Introducing Vigilant Audiences

This ground-breaking collection of essays examines the scope and consequences of digital vigilance — a phenomenon emerging on a global scale, which sees digital audiences using social platforms to shape social and political life. Longstanding forms of moral scrutiny and justice seeking are disseminated through our contemporary media landscape, and researchers are increasingly recognising the significance of societal impacts effected by digital media.

The authors engage with a range of cross-disciplinary perspectives in order to explore the actions of a vigilant digital audience — denunciation, shaming, doxing — and to consider the role of the press and other public figures in supporting or contesting these activities. In turn, the volume illuminates several tensions underlying these justice seeking activities — from their capacity to reproduce categorical forms of discrimination, to the diverse motivations of the wider audiences who participate in vigilant denunciations.

This timely volume presents thoughtful case studies drawn both from high-profile Anglo-American contexts, and from developments in regions that have received less coverage in English-language scholarship. It is distinctive in its focus on the contested boundary between policing and entertainment, and on the various contexts in which the desire to seek retribution converges with the desire to consume entertainment.

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‘This Web Page Should Not Exist’: A Case Study of Online Shaming in Slovenia

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Introduction

In the autumn of 2015, the Balkan migrant route, which led people from Greece to central Europe through the Balkans, redirected through Slovenia because Hungary closed its borders. This led to a large number of migrants entering Slovenia, which spurred heated and often hostile debates in the Slovenian public sphere. Many used social media to voice their fears and hatred towards migrants, with some comments bordering on hate speech and many others crossing that line. (FRA Update #1, 2015; FRA Update #2, 2015; Council of Europe, 2018) Since increased expressions of intolerance and hatred never resulted in any kind of action from the public authorities, several civil-society actors started to raise awareness of hate speech by issuing different appeals to the public for respect in public debates.

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1 The research underpinning this article was funded by the European Union’s Horizon 2020 research and innovation programme, under the Marie-Sklodowska-Curie grant agreement for the “Transmaking” project (no. 734855) and from the Slovenian Research Agency for the research project “Automated Justice: Social, Ethical and Legal Implications’ (no. J5–9347).

2 As there is no internationally recognised definition of the term migrant, in the present article we refer to the terminology of the International Organisation for Migration, in which the term is understood as “a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons” (IOM, 2020).
In a response to the hatred directed at migrants in public posts on Facebook, one anonymous participant used the platform offered by Tumblr to create a page called “Zlovenija”. The title is a play on words that combines the country’s name, Slovenia, with the Slovenian word for evil, “zlo”, resulting in the portmanteau “Evil-venia”. Individual Facebook posts expressing hate towards migrants were exposed, and the names and enlarged (profile) pictures of the posts’ authors were published on the page. This all followed the page’s “manifesto” urging people to consider the norms of civil communication. Not much attention was given to the page by the general public, until some of the posts, with their enlarged photos, were printed and posted in random public spaces throughout Ljubljana, the capital of Slovenia. While they remained in digital form, the comments exposed by Zlovenija did not have a wider reach due to the so-called Facebook filter bubble effects (Bechmann & Nielbo, 2018; Seargeant & Tagg, 2019), especially as they were being published in Facebook groups connecting similar minded individuals. The same effect was observed with groups promoting opposite stances, such as the since-banned group ‘Slovenia protect your borders’ (Slovenija zavaruj meje). The change of platform, however, meant that the same comments and their authors suddenly became subject to public judgment and condemnation for their unacceptable, immoral or even illegal nature. This, in turn, stimulated public interest and discussion, which took place both on the digital platform of Zlovenija as well as in traditional media. The daily newspaper Delo was the first to report about the phenomenon in a short opinion piece, which triggered false rumours about the reporting journalist actually being the author of Zlovenija (as seen below) (Krajčinović, 2015).

Consequently, the initiative that started as a spontaneous response to the hatred infecting the country became a powerful tool in the hands of civil society in a matter of just two weeks (Interview with Zlovenija, 2018). What was at first just an obscure Tumblr page became a pillory with a mission to initiate a discussion on the issue of hate speech, remind people that the Internet is a public space and that their words have meaning and consequences, and hold the mirror up to the society and condemn all intolerance and violence (Zlovenija, 2015). The people exposed on Zlovenija were, to our knowledge, not subject to repercussions in the workspace or family context (such as for example in the Charlottesville
case, cf. Milbrandt, this volume). They were, however subject to public scrutiny and served as the public face of hatred and intolerance.

Although Zlovenija succeeded in inciting significant conversations about the issue of hate speech, with which Slovenia has an uneasy relationship as we will discuss later, the method it used was nevertheless extreme, and it immediately raised questions about both its legality and its legitimacy. The author(s) of the page³ acknowledged this concern when they pointed out that:

this page should not exist because it is extreme as it was created as a response to the silence of those who should be speaking, those who were elected to speak solemnly at a time when the majority loses their minds. But they did not. This page should not exist because it bears witness to the fact that all other ways of maintaining the basic standards of civilisation failed, and we are left with barely holding up the mirror. Here, look at (your own) evil (Zlovenija, 2015).

In this chapter we will examine Zlovenija’s approach and the surrounding events by considering different focal points. First, we will analyse the original posts that were published on Zlovenija and look for patterns and commonalities, as well as the criteria used to select them. We aim to provide a close reading of the content that was used and the source of further developments. Second, we analyse the debates on Zlovenija that followed the original posts and include explanations posted by the authors of the original Facebook posts, as well as responses from the general public that were published on the page. Third, we take a broader look at the response of the wider public online, mainly searching through popular online platforms and fora, as well as the reaction of the general media, looking through commentaries and news concerning Zlovenija. We also consider the question of the (il)legality of Zlovenija’s approach, focusing on the (il)legality of 1) the original posts, 2) the

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³ In order to maintain the privacy of the author(s) we refer to them as author(s) throughout the chapter, not indicating their gender or how many of them there were.

