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United Nations
Interregional Crime and Justice
Research Institute

LIGHT ON: Investigating and Reporting Online Hate Speech

TRAINING MANUAL

LIGHT ON
your turn to **stop racism**



LIGHT ON is a project co-financed by the Fundamental Rights and
Citizenship Programme of the European Union

Cover & layout design: Cristina Micheletti

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THE LIGHT ON PROJECT: CONCEPT, ACTIVITIES AND PURPOSE

The “*LIGHT ON - Cross-community actions for combating the modern symbolism and languages of racism and discrimination*” project, funded by the Fundamental Rights and Citizenship Programme of the European Commission, aims to tackle racism and its related images and habits, providing a set of tools for the community and law enforcement professionals, through a preventive and participatory approach.

Hate speech, especially hate speech online, is the core of the LIGHT ON project as it conveys meaning, intent and significance in a compact and immediately recognisable form and it greatly influences personal and collective behaviors.

LIGHT ON is carried out by a consortium of European actors engaged at different levels in activities to counter discrimination. The consortium consists of: Regione Abruzzo (Italy), which is the leading partner; the Ombudsman for Minorities (Finland); the United Nations Interregional Crime and Justice Research Institute, UNICRI; the Eötvös Loránd University, ELTE (Hungary); the International Institute of Sociology of Gorizia, ISIG (Italy); the Peace Institute (Slovenia); the European Network Against Racism ENAR (Belgium); the Migrant and Refugee community forum (UK); Progetti Sociali (Italy).



LIGHT ON aims to:

- ❑ Challenge the normalisation of racism and xenophobia and their acceptance in the dialogue and social dynamics of everyday life, through scientific research that identifies the images that explicitly and implicitly express racism while at the same time analyses how communities perceive them;
- ❑ Strengthen the capacity of professionals and authorities against hate crimes and discriminatory behaviours, through a highly specialised training model and a toolbox;
- ❑ Encourage citizens to report if they become victims or witness an incident of discrimination.

More information on the project is available at: <http://www.lighton-project.eu/site/main/page/home> and http://www.unicri.it/special_topics/hate_crimes/

PURPOSE OF THE TRAINING MANUAL AND HOW TO USE IT

UNICRI has developed this **Training Manual** to strengthen professionals' capacities in investigating and reporting **racist hate speech** and, in the specific, **online racist hate speech**. The Manual has been designed to cover both theoretical and practical areas of the Training Course and provides information on methodological, technical, logistical and organizational training-related aspects. As such it can also be used as a manual for end-users.

The Training Manual is organized in four parts: the **Training Curriculum**; the **Reference Text for the Trainer**; the **Handouts** section; and the suggested **PowerPoint Slides**.

The **Training Curriculum** is a tool for the trainer(s) delivering the Course and it describes the proposed training methodology, the objectives and some related activities and exercises; it can be specifically adapted to different target audiences and country contexts.

The **Reference Text for the Trainer** includes information and readings to be referred to by the trainer(s) in the delivery of the course. It is comprised of two main sections, the first being theoretical and setting the framework of hate crimes and hate speech, and the second more practical oriented on how to investigate and report online hate speech.

The **Handouts** section includes the material that the trainer(s), as suggested in the Training Curriculum, might distribute to the participants to deliver the various learning objectives and related activities of the Training Course.

The **Power Point Slides** section, as suggested in the Training Curriculum, provides the trainer(s) a discretionary and adjustable tool to deliver the insights of the Reference Text for Trainer to the participants.

The Manual builds upon the national information and examples provided by the LIGHT ON partners during the project execution and includes information on the project countries, namely: **Finland, Hungary, Italy, Slovenia**, and the **United Kingdom**. Additional country profiles can be used as further reference, and these are available on the project website. The **Training Manual** is however conceived as being ready to be used at the European level and tailored to the national context of any of the 28 EU Member States.

We sincerely hope that the Training Manual will actively contribute to a solid understanding of hate speech and online hate speech.

General information on the training content

Target group

As racism is a multifaceted problem that requires a **multidisciplinary approach**, participants in the training Course can be trainers or professionals belonging to different target groups with institutional or operational competencies against racism, including: LEA officials and lawyers and legal professionals working with associations operating to support victims. As the training methodology relies on active participation and interaction with trainees, the number of participants should not exceed 20/25. The training can be delivered both to participants coming from the same country or from different countries.

Purpose of the Course

The Course is designed to provide solid knowledge and to further develop participants' skills on: identification of racists hate speech, operational practices on how to investigate and report incidents of online hate speech and establishment of a rapport with the victims or witnesses. The purpose of the training is also to provide an insight on the existing online reporting tools on a few of the most used social media and social network sites.

Content of the Course

The content of the Training is based on the insights outlined in the **Reference Text for the Trainer**. The trainer(s) can decide whether to deliver all the insights of the Reference Text, part of them, or even integrate them according to the nature of the target group and their expertise.

The trainer(s) is advised to deliver the Course's contents following a proposed training strategy outlined in the **Training Curriculum**.

The Training Curriculum comprises:

- an opening session;
- a theoretical introductory section, which reflects SECTION 1 of the Reference Text for the Trainer, aimed at introducing the issues of hate crime and hate speech with related learning objectives and suggested activities;
- a practical section, which reflects SECTION 2 of the Reference Text for the Trainer, aimed at supporting professionals in investigating and reporting hate speech online with related learning objectives and suggested activities;
- a concluding session accompanied by a final evaluation of the training by the participants;
- a follow-up evaluation.

Institutions delivering the Training Course should ensure that participants completing the Training Course are provided with an official **Certificate of Attendance**.

Tips for trainers

This course is meant to build upon the practical experience of the participants, who – being professional trainers, law enforcement officials, legal practitioners or experts in the field of discrimination – will make an essential contribution to its content. It is therefore designed to remove the “barriers” of the classroom so as to put the skills that participants acquire into effect.

The material for the Course is presented in a suggested sequential order in the **Training Curriculum**. The Handouts and the PowerPoint Slides sections are the tools provided to the trainer(s) to deliver the proposed training strategy and the insights of the Reference Text for the Trainer. The trainer(s) can choose whether to follow and how to adapt the proposed Training Strategy.

The suggested activities are intended to open the door to discussion and discovery. The “right” answer is not provided because solutions are often context-specific. Rather, participants are to be encouraged to share their own experiences and ideas, and to adopt a creative problem solving approach. If necessary, trainers can make reference to the Reference Text for the Trainer when resolving the proposed activities and they may want to distribute the **Bibliography and Further Readings** section to the participants.

The Course is designed to be **completed in 2 days**. Time should be planned on the basis of the proposed training strategy (each lecture and activity suggested in the Training Curriculum comes with an approximate suggested duration). However, the trainer(s) should take into consideration the characteristics of the specific target group, the objectives of the training, the overall time constraints, and the trainer’s own assessment of priorities.

It is important for the trainer(s) to be well-versed in the subject matter. Therefore, trainer(s) should:

- a. be well prepared on the contents of the Reference Text for the Trainer that they aim to deliver to the participants;
- b. make sure that the suggested objectives, content, structure, methods and training media of the Training Curriculum/ Handouts/PowerPoint Slides are fully grasped.

The best approach for trainers to take is to be sensitive and aware of the cultural issues that may influence the attitudes and behaviour of the participants. Facilitators are encouraged to explore these issues when conducting this training. Occasionally they will be confronted with attitudes and beliefs that are so completely unacceptable to them, so completely in opposition to their own values and principles, that it is difficult to remain unemotional. It is hoped that other participants will engage in the discussion and present alternative viewpoints. Sometimes, however, the trainer(s) may feel it necessary to step “outside” the training role and make a personal comment. There are risks attached, but maintaining personal integrity is always the right

thing to do. Make it very clear you are no longer the trainer and make your statement as an individual. Make it clear when you return to the role of the trainer. It may be a good idea to have a “stretch break” before continuing.

The following suggestions may be helpful to trainers discussing such a sensitive subject matter as the one covered in the manual.

Listen:

- Actively listen to participants.
- Allow individuals to finish expressing themselves before responding.
- Avoid strong reactions (i.e. anger, shock, laughter) that may convey disapproval of a participant’s view.
- Stay confident, relaxed and open to all information.

Evaluate:

- Hold back on any reactions or judgments until you understand the message that is being sent.
- Ask open-ended questions, since the answers to such questions can provide valuable information.

Consult:

- Reiterate the participant’s right to express their own opinion.
- Explain your perspective without being defensive.
- Find out what the participant hopes to accomplish.
- Acknowledge similarities and differences between your perspective and that of the participant.
- Offer options.
- Do not isolate a participant who has divergent ideas or perspectives.
- Commit to being available to discuss issues further.
- Thank the participants for their contribution.

Effective learning methods

Participants in this Training Course are independent adult trainers or professionals who are used to making their own decisions. They have job and life experiences that will contribute greatly to the learning environment and performance outcomes. Wherever possible personal experience, past work and knowledge should be shared and incorporated into the overall learning experience. For this training to be effective, participants must be able to take responsibility for their own learning and feel that the knowledge and skills they bring to the classroom are acknowledged and utilised.

It is imperative that a variety of strategies and methods are used by the trainers during the course. This is necessary as the target group will consist of professionals with different backgrounds, profiles and abilities in absorbing information and demonstrating knowledge. A multiple approach also proves instrumental in preventing the so-called “cognitive overload”: the situation in which the human brain is saturated and any additional information will simply run through.

In order to achieve such enhanced and interactive training, learning procedures should involve a wide range of innovative and appealing training methods. Recommended training methods that can be used during the delivery of the Training Course include:

- ✓ **Lectures:** involve a formal oral presentation on a subject. They can be used to introduce participants to new concepts and principles whilst engaging the interest of participants in the area covered by the session. Supplementary material should not detract from the theme and the purpose of the lecture. Lectures should not be long and should alternate between active training method types to maximise participation and interaction.
- ✓ **Questioning techniques:** the introduction of appropriate questions can energise debates and promote critical thinking and reflection by the participants. This could contribute towards the identification of complex issues that require further discussion. This method motivates participants to initiate debate and activate prior knowledge. Furthermore, issues raising the most interest can be identified and analysed.
- ✓ **Role-playing method:** involves the changing of one’s behaviour to assume a role. Participants consciously temporarily change their behaviour to fulfill another role. This involves the participants rehearsing situations that prepare them for potentially similar situations. In future, they should be able to appropriately handle the situation due to the development of key competencies and their familiarity with the situation. During the training session, the playing participants are asked to conduct an interview at the front of the room. Volunteers should be identified and allocated roles by the trainer for the case in focus.
- ✓ **Brainstorming method:** an appropriate method to activate participants’ reflection and promote the sharing of opinions on the topics discussed during courses. The brainstorming method is very effective in promoting creative thinking through inducing the development of new ideas and broadening debate. Facilitators will be responsible for planning the discussions in a comprehensive and effective way to ensure that effective interaction is achieved so that the discussed issue is covered in-depth.
- ✓ **Cooperative learning method:** aims to expand upon previously and newly acquired knowledge by respecting every participant’s contribution. The method should be applied, to promote positive interdependence among participants. It should activate

the participants' prior knowledge and skills, assisting them to assimilate newly acquired information.

- ✓ **Practical exercise:** involves trainees applying and demonstrating specific professional skills within a supervised framework. Using this method, a learning process could be initiated through experiencing simulated "real" situations.
- ✓ **Case studies:** are very effective in promoting the active involvement of participants and the development of skills. They also give exposure to a variety of situations within a limited time frame.
- ✓ **Use of visual and auditory means:** can be used as a support to training methods to increase participants' involvement throughout courses. This is effective as they can promote more lively and stimulating learning experiences whilst incorporating a variety of learning styles. Facilitators can deliver the course using multimedia and can use reading and audiovisual material such as demonstrations and graphs.

