions over the operation of these web platforms and their applications, which has led to some criticism from both regulators and public entities and also users. Moreover, as I have indicated above, by the service providers themselves.[3] And today, we have come to the point where there is no real alternative to these services in some areas. And this "take it or leave it" type of situation further justifies the existence of legal thinking in this regard.

My research had two explicit objectives.

On the one hand, my aim was to provide a comprehensive picture of the legal responsibility of social networking providers at the time of closing of the manuscript. This picture is not only

[1] However, in addition to questions about the extent of regulation, there is no doubt that the internet, in its current form, is the most widely available interface for exercising freedom of expression today. In addition, according to Zoltán SZŰTS, the Internet is the public space that provides the greatest opportunity for equal opportunities, which is the most effective way to eliminate social differences. SZŰTS Zoltán: Online – Az internetes kommunikáció és média története, elmélete és jelenségei. Wolters-Kluwer Kft., Budapest, 2018. p. 329.

[2] Mark ZUCKERBERG: The Internet needs new rules. Let's start in these four areas. (https://www.washingtonpost.com/opinions/mark-zuckerberg-the-internet-needs-new-rules-lets-start-in-these-four-areas/2019/03/29/9e6f0504-521a-11e9-a3f7-78b7525a8d5f_story.html?noredirect=on&utm_term=.36d6bb2c37b8; downloaded: 2022.02.021.)

[3] The legitimacy and sincerity of this demand on the part of service providers for regulation is discussed in detail in the dissertation..

"comprehensive" but also momentary. There has been a race between technological progress and the law for centuries. The classic textbook example is the problem of the applicability of traffic rules previously created for horse-drawn carriages to automobiles. This phenomenon has taken on even more extreme forms in the development of computing devices and the development of Internet functions[4]. An excellent example of this is the experience gained during the research. There have been so many changes in the social function of the use of social media and in law, especially in the period between the four-year doctoral study in the attitude of some legislative entities, which did not allow the continuous compilation and wording of the dissertation. Thus, in order to avoid the fate of Sisyphus, my primary way of working was to collect, study and keep up-to-date the knowledge, and to organize and synthesize the accumulated knowledge as much as possible in order to be as effective and up-to-date as possible.[5]

On the other hand, the aim of the research was to evaluate the legal sources and scientific positions presented, in some cases to emphasize their significance as needed, and in other cases to formulate counter-arguments against them, and to detect and highlight trends, one-sidedness and contradictions in the available knowledge. In particular, I intend to use a systematic assessment of the legislative will and attitudes at the level of codification, as well as the commonalities and differences in intentions, as a means of enhancing the scientific value of this dissertation, trusting in the success of my efforts.

I have naturally developed a critical attitude towards the topic during my research, as a result of which we can name a third objective, which is to present and evaluate positions that focus on skepticism about the effectiveness of legal regulation of the social network providers I have examined. The arguments and resolutions of this train of thought, which I consider to be the most valuable, are presented in details in Chapter IV of the dissertation.

As an idealistic goal, I could set myself to answer questions like that:

- "Should social networking sites be regulated by legislative means?" or
- "If necessary, can legal remedies be taken effectively against large companies behind social networking sites?"

[4] Continuing the analogy, the difference between the development and speed of the early Internet and current networks is much greater than the difference in speed between horse-drawn carriages and cars currently under construction.
[5] Even so, significant developments took place during the finalization of the manuscript, which are discussed in detail in Chapter VI.

The debate among legal practitioners on these issues has not come to a standstill point, so I do not take on the task of answering these questions unquestionably definitively. Rather, my goal is to present the individual arguments and the scientific and practical considerations behind them, and to use them to enrich the scientific discourse with an opinion of its own that is well-founded through the processed and synthesized knowledge.

As far as I know, this dissertation is the first comprehensive scientific work published in Hungarian, with the intention to present and analyze in details the full range of legal responsibilities of social service providers. I hope that this dissertation will be a useful source in the future for further research that will examine certain aspects of the operation of social networking sites in detail. Due to its comprehensive nature, I would like to contribute to the systematic interpretation of the examined issue with this dissertation, trusting that the contents of this dissertation provide an accurate and complete picture of the state of the manuscript at the time of closing.

I.2. Methods and main questions of the research

Given the special nature and constant change of the research topic discussed above, it has been a challenge to identify seamlessly the classical legal research methods along which the legal liability of social network providers can be examined.