⁴ “Ta stran ne bi smela obstajati, ker je skrajna, ker je nastala kot odgovor na molk tistih, ki bi morali govoriti, tistih, ki so bili izvoljeni za to, da bodo trezno spregovorili v času, ko bo večini odpovedal razum. Pa niso. Ta stran ne bi smela obstajati, ker priča o tem, da so odpovedali vsi drugi načini ohranjanja osnovnih civilizacijskih standardov in nam je preostalo le še nastavljanje zrcala. Izvolite, zazrite se v (lastno) zlo”.

"This Web Page Should Not Exist"
reposting of the posts and 3) the publicising of the posts in a physical form by displaying printed versions throughout the streets of Ljubljana. Another focal point of public debates was the question of whether Zlovenija became just another online ‘shamer’, no better than the original wrongdoers it was trying to expose. We supplemented the literature and textual analysis with additional information we gathered from the author(s) of Zlovenija in an interview we conducted in December 2018. We were able to contact the author(s) through the web page and various other means and we were able to confirm their authenticity, hence their answers give important insights into the operation of the page. Finally, we will attempt to understand and critically assess the ideas and the methods used by Zlovenija, and the repercussions of its activities.

Zlovenija’s Outline

Zlovenija started in October 2015 as a spontaneous intervention, almost as a joke, at a time when Slovenia was facing a wave of hatred directed towards migrants, and all formal mechanisms to address the issue of hate speech were failing. The author(s) explained that:

[Slovenian philosopher and media analyst] Boris Vezjak published one photograph, in which the quotations were exposed. Then I started to post it in a private group and discuss with friends, that we could do something like this. I set up the Tumblr page quite quickly and tried to make a few posts and I thought that it works and then it was launched. […] We did not think too much about what would happen and what we would do with it (Interview with Zlovenija, 2018).

The idea was simple: the author(s) copied the most brutal, outrageous and vile comments they could find and accompanied them with the name and picture of the person making these hateful comments, as well as a link to the original Facebook post. Tumblr, a visual microblogging website, provided a perfect platform to display the faces of hatred to the

5 “Boris Vezjak je objavil eno sliko, kjer so bili ti citati izpostavljeni, potem pa [ smo začeli to mi] v eni zasebni skupini objavljati in se pogovarjat s prijatelji, da bi lahko nekaj takega naredili oziroma smo dost hitro kar naredili Tumblr in sem probal par sličic in se mi je zdelo, da zelo funkcionira in potem je to zalaufaloo. […] Ni bilo kakšnega hudega razmisleka zadaj, kaj se bo zdaj zgodilo, pa kaj se bo s tem naredilo”.

widest audience possible, notably due to the ease with which it enables users to crowdsource new content (Oblak Črnič, 2017).

Even though Zlovenija was actively posting for less than two weeks, its concept evolved over that time. The initial idea of posting hateful Facebook posts with their author’s name and picture was supplemented with the section containing the readers’ letters. The practice of adding the link to the original post ceased at some point, which remains one of the biggest regrets of the page’s author(s), since Zlovenija started to face accusations that the comments were fake and it became impossible to prove their authenticity if the original Facebook comment was already deleted (Interview with Zlovenija, 2018). Moreover, just a few days before Zlovenija was shut down, it provided a new option to the Facebook posters to request the removal of a post in case they deleted the original Facebook comment and apologised. Like the page itself, the invitation to apologise was not very specific or premeditated; it was introduced after initial spontaneous apologies to the Tumblr page from the authors of some of the posts. The apology had to be submitted via the Tumblr page and then it substituted the reposted Facebook post on Zlovenija (ibid.).

Just as the creation and maintenance of Zlovenija was a spontaneous reaction, so too was the decision to shut it down. There are several reasons why it stopped actively posting after less than two weeks, but the main cause was the sudden emergence of posters depicting the Facebook posts exposed on Zlovenija throughout Ljubljana. This was an action that was neither anticipated nor performed by the author(s) of Zlovenija, but according to the author(s) it was also:

the most interesting insight of the whole project. As long as Zlovenija stayed online, everything was okay, but as soon as the stickers [printed versions of Facebook posts] appeared, it escalated to another level and it became a better story for the media, as it was a real-life shaming pillar (ibid.).

This unexpected turn of events meant that, on the one hand, the impact of Zlovenija went beyond the initial framework, and the real-world platform acted as a reminder to the page’s author(s) of how powerful

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6 “To je bil najbolj zanimiv uvid celega projekta. Dokler je bilo to online, je bilo vse OK, takoj, ko so se pa te nalepke pojavile, je pa to preskočilo na neko drugo stopnjo in postala je veliko boljša medijska zgodba, da je to sedaj sramotilni steber v resničnem življenju.”
and potentially dangerous their actions were; it therefore caused them to have a different level of appreciation of their own work (ibid.). On the other hand, the pressure on Zlovenija’s author(s) intensified to a much greater degree.

The Facebook posters and their supporters were suddenly more motivated to identify the person(s) responsible for both the online and the offline campaigns, and calls for collective (legal) action against Zlovenija started to emerge. Although the author(s) began the project with a certain level of apprehension or caution, this turned to outright fear after Zlovenija’s author(s) discovered that people were starting to seek help to uncover them on one of the boards on 4chan, an image board website known for its anonymity and the lack of rules for posting content. If uncovering the author(s) of Zlovenija had previously seemed impossible, the author(s) feared that with the help of the international community of hackers this became a foreseeable possibility (ibid.).