Six golden rules should be kept in mind by facilitators when delivering their courses:

1. **Adults learn by doing.** They want to be involved in the process. Never merely demonstrate how to do something if an adult learner can actually perform the task, even if coaching is involved and it takes longer to complete the process.
2. **Adults relate best to examples from their own experience, and problems that reflect those in their own workplace.** When developing learning activities or exercises, choose situations that relate to the work they are currently doing.
3. **Adults relate their learning to what they already know.** Assume that the participants come to the training with a vast array of skills and experience. Build the training around this expertise. Ask participants to come up with examples or situations that elaborate on the teaching points presented in the curriculum.
4. **Adults relate best to a flexible learning environment.** Trying to intimidate adults or to force them to participate actively in the training when they are resistant to it causes frustration and anger.
5. **Adults learn best when a variety of techniques are used.** Use a wide variety of techniques and vary the pace and approach throughout the training.
6. **Adults learn best when they are given the opportunity to question and challenge the information presented.** Be sensitive to varying perspectives, and allow time for participants to question or challenge information or material presented. Encourage them to provide information or experiences that support their particular perspective.



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LIGHT ON: Investigating and Reporting Online Hate Speech

TRAINING CURRICULUM

LIGHT
your turn to **stop racism**



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Course Schedule

DAY ONE	
Session	Duration
OPENING Session	1 hr.
SECTION 1: Setting the Framework: Racist Hate Crime	4 hrs 30 min.

DAY TWO	
Session	Duration
SECTION 2: Identifying and reporting hate speech online	4 hrs 15 min.
CLOSING Session	1hr 20min.

Opening of the Course

Presentation of participants and definition of objectives

It is important that the entire group is well informed and comfortable. As a trainer, you should make sure that participants know who the facilitators are, who their fellow participants are and what is going to happen.

Registration of participants:

Registration of participants must be arranged prior to the beginning of the training on Day 1. An appropriate welcome desk should be set up. Folders with reference material, pens, paper and name tags (see the list below) should also be prepared. Draft a list of participants, to be filled out upon registration.

After registration is completed, make a sufficient number of copies of "[FORM 1](#)" of the Handouts and distribute it to all participants. Retain a copy for yourself as well.

What you need:

- ✓ Folders with agenda for participants
- ✓ Pens
- ✓ Paper
- ✓ Pre-printed name tags
- ✓ List of participants

Duration 10 min.

Full introduction of the trainer(s):

Introduce yourself, what you do, where you come from and what are your knowledge and expertise. Do not forget that your presentation will be "special" and should focus on your role as the training facilitator. If you do not have a strong background in hate crime online, just be honest about it and point out that you see this as an opportunity to learn from them and their experience. Your own expectations and concerns about the course should also be introduced.

Duration 5 min.

Roundtable presentation:

Ask participants to introduce themselves to the rest of the group, giving information on:

- ✓ Their name
- ✓ What they do
- ✓ Where they come from
- ✓ What is their background and professional experience on the subject matter

Alternative: divide participants in pairs and ask them to discuss the above information. Each person in the couple is then responsible to introduce his/her colleague to the rest of the group.

Duration 15 min.

Setting of the Guidelines and Ground Rules:

Ground rules should be developed and adapted for every context. Bear in mind that they might be influenced by age, region, social class, employment positions and other contextual factors. If time is an issue you might simply list the ground rules for the group. Inquire as to whether the ground rules are agreeable, and mention that if you had more time together, you would have preferred the group to generate the list. "[POSTER 1](#)" of the Handouts outlines some ground rules to be posted on the wall at the end of this activity and kept there throughout the Course. Any subjects raised in the context of the Course will not be discussed with non-participants and will stay in confidence.

Duration 10 min.

Outline of the scheduled course activities:

Explain that while timelines are there to ensure the material is covered and that there are adequate breaks, you are flexible in terms of emphasis and will only move on once the subject matter is generally understood. Emphasise that their contributions are vital, that this is a voyage of discovery for all of you and they will be expected to work and not simply listen. Then show [PowerPoint Slide 2](#).

Duration 5 min.

Expectations and definition of objectives:

Distribute one card (“CARDS 1”) to each participant. Ask participants to write anonymous answers on their cards. Collect them and discuss them while presenting the learning objectives, training methodology and the agenda. This activity will be useful to identify the target group of the Course and accordingly tailor the lectures and the exercises to the expectations and needs of the participants. Do not forget to express your expectations too. Duplicate cards are pictured in the Handouts. Prepare three stacks composed of one third of the cards with the first question, one third with the second question, and one third with the last question. Participants’ expectations will be compared at the end of the course with what has been discussed and covered during the course.

Duration 15 min.

Estimated Total duration: 1 hr.

ICONS GLOSSARY

			
Flipchart	Power Point Slides	Internet Connection	Group/Pair Exercise
			
Role Play	Video	Debate	



Section 1: Setting the Framework: Racist Hate Crime, definitions and legislation - A focus on racist hate speech online

Learning Objectives

- ✓ Understand and define hate crime;
- ✓ Identify and describe the elements constituting hate crime;
- ✓ Have an overview of International, European and National legal instruments on the topic;
- ✓ Consolidate knowledge on online hate speech.

Activity 1 – Introduction to the concept of hate crimes and definition

Description

- ▷ Trigger group participation and interaction by asking participants to brainstorm on: *How would you define hate crime in your own words?*
- ▷ On a flipchart take notes of the most relevant concepts that have emerged, and make sure that all the aspects are covered.
- ▷ Give a brief lecture on the elements of the definition of hate crime, supported by [PowerPoint Slides 4-6](#). Link Power Point Slide 4 with example of Box 1 “What does a hate crime look like?” [Refer to: [Reference Text paragraphs 1.1 -1.2](#)].
- ▷ While lecturing, ask participants to provide specific examples in order to make sure that the information is fully and univocally understood by the group.

Requirements

Duration: 15 minutes
Materials: Flipchart & marker pen;
Power Point Slides 4-6.



Activity 2 – How does hate crime manifest itself?

Description

- ▶ Show [PowerPoint Slide 7](#) and encourage participants to think about different bias- motivation categories behind hate crime and its different manifestations. After a brief class discussion, ask: *Which are the most common types of bias motivations in your country?*
- ▶ Take notes on a flipchart of the answers given, and then show [PowerPoint Slide 8](#) on the bias categories recorded across EU countries. [Refer to: [Reference Text paragraphs 1.2.1](#)].
- ▶ Continue brainstorming by asking participants to provide examples of possible manifestations of hate crime on the basis of their professional experience. Fill in possible gaps in their answers by making reference to [Box 2 “Different manifestations of hate crime”](#).
- ▶ Close the session with a lecture on the dangers of the normalisation of hate. Show [PowerPoint Slide 9](#). [Refer to: [Reference Text paragraphs 1.2.2](#)].

Requirements

Duration: 15 minutes
Materials: Flipchart & marker pen;
Power Point Slides 7-9.



Activity 3 – Racism in Europe today

Description

- ▷ Present the elements of the definition of racism, supported by [PowerPoint Slides 10-11](#). [Refer to: [Reference Text paragraphs 1.2.3](#)]. (10 minutes)
- ▷ Divide the participants into 3 groups and ask them to find **news articles on the Internet** related to recent manifestations of racism in their country. Ask each group to identify specific characteristics of the target, bias motivation(s), specific manifestation of hate crime and reaction to the episode.

Alternative: prepare **Handouts** with selected articles from the news to distribute to the participants. Ensure that news articles are up-to-date in order to prove that racist incidents remain a current reality. (30 minutes)

- ▷ Have the three groups individually presenting their work to the rest of the whole group and stimulate reactions/inputs from the audience if needed. Summarise major findings on the flipchart and provide a closing recap. (20 minutes)

Requirements

Duration: 1 hr
 Materials: Internet connection / articles or Handout;
 Flipchart & marker pen;
 Power Point Slides 10-11.



Activity 4 – Understanding the legal framework on hate speech

Description

- ▷ Briefly describe the major anti-discrimination laws at the international level, supported by [PowerPoint Slide 12-13](#). [Refer to: [Reference Text paragraphs 1.3](#)].
- ▷ Introduce the main international conventions on discrimination and racism through the [Find the Perfect Match Exercise](#). Divide participants into 7 groups and assign each group one of the conventions mentioned in the exercise for which they will have to find the matching article. Explain to the group representing the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) that they will have to find 4 matching articles instead of one. Print and distribute one copy of [CARDS 2 A\) – Handout](#) to each group. Allow 5 minutes to complete the exercise.

Distribute [CARDS 2 B\) – Handout](#), which discloses the solution of the exercise, and ask the groups to make sure that they have found the correct match.

Ask each group to nominate one or more representatives to present its convention and the matched articles to the rest of the participants by using a simpler wording. (15 minutes)

Alternative: once the groups have matched the articles to the conventions, if needed, go through them by providing a brief description. [Refer to: [Reference Text paragraphs 1.3.1](#)]. (tot. 15 minutes)

- ▷ Introduce the topic of hate speech by asking participants to define in their own words what they mean by “hate speech”. Take note of the various inputs provided by participants on the flipchart. Then compare with the definition included in the CoE Recommendation (97)20, supported by [PowerPoint Slides 14-15](#). Integrate the discussion with additional inputs where required. [Refer to: [Reference Text paragraphs 1.3.2](#)]. (15 minutes)
 - ▷ Divide participants into groups and provide each group with [Handout 1](#) containing the summary of legal framework on hate crime and hate speech in Finland, Hungary, Italy, Slovenia and the United Kingdom. Ask each group to read and compare the legal definition of hate crime in each country with the definition of CoE Recommendation (97)20. Ask one or more spokesperson from each group to briefly summarise the findings to the entire group. (30 minutes)
- Alternative:** should the Course participants all belong all to one specific country, ask all of them to compare the legislation from their own country with that of the European Union (10 minutes), ask them to share their opinions and observations and

take note on the flipchart (15 minutes). Summarise the findings (5 minutes). [Refer to: [Reference Text paragraphs 1.5](#)]. (tot. 30 minutes)

- ▶ Conclude the activity by showing [PowerPoint Slides 16-17](#).

Requirements:

Duration: 1 hr
 Materials: Cards 2;
 Flipchart & marker pen;
 Power Point Slides 12-17;
 Handout 1.



Activity 5 – Hate Speech vs. Freedom of Speech

Description

- ▷ The exercise is meant to trigger brainstorming on if, how and where to establish boundaries between freedom of expression and hate speech. The exercise takes into consideration that the participants are comprised of law enforcement authorities and professionals with a legal background. You may tailor the exercise according to the profile of the participants and provide them with further background information if necessary (see Alternative).

Distribute to the participants [Handout 2 A](#)), which introduces the case of the controversy that arose when the Danish newspaper Jyllands Posten published twelve cartoons containing satirical depictions of the Prophet Muhammad.

Divide the class into 3 groups for a **Debate on the boundaries of Freedom of Speech**. In relation to the case, the first group will be responsible to advocate for the protection of freedom of speech/expression; the second group will, instead, be tasked to defend the position that there are limits to freedom of speech/expression. If you believe the participants might need some inputs to construct their arguments distribute [Handout 2 B](#)), providing an **Example of Argument claiming that Freedom of Speech includes Hate Speech**, to the first group and [Handout 2 C](#)), **Example of Argument claiming that Freedom of Speech does not include Hate Speech**, to the second one. Finally, you will task the third group with performing the role of a jury and sentencing a final verdict based on the argumentations put forward by the other two groups.