In the dissertation, itemized legal solutions of different legal systems are presented, however, they always aim to achieve an effect in accordance with the intention of the legislator by focusing on a specific social problem or phenomenon. Behind them, in many cases, the concept and scientific substantiation are lacking, so I find it difficult to meet all the conditions for the seamless implementation of the comparative method. Nonetheless, my objectives outlined above remain unchanged in relation to the comparison of the individual codification solutions, and I would also like to examine the relationship of some of the solutions in the “internal” rules created by Facebook, the largest social networking site, to specific legal provisions. The comparative method cannot therefore be applied "purely" in the dissertation. Thus, the study is not the comparison of social phenomenom, the regulation carried out at different levels of the legal system and in the framework of the parallel regulations of some states, given that the regulation of the operation of social networking sites is currently fragmented and in many cases ad hoc. The aim of the comparative work in this case was to shed light on the common features and differences between the individual "island-like" regulations and the regulations made by

the service providers, as a specific legal instrument with a narrower territorial scope or a broader regulation such as the European Community.

Here, I cite the method of functionalism in the wake of Konrad ZWEIGERT, given that due to the legal regulations I have examined, the primary medium is the question of their enforceability. In our case the extent to which the itemized rules created by the legislators and the system of sanctions available to law enforcement entities for service providers . So when they fail to comply with the law how effective the sanctions are against them. From this point of view, the question arises as to the extent to which each item of legal instrument is able to fulfill the function assigned to it by the legislator. The findings based on this methodology also can be examined through further filtering, whether, in many cases, legislative action against these large multinationals also has a political aspect.

Because the dissertation - as I pointed out in its title - examines primarily liability issues from the point of view of the providers of social networking sites, it is necessary to apply the legal dogmatic method in the examination of certain dimensions of legal liability. In applying this method, it was primarily necessary to clarify the issues which pointed to the inconsistencies between the current legal framework and the operation of the social media sites. I would like to state also, that I had to to take a step back to point out the fundamental dogmatic tensions in the regulation of these service providers. An important element of this method is the critical legal analysis, so in each case my aim was not only to compare written law with reality and the functioning of the information society, but where I felt the need to point out the flaws of the law, in some places supplementing my findings with *de lege ferenda* suggestions. Thus, in addition to the dogmatic method, I used the critical-analytical method in the analysis of the itemized legal rules I examined.

Thus, I used some of the methods discussed above for my research. However, as I pointed out, in my study in view of the objectives set out in the previous chapter, I used the comparative method, for example, not as a pure method but as a kind of hybrid method. The spectrum of research methods thus covered functionalism, legal dogmatics and critical-analytical methods in the course of the dissertation and research, as well as a kind of hybrid of comparative method in addition to these.

Furthermore, the time frame of my study is very narrow compared to the legal works examining classical legal institutions: although I will talk briefly about the early challenges of Internet

regulation, I analyse about a decade before the manuscript was finalized. iWiW[6] which functioned as the first "classic" Hungarian social networking site, was launched in 2002, but the need for legislation tailored to social networking providers as entities with special attributes in parallel with the growing social importance and spread of these communication platforms worldwide. It appeared in the second decade of the twentieth century at the level of both scientific and everyday public discourse. As I would like to point out in the dissertation, in addition to the social impact, the transformation of the business model of these companies was a key factor, which now required its classification.

After considering the circumstances and possibilities explained above, it became necessary to make a decision on the method of the study, which at the same time determined the structure and logic in which I record the results of my research. Once it has become clear that I want to focus on the legal responsibility of the providers of these platforms for the operation of social networking sites, it has become necessary to explore all aspects of the subject and to map out the current state of codification and scientific discourse. As I found several aspects of the legal liability of service providers of different significance and coloring, in connection with which some members of the legal system expressed only a limited number of questions, so I decided that the organizing principle of my research would be the full range of legal liability of social service providers. However, I reserve the right to discuss each of the detailed issues in scope and depth appropriate to their relevance and significance. The method of processing the topic has thus become a "systematic analysis", meaning the exploration, analysis, processing of the relevant literature, formulation of one's own findings and synthesizing all this knowledge. The detection and presentation of the relationship, parallelism or contradiction between the issues arising in each area of law and the functioning of social media required special attention. In my view, this "systematic analysis" provides the most effective means of achieving the goals set out in the previous chapter and results in a coherent, logically structured text that presents all the essential aspects of the topic that I set out to achieve at the beginning of my doctoral studies.

There is little room for maneuver in setting up hypotheses within the framework of the present dissertation, given the significant number of uncertain variables that arise during the operation of social networking sites and the formulation of legal responses. I did not want to make any preliminary assumptions, especially given the fact that the purpose of this dissertation is not to

[6] For the sake of a brief footnote, I have to remember iWiW as the most successful Hungarian social networking site. The platform was originally launched in 2020 as WiW (Who is Who) and became iWiW (international Who is Who) in 2005. Between 2005 and 2010, iWiW was the most visited Hungarian website. The most significant difference compared to Facebook in terms of its operation and function is that the operations that can be performed on iWiW were limited, and that the registration could be done at the invitation of an already registered user. SZŰTS (2018) p. 332-333.

evaluate a legal institution dating back decades or centuries or a comprehensive analysis of case law in some of their legal issues. Its' purpose is to assess the results so far and to make cautious predictions about the future direction of an issue that has been the subject of legal scrutiny and reflection for a short time.