Both reasons convinced the author(s) to stop their activities — the page on Tumblr is still accessible, but only the manifesto and the apologies remain, while the original Facebook posts have been removed.7,8

The Facebook Posts

We analysed the 222 posts, which were originally publicly posted on Facebook and re-posted by the Tumblr page Zlovenija. We did a thematic analysis adhering to Braun & Clarke (2019) concepts of reflexive thematic analysis, leaning towards a deductive, latent and constructionist approach. Subsequently, we combined the findings from our thematic analysis with the insights we gained from the interview with the author(s) of Zlovenija.

7 We are indebted to our colleague, Aleš Završnik, who showed great foresight in downloading the contents of the page before it was taken down, and was kind enough to share all that information, which in turn became the basis of our analysis.

8 We were, however, able to identify at least one page that imitated the original Zlovenija’s idea for much longer. A page entitled ‘Hate Speech’ (Sovraznigovor) used Zlovenija’s framework after the hibernation of the page, but took it to Wordpress and to this day keeps about 90 posts publicly available. We were unable to identify the authors of this page, but given its openly credits Zlovenija for the idea and the smaller scale, we believe we can include these posts in the following analysis. Moreover, we found at least one artist, Tibor Bolha, who publishes on Tumblr as penguindinosaurwar, who took Zlovenija as inspiration and drew the posts by hand — we are using some of those depictions to illustrate this chapter and are grateful for his permission to do so.
This Facebook profile picture depicts the author of the post targeted by Zlovenija gently petting a puppy, while the post itself said: “The refugees need to be [force] fed just rat poison or closed into a gas chamber… death to refugees liberty to Slovenians [sic]”. The quote is an example of the merging of two of our content categories explained below: calls for violence and implicitly referring to authoritarian regimes. The Nazi regime is invoked by the reference to gas chambers, and the Soviet Communist regime by paraphrasing one of its mottos (death to Fascism, liberty to the people).

This Facebook profile picture depicts a couple kissing. The post, however, reveals anger and contempt towards the refugees by saying: “Fuck, the refugees have it better than Slovenians [sic] in Slovenia… Now the refugees are all poor and stuff… Go the fuck back… And there they give guns to children while guys nicely fuck away fucking shitheads”.

Fig. 8.1 A bunch of racist ignorant jerks from my country. Illustration by Tibor Bolha (2015). All rights reserved. Tumblr, https://penguindinosaurwar.tumblr.com/post/132146266303/a-bunch-of-racist-ignorant-jerks-from-my-country

Fig. 8.2 A bunch of racist ignorant jerks from my country. Illustration by Tibor Bolha (2015). All rights reserved. Tumblr, https://penguindinosaurwar.tumblr.com/post/132146266303/a-bunch-of-racist-ignorant-jerks-from-my-country
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The Facebook profile picture depicts a dad carrying his smiling child on his shoulders. The post itself combines calls for violence with clear undertones of alarm and insecurity about the future with regard to the refugees: “Military and gas over these terrorists... there is no other solution... or we offer them to peacefully return home... or else... in 2024 there will be more of them than locals in every country...”

The author(s) of Zlovenija deliberately tried to capture a variety of different profiles, young and old, men and women, to show that hatred does not have a uniform face (Interview with Zlovenija, 2018). Most of the hateful Facebook posts were published either as comments on news articles covering the topic of the migrant crisis, which were shared on Facebook or in public Facebook groups known for supporting anti-migrant rhetoric (e.g. “Slovenia protect your borders”, “STOP Migrants to Slovenia”, “Slovenia our country”) that had over 31,000 members at the peak of the migrant crisis (Bajt, 2015).

The posts were carefully chosen to show the immense contrast between the loving grandparents, newlyweds, proud parents or carefree teenagers portrayed in the pictures on the one hand, and the hateful, vile and even brutal comments they were posting online. This is also the reason the profile picture was not always chosen to accompany the comment, but rather the picture that offered the biggest contrast to the hate emanating from the comments (Interview with Zlovenija, 2018).

The typical “Zlovenijan” according to the author(s) of the Tumblr page, lives in a rural part of the country, sympathises with right-wing political opinions and may be slightly more religious. The hate and fear expressed in the original Facebook posts fit well with a typical narrative
in which members of the lower-middle class fear that their modest way of living will be disturbed by the influx of migrants, and project their own insecurities and dissatisfaction with their social status to attack this perceived threat (Oblak Črnič, 2017).

A great majority of the hateful comments Zlovenija exposed were posted by men (78%) and the author(s) claim a similar if not stronger prevalence was noticeable among the comments they chose from (Interview with Zlovenija, 2018). This is in line with recent studies on how gender determines the content published on social networking sites (SNS) such as Facebook, Twitter and Instagram. Although women were found to be predominant SNS users during the past decade, today men and women are using SNS at very similar rates. However, the divide between the topics they discuss and the language they use is still indisputable. A study that examined a million random Facebook status updates revealed that, while women are more prone to discuss personal subjects with individuals they know, men more often concentrate on sports, business, politics and religion (Wang et al., 2013). Moreover, the language women use while engaging on Facebook is generally warmer, friendlier, more polite and focused on other people, while men are usually socially distant and are more likely to use colder, hostile and authoritative language (Schwartz et al., 2013; Park et al., 2016).