If possible, each group should make reference in their argumentations to the relevant international, EU and national norms and rules related to their respective positions and roles. Allocate 15 minutes for internal group discussion, and then ask the first two groups to nominate up to three representatives each who should debate on the case for about 15 minutes. The jury will then take 10 minutes to produce a final verdict based on the argumentations put forward by the groups. During the debate divide the sheet on the flipchart to take note of the main argument in favour of regulating freedom of expression to limit hate speech and those against. [Refer to: [Reference Text 1.6.2](#)]

Alternative: For the debate feel free to use whichever controversial case you believe would best suit the targeted audience, depending on their nationality and professional background.

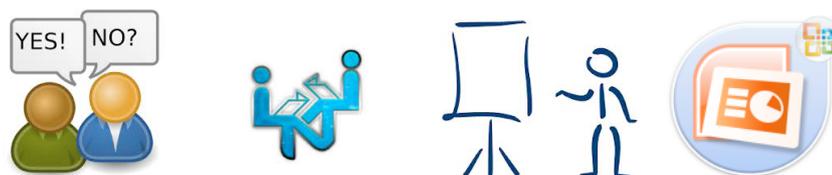
- ▷ Divide participants into groups and distribute [Handout 3](#) providing some case studies on ECHR decisions related to the issue of freedom of expression vs. hate crime. According to the target group and the number of participants choose among

the different cases provided and decide whether to provide the full description of the case or the abstract. Assign a case study to each group and ask them to analyse the elements of the incidents. After 15 minutes, ask each group to present to the whole group the case study and the relevant decision by the ECHR, making reference to the specific articles of the European Convention of Human Rights. [Refer to: [Reference Text 1.6.2](#)].

- ▶ Complete the activity by reviewing the topics covered by the activities with a lecture supported by [PowerPoint Slides 19 – 22](#). [Refer to: [Reference Text 1.6.2](#)].

Requirements:

Time: 80 minutes
 Materials: Handout 2-3;
 Flipchart & marker pen;
 Power Point Slides 19 – 22.



Activity 6 – Which are the specificities of online hate speech

Description

- ▶ To introduce the topic of hate speech online show this **video** (duration: 5 min.17 sec.) by the No Hate Speech Movement: <https://www.youtube.com/watch?v=kp7ww3KvccE>. After showing the video distribute **Handout 4** showing a screenshot taken from the above-mentioned introductory video and ask participants to provide feedback on their thoughts and reactions.
- ▶ Complete the activity reviewing the topics covered by the class activities with a lecture supported by **PowerPoint Slides 23 – 32**. [Refer to: [Reference Text 1.6.3](#)].
- ▶ Divide participants in 2 groups and distribute **Handout 5 A** and **5 B** (a case study to each group). Ask each group to individually analyse and discuss the assigned case and subsequently present a summary of it to the whole group and answer the related questions. Stimulate group discussion by comparing the cases and the answers (see [Handout 5 A - B](#)).

Requirements:

Time: 30 minutes
 Materials: Video;
 Power Point Slides 23 – 32;
 Handout 4-5.



Section 2: Identifying and reporting hate speech online

Learning Objectives

- ✓ Outline the main methods to identify hate speech;
- ✓ Understand how to investigate online hate speech;
- ✓ Appreciate the legal challenges linked to online hate speech;
- ✓ Gain knowledge on the online reporting.

Activity 1 – Why do victims of online hate crime not report?

Description

- ▷ Before starting the presentation on issues covered in Section 2 of the Reference Text, distribute True or False exercise contained in [Handout 6](#). Give participants 5 minutes to fill in the form, then go through individual replies as a group and compare and stimulate class discussion. [Refer to: [Reference Text 2.1](#), [1.2.1](#), [1.6.2](#) and [1.6.4](#)].
- ▷ Conclude the exercise by brainstorming on the importance of promptly responding to hate crime; ask:
 - **Why should law enforcement institutions particularly care about hate crime?**
 - **If a person abuses another, why does it make a difference whether the offence was motivated by prejudice, as is the case of hate crimes?**

[Refer to: [Reference Text 2.1](#), [2.2](#)]
- ▷ Proceed with a brief lecture on the main reasons for not reporting and the risk of violence escalation by showing [PowerPoint Slides 34-38](#).

Requirements

- Time: 40 minutes
- Materials: True or False exercise (Handout 6);
Power Point Slides 34-38.



Activity 2 – How to investigate online hate speech: a victim-centred approach

Description

- ▶ The **Scenario** of this **Role Play** is meant to highlight the difficulties of effectively investigating episodes of online hate speech, and the potential harm of not adopting a victim-centred approach. Although the Scenario was invented and arranged for this purpose, the events described are based on and inspired by recent incidents of online hate speech reported in the news.

Among participants identify 2 volunteers willing to play the roles of the victim of the incident and of the police officer investigating the case during an official interview. Provide them with [Handouts 7 A](#)) (**Background and Full Description of the Incident of Online Hate Speech & Victim Role**) and [7 B](#)) (**Police Officer Role**) containing the instructions for their different roles. Brief volunteers separately on their respective roles, and ask them not to share their scenario and role. Allow 10 minutes for the volunteers to prepare for their roles individually.

Meanwhile distribute to the rest of the group [Handouts 7 A](#)), [7 B](#)). Brief them by explaining that their role is to act as observers and, once the acting is over, complete the story by speculating on what could have potentially happened in the following days. Allow actors to arrange the interview setting as they wish. During the role-play let actors play freely for a maximum of 15 minutes. The rest of the class should remain quiet and take note.

At the end of the role-play the trainer will properly debrief the two players. Before starting the debriefing ask the players how they are feeling - particularly following emotive subjects such as being the victim of racism - to ensure they are able to take an effective part in the debriefing process. The players should be sat apart from the rest of the class at this time. Once both role players have been fully debriefed, the trainer will bring them out of role thanking them one by one using their real names. Make sure both volunteers are all right and completely out of role.

Distribute a copy of [Handout 7 C](#)) (**A Victim-Centered Approach: Interview Checklist**) to the entire group, including the two volunteers that previously acted as role players. By pointing to the checklist, ask the group to provide feedback on whether the interview was effective in evaluating what happened, and express their ideas/speculate on what could have happened in the days that followed the first interview. If necessary remind the volunteer performing the role of the police officer that the exercise is not aimed at assessing his/her performance, but at highlighting how difficult it can be to investigate crimes of online hate speech.

Alternative: If there are no volunteers, or you believe the exercise will make participants feel uneasy, distribute [Handouts 7 A](#)), [7 B](#)),

and [7 C](#)), and present the whole scenario to them (including the victim and the police officer’s positions). Subsequently, referring to the checklist of [Handout 7 C](#)), ask the group to speculate on how effective the interview was in assessing the events, how the story developed and what were the overall effects on the victim.

- ▷ Complete the debriefing session by: thanking all those concerned for their efforts; identifying all learning points; providing feedback; making specific reference to the role of Equality Bodies and NGOs (on the basis of what mentioned in the Checklist of Handout 6). [Refer to: [Reference Text 2.3](#), [2.3.1](#), [2.3.2](#) and [2.5](#) and [2.6](#)].
- ▷ Give a lecture by showing [PowerPoint Slides 39-40](#). [Refer to: [Reference Text 2.3](#), [2.3.1](#), [2.3.2](#) and [2.5](#) and [2.6](#)].

Requirements

Time: 90 minutes
 Materials: Handout 7;
 Power Point Slides 39-40.



Activity 3 – How to identify bias indicators

Description

- ▶ Ask participants to work in couples, asking them to list possible questions to be posed to an alleged victim of hate crime to identify bias indicators (allocate 10 minutes). Subsequently, distribute [Handout 8](#) to each couple and check which questions they did not think of while working in couple. Also, ask them if other questions not included in the Handout came up during the exercise. [Refer to: [Reference Text 2.3.2](#)].

Requirements

Time: 20 minutes
Materials: Handout 8



Activity 4 – How to prove a case of online hate speech

Description

- ▶ Give a lecture on the challenges linked to proving a case of online hate speech supported by [PowerPoint Slides 41-47](#). Invite participants to actively participate by sharing their experience and providing inputs on the matter. [Refer to: [Reference Text 2.4 and 2.4.1](#)].

Requirements

Time: 15 minutes
Materials: PowerPoint Slides 41-47



Activity 5 – How to report a case of online hate speech

Description

- ▷ Ask participants which information should be collected when reporting a case of online hate speech. Take notes on a flipchart. Distribute [Handout 9](#) and compare its insight with the inputs provided by participants. (15 minutes) [Refer to: [Reference Text 2.4.1](#)].
- ▷ Give a lecture supported by [PowerPoint Slides 48-50](#).
- ▷ Divide participants into groups of four people and assign to each person a Handout with the steps for reporting incidents on Facebook ([Handout 10 A](#)), Twitter ([Handout 10 B](#)), YouTube ([Handout 10 C](#)), and Wikipedia ([Handout 10 D](#)). Ask each person to present to the rest of the group the reporting steps of the assigned websites/social media. Invite participants to use a computer with Internet connection or a flipchart in delivering their presentation. After all groups have completed their internal presentations, the entire group should discuss similarities in the reporting procedures, challenges and possible problems. [Refer to: [Reference Text 2.8.1](#), [2.8.2](#), [2.8.3](#) and [2.8.4](#)]. (40 minutes)
- ▷ Afterwards, group together the participants that presented Facebook in the previous exercise and assign them [Case Study 1 Facebook Memes](#) ([Handout 11 A](#)), assign [Case Study 2 Wikipedia Vandalism vs Women](#) ([Handout 11 B](#)) to the participants from the Wikipedia group, [Case Study 3 – Bessesers-Hannover](#) ([Handout 11 C](#)) to the Twitter group (Refer to: [Reference text 2.9](#), [2.9.1](#), [2.9.2](#), [2.9.3](#)) Each group analyses the respective case and discuss the case. Participants from YouTube should join the other three groups.
- ▷ After the discussion, summarise the different policies and give a lecture supported by [PowerPoint Slides 51-54](#). [Refer to: [Reference Text 2.7](#) and [2.8](#)].

Requirements

- Time: 90 minutes
- Materials: Handout 9;
Handout 10 A-D;
Handout 11 A-C;
PowerPoint Slides 48 – 54.



Closing Session

Self Examination

Explain to participants that the following test has been prepared to allow individuals to make a self- analysis about the comprehension of the topics discussed during the course. The test should be anonymous. Time devoted to the test should be approximately 30 minutes. A selection of possible questions is available hereunder; you can tailor the questions to the target audience and/or national context. After the assessment there will be a general discussion about the right/wrong answers. Collect the tests at the end of the end of the session; these tests will act as feedback as to the effectiveness of the course.

Total duration: 45 minutes

SELF EXAMINATION TEXT

1) How would you define hate crime? And which are the main bias-motivation categories?

2) Which are the possible effects of normalisation of hate?

3) How would you define racism?

4) Could you list 5 International Conventions dealing with anti-discrimination and hate crime?

5) List the existing definitions of hate crime and hate speech and the relevant legislations in one of the project countries (Finland, Hungary, Italy, Slovenia, the UK)

6) Which are the main challenges related to the identification of the boundaries between hate speech and freedom of expression?

7) Can you list different kinds of manifestations of online hate speech and provide one practical example?

8) Episodes of hate speech online are not likely to be reported to the police. List the main reasons behind this trend.

9) Which is the most common reaction against hate speech online? Why is it potentially dangerous?

