

The Mathematics of Crime – censored by Czech Radio?

by Lucie Sykorova

In 2017, the public radio Czech Broadcast (CRo) and the Endowment Fund for Independent Journalism (NFNZ) supported the team of Magdalena Sodomkova, Brit Jensen and their colleagues in preparing a documentary named *Mathematics of crime (Matematika zločinu)*, about the problems facing judicial experts (especially one of them – Jiri Straus) and about the situation in the Czech judiciary. The authors described a few cases in the documentary where some people were imprisoned based on assessments from Jiri Straus, which were later found to be wrong by a review.

The work of Jiri Straus had already been questioned in 2013 by the professional organisation of experts in biomechanics – 13 experts signed a complaint against at least six cases where Jiri Straus gave his assessment (later the number rose to 11). However Jiri Straus is still in a close co-operation with CRo as he has been for years. He's also co-author of CRo's program *The History of Czech Crime*.

After the authors finished the documentary in 2018, CRo refused to broadcast it. Even now after Part 1 of the documentary won a prestigious award, the Prix Bohemia Radio, and although CRo originally declared that it would broadcast the winning piece, the management of the CRo didn't fulfill this promise when the winner turned out to be *Mathematics of crime*.

According to an official statement made by the director of the Cro Rene Zavoral on the 25th of April during the meeting of the Cro-Council, CRo spent around 240 000 CZK (9,300 euros) on co-producing the documentary. In addition, 250 000 CZK (9,718 euros) in grant money was provided by the Endowment NFNZ. After the authors got a red light from CRo in autumn 2018, stating that the documentary ^{5a)} would not be published as a podcast, they organised a crowdfunding action and created a website where they published the documentary in order to fulfill the conditions of the grant. The documentary can still be heard here.

There are three basic arguments in the official statement of CRo about why the documentary is not going to be broadcast: that the reporters did not give space to the person accused (Jiri Straus); that the rules for using hidden recordings were not complied with; and that the podcast did not suit the broadcasting timetable of CRo Plus. The official statement of the CRo can be seen below ¹⁾

The first two objections were disproved by an independent expert opinion from Jan Motal, which was ordered by the Endowment NFNZ, see below. ²⁾ According to Andrea Hanackova, an expert from the Palacky University and co-organiser of the Prix Bohemia Radio, the third objection is obviously invalid. ³⁾

The authors of the documentary described in detail their reasons for not publishing names of a few of the respondents in the documentary. "The radio writes about the amount of unchallenged information. We talked to dozens of people, most of them are afraid to talk on the microphone. We worked intensively on the podcast for a year and a half, and finally we managed to convince the vast majority of people to speak (the key people are scientists who can refute Professor Straus's work).

We only have three people in the podcast whose names we didn't publish, because they were concerned about their security and talked to us under the condition of anonymity. We protect these sources. Their identity is known to us and to the head of the documentary department, Dan Moravec. These fears are justified, since I, as an author, also experienced that somebody robbed my flat and all my technical equipment disappeared during the recording. Whether this is related to the case has not been proven, but it has also not been excluded," explains Magdalena Sodomkova. The whole statement of authors on this can be seen below.⁴⁾

The authors of the documentary, Magdalena Sodomkova and Brit Jensen, believe that the refusal to broadcast the documentary on any channel of the ČRo is an unprecedented case of censorship. "I want to defend myself against this censorship, as well as against the misinformation that René Zavoral and other members of the ČRo leadership are spreading about us.

(Editor's note: Rene Zavoral was earlier involved in controversy about the awarding of a posthumous prize for Jan Kuciak.)