Thus, during the synthesis of my research results, I considered it more scientifically proper and expedient to formulate the most important questions related to the topic I was researching. In this context, in my opinion, the most important questions in examining the liability of social network providers from a legal point of view are the following.

I. Which dimensions of the legal liability of social network services providers can be identified, and which of them are the most relevant?

In terms of relevance, the main question was which areas of law could be omitted in relation to the service provider liability issues I examined, given their limited significance, and which are the functions of these online services that can have a fundamental impact on society and the lives of individuals, so require detailed scientific analysis and evaluation.

II. Is it possible to rank among the identified dimensions of responsibility, both in terms of relevance and the effectiveness of the system of instruments offered by each fields of law?

After identifying the liability constructs of the relevant fields of law, the question not only is the order in which they are logical, scientifically proper and expedient, but also is the question of whether a ranking can be established on the basis of a system of criteria? (Whether in terms of the importance of certain areas of law or the enforceability and effectiveness of certain legal frameworks currently in force.)

III. Is there a relationship between each of the dimensions of responsibility identified, and if so, what are the characteristics?

The third main question of the research was whether there is a relationship between the fields of law identified and ranked according to specific methods or classified according to their significance or do they interact with each other.

While I was trying to answer the main questions of the research identified above, as well as reach the purposes in point I.1. I was focusing on whether new issues or questions come up which worth to be discussed in the dissertation, or I figure out more questions which need to be

answered for the analysis of the fundamental legal aspects of this topic. In this context, the pro- and counter-scientific positions on the legitimacy of legal regulation caught my attention, to which I devoted a separate chapter at the end of the dissertation.

I.3. About the sources used during the research

Before explaining the substantive part of the dissertation, I definitely feel it necessary to draw attention to some circumstances in connection with the scientific and other sources used in view of the specifics of the topic of the dissertation mentioned above. Of course, these findings do not presuppose that during the preparation of the dissertation there was no primary guiding principle and minimum requirement for me to substantiate the scientific rigor and all the statements made with facts. On the contrary, I would like to point out that the aim of the study, the uncompromising achievement of the objectives set out above and the development of an up-to-date text presenting different scientific points of view, is a continuous process, required a difference in some respects from the attitudes of researchers examining 'classical' legal institutions.

At first, I would like to point out that the topic of the dissertation does not have as long a comprehensive scientific discourse and literature as other doctoral dissertations on legal topics that summarize the findings of existing research on classical legal institutions in our legal system. Of course, not only the con but also the pro of this research specificity exists: although a smaller number of scientific sources are available, they are current, up-to-date, and the constant change in the topic encourages some researchers to reconsider their position from time to time. And these corrective steps, and the scientific considerations behind them, have provided many lessons for the work. It may seem a little strange at first reading, but I would also like to emphasize the positive effect on research of the fact that researchers on the topics I study are almost without exception actively publishing contemporaries. Thus, it was possible to contact several of them in person or online, to meet at scientific events, and at the same time to pursue a professional discourse that could in any case yield fruitful results for a young researcher. I would like to thank all Hungarian or foreign authors who have enriched my research and my thinking with more and more layers by giving their advice and opinions directly to me. Thus, although I have less literature available, such as researchers examining the legal history of for example the content of the fundamental right to vote, but I have had the advantage of being able to engage in "real-time" scholarly discourse.

It is characteristic of the position of the authors cited that the issue of the regulation of social networking sites is often discussed from the "zero kilometer": is there any need for legal regulation at all; is effective regulation feasible? Of course, such fundamental issues do not arise in the field of succession law or criminal procedure law. The aim of the dissertation is to identify possible ways before the law after presenting and evaluating the results of jurisprudence, but - as I indicated above - I also consider it my task to present codification-skeptical positions, especially considering that the logical order behind them is something which is not easy to get into an argument with.

Attention to the limitation and depth of the scientific sources described above, in the Introduction to the dissertation I give a brief special emphasis to the Hungarian sources, which were the biggest grants during the compilation of this dissertation. These are parallel in some respects to the work I have done and the conclusions I have drawn, in terms of their subject matter, their method of investigation, or the "attitude" used to determine and evaluate the results of the research.