Post content: Through our analysis, we identified four main themes in the Facebook posts: calls for violence, invocations of authoritarian regimes and leaders, expressions of fear and the desire for the protection of the border, slurs and name-calling of the migrants. Some posts exemplify one category, but mostly we can identify multiple themes in any given post. Nearly all of the analysed posts share various expressions proposing different methods of ‘dealing’ with the migrants crossing the Slovenian border, the majority of which involve great violence and would result in their death. Shooting or the use of any other type of weapon or domestic tool seems to be the most prevalent method, followed by using fire or letting migrants freeze to death. “Bullet in the forehead”, “put cyanide in their meals”, “let them freeze”, “Kalashnikov the only solution”, “burn them with napalm”, “activate a bomb”, are a just a few instances of such calls for the execution of the migrants. In less than 5% of all comments, calls for the elimination of migrants were accompanied by threats to politicians, reporters and humanitarian workers who took part
in dealing with the migrant crisis. In approximately 10% of the analysed Facebook posts, we found an invocation of authoritarian regimes, either calling for the return of authoritarian leaders or promoting the idea of re-introducing gas chambers and concentration camps as a solution for the migrant crisis. “Hitler Stalin Tito our only salvation!” , “One-way ticket to Auschwitz!” , “Gas chambers are a solution”, “Where is Hitler when you need him?” are just some of the most illustrative examples. Posts expressing fear of migrants were also quite frequent and usually included the need for the protection of “our” country and defending the border from “them”, either by using (para)military force and police or building a fence or a wall.

The majority of the analysed Facebook posts also used various expressions with negative connotation to label migrants, for example the words “animals”, “parasites”, “beasts”, “murderers”, “rapists”, “trash”, “Muslim pigs”, “rats”, “fuckers”, “Neanderthals”, “shit”, appear continuously throughout the page. This is in line with the psychological mechanisms of feelings of hate, in which the object of hate is reduced to non-human forms, which in turn allows for others to treat them inhumanely (either figuratively or in real life) (Milivojević, 2008).

The authors of the Facebook posts could request removal of their name and profile picture from the Tumblr page Zlovenija, as soon as they deleted the original post from Facebook and briefly explained why they had changed their mind. The explanations, which were in most cases also apologies for unacceptable behaviour, were published on the Tumblr page, where they substituted the original posts and remain available online.

The mechanism of removal was not planned in the initial stages of the project, but rather developed as a spontaneous reaction to some self-initiated expressions of regret and atonement received through the Tumblr page (Interview with Zlovenija, 2018). Although the author(s) claimed that a large share of individuals apologised and sought removal from the page, in fact only 18 individuals pursued this mechanism (13% of all posts), out of which only one individual refused to apologise, even though

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9 However, the removal of posts was not enabled for the posts that were re-posted on the Wordpress page Šivoražnigovor, which shows that although the authors of the page copied the format of Zlovenija, they did not follow all the aspects of the idea as a whole.
though he deleted the original Facebook post. One of the reasons why the removal of the posts was not pursued more widely might be because the page was mostly unknown to the wider public at the time, and was closed down within days of gaining widespread attention. Nevertheless, the explanations and apologies were a clear sign of Zlovenija’s success and an immense reward for the author(s) of the page (ibid.).

The authors of the hateful Facebook comments who interacted with the page provided different arguments to explain their posts. (1) The predominant claim was that their posts were a consequence of fear. They said that they had posted hateful comments because they were afraid for their families, their children and their way of life, which could all be disrupted when the migrants entered Slovenia. Moreover, (2) many of the commentators argued that they posted their comments in the heat of the moment as a result of an instantaneous, reckless decision or wrong information provided by the media or, finally, (3) that they only realised that their posts crossed the line of hate speech when they were exposed by Zlovenija. One comment, for example, included all of the above:

Please delete my picture from the blacklist, since I kind of responded hastily with hate speech. There are a lot of posts, some of which are true and some are false, which literally make you lose your nerves and you say a lot in the heat of the moment. I have 5 children and I am very scared for them. Please accept my request [to remove the FB post from Zlovenija].

The latter argument (not realising hate speech) is not legally convincing. One of the main legal principles (lat. “Ignorantia iuris non excusat” or “Ignorantia iuris nocet”) stipulates that not knowing the law does not exclude the liability of the ignorant individual who violates it. Similarly, a rational person is expected to understand that calling for the re-introduction of concentration camps, inciting murder, as well as using racist and xenophobic language is at least immoral if not illegal in a democratic society. However, this argument may be understood through the prism of a wide freedom of expression generally enjoyed in Slovenia, on the one hand, and a lack of public discussion on the topic of hate speech on the other. Both were strengthened by fear and

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10 “Prosim, da izbrišete mojo sliko iz črne top liste, saj sem nekako iz hitrega odziva komentirala z sovažnim govorom. Veliko je objav, enih resničnih in enih lažnih, ki te dobesedno spravi ob živce in rečeš v efektu marsikaj. Imam 5 otrok in me je zelo strah za njih. Prosim, da moji prošnji ugodite.”
misunderstandings surrounding the migrant crisis, which may have
given some individuals the courage to post inappropriate content online.

After Zlovenija put the topic of hate speech at the centre of public
debates in Slovenia, even Facebook groups that used to incite hatred
towards migrants started to warn their users not to use language that
could be recognised as hate speech in order not to be publicly shamed on
the page (ibid.). Here, it is clear that the intention of the administrators
of such groups was not to curb the spreading of hate speech online, but
to protect its users and redirect them to use subtler (but still offensive)
language. As such, the impact of Zlovenija in mitigating online hate
speech is evident.

Some of the apologies expressed deep remorse and genuine concern
as a result of being exposed by Zlovenija. However, reasonable ambiguity
surrounds the true intent behind the majority of them. The tone of some
of the apologies leaves no doubt that the only reason for atoning is the
promise of deleting their post from Zlovenija. Regardless, the rationale
for introducing the mechanism was to give every exposed individual
a chance to correct their wrongdoing, and the author(s) of Zlovenija
never felt moral authority to judge on the sincerity of the apologies and
substituted the post with an apology whenever someone decided to
pursue the mechanism of removal (ibid.).