"Since last spring, when Minister of Justice Robert Pelikan (ANO) complained about our documentary, we have been subjected to constant bullying and professional destruction. At this point in time, the management of ČRo forbids people from the *Mathematics of crime* team from speaking and commenting on the case. They even have been told to cancel the journalists' workshop so that no one could ask them about *Mathematics of crime*. Brit Jensen is being advised to have me - as a freelancer - "silenced", otherwise it will be a problem," declared **Magdalena Sodomkova**, adding:

"The spokesman Jiří Hošna advised me to decide for myself to not talk publicly about the documentary. When I, as the author of the work, argued that it was not in my interest to agree, (especially not when he, as a public speaker, says that there are a lot of glitches and badly done journalism in the documentary), he told me that in that case I must always quote the official Czech Radio's opinion (which coincides with Czech Radio Plus Editor in chief Petr Šabata's opinion) - and that I must not say that I have received this command from him. He also allowed me to add that I disagree with the Czech Radio's official opinion - but the negotiation is still in progress," said **Brit Jensen**. "The spokesman also said that if I do not follow this, it may be that I am damaging Czech Radio's good name and thus behaving contrary to Section 9 of the Staff Regulations. The spokesman is not the first of the leaders who mentions paragraph 9 in relation to how I speak publicly about the documentary," she added.

The whole statements of both authors can be seen below.⁵⁾ Both authors are top journalists who have been repeatedly awarded for their work in the past - not only in the Czech Republic, but also internationally. Their documentary *Yusra Swims for his Life*, which Czech Radio provided with a special website, was shortlisted at the Prix Italia festival, awarded at the Czech-German Milena Jesenska Award, and aired on BBC Radio 4 and BBC World Service Radio.³⁾

1) Questions answered and sent by the Czech broadcast to ECPMF on the 18th of April 2019:

1) Why was the documentary *Mathematics of Crime*, as the winner of one of the categories of the *Prix Bohemia Radio* competition, not broadcast on any Czech Radio channel, although it was originally declared that the winning documentary will be broadcast on Czech Radio Vltava?

a) *Mathematics of Crime* is a podcast, a very specific genre. Podcasts as such are not primarily intended for broadcasting. The criterion in the PBR jury's decision is not to assess the work in terms of legal norms, in this case in particular the Czech Radio Act and the Code. However, if ČRo decides to broadcast a programme or otherwise publish it on its website, such programmes must comply with the Act on Radio and Television Broadcasting with the Czech Radio Act, the Czech Radio Code, the Civil Code, and so on. The podcast is of a good quality in terms of working with audio and documentary as an artistic genre. Unfortunately, however, it has a number of shortcomings in terms of investigative journalism and standards, which ČRo has to apply to its broadcasting according to the above-mentioned legal regulations.

b) Here I am sending a detailed statement of the editor-in-chief of Czech Radio Plus Petr Šabata as to the reasons why the work was not broadcast:

The *Crime Math Podcast* series does not meet the requirements of the Czech Radio Code therefore it is not possible to include it on Czech Radio Plus. Two fundamental offences against the Code are that the series contains a lot of information, and that the person who is the subject of all five parts, is given no space to state his opinion. Czech Radio must not broadcast or publish information whose origin is not known. That is stated in Article 6.10 of the Czech Radio Code. The Code governs the use of classified sources (6.10, 21.11), however, the conditions for such a procedure were not met although the authors work with people's testimonies in several places without clearly identifying them. It also applies to the use of a hidden microphone (Articles 21.13 and 21.14). In one case the origin of the published secret recordings is not known ("it came to the authors"). The expert, who is discussed throughout most of the series, is subjected to extensive criticism. However his opinion does not appear anywhere. It happens sometimes that public figures are reluctant to respond to the media (Czech Radio) in an effort to thwart any publicity about themselves. Even in that case, though, there are good practices in the Czech Radio on how to publish the case, while giving space to the other side (details of how the editors tried to get the opinion, that they made efforts to procure it, of how the respondent refused, or by including correctly usable quotes from earlier statements, official documents, in this case court appearances...). Matters of accuracy, impartiality and the identification and verification of information are dealt with in full in Article 6 of the Czech Radio Code, Article 20.3 (which was not fulfilled in the series).

2) How much money did ČRo spend on the co-production of the documentary *Mathematics of Crime*?

The audio work was created in a co-production with Czech Radio and I can confirm that it is financially involved. Given that the bulk of this sum was royalties, we do not want to disclose this amount to protect the privacy of authors.