10): Investigating hate speech online through a victim-centred approach means:

(Tick the correct answers)

- ascribing a positive value to a person's complaint of harassment
- ensuring the victim understand what she/he did wrong
- informing the victim of what efforts can be made to enhance his/her safety
- providing information about community and department resources available to protect and support victim, their families and members of the community
- belittling the seriousness of the incident
- respecting his or her wishes as to how matters should proceed

11) List four indicators that can help the police to objectively determine the existence of a bias motivation during the investigation of an incident of hate speech online.

1) _____

2) _____

3) _____

4) _____

12) The anonymity allowed by the Internet affects the distress suffered by the victim of hate speech online.

Explain why: _____

13) What are the actions that victims of hate speech can take to back up their claims?

14) Complete the following sentences:

Equality bodies have been established by _____

Their principal role is to _____

Some of the main activities carried out by equality bodies are:

Conclusion of the course

This final section aims to summarize and conclude the concepts introduced in the course and review the learning outcomes. The final evaluation of the course by participants, specifically, aims to determine the value and the efficiency of the training course, analyse and assess its quality and contribution to improve the trainees' capacity to identify, report and investigate online hate speech cases.

Closing remarks of the trainer and final evaluation of the training course

1. Express your own opinions in relation to the training programme and present key conclusions by considering and summarising the full training course. Before handing out the written evaluation forms, encourage people to express their thoughts on the course. The goal is to identify the achievements of the programme and get participants to suggest any potential improvements. Participants will be asked to give their own assessment of the programme, commenting on its positive and negative aspects. Simple questions can be used to start the discussion:

- ✓ Did you feel comfortable dealing with this topic?
- ✓ Do you think the course was wide and accurate enough?
- ✓ Did the programme fulfill your expectations? Why / why not?

Match the initial expectations expressed by the participants in the opening session with the final results. While listing the topics and aspects covered during the training promote a discussion to compare the final impressions/feelings of the audience with the initial expectations reported anonymously on the cards distributed in the opening session. Remember to mention also your own expectations compared to the results of the course.

Total duration: 20 min.

Evaluation of the training

Finally, the participants will be invited to complete the final evaluation form (Evaluation Form 1) to provide a written assessment of the whole training program. Request that answers should be as detailed as possible. Give as much time as participants need to articulate their concerns. The program should be concluded with thanks to all participants for cooperating and sharing their knowledge and experience, and to those who made it logistically possible for their time and collaboration. The follow-up evaluation should also be introduced. Remember to commit to specific actions after reading participants' appraisals.

Total duration: 15 min.

Follow-up evaluation of the training

Approximately 3 months after the course, institutions organizing the training are advised to contact the participants with a [follow-up evaluation questionnaire](#). The questionnaire should be returned within 10 working days. The information gathered from the follow-up evaluation questionnaire will help institutions to tailor and eventually integrate other training courses on this topic. The follow-up evaluation questionnaire is available at the end of the Handouts section.



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United Nations
Interregional Crime and Justice
Research Institute

LIGHT ON: Investigating and Reporting Online Hate Speech

REFERENCE TEXT FOR THE TRAINER

LIGHT ON
your turn to stop racism



LIGHT ON is a project co-financed by the Fundamental Rights and
Citizenship Programme of the European Union

SECTION 1

Setting the Framework: Racist Hate Crime, definitions and legislation - A focus on racist hate speech online

1.1 Introduction

Discrimination in Europe is still considered to be common by many institutions and organizations working in the field of human rights' protection. In 2012, upon the request of the European Commission (EC), the Special Eurobarometer 393 produced the report *Discrimination in the EU*.¹ This survey was fielded in the 27 Member States of the European Union between 2 and 17 June 2012. Some 26,622 respondents from different social and demographic groups were interviewed face-to-face at home in their mother tongue on behalf of the Directorate General Justice. The methodology used was that of the Eurobarometer surveys as carried out by the Directorate-General for Communication ("Research and Speechwriting" Unit).² The report also shows that the experience of direct discrimination remains high in the EU:

"Almost a fifth of Europeans (17%) report that they have personally experienced discrimination or harassment: 13% have experienced discrimination on the basis of one of the grounds analysed in the survey, and 4% on multiple grounds".¹

Not only discrimination and hate are widespread, but they have also been progressively "normalised" in the public opinion, public discourse and in the society at large. History teaches us that the worst economic crises in the past have led to an increase in racism, xenophobia and different forms of discrimination. The concern for an economic downturn can provoke and amplify the fear of the "other", and cause an escalation in hate both in the private sphere and in the public discourse. Of course the economic crisis is only one of the factors behind this escalation: the deep roots of discrimination are sunk in the history and in the local context of each region and country. Hate toward the "other" takes on many different forms.

Hate can be defined as "an emotion of extreme dislike or aversion; detestation, abhorrence, hatred".³ Hate can be based on **several motivations** and **expressed in several different ways**. It can be based on race, perceived race or ethnicity; religion, sexual orientation, disability, and gender.

1. European Commission (EC), "Special Eurobarometer 393. Discrimination in the EU in 2012. Report", (November 2012), EB77.4, available at: <http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf>

2. For more information, please see: <http://ec.europa.eu/public_opinion/index_en.htm>

3. "hate, n.1", Oxford English Dictionary (OED) Online, (March 2014), Oxford University Press, available at: <<http://www.oed.com/view/Entry/84550?rsk=VT2KLd&result=1>>

1.2 Defining hate crime

The concept of hate crime firstly emerged in Europe in the year 1990. In the *Copenhagen Document*,⁴ States participating in the Conference on Security and Co-operation in Europe (CSCE) pledged to take effective measures to provide adequate defense against acts that can constitute incitement to violence against individuals or groups based on national, racial, ethnic or religious discrimination, hostility or hate. One year after, at the CSCE Geneva Meeting,⁵ the participating States once more expressed their concern about those crimes based on prejudice, hate, hostility and discrimination.

But the term *hate crime* was officially used for the first time in 2003 by the Organization for Security and Cooperation in Europe (OSCE), at the Ministerial Council Meeting in Maastricht, when States underlined the key role that hate crime legislation plays in ensuring that the criminal-justice system has the authority to investigate, prosecute and impose sentences for crimes fuelled by intolerance and discrimination.⁶

Regardless of the different countries' commitments on the topic, hate crimes continue to be an issue of concern. In 2010, the *Astana Declaration*⁷ issued at the end of the *OSCE High-Level Conference on Tolerance and Non-discrimination* reiterated commitments and concerns about hate crimes, including those based on racism or xenophobia.

The term "hate crime" does **not** refer to a specific offence. It can be any criminal offence, such as murder, acts of threat or intimidation, assault or property damage, but its **motivation** makes hate crime different from any other form of crime. Hate crime is also known as bias-motivated crime. As reported by *Legislation Online*, for a criminal act to qualify as hate crime, it must meet two criteria:

- The act must be a **crime** under the criminal code of the legal jurisdiction in which it is committed;
- The crime must have been committed with a **bias motivation**.

Crime + Bias Motivation = HATE CRIME

Committing a crime with a **bias motivation** means that the perpetrator chooses the target of the crime on the basis of specific protected characteristics. A **protected characteristic** is a fundamental or core characteristic that is shared by a group, such as race, religion, ethnicity, language or sexual orientation.

The target of a hate crime may be a person, a group of people or even property associated with a collective of individuals sharing a protected characteristic.⁸ The feeling of hate towards the individual victim is **not** a prerequisite of the perpetrator:

*"Bias means that a person holds prejudiced ideas about a person or a group. Since hate crimes are committed because of what the targeted person, people or property represents, the perpetrator may have no feelings at all about an individual victim"*⁹

4. Organization for Security and Co-operation in Europe (OSCE), "Document of the Copenhagen meeting of the conference on the human dimension of the Conference on Security and Co-operation in Europe (CSCE)", (29 June 1990), available at: <<http://www.osce.org/node/14304>>

5. OSCE, "Report of the CSCE Meeting of Experts on National Minorities", (19 July 1991), available at: <<http://www.osce.org/hcnm/14588>>

6. OSCE, "Document of the Eleventh Meeting of the OSCE Ministerial Council, Maastricht", (2 December 2003), available at: <<http://www.osce.org/mc/40533?download=true>>

7. For more information see: <http://www.osce.org/event/summit_2010>

8. "hate crime", *LegislatiOnline*, available at: <<http://www.legislationline.org/topics/topic/4>>

9. OSCE / Office for Democratic Institutions and Human Rights (ODIHR), "Understanding Hate Crimes: A Handbook for Albania", (2012), p.7, available at: <<http://www.osce.org/odihr/104164?download=true>>

Box 1

What does a hate crime look like?

A school is set on fire. Police initially decide it is a simple arson attack. However, the school's population is predominantly made up of Roma children, and investigations reveal that there have been previous incidents of graffiti on the school with anti-Roma slogans such as "Roma get out".

The perpetrators are caught and admit they were responsible for the fire and the graffiti. They say they were motivated by a desire to "cleanse" their area of "aliens". The base offence is arson. But the bias motivation, on the grounds of "race" or ethnicity, makes this a hate crime.

Source: OSCE/ODHIR (2009), Hate Crime Laws. A practical Guide.

Box 2

Different manifestations of hate crime

A recent survey of the EU Fundamental Rights Agency (FRA) on discrimination and hate crime against Jews covered seven types of manifestations of anti-Semitism:

- anti-Semitic **graffiti**;
- **desecration** of Jewish cemeteries;
- **vandalism** of Jewish buildings or institutions;
- **expressions of hostility** towards Jews in the street and other public places;
- anti-Semitism in the **media**;
- anti-Semitism in **political life**;
- anti-Semitism on the **Internet**.

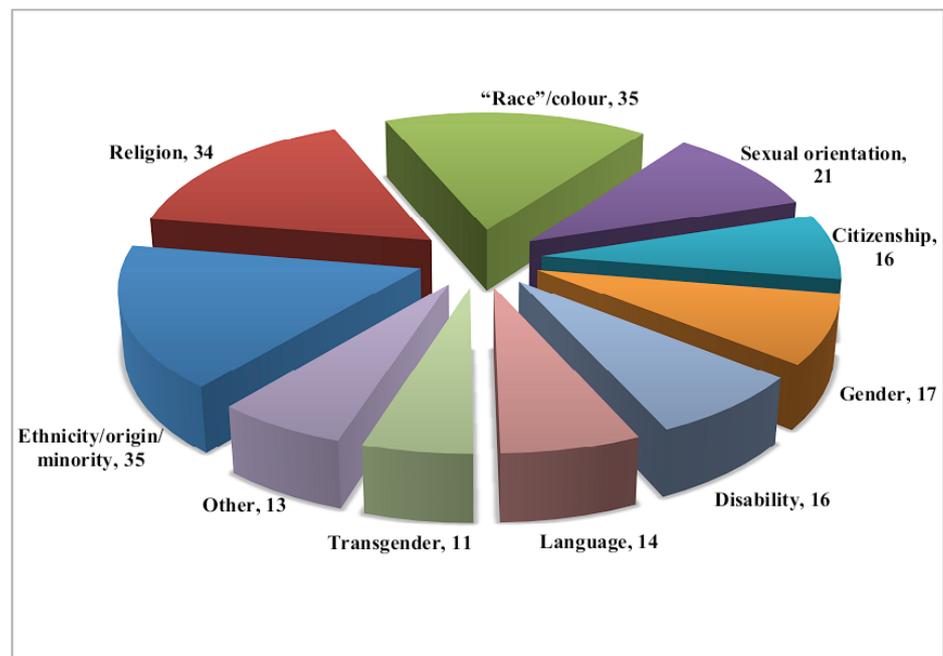
Source: FRA (2013), Discrimination and hate crime against Jews in EU Member States: Experiences and Perceptions of Anti-Semitism

1.2.1 Which are the bias-motivation categories?

Every year, since 2008, the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE receives information on this topic through a “Questionnaire for National Points of Contact on Combating Hate Crime”. The questionnaire aims at seeking information on three different levels: data collection, developments in the legislation, and institutional responses to hate crimes. The most common types of bias motivations in hate crimes can be derived from the statistics summarising information provided by participating countries. According to the 2013 OSCE/ODHIR report, States in the region recorded hate crime incidents based on the following bias categories:¹⁰

- Ethnicity/origin/minority (35 states)
- Religion (34 states)
- “Race”/colour of skin (35 states)
- Sexual orientation (21 states)
- Citizenship (21 states)
- Gender (17 states)
- Disability (16 states)
- Language (14 states)
- Transgender (11 states)
- Other (13 states).