Media Coverage and the Response of the Wider Public

In the first days after Zlovenija became operational, news about it mostly
spread through social media sites such as Twitter, but it remained
largely unnoticed until the posts taken from the Tumblr page appeared
as posters on random public spaces throughout Ljubljana (ibid.). This
was not the work of the same author(s) as the online campaign and
the people responsible remain unidentified to this day. The author(s)
of Zlovenija find it curious that people did not react while the shaming
was only happening online, but acknowledged the shaming campaign
the moment the posts appeared offline: “Although this is ironic, because
a real-life post will not be seen by 10,000 people, but only by as many
people as walk by, while a larger group of people will see it online”.11

11 “Čeprav je to ironično, ker tistega stebra tam ne bo videlo 10.000 ljudi, ampak samo
toliko, kot jih bo šlo mimo, medtem ko je to na spletu videla večja množica ljudi”.

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(ibid.). However, they seem to have been struck by the publicity brought by the posters across Ljubljana and were not prepared to deal with it, which ultimately led to the page being shut down.

It was at this point that the media started reporting about the phenomenon, as well as addressing the issue of hate speech surrounding the migrant crisis. All five analysed articles refrained from either condemning or praising the work of Zlovenija, but raised the question of whether or not it was appropriate to put individuals who spread hateful comments in an online pillory, in order to highlight the problem of hate speech (cf. Milbrandt, this volume). Even the author(s) of the page admitted that the method used was drastic, yet also emphasised that it should not be evaluated in isolation, but in a broader social context (Zlovenija, 2015). The proliferation of online hate speech at the peak of the migrant crisis, coupled with the lack of response from the authorities, led to what they believed was an intolerable situation. In the view of Zlovenija’s author(s), the reaction, therefore, pursued a legitimate aim of preventing further escalation of hate directed towards the migrants (Interview with Zlovenija, 2018).

As to the wider public, we gather that Zlovenija was met with a mixed response. Many members of the public agreed with, and even admired the objectives Zlovenija was trying to achieve. On the other hand, it was often condemned for being too extreme, and no better than the people it was trying to expose. In order to determine the attitude of the general public towards the idea of Zlovenija, we first searched through popular online platforms and fora, as well as through online comments concerning Zlovenija published on Slovenian news websites; secondly, we analysed the response published on the page itself (“Readers’ letters”).

Throughout the migrant crisis, the online media in Slovenia faced an immense increase in the number of published comments. The National Radio Television Web Portal MMC reported that the number of comments published for one news article related to migration exceeded the number of comments they usually receive daily for all news (FRA Update #2, 2015). Due to the unmanageable number of comments that needed to be deleted because they either qualified as, or bordered on hate speech, the working process of the most frequently visited news websites in Slovenia (www.24ur.com) was seriously impaired. This led
to them initially limiting online commenting to only one migration-related news article per day, and later disabling commenting altogether (Oštir, 2015). The majority of news websites followed this example and limited or disabled online comments on the news relating to migrants, including all articles related to Zlovenija.

Comments referring to Zlovenija can be nevertheless found on a variety of news websites, as well as online platforms and fora; they are usually hidden among thousands of posts relating to the migrant crisis in general (some examples include “Zlovenija — careful with your opinions”, “Now I am really afraid”, “Refugee crisis in Slovenia 2015”, “Refugee crisis in Slovenia in 2016”). Even the topics that were originally created to comment on the phenomenon of Zlovenija in most cases quickly became preoccupied with other issues, and provided another platform to express negative and hateful comments.

The analysis of the comments addressing Zlovenija revealed three prevailing themes that can be found in almost any debate surrounding it. Firstly, the fear that repeatedly appeared in the apologies posted on Zlovenija was also one of the main topics discussed in the online fora. However, as well as expressions of the fear of the migrants and the Islamisation of Slovenia and Europe as a whole, many users expressed concern about a society in which certain individuals freely express their wish to use gas chambers and burn people alive, and yearn for the return of Hitler or Stalin.

Second, since the author(s) of Zlovenija remain anonymous to this day, almost every discussion about Zlovenija eventually turned into accusations, speculation and a guessing game over who created the Tumblr page. Journalists and bloggers who reported about the phenomenon before it gained widespread attention were frequently accused of being Zlovenija’s authors. The rumours led to the public exposure of a journalist working for the Slovenian newspaper Delo, even though she expressed her doubts about the methods Zlovenija used. Some users of social media even went a step further and encouraged the “Zlovenijans” to take action and sue the journalist. An eye-catching Facebook post, which was reposted numerous times and includes a picture of the journalist accused of being the author of Zlovenija, reads:

Nina Kranjčinovič, a journalist of Delo and the leader of the page Zlovenija. She executed an actual attack on patriotic Slovenians, who
The last theme, hinted at in the quote above as well, was the discussion about Zlovenija’s legal repercussions. However, even the discourse on the topic of legality was extremely polarised: on the one hand the question of the legality of the original posts was raised and often accompanied by discussions about the (in)ability of the Slovenian criminal justice system to deal with hate speech. On the other hand, many voiced their concern that the page violated the Facebook authors’ rights to privacy, data protection laws and copyright protection. Moreover, as some examples of shaming have shown, being put to the pillory may have devastating consequences for the exposed individuals in their everyday lives, and could result in losing their jobs and family disintegration, coupled with severe emotional distress due to social isolation (Ronson, 2015; Scheff & Schorr, 2017).