3) Can you provide your comments on Jan Motal's analysis, which is available here: <https://www.nfnz.cz/wp-content/uploads/2019/04/Posudek-Matematika-zločinu.pdf>?

Jan Motal's testimony confirms in many cases and further develops doubts that ČRo's Jan Motal was probably thinking about it - especially from the point of view of the Czech Radio Code, which is referred to as the Czech Radio Code). CRo does not question that information contained in the work is interesting, socially important, and that series deals with public affairs interest. This does not mean, however, that such programmes are exempt from their obligations under the regulations above. The relevant provisions of the Code should also apply to such programmes, as Jan Motal does in his report. Indeed, the ultimate responsibility for the content of the broadcast according to the Radio and Television Broadcasting Act always lies with ČRo as an operator.

4) Is Czech Radio planning to broadcast this document additionally on some of its channels?

Should the work be modified in such a way as to exclude the phenomena described above, which are contrary to the Czech Radio Code, publishing would be possible. It is necessary in this context to state that the authors were already bound by the Czech Radio Code while they were working on the topic. This is their duty: to know the Code of the CR and to comply with it. The authors should be conscious of it. Moreover, Jan Motal mentions this point in his opinion. Compliance with the Czech Radio Code serves not only to protect the Czech Radio and the authors, but also the subjects that the programmes deal with. It is the basic prerequisite for CRo to fulfill its role imposed by the Czech Radio Act, which enforces the Cro Code.

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²⁾ An independent analysis published on the 2nd of April 2019 by: doc. MgA. Jan Motal, Ph.D., Department of media studies and journalism, Faculty of social studies, Masaryk University, Joštova 10, 602 00, Brno. E-mail: jmotal@mail.muni.cz

In Czech language: <https://www.nfnz.cz/wp-content/uploads/2019/04/Posudek-Matematika-zločinu.pdf>

The conclusion of the analysis (page 1):

- 1. The programme expresses the public interest and fulfills the conditions necessary for the use of borderline methods of journalism, such as hidden microphone, anonymity of respondents or protection of sources. The programme reflects serious problems and it is important to broadcast it in terms of public interest.*
- 2. The authors of the programme work in accordance with the Czech Radio Code with minor reservations noted below, but which can be easily removed - this is primarily an explicit statement of reasons for the anonymisation and origin of some materials. Adding this information to the show cannot be regarded as a major intervention in its form. The programme meets the demands for broadcasting in accordance with the Code, after the removal of these minor defects.*
- 3. The authors provided sufficient space for the persons accused to express themselves, even repeatedly (in case of Jiří Straus). Given that Jiří Straus has enough options to express himself in the media space, the authors repeatedly addressed him, the way of addressing is mediated to the audience and Straus himself was in the past asked by other media to express himself on some of those questions, therefore the absence of his direct expression is not a violation of the Czech Radio Code.*

4. The programme, however, has dramaturgical problems that the author of this analysis considers should be removed. Their description and recommendations are given below (context, completeness of individual parts). However, it should be emphasised that these are compositional issues that are related especially to the transfer of the programme to the target medium (ČRo Plus). This analysis works on the assumption that the listener of each target medium has specific formal expectations that affect the reading of the show. The analysis points to possible uncertainties that could result in the listener not being able to understand the show.

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³⁾ From the blog of Doc. Mgr. Andrea Hanáčková, Ph.D., a teacher on Palacky University in Olomouc
<http://dokrevue.cz/blog/matematika-zlocinu-a-verejne-sluzby>

(She's one of the organizers of the Prix Bohemia Radio. For many years she worked as a freelance documentary filmmaker, Czech Radio sometimes broadcasts her documentaries and fairy tales for children. She also lectures on the media voluntarily as part of the Palacky University UniON project. She tries to explain to secondary school students and citizens that public media and their independence from the current political situation are also the basis of democracy. She leads theatre and radio clubs for children, helps to organise the Prix Bohemia Radio and Academia Film Olomouc festivals.)

... In the case of the documentary series *Mathematics of crime (Matematika zločinu)*, this is a work created for considerable money drawn, among other things, from license fees. It is a work that was created in the public interest and should be presented and broadcast by the radio.