Fig. 1
Bias categories recorded by countries in OSCE region



Source: OSCE/ODIHR (2013), p.19

10. For more detailed information on the relevant states reporting each category please check OSCE / ODIHR, “Annual report for 2012. Hate crimes in the OSCE region: Incidents and responses”, (November 2013), pp. 18-19, available at: <http://tandis.odihr.pl/hcr2012/pdf/Hate_Crime_Report_full_version.pdf>

In particular, 22 States recorded anti-Semitic crimes; 21 recorded anti-Muslim crimes; 16 recorded crimes motivated by bias against Christians and members of other religions; and 14 recorded anti-Roma crimes. However, the data submitted on hate crimes with specific bias motivations remain scarce.

Fig. 2
Bias motivation recorded by OSCE countries

Participating State	Overview of specific bias motivations recorded			
	Anti-semitic crimes	Anti-Muslim crimes	Crimes motivated by bias against Christians or other religions	Anti-Roma crimes
Austria	X	X		
Belgium	X	X	X	X
Bulgaria		X	X	X
Canada	X	X	X	
Croatia	X	X	X	X
Czech Republic	X	X	X	X
Denmark	X	X	X	
Finland	X	X	X	
France	X			
Germany	X			
Greece	X	X		
Iceland		X		
Ireland	X			
Italy	X			
Latvia				X
Liechtenstein	X	X		
Moldova	X	X	X	X
Netherlands	X	X	X	X
Poland	X	X	X	X
Portugal				X
Serbia	X	X	X	X
Spain	X	X	X	X
Sweden	X	X	X	X
Switzerland	X	X	X	X
Tajikistan		X		
United Kingdom	X	X	X	X
United States	X	X	X	

Source: OSCE/ODIHR (2013), pp. 20-21.

1.2.2 The normalisation of hate and its consequences¹¹

The **normalisation** of hate can be understood as the tendency of regarding visual and verbal discriminatory and racist manifestations as a normal element of daily interactions and social relations. Furthermore, *“rather than revealing the social disvalue of racism, normalisation is in direct relation to the frequently applied practice by the perpetrators of playing the part of the victims (in terms of ‘we are only defending ourselves and our rights’)”*.¹²

Nowadays, even though explicit and violent forms of hatred still exist, a series of more subtle ways of disseminating discriminative and racist ideas have gained the upper hand. These practices range from more private statements, for example tattoo and pictures, to publicly shared ones such as public speeches, slogans and web content. A worrying trend, for example, is generally observed in regard to the media: *“media reporting has been shown to contribute to a perpetuated degrading and exclusion of minority groups, [...] because sensationalist media reporting tends to represent racist outbreaks of the majority population as a ‘normal’ reaction of the state and the people”*.¹³

Furthermore, these “newer” forms of discrimination and racism have become so embedded in social processes and structures that the normalisation of hate has also affected the realm of politics. Beyond the increasing diffusion of populist and radical right-wing political parties, it is also noticeable a: *“[...] a shared ‘nativist’ pan-European root of racism [...] in various social and economic policies that put ‘our own people’ first – particularly in the current situation of the global social and economic crisis”*.¹⁴

Also as a consequence of the most recent economic and social crisis, and the diffused discontent amongst populations, the normalisation of hate is becoming a widespread trend and is cause for increasing concern.¹⁵ The diffusion of this *“exclusionary racist logic perceiv[ing] the supposed cultural characteristics of minorities and immigrant communities as a ‘problem’ or ‘threat’”*¹⁶ is a process that needs to be seriously addressed by institutions at a national, regional and international level, together with civil society.

The **Pyramid of Hate**, elaborated by the Anti-Defamation League,¹⁷ effectively shows how dangerous the normalisation of hate can be. Specifically, it reveals how discriminative behaviors, when widely accepted as normal by the society, can step up to more serious actions and events, even with life- threatening consequences. At the bottom of the pyramid we can find biased behaviors, such as stereotyping attitudes and belittling jokes, which have the potential to “climb up” the pyramid and lead to more violent acts such as assaults and vandalism and gradually reach the peak of genocide.

The pyramid of hate should not be regarded as a mere academic speculation. Unfortunately, practical examples support this model. Therefore, it is fundamental to understand that if those discriminative attitudes at the bottom of the pyramid, instead of being limited and

11. This paragraph is based on the considerations put forward in: Bajit, V., (2014), “Contemporary racism across Europe”, *Freedom From Fear Magazine*, 9: pp. 36-41, available at: http://f3magazine.unicri.it/wp-content/uploads/F3_09.pdf

12. Bajit, op. cit., p.37

13. Ibid.

14. Ibid.

15. See, for instance: Sharma, Y., “Review-2000 Europe: Neo-Nazi on the rise”, (Dec 21 2000), Berlin, *Inter Press Service News Agency*, available at: <http://www.ipsnews.net/2000/12/review-2000-europe-neo-nazism-on-the-rise/>

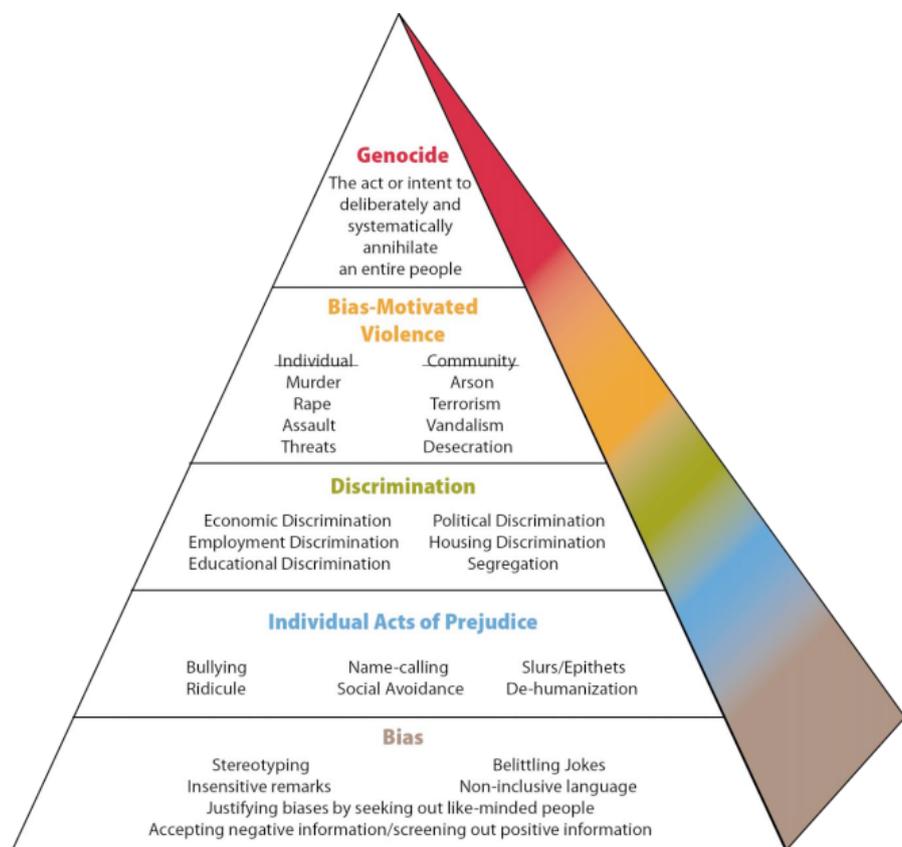
16. Bajit, op. cit., p.38

17. For further information see: <http://www.adl.org/>

stigmatized, are perceived as normal by the rest of the community, there is a likelihood of triggering an increasingly violent escalation in the manifestation of hate. The importance of addressing and dismantling the “newer” forms of discrimination and racism should then be taken seriously in order to halt the normalisation of hate.

The need to address the normalisation of hate also encompasses a commitment of raising awareness on the importance of reporting episodes of hate crime and discriminatory behaviours amongst **witnesses** and offers them, as well as victims, an appropriate protection.

Fig. 3
Pyramid of Hate



Source: Anti Defamation League (2005).

*“If people or institutions treat behaviors on the lower levels as being acceptable [in the society] or ‘normal’, it results in the behaviors at the next level becoming more accepted. The Pyramid of Hate demonstrates that the hate of genocide is built upon the acceptance of behaviors described in the lower levels of the pyramid”.*¹⁸

18. Anti Defamation League, (2005), “Pyramid of Hate”, available at: <<http://www.adl.org/assets/pdf/education-outreach/Pyramid-of-Hate.pdf>>

1.2.3 A focus on racism

As mentioned above, **race and ethnicity** are **the most frequent bias-motivation categories** reported by OSCE/ODHIR. The significant number of daily manifestations of racism is a constant reminder of the continuing importance of this social and political issue in the contemporary global environment. Recurrent incidents in a number of countries worldwide show that the power of racist ideas remains strong, forging ideological movements and even political parties, which sometimes have deadly consequences.

After the experience of the Holocaust and the heavy moral burden of the Second World War, a number of definitions were developed in order to recognise and fight **racism**. According to the [UN Convention on the Elimination of All Forms of Racial Discrimination \(CERD\)](#),¹⁹ Art. 1: “[...] the term ‘**racial discrimination**’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

The European Union explicitly banned racism along with many other forms of social discrimination in Art. 21 of the [Charter of Fundamental Rights of the European Union](#),²⁰ which states that: “

[...] any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”.

Both definitions make no distinction among different forms of personal/individual or social/common characteristics, thus making the definition of racism applicable in a wider context. Expressions of racism differ from one national context to the other. According to the LIGHT ON project research, for instance, Italy and the United Kingdom are countries with large immigration, from Muslim/Arab countries as well as from Africa, Middle East and Far East/Asia. The Muslim communities are one of the most vulnerable victims of racist prejudice and discrimination. Even in Hungary and Slovenia, not currently affected by mass immigration, migrants are frequently discriminated against. Moreover, in these two countries Roma people are by far the most frequent victims of racist discrimination, but there are also other communities, like the *Izbrisani* (or “erased” of the former Yugoslav Republic) and Muslims in Slovenia, and Jews in Hungary. Religious and ethnic characteristics seem to reinforce the inequality and discrimination of these communities in an intersectional manner.

19. United Nations General Assembly (UNGA), “Convention on the Elimination of All Forms of Racial Discrimination”, (21 December 1965), Res 2106 (XX), available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>>

20. European Union (EU), “Charter of Fundamental Rights of the European Union”, (7 December 2000), *Official Journal of the European Communities*, OJ C 364/01, available at: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>>

Box 3

Focus on Finland

Street violence towards Somali immigrants is higher in Finland than anywhere else in Europe, despite Finland having a lower proportion of Somalis than the rest of Europe. Somalis and Muslims are the most negatively affected minority groups in Finland. In December 2012, the Finnish Police reported an increase in cases of racism and related physical abuse towards migrant and minority communities.

Furthermore, several members of parliament from the True Finns Party have been found guilty of hate speech crimes in public media and were thus convicted or fined. However, whilst Internet monitoring has increased, overcoming hate speech in online forums and blogs remains a challenge.