The analysis of the 88 letters that were published on Zlovenija reveals a similar divide between the supporters and opponents of Zlovenija’s method of holding the mirror up to society: 52% of the readers support the idea behind it (46 letters), while 44% of the letters express a negative opinion about Zlovenija (39 letters); among them 15% (12 letters) think that Zlovenija is no better than the original shamers it was trying to expose. Extreme polarisation is, in general, a key component of hateful comments on Slovenian online news sites, as shown by the study of the characteristics and strategies of online hate speech conducted by Erjavec & Poler Kovačič (2012). However, not all of the readers’ letters were suitable to be published on the Tumblr page due to their inappropriate content, which seems to have been a continuation of the same hateful rhetoric that surrounded the original Facebook posts, but directed instead towards the author(s) of Zlovenija (Interview with Zlovenija, 2018).

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12 “Nina Krajčinović, novinarka Dela in voditeljica strani ZLOvenija. Izvršila je dejanski napad na domoljubne Slovence katerim ni vseeno kaj se dogaja s Slovenijo. Svetujem vsem, ki so jih lastniki in snovalci te spletne strani uporabili za podpihovanje sovršta in njihove slike brez dovoljenja objavili na svoji ekstremistični spletni strani, da se zberejo in vložijo skupinsko tožbo”. 
Legal Repercussions

One of the most prevalent themes of the comments referring to Zlovenija was its legality, in particular, whether reposting personal information along with profile pictures violated the authors’ right to privacy as well as infringed intellectual property law. Moreover, questions of legality surrounded the very existence of Zlovenija, i.e. the original Facebook posts, mostly focusing on the issue of whether they constitute hate speech worthy of formal criminal prosecution or not. In the following section, we first examine the legality of Zlovenija, and then turn to the question of the lawfulness of the hateful Facebook posts and the (lack of) prosecution of hate speech in Slovenian courts.

Right to privacy: When assessing the violation of the right to privacy, we need to highlight that all posts published by Zlovenija were taken from publicly available (”open”) profiles on Facebook. Facebook provides different privacy settings, ranging from completely public profiles with all content opened to everybody, including people without a Facebook profile, to completely closed (”private”) profiles where content can only be seen by friends or an even more restricted group, with a variety of options in between. Under Facebook’s Statement of Rights and Responsibilities, when publishing content or information using the Public setting “you are allowing everyone, including people off of Facebook, to access and use that information, and to associate it with you (i.e., your name and profile picture)”. (Facebook Statement of Rights and Responsibilities, 2018, emphasis added.) The courts in the US have continuously held that one cannot reasonably expect privacy with respect to the information revealed on public social media profiles.\(^{13}\) (Ping Chang, 2019) In Romano v. Steelcase the court noted that:

when plaintiff created her Facebook and MySpace accounts, she consented to the fact that her personal information would be shared with others, notwithstanding her privacy settings. Indeed, that is the very nature and purpose of these social networking sites, else they would cease to exist. Since plaintiff knew that her information may become publicly available, she cannot now claim that she had a reasonable expectation

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\(^{13}\) See for example People v. Harris, 945 N.Y.S.2d 505 (Crim. Ct. 2012); Moreno v. Hanford Sentinel, Inc. (Cal. App. 2009).
of privacy. As recently set forth by commentators regarding privacy and social networking sites: given the millions of users, “in this environment, privacy is no longer grounded in reasonable expectations, but rather in some theoretical protocol better known as wishful thinking” (Romano v. Steelcase Inc., 2010).

The European Court of Human Rights, on the other hand, has repeatedly acknowledged the importance of online anonymity, which is a significant factor when assessing whether an individual enjoyed a reasonable expectation of privacy, due to the specific nature of online activity in which users may choose to remain unidentifiable (Delfi AS v. Estonia, 2015). In a case concerning the disclosure of personal data from the Internet Service Provider based on a dynamic IP address, the Court rejected the (American) reasoning that by knowingly exposing his online activity to the public, the applicant waived his expectation of privacy. On the contrary, when arguments in favour of finding a violation of Article 8 of the European Convention of Human Rights, the Court reiterated the importance of the aforementioned online anonymity and continued:

that the fact that he did not hide his dynamic IP address, assuming that it is possible to do so, cannot be decisive in the assessment of whether his expectation of privacy was reasonable from an objective standpoint (Benedik v. Slovenia, 2018).

It is questionable whether the Court would take the same standpoint when assessing a reasonable expectation of the privacy of the publicly available SNS profiles, since choosing to reveal content to the public clearly shows that the individual did not want to remain anonymous online.

A recent case (Egill Einarsson v. Iceland, 2018) sheds light on how the Court might weigh the right to privacy in cases when individuals publish content on open SNS profiles in the future. When assessing whether the national courts struck the right balance between the right to privacy and freedom of expression, the Court attached some importance to the fact that the content was published on an open Instagram profile and was therefore accessible not only to the plaintiff’s followers but to more than 100,000,000 Instagram users. Referring to its case law, the Court stated that:
in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet plays an important role in enhancing the public’s access to news and facilitating the dissemination of information in general. At the same time, the risk of harm posed by content and communications on the Internet to the exercise and enjoyment of human rights and freedoms, particularly the right to respect for private life, is certainly higher than that posed by the press (ibid.)

Based on this reasoning, it is highly plausible that the Court would not find a violation of the right to private life protected in Article 8 of the ECHR if the content was published on an open SNS profile.

**IP infringement:** Facebook’s Terms of Service stipulate that every individual is the owner of the content he or she creates and shares on Facebook (Facebook Terms of Service, 2018). Firstly, an individual is only a holder of the copyright of the content that he himself created. Only appearing on a photo or a video does not grant you copyright in that photo or video, since the owner of copyright is the author who created the work (Copyright and Related Rights Act, 1995). Secondly, not all of the content posted on Facebook could be protected by intellectual property rights. Certain work is only recognised as copyright work, i.e. work protected by copyright, if it meets certain conditions: copyright work is (1) an individual intellectual creation, (2) in the domain of literature, science and art, (3) which is expressed in any mode (ibid.). In order for a work to be protected by copyright, it must involve at least a minimum amount of creativity. Names, titles, phrases or slogans are usually not protected under copyright, therefore a personal name used on Facebook does not enjoy copyright protection.