It is the work of two top journalists who have been repeatedly awarded for their work in the past, not only in the Czech Republic, but also internationally. Their documentary *Yusra Swims for Life*, which Czech Radio provided with a special website, was awarded at the Prix Italia festival and aired on BBC 4 and BBC World Service.

... The key question is why the show was still not broadcast on Czech Radio. The authors themselves asked about it, the listeners asked about it, the question was also raised to the Czech Radio Ombudsman. There are three basic arguments in the official statement of Czech Radio Plus: that the reporters did not give space to the accused (Prof. Straus), that the rules for using hidden recording were not met and that the podcast footage did not fit the broadcast times of Czech Radio Plus. The authors disproved the first two objections, the third is obviously proxy? specious? false?.

...The authors repeatedly find out who Professor Straus is, what is his reputation in the Czech professional and media spheres and how undesirable and dangerous it may be to ask questions about him. Nor does Sodomkova succeed with her questions with the Pelican Minister of Justice. She has to bear complaints about her work activity, confesses on the social networks that someone has robbed her apartment and took away important work materials. The state of affairs of particular sectors of the Czech justice system is evidenced by the courtroom records that repeatedly contain of defendants shouting , asking suggestive questions, misplaced moralising, and the haughtiness of judges. The terrible testimony showing the level of part of the Czech judiciary is presented in Volume 5, in which the authors mediated an informal debate between the judge and the lawyer before turning off the

microphones during the mandatory recording of court proceedings. The judge expresses herself vulgarly about the current case, the lawyer speaks against the interests of her client, the judge replicates the extensive corruption in the field of expert opinions and the praise of the socialist judicial system before 1989. The last part thus shows a really unattractive image of Czech justice, which fits well with previous findings on the opacity of Straus's judgments, the errors that appear in them, the blatant monopoly on forensic biomechanics assessments. At the same time, it has to be said that there is really a lot of guesswork, unsolved mysteries and answers that are nowhere to be traced in the last episode and the detective story has several open ends and unanswered questions.

The question of how much money Czech Radio has put into the podcast and whether it is ok that the work of its investigative journalists has not yet been broadcast remains quite relevant. At the same time, Sodomková and Jensen uploaded their series to the mathkazlocinu.cz and podbean.com platforms in agreement with the Endowment Fund of Independent Journalism. They promote the podcast in different ways, on their own and using their own resources.

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4) Statement of authors of the documentary on objections of the Czech broadcast

We contacted Professor Jiří Straus in writing and by phone, and he wrote to us that he was giving the case to a lawyer. He also tried to discourage scientists who testified against him. In one case, he succeeded. Finally, we managed to record his rejection of the conversation on the microphone. If he doesn't want to give his statement, it's his decision.

However, Straus's statements on individual cases do exist, they are in the audio recordings of the courtrooms. When we did not have the opportunity to talk to him personally, we gave his opinion from these archival records, where he expresses exactly what we wanted to ask him about.

The radio writes also about the amount of unchallenged information. We talked to dozens of people, most of them are afraid to talk to the microphone. We worked intensively on the podcast for a year and a half, and finally we managed to convince the vast majority of people to speak (the key people are the scientists who can critique Professor Straus's work). We have only three people in the podcast, whose names we didn't publish, because they were concerned about their security and talked to us under the condition of anonymity. We protect these sources. Their identity is known to us and to the head of the department's documentary, Dan Moravec. (These fears are justified: I as an author had a bad experience during the filming- Somebody robbed my flat and all my technical equipment disappeared. Whether this is related to the case has not been proven, but it has also not been excluded.)

Concerning the hidden microphone recording at the judge's meeting - we, as the authors, didn't make this recording. There is a judge on the recording, speaking at the trial, commenting unfairly on several cases. The actors of one of these cases wanted to use this recording as evidence of the judge's bias. The Constitutional Court gave found in their favour: it found that although the recording was made illegally and it was not known who the author was, it could be used as evidence of the judge's bias.

This is because it is in the public interest. The judge also mentions the case we've been working on, so we used it. We consulted with lawyers from the NFNZ on the use of this recording.