Box 4

Focus on Hungary

In Hungary, the most frequent episodes of racist discrimination occur against the Roma people and the Jews. They often appear to be incorrectly addressed and not appropriately sanctioned by the state. Migrants and the Roma continue to face difficulties in accessing rights in the areas of employment, housing, health, education; and accessing public and private services.

Although there are various endeavours to facilitate the integration and social inclusion of migrants and Roma, there is no mechanism in place to evaluate the effectiveness of the initiatives. This, coupled with the lack of a comprehensive social inclusion and migration strategy, hinders the ability of these initiatives to reach the most vulnerable groups.

The unstable economic situation increases the risk for racist incidents, leading to the continuation of targeted attacks and violence against members of the Roma community by far-right and radical organizations. According to the Athena Institute, in autumn 2013 eight major extremist groups were active in Hungary.²¹

21. For more information refer to Athena Institute, "Hate Group Map on Hungary", available at: <http://www.athenainstitute.eu/en/map/>

Box 5

Focus on Italy

Racism remains an issue in Italy. The Roma population, Muslims, migrants, asylum seekers and refugees are particularly vulnerable, they encounter everyday discrimination in the forms of hate speech, as well as institutional difficulties and violations of their rights in employment, housing, and education.

Moreover, media representation often seems to fuel discriminatory attitudes towards these minority groups, migrants and asylum seekers. But hate speech is not only limited to media and extremist groups, as it has entered the political debate with anti-immigration groups represented in the Italian Parliament. The high level of (undocumented) immigration, which has increased in recent years due to political upheavals in the Northern Africa, contributes greatly in unleashing waves of racist hate speech.

LGBT individuals have also been a target for racism and racist hate speech, even within the National Parliament. Institutional discrimination, indeed, remains high towards all the above mentioned discriminated groups.

Since 2004, there is a specialized institution in charge of dealing with racist and ethnic discrimination, the National Anti-Racial Discrimination Office (UNAR - Ufficio nazionale antidiscriminazioni razziali). This entity was established with legislative decree n. 215 of 9 July 2003, which absorbed the EC Directive 2000/43. Its function is to guarantee, with full autonomy of judgment and with impartiality, the effectiveness of the principle of equal treatment, to monitor the implementation of existing safeguard instruments against discrimination and to contribute to eliminate discrimination based on race and ethnic origin analyzing its impact on gender and its relationship with other forms of discrimination. At the same time, the Observatory for security against acts of discrimination (OSCAD) was established to protect the victims of hate crime, to help individuals belonging to minorities to enjoy their right to equality and guarantee protection against any form of discrimination. OSCAD is operated by the Polizia di Stato and the Carabinieri and is part of the Department of Public Security - Central Directorate of Criminal Police. Among its main functions it receives reports of discriminatory acts, starts up targeted investigations, follows up the outcome of discrimination complaints, prepares training modules and puts forwards measures to prevent and combat discrimination.

Box 6

Focus on Slovenia

In Slovenia there is a particularly strong link between racism and nationalism. *Izbrisani*, the so-called “erased” people,²² as well as migrants, Roma and Muslims are the main victims of discrimination. The attitude towards most of these groups, especially towards migrants, erased and Muslims, is connected to the historical developments following the dissolution of the former Federal Republic of Yugoslavia. Most of these groups of people were living and working in Slovenia at the time the country became independent, and the Slovenian countrywide identity was predicated, distanced from the Balkans and from the so-called southern nations. Currently, racism, as well as nationalism, is also affected by the economic and social crisis.

Xenophobia and intolerance towards Muslims have been a persistent reality since the early 1970s, originating from the request by the Muslim community to build the first mosque in Ljubljana. Public debates about the mosque and more widely about the Islamic presence went from latent to explicit xenophobia. The Constitutional Court blocked the referendum on building the mosque in a blatantly Islamophobic attempt to thwart the Muslims’ religious rights. Moreover, despite the latest developments that show that the Islamic Community is getting closer to having its mosque built, Muslims still feel they are being discriminated against.

After years without a comprehensive and systematic approach or coordinated policies in areas such as education, accommodation, employment and social security, the situation of Roma has failed to improve. Police surveillance and neglected areas of municipalities continuously strengthen long-lasting historical discrimination and the constitutional guarantee is not implemented.

The Italian and Hungarian minorities also face problems in enforcing their rights. According to the Ombudsman’s report, in many cases these groups and communities encounter institutional discrimination and racism, which is often exploited for political debate.²³

22. For more information see:
<<http://www.mirovni-institut.si/izbrisani/en/>>

23. For further information see: ENAR Slovenia

Box 7

Focus on the United Kingdom

The UK is understood as having one of the most advanced equality and human rights legislation in the world. The UK has also accomplished big cultural and social shifts in attitudes that proactively reject racism. However, racist discrimination remains an everyday experience affecting different minorities. On an everyday interpersonal level racist language, interpersonal discrimination and violence occurs; while on the institutional level discrimination in some cases is performed by the police, educational institutions, employers, and is widespread within the political discourse.

The economic crisis in recent years has fuelled the rise of far-right groups such as the English Defence League and anti-EU and anti-immigration party Ukip (UK independence Party), which has acquired significant recognition in recent local elections. Groups that are most affected by racist discrimination are ethnic and religious minorities.

The existence of Islamophobia affects Muslim communities, which is strengthened by persistently negative and prejudiced coverage of Muslims in the media. Muslim communities are also a special focus of many reports of the European Network against Racism.²⁴

Racism is also affecting Black or other “non-white” ethnic groups, including migrants from African, Caribbean, Asian and Middle-Eastern regions. The persistence of discrimination and a lack of perspective for young members of minority groups is also believed to be the cause of the August 2011 riots, which broke out in Tottenham after a protest following the death of Mark Duggan, who was shot dead by police on 4 August 2011. Patterns of racial inequality in conjunction with rising levels of frustration and political disenfranchisement and unemployment in certain communities are intrinsic to understanding the reasons behind the outbreak of civil unrest.

24. ENAR Shadow Reports
2011-12

1.3 Hate Crimes and Anti-Discrimination Laws: Treaties, agreements and conventions at international level

*"Bias-motivated violence is always harmful to society but is particularly destructive when there is either no response or an inadequate response by State institutions [...] States have taken on obligations under international human rights law and made other commitments to protect individuals from discrimination, especially in its most violent forms".*²⁵ Over the years, the International Community has adopted a large number of instruments (legally binding instruments such as treaties, agreements, conventions, but also soft law tools as declarations, recommendations, etc.) addressing the issue of discrimination and hate crime.

25. Human Rights First, (2011), "Combating Xenophobic Violence. A framework for action", p.5., available at: <http://www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR_Blueprint.pdf>

26. UNGA, "Universal Declaration of Human Rights", (10 December 1948), 217 A (III), available at: <<http://www.un.org/en/documents/udhr/index.shtml>>

27. For further information see: <http://www.un.org/en/documents/udhr/hr_law.shtml>

28. UNGA, "Prevention and Punishment of the Crime of Genocide", (9 December 1948), A/RES/260, available at: <<http://www.un-documents.net/a3r260.htm>>; today, the Convention has 41 signatories and 144 parties, refer to: <https://treaties.un.org/Pages/ViewDetails.aspx?src=UNTSOLINE&abid=2&mtdsg_no=IV-1&chapter=4&lang=en#Participants>

29. UNGA, "Convention Relating to the Status of Refugees", (28 July 1951), United Nations, *Treaty Series*, 189: p. 137, available at: <<http://www.unhcr.org/4a5edac09.pdf>>; today, the Convention has 19 signatories and 145 parties, refer to: <https://treaties.un.org/pages/ViewDetailsII.aspx?&src=UNTSOLINE&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&lang=en>

30. UNGA, "Convention Relating to the Status of Stateless Persons", (28 September 1954), United Nations, *Treaty Series*, 360: p. 117, available at: <http://legal.un.org/avl/pdf/ha/cssp/cssp_e.pdf>; to date the Convention has 23 states signatories and 80 parties, refer to: <https://treaties.un.org/pages/ViewDetailsII.aspx?&src=UNTSOLINE&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&lang=en>

1.3.1 Main international anti-discrimination laws

Here is a brief summary of the major international anti-discrimination laws:

- ▶ Promoting substantive equality among human beings, including freedom from discrimination, is a foundational principle in human rights reflected in **Art. 1** of the [Universal Declaration on Human Rights](#)²⁶ (UDHR), adopted by the UN General Assembly in 1948, which states: *"All human beings are born free and equal in dignity and rights"*.
 - **Art. 2** of the UDHR provides for equal enjoyment of the rights and freedoms proclaimed, *"without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"*

To date, all United Nations Member States have ratified at least one of the nine core international human rights treaties, and 80 percent have ratified four or more, giving concrete expression to the universality of the UDHR and international human rights.²⁷

- ▶ The [Convention on the Prevention and Punishment of the Crime of Genocide](#) (1951)²⁸
 - **Art. 2** – *"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group [...]"*
- ▶ The [Convention Relating to the Status of Refugees](#) (1951)²⁹ contains a non-discrimination provision in article 3, which also applies to the states party of the Protocol Relating to the Status of Refugees.
 - **Art. 3** – *"The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin."*
- ▶ The same wording is also included in **Art. 3** of the [Convention Relating to the Status of Stateless Persons](#) (1954).³⁰
- ▶ The [International Convention on the Elimination of All Forms](#)

of Racial Discrimination (ICERD) (1965)³¹ obliges governments to condemn and eliminate racial discrimination by both public institutions and officials and private individuals, guaranteeing to everyone —without distinction as to race, color, or national origin, “*the right to security of person and protection by the State against violence or bodily harm.*” One of the Committee’s General Recommendations has stressed that States should collect comprehensive statistics and other information on complaints, prosecutions, and convictions in cases of racist or xenophobic violence.

- In **Art. 1**, racial discrimination is defined as: “*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or other field of public life*”
- **Art. 4** “*States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination [...]:*

(a) *Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;*

(b) *Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;*

(c) *Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.”*

- ▷ **The International Covenant on Civil and Political Rights** (ICCPR) (1966)³², commits its parties to respect the civil and political rights of individual:

- Among the rights guaranteed are the right to life (**Art. 6**) and security of the person (**Art. 9**) - rights that states have an obligation to ensure “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (**Art. 2**).
- In particular, **Art. 20(2)** states that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”
- The treaty, to which 167 States are now party, requires

31. UNGA, “International Convention on the Elimination of All Forms of Racial Discrimination”, (21 December 1965), United Nations, *Treaty Series*, 660: p. 195, available at: <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en>; to date the Convention has 87 states signatories and 176 parties, refer to: <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en>

32. UNGA, “International Covenant on Civil and Political Rights”, (16 December 1966), United Nations, *Treaty Series*, 999: p. 171, available online at: <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-4&chapter=4&lang=en>; to date the International Covenant has 74 states signatories and 167 parties, refer to: <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en>

governments to report to the Human Rights Committee on the measures adopted to give effect to the rights recognized.

33. UNGA, "International Convention on the Suppression and Punishment of the Crime of Apartheid", (30 November 1973), A/RES/3068(XXVIII), available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/281/40/IMG/NR028140.pdf?OpenElement>; to date the Convention has 31 signatories and 108 parties, refer to: https://treaties.un.org/Pages/ViewDetails.aspx?src=UNTSOnline&abid=2&mtdsg_no=IV-7&chapter=4&lang=en#Participants

34. UNGA (1979), "Convention on the Elimination of All Forms of Discrimination against Women", available at: <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>; to date the Convention has 99 signatories and 187 parties, refer to: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

35. UN (1989), "Convention on the Rights of the Child" available at: https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11&chapter=4&lang=en, to date the Convention has 140 signatories and 194 parties.