Due to the specialty and nature of the topic of the dissertation, more internet sources have been used and cited than in the case of other dissertations presenting the results of research on classical legal institutions. The events that occur during the operation of each social network, the events that affect a wide range of users, and the anomalies that occur during the procedures are each handled separately in some scientific community work, so the main sources of these details are these Internet articles. In most cases, they do not elaborate on the topic, but reading them together with the dissertation can expand the possibilities of interpretation and provide partial information that the scope of the dissertation could not withstand. In the case of Internet sources, I have tried to refer to the publications of foreign newspapers, which I consider to be a reliable source in terms of fact and history, published in printed form and operating in accordance with the current standards of journalism. In the case of articles in Hungarian, the source control of the information contained examination in all cases. Where the name of the journalist of the author of the article is indicated on the given online interface, the name of the author and the full title of the publication is included in the link.

I.4. The structure of the dissertation and its reasons

During the development of the structure of the present doctoral dissertation, I focused on two main aspects. On the one hand, the topicality and specificity of the research topic required to be explained in separate chapters. While I identified the effects of the operation and functions

of social media on contemporary society as evidence in the first chapter of the dissertation, in the following chapter I presented the relevance of the aspect relevant to the research, which in my opinion needs to be emphasized. In the course of my research, I detected that the issue of the responsibility of service providers of social media is not a single topic, the different areas of law have different relevance and significance. In view of this, it was not possible to apply a uniform chapter structure, but it was necessary to identify, for each field of law, the fundamental legal issues, the legislative responses to them at different levels of the legal system, and the relevant scientific opinions also. The structure of the doctoral dissertation has been developed along these organizing principles, which is structured as follows.

After the first introductory chapter, I presented the details of the research that formed the basis of the dissertation, clarified the concept of social sites, and analyzed the legal relationship system created during their operation. After analyzing the legislative answers that have already been given or planned, and the related legal practice and theoretical considerations, I have devoted a chapter to the basic question of whether it is necessary to define the framework for the operation of social networking sites by legal means and what scientific positions we have found. Finally, at the end of the dissertation, I summarize the results of the research and try to make the most accurate statements possible by synthesizing the positions and knowledge I have explored. To conclude the work, I make cautious predictions for the future and briefly discuss the factors influencing the relevant legislation and application in the near future.

An important circumstance is that my focus is limited to legal issues that in some way affect the issue of liability of social network service providers. Thus, although there are many interesting topics related to the operation of social networking sites, if the focus of some problems on the legal relationship between users, I have not been able to cover it within the framework of this dissertation. Thus, the focus has remained on the service providers throughout, but in connection with their responsibilities, I have tried to explore and present all the dimensions that can be taken into account when concluding the manuscript. Thus, the relevance of B2C (business-to-customer) relationships was presented in detail, and where this was of particular importance, I also covered B2B (business-to-business) relationships (e.g. in relation to the “fairness regulation” of the EU).

II. The conclusions and results of the research

As a conclusion of my research, I would like to briefly summarize my findings discussed in the dissertation, as well as to answer the main questions set out in subsection I.3. in the dissertation.

Before answering the main questions, it can be stated in general that the borderlessness of the operation of social networking sites can be clearly seen in the study of the legislation and case law concerning them, so that in all areas the rules of European law are the most detailed and significant sources of law processed in each chapter. A significant part of the relevant EU legislation has emerged in the last decade, so it has already been formulated in the light of technical developments and the proliferation and expansion of web-based online platforms. However, we find some legislation that is a "remnant" of previous media regulation and that has not or with little success in adapting to the changes of the new age. The liability of service providers for infringements committed by their users is a secondary liability in all known national or international laws, which, although interpreted differently in each legal system, have the same theoretical basis: the person can be held liable for the conduct of a third party under certain conditions.[7]

With regard to both EU and national legislation, it is also clear that there is still uncertainty on the part of codifiers as to how the substantive scope of the rules for these digital platforms will be determined. Thus, we see an example of legislation specifically targeting large service providers (German NetzDG or the DSM Directive), and much of the EU rules continue to use slightly anachronistic categories of intermediary service providers.

As I indicated in the introduction, the aim of this dissertation is to present a comprehensive picture of the legal responsibilities of social networking sites and to register their common features, advantages and disadvantages in connection with their analysis. With this in mind, I decided on the scope of the explanation of each topic, while I tried to keep in mind the task of interpreting the individual legal rules separately in each case from the point of view of the activities of the community service providers. Along these considerations, the legal dimensions of the liability of these service providers were taken into account, during which evaluation I identified eight fields of law that are regulated in relation to the essential elements of the operation of social networking sites. These fields of law overlapped to a greater extent, so I had to decide which area of law to discuss in the case of the "common-set" issue (see the chapter on constitutional law and media law). As a prerequisite for defining the appropriate legal fields, I felt the need to present the system of legal relations established in the operation of social

[7] Graeme B. DINWOODIE: A Comparative Anlysis of the Secondary Liability of Online Service Providers. *Ius Comparatum: Global Studies in Comparative Law*, Vol. 25. Springer, 2017. p.8.

networking sites in a separate chapter, because in my opinion it would not have been possible to identify the legal points of this legal area without it.