5) Statement of the authors of the documentary Mathematics of crime, on the 26th of April 2019

Magdalena Sodomková, freelance journalist:

The reason why the Mathematics of crime programme was not broadcast is unprecedented censorship. Czech Radio has a serious reputation problem. How to explain to the audience that the Prix Bohemia Radio documentary of the year does not get broadcast? Director René Zavoral is trying to repel censorship accusations by professionally destroying us and now even absurdly accusing us of a kind of "embezzlement".

Czech Radio Plus ordered the programme. Therefore, by not broadcasting it, he is also responsible for wasting the money spent on making it.. It's not us.t We did our work as authors. Czech Radio Plus had the opportunity to stop the project at any time during the year and a half, but never did that. Therefore those who are responsible for censorship and wasting money are: Mr. Petr Šabata, Mr. René Zavoral and the whole management - that is, Mr. Ondřej Nováček, Mr. Jan Pokorný and, unfortunately, many others.

However, the question remains why are these people from the Czech Radio so badly affected by the series about Czech justice? And especially now, at this time? What is the real reason that they have so far been reluctant to broadcast the show? Why does Czech Radio still legitimise an expert who is more than controversial? Fortunately, we have the Internet, and we have 57,000 people listening on Matematikazlocinu.cz, so everybody can form their own opinion on why the Radio is not broadcasting the series.

Regarding the adjustments - at the last meeting (28.2 2018), the editor-in-chief, Petr Šabata, said he did not ask for any adjustments because the programme would not be broadcast. Due to his opinion, the programme is no longer up-to-date. We offered that he could go through the scenarios and mark the places he was having trouble with. So it is not clear what improvements Mr Zavoral is talking about. Please, specifically indicate in the scenario/manuscript what is required.

Before we released the series, we consulted on it with NFNZ lawyers. The Fund also commissioned independent expertise at Masaryk University, which also states that it is in the public interest that the programme should be broadcast. and it does not violate the Code.

The first episode - which won the Prix Bohemia prize - was heard by a large portion of the radio management the entire Radio at a public event in August 2018, and most of their comments were then incorporated.

I think there is a "media capture" in the Czech Radio, or an attempt to "capture the public service media". Its symptoms are obvious: dismissal, removal of inconvenience, censorship, departure from essential topics to lifestyle, legitimisation of the disinformation scene, attacks by the Council.

Director Zavoral's whole performance is fake news. The only thing Zavoral is right about is that Cro Plus had ordered the documentary. So far, Petr Šabata has also questioned this basic fact that Chro Plus had ever ordered it. So at least this one thing is cleared up.

I want to defend myself against this censorship, as well as against the misinformation that René Zavoral and other members of the ČRo leadership are spreading about us. Since last spring, when Robert Pelikan, Minister of Justice (ANO) complained about our documentary, we have been subject of constant bullying and professional destruction. At this point in time, the Radio Council forbids people from the team of the Crime Math to speak and comment on the case. They even have been told to cancel the Journalists' Workshop so that no one could ask them about Mathematics of crime. Brit Jensen is being advised to make me - as a freelancer - "keep silent", otherwise it will be a problem. The case would be "quiet", but my job as a journalist is not to be silent.

Brit Jensen, documentary maker, employee of the Czech broadcast:

We finished the series in October and November 2018. By the end of the year, Mr. Šabata was "still considering" whether or not to broadcast. Then we received the news at the end of January 2019 that Mr Šabata was suddenly of the opinion that our series was in breach of the Legal Code of the Czech Radio. This point had not once been mentioned during the process. We repeatedly asked him to make his complaints concrete. At a meeting with Mr. Šabata (28.2) - which we had been awaiting for a whole month - there was still no concrete complaint and the editor-in-chief refused to sit down with us and make the necessary changes directly in the scripts. The meeting ended with Mr. Šabata's conclusion that the documentary wasn't up to date any more anyway.