36. UNGA, "Convention on the Rights of the Child, 20 November 1989", United Nations, *Treaty Series*, 1577: p. 3, available at: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en, to date the Convention has 140 signatories and 194 parties, refer to: https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11&chapter=4&lang=en

37. UNESCO, "Declaration on Race and Prejudice, 27 November 1978", available at: http://portal.unesco.org/en/ev.php-URL_ID=13161&URL_DO=DO_TOPIC&URL_SECTION=201.html

38. To date, the Organization has 195 Members and 9 Associate Members. For more information see: <https://en.unesco.org/countries/member-states>

39. UNGA, "Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief", (25 November 1981), A/RES/36/55, available at: <http://www.un.org/documents/ga/res/36/a36r055.htm>

- ▶ The [International Convention on the Suppression and Punishment of the Crime Apartheid](#) (1976).³³
- ▶ The [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW),³⁴ adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.
- ▶ The [UN Convention on the Right of the Child](#) (1989)³⁵ with **Art. 2** (2) calls on States Parties to "take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."³⁶

A number of declarations have also been adopted:

- ▶ The [UNESCO Declaration on Race and Racial Prejudice](#) (1978).³⁷
 - **Art. 2** "1. Any theory which involves the claim that racial or ethnic groups are inherently superior or inferior, thus implying that some would be entitled to dominate or eliminate others, presumed to be inferior, or which bases value judgments on racial differentiation, has no scientific foundation and is contrary to the moral and ethical principles of humanity.
 - 2. Racism includes racist ideologies, prejudiced attitudes, discriminatory behavior, structural arrangements and institutionalized practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practice it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security."

The Declaration has equal legal force for all Member States of UNESCO.³⁸

- ▶ The [UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief](#) (1981)³⁹ requires states to "prevent and eliminate discrimination on the grounds of religions" and to "take all appropriate measures to combat intolerance on the grounds of religion" (**Art. 4**). The Declaration was adopted by the UN General Assembly on November 25, 1981 but is not legally binding.

40. UN, "United Nations, Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence", (8 September 2001), available at: <<http://www.un.org/WCAR/durban.pdf>>

41. UN Office of the High Commissioner for Human Rights, "Outcome document of the Durban Review Conference," (April 24, 2009), available at: <http://www.un.org/en/durbanreview2009/coverage/press/pr_21-04-09.shtml>

42. Main source of this paragraph: ARTICLE 19 website, section on hate speech. Refer to: <<http://www.article19.org/pages/en/hate-speech-more.html>>

43. UNGA, "International Covenant on Civil and Political Rights", (16 December 1966), United Nations, Treaty Series, 999: p. 171, available online at: <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-4&chapter=4&lang=en>

44. Amongst these States ARTICLE 19 quotes: Belgium, Denmark, Finland, Iceland and the US.

45. OHCHR, (1983), "CCPR General Comment n.11, point 2", available at: <<http://www.ohchr.org/Documents/Issues/Opinion/CCPRGeneralCommentNo11.pdf>>

46. UNGA, "International Convention on the Elimination of All Forms of Racial Discrimination", (21 December 1965), United Nations, Treaty Series, 660: p. 195, available at: <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en>

47. 155 States signed the Convention, whilst some have signed it with reservation, amongst others: Australia, Austria, Belgium, France, Italy, Malta, Monaco, Switzerland, the UK and the US. In the United States, in particular, there is a heated debate going on concerning the conflict between hate speech and the liberties guaranteed by the First Amendment, in primis, freedom of speech. For further information, please refer to: Van Blarcum, C., (2005), "Internet Hate Speech: The European Framework and the Emerging American Haven", Wash. & Lee L. Rev., 62: pp. 781-830; Banks, J., (2010), "Regulating hate speech online", *International Review of Law, Computers and Technology*, 24 (3): pp. 233-239, available at: <<http://shura.shu.ac.uk/6901/>>

- ▶ At the end of the World conference against racism, racial discrimination, xenophobia and related intolerance in 2001, the International Community adopted the [Durban Declaration and Program of Action](#) (2001),⁴⁰ which called on States to carry out thorough investigations and to combat impunity in cases of racist or xenophobic violence. As part of the Durban Review Conference (2009), most U.N. Members States agreed in the [Outcome Document of the Durban Review Conference](#) (2009)⁴¹ that reaffirmed the responsibility of governments to respond to racist and xenophobic crimes and called on governments to collect reliable information on these and other forms of hate crimes.

1.3.2 Main international agreements on hate speech⁴²

As discussed above, the foundational principle of international human rights is the equality and dignity of every human being. On this basis, international law condemns statements that refuse to recognise the equality of all individuals.

- ▶ [International Covenant on Civil and Political Rights](#) (ICCPR) (1996) (**Art. 19 - 20**).⁴³ Article 20(2) of the ICCPR requires states to prohibit hate speech: "*any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law*"

Due to the possible risks which derives from this restriction to the fundamental right to free speech, some States both in the U.S and in EU have entered reservations on **Art. 20(2)**;⁴⁴ however, according to the UN Human Rights Committee there is no contradiction between the duty to adopt national legislation under the ICCPR and the right to freedom of expression: "*In the opinion of the Committee, these required prohibitions are fully compatible with the right of freedom of expression as contained in article 19, the exercise of which carries with it special duties and responsibilities*".⁴⁵

- ▶ [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1965) (**Art. 4**).⁴⁶

Article 4 of CERD requires State Parties, among other things, to consider an offence punishable by law all dissemination of ideas based on racial superiority or hatred [and] incitement to racial discrimination. In contrast with ICCPR, CERD requires the prohibition of hate speech even if it does not constitute an incitement to discrimination, hostility or violence. States should have [due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set for in article 5 of this Convention] which include freedom of expression. Also in this framework, since prohibition of hate speech and respect of the right of expression are by many considered in contradiction, the International Community is divided. Several States Parties to the Convention have entered reservation to Article 4.⁴⁷

In 2001, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and

the OAS Special Rapporteur on Freedom of Expression released a [Joint Statement on Racism and the Media](#),⁴⁸ setting out a number of conditions which hate speech law should respect. Such as:

- No one should be penalised for statements which are true;
- No one should be penalised for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;
- The right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;
- No one should be subject to prior censorship;
- Any imposition of sanctions by courts should be in strict conformity with the principle of proportionality.

- ▷ [Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems](#) (2003).⁴⁹

One of the main obstacles in the development of a harmonised international legal framework on hate speech online is a jurisdictional matter. Often online hate speech originates in one jurisdiction, but its effects are felt elsewhere. The CoE “Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems” (2003) represents probably the most important effort to overcome such difficulty. The Protocol is aimed at harmonising the way local judicial systems regulate computer-related offences in order to promote cooperation in prosecuting hate crimes in the cyberspace. An interesting aspect regarding this instrument is the different position of the US, which has the status of observer within the CoE. The US’s signature of the Convention was obtained after the protocol on Internet hate speech was removed. As a response, the CoE introduced a separate Additional Protocol, under which the State Parties are required to criminalise acts of racist and xenophobic nature committed through computer systems.

48. The Representative on Freedom of the Media Organization for Security and Co-operation in Europe, (Ed. by Hulin, A.), (2013), “Joint Declarations of the representatives of intergovernmental bodies to protect free media and expression”, Vienna, available at: <http://www.osce.org/fom/99558?download=true>

49. CoE, “Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems”, (28 January 2003), Strasbourg, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/189.htm>

50. CoE, “European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14”, (4 November 1950), ETS 5, available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf

1.3.3 Regional instruments in Europe

- ▷ [European Convention of Human Rights \(ECHR\)](#).⁵⁰ ECHR is the first Council of Europe’s convention and the cornerstone of all its activities. It was adopted in 1950 and entered into force in 1953. Its ratification is a prerequisite for joining the Organisation. The Convention established the European Court of Human Rights (ECtHR).
- **Art. 14** “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political

or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Under well-established ECtHR case law, article 14 of the ECHR is to be read as obliging Member States to render visible (to ‘unmask’) bias motives leading to criminal offences by highlighting and punishing hate crimes more severely than others.⁵¹

▷ [Charter of Fundamental Rights of the EU](#) (2000)

- **Art. 21** *“Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”*⁵²

▷ [EU Directive \(2012/29/EU\)](#) of 25 October 2012, [Establishing minimum standards on the rights, support and protection of victims of crime](#), and replacing Council Framework Decision 2001/220/JHA.⁵³

▷ [Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law](#),⁵⁴ which provides for a common EU-wide criminal law and criminal justice approach to combating racism and xenophobia: *“It aims to ensure that similar behaviour constitutes an offence across EU Member States and that effective, proportionate and dissuasive criminal penalties are provided”*⁵⁵

- **Art. 1** requires EU Member States to take measures to punish public incitement to violence or hatred directed against a person or persons belonging to a group defined by reference to race, color, religion, descent or national or ethnic origin and the commission of such acts by public dissemination or distribution of tracts, pictures or other material. It also requires taking measures to punish any conduct publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes, when the conduct is carried out in a manner likely to incite violence or hatred against a person or persons belonging to one of the groups listed in Article 1(a). Instigation, aiding and abetting such conduct are also punishable (Article 2).
- **Art. 4** for other criminal offences motivated by hatred or prejudice gives law makers two options: *“For offences other than those referred to Article 1 and 2, Member States shall take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstances, or, alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties”*

▷ [Additional Protocol to the Council of Europe Convention on cyber crime, concerning the criminalisation of acts of a racist a xenophobic nature committed through computer systems](#) (2003):⁵⁶

51. European Union Agency for Fundamental Rights (FRA) (2012), “EU-MIDIS Data in Focus Report 6: Minorities as Victims of Crime”, available at: <<http://fra.europa.eu/en/publication/2012/eu-midis-data-focus-report-6-minorities-victims-crime>>, p.16

52. European Union, “Charter of Fundamental Rights of the European Union”, (26 October 2012), *Official Journal of the European Communities*, 2000/C 364/01, available at: <http://www.europarl.europa.eu/charter/pdf/text_en.pdf>

53. European Union: Council of the European Union, “Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA”, (14 November 2012), L 315/57, available at: <<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32012L0029>>

54. European Union: Council of the European Union, “Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law”, (28 November 2008), available at: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>>

55. FRA (2012), op. cit., p.25

56. CoE, “Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems”, (28, January 2003), available at: <<http://conventions.coe.int/Treaty/en/Treaties/Html/189.htm>>

- **Art. 2.1** “ *‘racist and xenophobic material’ means any written material, any image or any other representation of ideas and theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors.*”

- ▷ [Recommendation CM/Rec\(2010\)5 on measures to combat discrimination on grounds of sexual orientation or gender identity](#), adopted by the Council of Europe’s Committee of Ministers in March 2010.⁵⁷

Other soft law international instruments on the increasing necessity of tackling hate speech online are:

- ▷ [CoE Recommendation \(97\)20 on Hate Speech](#) (particularly through the media) adopted on 30 October 1997;⁵⁸
- ▷ [European Commission against Racism and Intolerance \(ECRI\) General Policy Recommendation n.6 on Combating Dissemination of Racist, Xenophobic, Anti-Semitic material via the Internet](#) adopted on 15 December 2000.⁵⁹

57. CoE: Committee of Ministers, “Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity”, (31 March 2010), CM/Rec(2010)5, available at: <http://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/LGBT_en.pdf>

58. CoE: Committee of Ministers, “Recommendation No. R(97)20 of the Committee of Minister States on ‘Hate Speech’”, (30 October 1997), available at: <http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt/docs/CM_Rec%2897%2920_en.pdf>

59. European Commission against Racism and Intolerance (ECRI), “ECRI General Policy Recommendation N°6: Combating the dissemination of racist, xenophobic and antisemitic materiel via the Internet”, (15 December 2000), available at: <http://www.coe.int/t/dghl/monitoring/ecri/activities/gpr/en/recommendation_n6/Recommendation_6_en.asp>

Box 8

FURTHER READING:**Non-treaty standards on racism**

Below, some recommendations on these issues published by the European Commission against Racism and Intolerance from the mid-90's onwards and the Commitments released by the OSCE are listed. The reiteration of this topic in the formal discourse at European level underlines that the issue of discrimination and the related crimes needs to be tackled and that it is still not sufficiently addressed.