On the other hand, photos and videos posted on Facebook could, in general, be subject to copyright. However, amateur photographs, including a great majority of Facebook pictures, do not reach a required level of creativity to be considered a personal intellectual creation and are therefore not protected by copyright (Trampuž, Oman & Zupončič, 1997). In any event, the assessment of whether a photograph is copyright work or not has to be made on a case-by-case basis, and the possibility that some of the profile pictures reposted on Zlovenija infringed copyright cannot be excluded.
Prosecution of hate speech under Slovenian law: Hate speech lacks a universal definition and is not recognised as a uniform legal construct, neither in international law, nor in the majority of domestic legal systems (McGonagle, 2013). Nevertheless, the Constitution of the Republic of Slovenia prohibits any incitement to national, racial, religious or other discrimination, and the inflaming of national, racial, religious or other hatred and intolerance, as well as incitement of violence and war (Constitution of Republic of Slovenia, 1991). Particularly serious forms of hate speech, although per se not a criminal offence, are also prohibited under criminal law as a criminal offence of Public Incitement to Hatred, Violence or Intolerance under Article 297 of the Slovenian Criminal Code (Criminal Code, 2008). However, the case law of Slovenian criminal courts on the issue of hate speech is very limited. The conditions that need to be fulfilled for an act to be considered criminal pursuant to Article 297 of the Criminal Code are very narrowly defined. The prosecution of hate speech is further complicated by a legal opinion issued by the Public Prosecutor’s Office of the Republic of Slovenia, in which an interpretation of Article 297 was adopted that is not only substantially different than the plain text of that provision, but also factually and legally incorrect (Završnik & Zrimšek, 2017).

It seems that, in a conflict between equality, which includes the right to be protected from discrimination and eliminating hateful, racist, xenophobic speech on the one hand, and protecting the freedom of speech and expression on the other, legislature and practice in Slovenia opt for the latter. This might be explained by the experience of the ex-Yugoslavian regime in which criminal law was often (ab)used as a powerful censorship tool. Pursuant to Article 133 of the Criminal Code of the Socialist Federal Republic of Yugoslavia, which prohibited hostile propaganda, individuals could be prosecuted for verbal offences against the state, resulting in limited or even entirely thwarted freedom of speech (Bajt, 2017). As a consequence, freedom of speech has enjoyed almost unlimited protection since the independence of Slovenia, sometimes to the detriment of other human rights. These include equality and protection from discrimination, as well as a very narrow understanding of hate speech in Slovenian criminal legislation and practice.
Conclusion: Zlovenija — the Good, the Bad or the Necessary?

There is little dispute as to whether Zlovenija’s methods were troublesome. The author(s) of Zlovenija themselves claim that it “should not exist”, acknowledging the issues with the page’s methods, as well as the problematic nature of engaging its targets in one big sweep.

On the one hand, the reflections of Zlovenija’s author(s) on how events unfolded indicate spontaneity, as well as the resentment that spurred their actions — this can be observed with regard to how the page was created, how its content developed and changed in response to the public response and in the way it went dormant. On the other hand, the author(s)’ answers indicate nuanced considerations and self-reflection, especially with regard to the page’s imagined and actual impact. While we easily associate the first two characteristics, i.e. spontaneity and resentment, with vigilantism, the other half is harder to reconcile with the common understanding of the concept.\(^{14}\)

In particular, Zlovenija’s attitude towards their “victims” seems more considerate than expected. Shaming typically entails the perceived transgressor becoming the “transgressor-victim” (Cheung, 2014), which may or may not be an intended consequence of the shamers (Trottier, 2018). In the case of Zlovenija this aspect was given a considerate amount of thought by the author(s). This emerges from our interview with the author(s) and is corroborated by Zlovenija’s conduct in 2015.

The author(s) expressed some initial concerns about using people’s names and faces and the potential consequences their exposure could bear, but ultimately decided the cause was worth the risk. Moreover, once apologies started to come in, the author(s) were moved and immediately proceeded to delete the posts. But most importantly, two aspects of the interview with the author(s) stood out: 1) how Zlovenija may negatively affect the life of exposed individuals, who may be reckless and inappropriate, but are nevertheless ordinary human beings, and 2) (self-)questioning about who should have the authority and power to change people’s lives. The author(s) stated, that:

\(^{14}\) It bears noting that scholarly interpretations have no qualms in interpreting it as such (Johnston, 1996).
at some point you start to think about it and you realize — these are people with jobs, families, friends. All of them will be harassed. In a way, this is cyber bullying: [...] If he loses his job at least he will learn something, but on the other hand why am I as a person entitled to make this call?\textsuperscript{15}

The author(s) further contemplated both the legitimacy and the legality of their actions. All these considerations played an important role when deciding to end Zlovenija’s activities and ultimately led to its hibernation (Interview with Zlovenija, 2018).