Last week there was a note in the minutes of the management meeting saying that the documentary series had not yet been broadcast and never would be. Soon this sentence was removed from the record and I was attending a meeting first with Production Director Kateřina Konopásková and then with Czech Radio spokesman Jiří Hošna. They both asked me to figure out what to change in the series to comply with the Code. I said I don't think the series is in conflict with the Code, so I can't suggest what to change. I also told both of them that we would definitely be able to correct the series according to Mr. Motal's suggestions without any problems - as these are minor details. But that these suggestions do not coincide with Mr. Sabatas complaints and even according to Motal, it is necessary to take into account the station on which the series is going to be broadcast - and if, for example, it is broadcast on the Vltava Channel, no changes are necessary at all. (Mr. Motal does not comment on the alternative, that the documentary would be podcasted). Since then, I have received no suggesions as to what should be changed in the series.

At the same meeting, spokesman Jiří Hošna advised me to decide for myself that I would not publicly talk about the documentary series any more - or at least until Czech Radio has figured out whether and where to broadcast the series. I refused - as such standpoint would be contrary to my own interest as the author of the series - and even more so as Hosna himself as the official spokesman of the Czech Radio repeatedly claims that there are plenty of serious mistakes in the series and poor

journalism. Mr. Hořna then told me that in this case whenever I speak publicly about the series, I must always quote the official opinion of the Czech Radio (which coincides with Mr. Šabata's opinion) - and that I must not say that I have this command from him. He also allowed me to add that I disagree with this official opinion - but to note that negotiations are still on-going. The spokesman also said that if I do not follow this, it may be that I am damaging Czech Radio's good name and thus behaving contrary to Section 9 of the Staff Regulations. The spokesman is not the first of the managers who mentions paragraph 9 in relation to how I speak publicly about the series.

I followed these directions in my following public appearances: in an interview on the Vltava Channel in the morning of 24.4 and right afterwards in a phone interview with the Slovak newspaper "Sme". However, just a week after my meeting with Mr. Hořna, the Director General spoke about the series in a public meeting of the Radio Council where he claimed that the series is in breach of the legal Code, that Magdalena and I have refused to make changes to the series and that we may be guilty of committing fraud with public money.

In my mind there is no doubt that the reason for the radio management not broadcasting our series is fear. This fear may be unspecific – and may not, I cannot tell – but it is there. We have felt it from the very first meeting with the new editor-in-chief and all the way through the process. Repeatedly there have been mentions of not messing up and not making something that would qualify for political trouble like Kroupas reportages did two years ago. It is also interesting that the Czech Radio continues to have very close co-operation with the expert witness about whose grave mistakes our series revealed.

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^{5a)} As soon as the management of Channel Plus changed and the authors had their first meeting with the new editor-in-chief, it was clear that he was not fond of the topic. He repeatedly said it was a difficult theme with many "uskaly". However, he also didn't do anything to stop the production of the series. He did, however, change the original plan which was that the first part of the series would be broad- and podcast in June 2018 - as a teaser for the rest of the series which would be finished in autumn 2018. Editor-in-chief Petr Sabata said he wouldn't broadcast anything before he had heard the series in full (this was his conclusion on a meeting on the 28th of May 2018).

Then during summer 2018 while working on parts 2 and 3 of the series, the authors were told (by Brit Jensen's superior Daniel Moravec) that on the basis of Petr Sabata's decision there would not be any podcast at all, the series would only be broadcast (this is spite of the series being originally pitched as a podcast-series and also the additional funding was achieved on the basis of the series being a podcast).

At the end of August a semi-public listening session took place in the Czech Radio. Episode 1 was played.

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Czech media reported about the case here:

<https://program.rozhlas.cz/jak-se-u-nas-pocita-spravedlnost-7699461>

<https://reportermagazin.cz/a/wNtQ9/matematik-nespravedlnost>

<https://zpravy.aktualne.cz/domaci/cesky-rozhlas-dava-ruce-pryc-od-objednaneho-serialu-podle-po/r~610076245b6811e9be22ac1f6b220ee8/>

<https://zpravy.aktualne.cz/domaci/matematika-zlocinu-stala-240-tisic-musi-se-upravit-k-vysilan/r~7107eeda682411e98aa4ac1f6b220ee8/?redirected=1556666031>