The first of the main questions set out in Chapter I was: **Which dimensions of the legal liability of social network services providers can be identified, and which of them are the most relevant?**

After synthesizing the results of my research, if we focus on services that have a significant impact on the lives of society as a whole or a significant group of society (e.g. registered users) and individuals, my answer is that we can identify eight areas of law as relevant. These are constitutional law, media law, civil law, copyright law, criminal law, data protection law (privacy law), competition law and consumer protection law. An example of a field of law which, although relevant to the above considerations, could not be included in the concept of the dissertation and which overstretched its scope is the tax issues that are increasingly generating disputes between social network providers and states. This is an important issue for the revenue of state treasuries, so it can of course indirectly affect the rights of individuals, even fundamental ones, but it does not have a direct influence. During the analysis of the identified areas of law according to individual aspects and methods, I made the following basic conclusions when summarizing the results of the research.

In the central of the constitutional analysis we find the exercise of freedom of expression and opinion as a fundamental right on social media. The exercise of these rights may be hindered by the terms of use individually formulated by the service providers, in case of violation of which the service provider has the possibility to delete the content that violates the regulations. In the course of this moderation activity, the standards applied by these regulations and the regulations set out in the current legislation apply in parallel. Thus, the question of the consistency between the content filtering principles used by the service provider and the relevant elements of the legal system (such as copyright, privacy law, criminal law rules) has a paramount importance.

As an extremely important element of the constitutional review, I have identified the issue of the horizontal scope of fundamental rights, which can be seen in all aspects of the constitutional liability of service providers, as this will define if there is possibility to cite these rights in a civil law procedure.

Criminal law and media law also impose regulations on service providers in connection with the filtering of the most extreme manifestation, hate speech. The qualification of the service

providers' procedure is also influenced by the fact that the service they provide reaches people with different social, cultural and religious backgrounds, so the expectations of states and societies are completely different in each service area (except some dictatorial countries when I use the phrase “state” I understand the whole planet). Thus, the fundamentally market-based and profit-oriented logic of the operation of service providers will not, of course, coincide with the above-mentioned expectations, which are based on different moral or political grounds.

Following the presentation of the contradictions and the scientific and service provider positions expressed views in connection with them, an important subject of my constitutional investigation was the leaked moderation code of Facebook, which also reveals the logic behind the service provider's procedures and differences between international legal standards. In my point view, although this issue is indeed extremely important because of the impact of the rights held by the service provider on fundamental rights, a precondition can be identified for which no scientific or technical solution has been found until the manuscript has been finalized. Namely, that the amount of information appearing on these pages is such that it is simply not possible for artificial intelligence to answer highly sophisticated, country-specific legitimacy questions in the light of the above considerations that they can only be judged by the human intellect. Given the amount of data generated, this task is impossible, so service providers will not be able to fully meet the requirements. Thus, only the expectations of the legislator regarding the individual, ex-post filtering and removal of certain contents can be formulated realistically, as we can find in the law of the European Union, the rules of which I have also reviewed within the framework of the constitutional law chapter.

Also in this chapter is an analysis of the German “Facebook Act”, NetzDG, which is one the border of the system and logic of media and constitutional law, with the aim of setting stricter limits for service providers in relation to the disclosure and removal of content related to online hate speech. The law is a novelty in the tools of modern legal systems, so I considered it worthwhile to analyze in detail, despite the fact that a lot of criticism has been expressed against it during its creation and since its entry into force.

The center of the constitutional inquiry are therefore freedom of expression and opinion, which is supplemented in the second half of the chapter by the right to information, and the legal issues related to fake news and the filter bubble. In the case of the former, we see that the discourse concerning it is strongly distorted by individual political positions. However, the resulting social tensions have forced legislation to move, so I have analyzed the European Commission's communication on this. Unfortunately, I am not in a position to give clear answers to the issue

of fake news, in my opinion there are contradictions in this area (protection of the democratic public and freedom of expression and opinion) which the legislator cannot solve. Extending the powers of service providers is another issue that significantly affects fundamental rights, it would allocate to them with a mandate that only the freely elected state apparatus has in constitutional democracies. Thus, at the moment, the only realistic solution is to increase the users' awareness of content consumption, which, however, is also a very significant, costly, and, by no means, simple public task.