In this regard, Zlovenija deviates from other examples of naming and shaming that aimed to hold individuals accountable for their illegal or immoral actions. Public shaming, and especially online shaming, may have unpredictable, uncontrollable and disproportionate consequences, which can have a lifelong impact on the target. In one of the most extreme cases, for example, a woman’s life was turned into wreckage after her tweet saying: “Going to Africa. Hope I don’t get AIDS. Just kidding. I’m white!” went viral and spurred heated responses online. Numerous similar cases of minor online transgressions led to unintended and often disproportionate outcomes by destroying lives and reputation in the name of righteousness (Ronson, 2015). It seems, however, that none of those ‘vigilantes’ shared the concerns voiced by Zlovenija’s author(s), or even felt them. Such was the case after the white supremacist rally in Charlottesville in 2017, when several Twitter accounts shared the pictures of its participants calling out their followers to identify them (Milbrandt, this volume; Penza, 2018). Several individuals were recognised and, as a consequence, lost their jobs, were disavowed by their families, and even received death threats. The main difference, however, is that these consequences were sought by the authors of the account. However, the participants of the rally were not the only ones facing negative consequences, as numerous unfounded accusations based on false identification have previously been made by Internet vigilantes (Milbrandt, this volume; Phillips & Yi, 2018). One such notorious example was in the aftermath of the Boston

\textsuperscript{15} “Na neki točki začneš razmišljat, to so vsi ljudje, ki imajo družine, prijatelje, službe, vsi bodo zdaj šikanirani, na nek način je to kibernetsko nadlegovanje. […] Če sedaj izgubi službo, se bo vsaj nekaj naučil, ampak po drugi strani, zakaj sem jaz kot (civilna) oseba zdaj to povzročil?”
Marathon bombing, when Reddit and Twitter users immediately started to crowdsource information to identify the suspected bomber whose picture was released by the FBI and shared on social media sites. The action ended in falsely attributing responsibility for the bombing to a missing university student (Starbird et al., 2014).

On the contrary, the intention of Zlovenija’s author(s) was not to expose individuals in order to help the authorities with their identification or prosecution, nor to ensure that they experienced any other negative consequence, albeit some were inherent in the practice. Their stated goal was to encourage a discussion on hate speech and to point out unacceptable forms of communication. Any consequences for these individuals were seen as merely negative side effects, while apologies or rationalisations from these individuals were welcomed and fostered. In the distinction between exclusionary and reintegrative shaming (Braithwaite, 1989), Zlovenija’s approach leans towards the latter. Depending on how we define victims of intolerance and hate speech, what Zlovenija did may be interpreted as bringing together the perpetrators (FB posters) and the community in which they have committed their offences — against individual victims (migrants) and against the community itself. Moreover, it seems that in some instances when seemingly sincere apologies were issued by the perpetrators, the page might have been successful in achieving some sort of reintegration.

Another important step in the development of the campaign was the decision to end it. As explained earlier, this was largely due to a realisation that the author(s) of Zlovenija seem to have had after the posts on their Tumblr page were printed and posted around the city of Ljubljana. This was, according to the author(s) of Zlovenija, an unwanted and unexpected outcome of the online shaming. Although it put Zlovenija and hate speech in the centre of the public debate, and therefore played an important role in achieving Zlovenija’s goals, this course of events was never planned or expected by the author(s) of the online campaign. In fact, while admitting that online campaigns may have a wider outreach and tangible consequences, the author(s) seem to only have realised the full extent of what they were doing when seeing posters in a non-digital environment (Interview with Zlovenija, 2018).  

16 A Brazilian campaign, “Virtual Racism, Real Consequences”, used a similar strategy as Zlovenija as it copied racist Facebook and Twitter comments from public profiles.
These actions by Zlovenija’s author(s) seem to distinguish their campaign from similar campaigns or actions, described in this volume. The somewhat reintegrative nature of Zlovenija, discussed above, and the consideration of potential unwanted consequences give the action a slightly different flavour.

It seems clear that the initiators of social interventions should show reasonable diligence when planning a campaign that will have a social impact. This means they should consider and weigh the negative consequences of their actions. However, what happens after that is a value judgment: should they be held accountable if they fail to prevent predictable harm, as manufacturers are similarly liable for the safety of their product, or owners are responsible for the damage caused by a dangerous object? Accountability in these cases arises from the danger such product or activity presents to the individuals or a society. If you play with fire, should you be prepared to get burned?

Zlovenija held up a mirror to society in order to highlight the issue of hate speech in the public sphere. When it started to attract the attention of the press and incited a debate about hate speech, it fulfilled the main aim of its author(s), who felt it would be the best for Zlovenija’s legacy to end the project while it was still at its peak. (Interview with Zlovenija, 2018). With every passing day, the debate surrounding Zlovenija moved away from the topics it was trying to highlight, shifting from the discussion about the limits of free speech in a democratic society towards questioning the method Zlovenija used to pursue its goal and often claiming that Zlovenija was no better than those it was trying to expose.

Yet even legal frameworks take into consideration, to some extent, the intent that guides an individual’s actions in both criminal and civil areas. If we evaluate Zlovenija as a social phenomenon through the same prism by analyzing only the purpose and goals it was trying to achieve, the difference between Zlovenija and hate speech becomes more obvious. The stated aim of the campaign, that is, to warn against and demonstrate the extent of hate speech, can hardly be deemed unjustifiable.

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However, the comments were not gathered and exposed online, but published on billboards near the homes of the racist commentators with the specific aim of alarming the perpetrators (Chang, 2015; Weber 2015).
However, the goal may not be completely isolated from the method, since the two are inherently intertwined, and it was the method that Zlovenija used to pursue its goals that made the whole project so extreme and therefore problematic. It boils down to the fundamental question of means and ends: should society tolerate any approach in the fight against hate speech, or any other illegal or socially undesirable behaviour, as long as it is legally permissible, or can we imagine circumstances in which the ends can no longer justify the means? Would we also sanction an online wall of shame that would expose obese people in order to promote a healthy lifestyle? While the aim may still be laudable, the method feels even more troubling in such a setting.

Zlovenija as a virtual wall of shame was an exceptional reaction to exceptional online behaviour provoked by exceptional circumstances. It was the result of an extraordinary set of circumstances, and is distinctive in how it illustrated social tensions that culminated in citizen-to-citizen exchanges in pursuit of justice. However, in a functional democratic society in which the government is fulfilling its basic duties, there should be no need for it to occur in the first place.

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