Closely related to the constitutional dimension is media law regulation, which is a heterogeneous, distinct area of law that incorporates the media norms of several fields of law, so this chapter naturally shows a close relationship with the legal dimensions I have discussed (especially the constitutional law mentioned above). As a preliminary question of the media law investigation, I detected the assumption whether the providers of social media sites are covered by the media law regulation at all. We can see a crisis in the application of the concepts of the relevant legal framework.[8] The concepts of content and streaming service providers do not cover the activities of the companies operating these digital platforms seamlessly, while the term "traffic management", which is increasingly used in scientific discourse, seems to be a stylistically correct solution. I have used the term "gatekeeper" consistently used by the Digital Services Act and the literature in the recent past to better describe social network providers, given the lack of a liability structure similar to that of former media players, but also bearing in mind the ability of these companies to influence public discourse and online discourse. The scientific views I have presented are therefore in agreement that there is a clear belief that the activity of social network providers goes far beyond the dimensions of simple 'mediation'. The most important finding of my balance sheet during the evaluation of media law regulation is that this area of law suffers the most from the crisis of metaphors formulated by Zsolt ZŐDI, and therefore it is questionable to what extent media law regulation will be a realistic alternative for regulating the operation of social media.[9]

With regard to the dimension of civil law, it should first be noted that there are significantly more rules in this area of law relating to the legal relationship between users. The simplest way to capture the civil liability of service providers is to determine which service provider procedure or failure to do so could result in civil law infringement on the part of users. These

[8] Zsolt ZŐDI: crisis of metaphors.
[9] Of course, there are also elements of media law regulation that can be useful to take into account in social media legislation. An example is the solution in Directive 2010/13 / EU, according to which a Member State may take steps to prevent the transmission of media services under the jurisdiction of another Member State in certain infringing cases.

situations may be user needs arising from the violation of the framework and standards set by the service provider regulations (such requests have not been formulated in large quantities so far). There may be contractual disputes between professional users in their business and service providers as providers of advertising space, which may be hampered by information asymmetries between service providers and users. Finally, the removal or non-removal of certain content that infringes privacy or copyright may give rise to civil claims against service providers by users in accordance with applicable law or the Terms of Use.

With regard to copyright in Europe, on the one hand, the interpretation of the current legal framework by the Court of Justice of the European Union and the relevant case law are has significant importance. The CJEU has set out a framework for the interpretation of the law on essential issues, both in terms of the conceptual framework for communication to the public and the related responsibilities of intermediary service providers ¬, in particular resolutions on prior screening or blocking. Perhaps the most significant current transformation can be detected in this area of law, with regard to the new European Copyright Directive, and as a result, the modification of the Hungarian Copyright Act amended in 2021.

One way of enforcing copyright is through criminal law, but beyond that there is little relevance that warrants a detailed analysis of the criminal liability of social network providers. In my opinion, although the Hungarian Criminal Code also contains state of affairs related to the processing of personal data that can be implemented by these service providers, and we can also find a measure that can be applied against them, however, it is not assumed that criminal relevance will become important for our topic at any time in the near future.

In the last three chapters of my analysis by legal fields, the data protection law, competition law and consumer protection law responsibilities of the providers of social networking sites are presented one after the other, in close connection with each other. The starting point for the data protection analysis is to detect that these service providers are GDPR data controllers with a quantity and quality of personal data that has never been seen before in human history. In view of this, it has a significant importance that their operation meets the requirements of the current data protection framework. In this context, the GDPR must comply with all the requirements imposed on data controllers, so that users can exercise all their rights under this Regulation. The protection and lawful use of data are two of the expectations that Facebook did not meet in several cases during its operation as the largest social network, and the Cambridge Analytica case, which erupted in 2015, stood out in terms of its significance and publicity, which I therefore presented and analyzed in detail. I also presented the activities of the Hungarian data

protection authority so far, which also affect the operation of social networking sites, and I mentioned the Hungarian data protection law laying down rules on the posthumous fate of data on deceased persons.

With regard to data protection issues concerning social networking sites, it should be noted that, although the online space is arguably the primary area of application of these rules in the light of the above, significant actions by data protection authorities against service providers are still lacking. So far, the high maximum amount of fines introduced by the GDPR has not been imposed on a European data protection authority in a Member State or on social network providers. The Cambridge Analytica case also had political rather than legal consequences, and the impact of these consequences seems to be less and less significant over time. Thus, summarizing the data protection relevance of the operation of social networking sites, I must quote Zsolt ZŐDI again, according to whom the data protection rules established in view of the previous state of the information society cannot be effectively applied to the current processes and business models, so European regulations and practice will not be sustainable and followed this way so far. I agree with this statement that there is a fundamental contrast between data-based business models and a less flexible European legal framework for data protection, which is exacerbated by the fact that individual law enforcement authorities are simply not in a position to see in details the data management processes of billions of personal data service providers. Although some legal institutions exist on paper - see the right to data portability in the GDPR – which practical application is still a promise for the future.

In any case, the "data" will have a significant focus on the competition law investigation of social networking sites, which will determine the position of each market player on the one hand and the quality of the service they provide on the other. At the “crossroads” of consumer protection and competition law, we find the issue of false service provider claims about the free usage of services by social networking sites. Based on the “data is the new oil” metaphor, the primary driver of the social networking market is personal data, so it is important that users are aware of any information that may affect their considered decision about the use of the service before registering on these sites.

In addition to understanding the Terms of Use forms, it is important to be aware that although they do not provide explicit financial compensation to the service providers, they provide compensation for it by the transfer of their personal data and metadata and they use them to generate a well-defined revenue. Thus, as the first step of my competition law analysis, I presented the most important features of the data-driven economy, and then the competition

law aspects of the illusion of “free of charge”, an important development of the Hungarian Competition Authority's 2019 decision. With regard to the final assessment of this decision, it should be noted that although the term "free of charge" was indisputably correct in some respects in relation to Facebook's service, the use of the site was not free of charge, so that this statement may have been to influence users' decisions about whether to use the service. Although the mechanism of operation of the data-driven economy is well known to many, in the case of a mass product such as Facebook, in my view, not all users can be expected to perceive the nuance between the service provider's communication on the home page and the compensation otherwise provided. I also presented the Hungarian court judgments that reached a conclusion contrary to the findings of this official decision, which ultimately annulled the Hungarian Competition Authority's s decision.

Recent developments in the link between competition law and data protection law has been detected in the light of the acquisition dynamics in the digital services market, the assessment of issues related to the transfer of personal data between the parties in the context of authorization procedures for individual mergers. Thus, an important element of my competition law assessment is the presentation of the European Commission's practice in this regard, in particular the lessons learned from the Facebook / WhatsApp merger, which suggest that providers' claims regarding technology is available to connect two databases, it will be operational sooner or later.

Finally, in the context of competition law analysis, I have spoken about the current trend in legal interpretation, which calls for legislative or enforcement action, as large service providers such as Facebook are in a position to impose conditions that impose disproportionate burdens on users, such as requiring users to access browsing data generated by their Internet activity outside of the use of the

My last systematic study focused on consumer protection issues, which also show a significant number of links with competition law relevance. Here, too, it was necessary to emphasize the fact that the illusion of “free of charge” infringes consumer protection law. After that, I described the elements of the current Hungarian consumer protection regulations concerning the providers of social networking sites, and I looked at the planned directions of the European Union legislation. Of the latter, I detected the so-called "fairness regulation" implementing consumer protection rules for smaller businesses wishing to assert their rights against monopoly service giants. With regard to consumer protection relevance, it can be seen that they are in

many respects in line with competition law rules, so that competition law enforcement and regulatory action against service providers seems to be more effective in the future.

The second and third of the main questions set out in subchapter I.3. can be answered after summarizing the findings of each of the chapters dealing with the dimensions of the liability of social network providers.

The second main question was: **Is it possible to rank among the identified dimensions of responsibility, both in terms of relevance and the effectiveness of the system of instruments offered by each fields of law?**

In my point view, ranking can be established between each dimension of responsibility, but this categorization is more worthy of being called a “classification” for scientific accuracy. In this respect, I considered the civil and criminal law dimensions to be less important, as indicated by the scope and complexity of the individual chapters. The former is much more relevant in the legal relationship between users, but it should be noted that the legal relationship between users and service providers through the act of registration on a given social network site is also fundamentally governed by civil law, supplemented by consumer protection law with additional rights and guarantees. Criminal liability may arise in the case of certain copyright infringements and very serious criminal offenses by service providers, but we have not seen a practical example of this to date, so the importance of this dimension is marginal.

Copyright law is a very important cornerstone of the legal discourse and regulatory issue related to the operation of social networking sites, so I consider its significance to be much stronger than the two areas discussed above. It has also provided a wealth of developments and tensions in this area of law, but is somewhat more distant in relation to users' fundamental rights, such as constitutional or competition law, and its impact on the functioning of society is more indirect than in these areas.

I do not want to differentiate between the other identified areas of law in terms of their significance, as each of its regulations focuses not only on one aspect of the operation of social networking sites, but can also have a significant impact on the lives of the average person. The direction of the classification can thus be determined in view of the interconnectedness of each area of law, which leads to the third main question:

Is there a relationship between each of the dimensions of responsibility identified, and if so, what are the characteristics?

The answer to this question is a resounding 'yes'.

At the heart of the constitutional analysis of the topic is the issue of the freedom of expression and opinion of users during the operation of social networking sites, a fundamental right of which is also significantly affected by the regulation of media law.

Civil law provides the basic framework for the legal framework between users and social network providers, complemented by additional guarantees in consumer protection law, so that there is a link between these two areas of law, although these two areas of law operate independently of each other. Also worth mentioning is the issue of the horizontal scope of fundamental rights, which in our case seeks to answer the question of whether users may invoke a violation of their freedom of expression and opinion against a service provider in a possible civil dispute.

More importantly, and in my opinion, one of the most important findings of the dissertation is the interaction, relationship and intertwining of data protection law and competition law, as well as competition law and consumer protection law. The fundamental dilemmas arising from the operational logic of the data-driven economy are highlighted by the legal cases, official decisions and codification attempts presented in these areas of law. The illusion of gratuitousness is as central to this issue as the fate of personal data in mergers control in some acquisitions. Existing EU legislation seems to be the most mature in these areas, but the challenges remain numerous.

However, when examining the liability dimensions of social media service providers, we can still state that the link between data protection law and competition law and consumer protection law is the strongest in terms of user rights, because they have the strongest guarantees and protection mechanisms that the data-based economy has. Thus, the rules of the jurisdictions are often applied in parallel or with respect to each other. The predictions set out in the last chapter of the dissertation can be supplemented here by the fact that their attempts at effective legislative action against the providers of social networking sites will certainly be concentrated in these three areas of law in the future.

III. Publications by the author

III.1. In the topic of the dissertation

1. Rendelkezések az online adatok posztumusz jogi sorsáról az Egyesült Államok jogrendszerében. Acta Iuvenum Caroliensia V., 2014. p. 111-132.
2. Online adataink jogi sorsa a halál után. Acta Iuvenum Caroliensia VII., 2015. p. 76-109.
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4. A közösségi oldalak felhasználási feltételeinek jogi minősítése. In: *Infokommunikáció és Jog* 66-67, 2016. p. 79-83.
5. PrintScreen – Pillanatfelvétel a közösségi oldalak jogi szabályozásának kihívásairól és aktuális fejleményeiről. In: *Infokommunikáció és Jog* 69, 2017. p. 83-86.
6. Iustitia megemlített Téged egy bejegyzésben – A közösségi oldalak felhasználói közötti viszonyrendszerek polgári jogi értékelése. In: *Infokommunikáció és Jog* 70, 2018. p. 36-40.
7. Legal aspects of our online data after death In: *Law 4.0 Challenges of the Digital Age*. (Szerk.: Glavanits Judit; Király Péter Bálint), 2019. p. 82-88.
8. A közösségi oldalak szolgáltatóinak jogi felelőssége - Rendszertani elemzés (1. rész). In: *Infokommunikáció és Jog 72., 2019.* p. 3-7.
9. A Cambridge-Analytica-ügy jogi vizsgálata. In: *Jog és Állam – XIV. Jogász Doktoranduszok Országos Szakmai Találkozója tanulmánykötet,* 2019. p. 245-255.
10. A közösségi oldalak szolgáltatóinak jogi felelőssége - Kitekintés az ausztrál jogrendszerre. In: *Doktoranduszok fóruma: Miskolc, 2019.,* 2020. p.86-91.
11. Kitekintés a német jogrendszer megoldásaira, a közösségi oldalak szolgáltatóinak felelősségét illetően. In: XVII. Jogász Doktoranduszok Országos Szakmai Találkozója tanulmánykötet, 2020. p. 161-169.
12. A közösségi oldalak szolgáltatóinak jogi felelőssége: Rendszertani elemzés (II. rész). In: *Infokommunikáció és Jog 73,* 2020. p. 28-36.
13. Kitekintés az ausztrál jogrendszer helyzetére a digitális platformok felelősségét illetően. In: *XVI. Jogász Doktoranduszok Országos Szakmai Találkozója tanulmánykötet.* (Szerk.: Miskolczi Bodnár Péter), 2020. p. 183-190.

14. A személyes adatokkal összefüggő jogérvényesítés az érintett halálát követően - Mérlegen az Infotv. 25.§-a. In: *XV. Jogász Doktoranduszok Országos Szakmai Találkozója tanulmánykötet.* (Szerk.: Miskolczi Bodnár Péter), 2020. p. 111-118.
15. A közösségi média szabályozása az egyes államokban – Norvégia (Társszerző: Tóth András)
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III.2. Other publications

1. A "munkát közvetítő" weboldalak jogi minősítése és munkajogi relevanciái In: *XIII. Jogász Doktoranduszok Országos Szakmai Találkozója tanulmánykötet* (Szerk.: Miskolczi Bodnár Péter), 2018. p. 177-186.