European Commission against Racism and Intolerance (ECRI)

- ▷ ECRI general policy recommendation N°1: Combating racism, xenophobia, anti-Semitism and intolerance (1996);
- ▷ ECRI general policy recommendation N°7 on national legislation to combat racism and racial discrimination (2002);
- ▷ ECRI general policy recommendation N°3: Combating racism and intolerance against Roma/Gypsies (1998);
- ▷ ECRI general policy recommendation N°2: Specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level (1997);
- ▷ General policy recommendation n° 5: Combating intolerance and discrimination against Muslims (2000);
- ▷ General policy recommendation n° 6: Combating the dissemination of racist, xenophobic and anti-Semitic material via the internet (2000);
- ▷ ECRI General Policy Recommendation N°8 on combating racism while fighting terrorism (2004);
- ▷ ECRI general policy recommendation N° 9 on the fight against anti-Semitism (2004);
- ▷ Recommendation 1805 (2007): blasphemy, religious insults and hate speech against persons on grounds of their religion (2007);
- ▷ ECRI declaration on the use of racist, anti-Semitic and xenophobic elements in political discourse (2005).
- ▷ Maastricht 2003 (Ministerial Council Decision No. 4/03);
- ▷ Ljubljana 2005 (Ministerial Council Decision 10/05) *"5.2 Strengthen efforts to provide public officials, and in particular law enforcement officers, with appropriate training on responding to and preventing hate crimes⁶⁰, and in this regard, to consider setting up programmes that provide such training, and to consider drawing on ODIHR expertise in this field and to share best practices; [...] Emphasizing the need for consistently and unequivocally speaking out against acts and manifestations of hate, particularly in political discourse, and working in favour of tolerance, mutual respect and understanding [...]";*
- ▷ Sofia 2004 (Ministerial Council Decision no. 12/04) (combat anti-Semitism across the OSCE);

60. The present Reference Text for Trainers, which was developed within the framework of the "Light On" project and tested during a Meeting of Experts organized on the 2nd and 4th of April 2014 at the UNICRI headquarters, can be considered in line with the Ministerial Council Decision 10/05

- ▶ Madrid 2007 (Ministerial Council Decision No. 10/07)
"Acknowledging the specificity of different forms of intolerance, while at the same time recognizing the importance of taking a comprehensive approach and addressing cross-cutting issues in such fields as, inter alia, legislation, law enforcement, data collection and monitoring of hate crimes, education, media and constructive public discourse and the promotion of inter-cultural dialogue, in order to effectively combat all forms of discrimination, [...] - collect and maintain reliable data and statistics on hate crimes and incidents, to train relevant law enforcement officers and to strengthen co-operation with civil society".

1.4 Implementation of the EU anti-discrimination law in the Member States⁶¹

61. Main source of this paragraph: Chopin, I., (2011), "Implementation of EU anti-discrimination law in the Member States: a comparative approach", in Academy of European Law (ERA), "Anti-Discrimination Documentation", available at: http://www.era-comm.eu/oldoku/Adiskri/01_Overview/2011_04%20Chopin_EN.pdf

62. Farkas, L., (2011), "How to Present a Discrimination Claim. Handbook on seeking remedies under the EU Non-discrimination Directives", European Commission Directorate-General for Justice, available at: http://ec.europa.eu/justice/discrimination/files/present_a_discrimination_claim_handbook_en.pdf. For an in-depth analysis of the concept of indirect discrimination see: Tobler, C., (2008), "Limits and potential of the concept of indirect discrimination", European Network of Legal Experts in the non-discrimination field for the European Commission, available at: http://www.non-discrimination.net/content/media/limpot08_en.pdf

63. Council Directive 2000/43/EC, (29 June 2000), implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, *Official Journal L 180*, (19 July 2000), pp. 0022–0026, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

64. Council Directive 2000/78/EC, (27 November 2000) establishing a general framework for equal treatment in employment and occupation, *Official Journal L 303* (02 December 2000), pp. 0016–0022, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>

65. Farkas, L., (2011), op. cit.

66. EC, (17 January 2014), "Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive') and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive')", p. 2, available at: http://ec.europa.eu/justice/discrimination/files/com_2014_2_en.pdf

Since the adoption of the EU Anti-Discrimination Directives, a landmark for the promotion and protection of equality and non-discrimination in the EU, more than 10 years have passed. Some of the key-concepts of these directives and other European equality law include the definition of direct and indirect discrimination, harassment, victimisation and instruction to discriminate; the reversal of the burden of proof; the defence of victim's rights by non-governmental organizations; and effective, proportionate and dissuasive sanctions including compensation.⁶² The degree of implementation varies greatly between countries. In particular, we shall focus on the domestication of the two EU Anti-Discrimination Directives.

- [Directive 2000/43/EC "Racial Equality"](#)⁶³ (Racial and ethnic origin for employment, education, social protection and social advantages, goods and services including housing)
- [Directive 2000/78/EC "Employment Equality"](#)⁶⁴ (Age, disability, sexual orientation, religion or belief in employment).

The two Directives require Member States to prohibit discrimination on the grounds of racial or ethnic origins, religion or belief, disability, age and sexual orientation. But the Directives do not contain any specific definition of these grounds. EU laws take precedence over domestic law within its field of competence; this implies that national courts must give priority to the former over the latter. However, their application in domestic courts is slightly more complicated: it is up to Member States how these directives are implemented, i.e. transposed, in their national legal systems.⁶⁵

The transposition process of the two Equality directives developed as it follows:

- 2003 date of transposition
- 1 January 2004 for EU 10
- 1 January 2007 for Bulgaria and Romania
- 2011 transposition in all countries but still some gaps (incorrect/insufficient transposition)
- Requirement to align with the EU Aquis for candidate countries (Croatia, FYROM, Iceland, Montenegro, Turkey).

Today, all 28 Member States have transposed the Directives and gained experience in their application. The Court of Justice of the European Union (CJEU) has also developed the interpretation of the Directives through its case-law.⁶⁶

In particular for what concerns this Training Manual, the principle of equal treatment or specific grounds of discrimination has been included by all EU Member States either in the Constitution (except for UK which lacks a written constitution) or/and in their national anti-discrimination laws. Some States – Belgium, Bulgaria, Cyprus, Hungary,

Poland, Romania, Spain and Sweden – have opted for a broader list of prohibited grounds of discrimination than the ones specified into the two Directives.

1.4.1 Examples of ECtHR case-law on racial discrimination in the EU

“Over the last decade, the European Court of Human Rights (ECtHR) has consistently argued that hate crime victims have the right not only to be generally acknowledged as victims of crime, but also as having suffered victimization specifically because of the biased attitudes of an offender or, very often, offenders.”⁶⁷

Guidelines annexed to Warsaw Declaration of 2005⁶⁸ commit to *“greater complementarity between European Union and Council of Europe legal texts. The EU shall strive to transpose those aspects of Council of Europe Conventions within its competence into European Law”*.⁶⁹ The EU Member States are therefore committed to bring their national legislation in line with the obligations coming from the ECtHR. The following cases show the approach of the ECtHR in addressing cases of discrimination and bias-motivated crimes.

▷ [European Court of Human Rights - Case of Nachova and Others v. Bulgaria](#)⁷⁰ (2004)

This case relates to a member of the Bulgarian military police who, during an arrest attempt, killed two Bulgarian nationals of Roma origin in July 1996. A Chamber of the First Section of the ECtHR (the Chamber) rendered a first verdict in the Nachova case in February 2004, unanimously holding that there had been violations of Article 2 and Article 14 of the ECHR. The Chamber also referred the case to the Grand Chamber, which confirmed in a July 2005 judgment that Bulgaria had failed to comply with its obligations under Art. 2 of the ECHR, in that the relevant legal framework on the use of force was fundamentally flawed. *“Racial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for this reason that the authorities must use all available means to combat racism and racist violence, thereby reinforcing democracy’s vision of a society in which diversity is not perceived as a threat but a source of its enrichment”*.

▷ [European Court of Human Rights - Case of Angelova and Illiev v. Bulgaria](#)⁷¹ (2007)

In 1996, Mr. Angel Iliev died after being beaten and stabbed by a group of teenagers. The attackers were arrested within hours. They admitted that they had been looking for Roma to attack and expressed their hatred of Roma and other minorities. Five of the attackers were indicted for *“hooliganism of exceptional cynicism and impudence”*, but for nine years nothing further was done to bring them to justice.

The European Court of Human Rights held that Bulgaria was in breach of its obligations to protect and prosecute human rights violations and

67. FRA, (2012), op. cit., p.15

68. CoE, (2005), “Warsaw Summit, Council of Europe Declaration and Action of Plan”, available at: http://web.bf.uni-lj.si/students/vnd/knjiznica/Skoberne_literatura/gradiva/deklaracije/coe_WARSAW%20SUMMIT.pdf

69. Ibid.

70. Summary of the case law reported in FRA, (2012), op. cit., p.16; For a full reference see: *Nachova and Others v. Bulgaria*, 43577/98 and 43579/98, Council of Europe: European Court of Human Rights, (26 February 2004), available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69630#\[%22item_id%22:\[%22001-69630%22\]\]>](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69630#[%22item_id%22:[%22001-69630%22]]>)

71. *Angelova and Illiev v. Bulgaria*, 55523/00, Council of Europe: European Court of Human Rights, (26 July 2007), available at: <http://echr.ketse.com/doc/55523.00-en-20070726/>>

1.5 Legal framework on hate crime and hate speech in the LIGHT ON Project countries

This section of the manual organizes and summarises the various legal frameworks on hate crime and hate speech of five European countries participating in the Light-On project, namely Finland, Hungary, Italy, Slovenia and the United Kingdom.⁷⁹

1.5.1 Finland

COUNTRY: FINLAND	Constitutional provisions	Specific legislation	Criminal law
Norms Concerning discrimination in general	<u>Constitution Act of Finland</u> (1999) (<i>Suomen perustuslaki</i>) 2(6)	The <u>Non-Discrimination Act</u> (2004) <u>Act on Equality between Women and Men</u> (1986)	The <u>Criminal Code</u> (1889) (<i>Rikoslaki</i>) Section 10:11
Norms concerning racism	<u>Constitution Act of Finland</u> (1999) (<i>Suomen perustuslaki</i>) 2(6)	The <u>Non-Discrimination Act</u> (2004) Section 6	The <u>Criminal Code</u> (1889) (<i>Rikoslaki</i>) Section 10, Section 10(a), Section 6(5)

The 1999 **Constitution Act of Finland** (*Suomen perustuslaki*), in conformity with article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that: “Everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person” (**Chapter 2 – Section 6**). The constitutional prohibition of discrimination may be directly invoked in courts, and regular laws are to be interpreted in accordance to it. The constitutional anti-discrimination provision has been applied mainly in situations involving the use of public power, but it may in some instances have a bearing on relationships between private parties as well.⁸⁰

Within the realm of civil law, the 2004 **Non-Discrimination Act**, adopted in order to transpose the EU directives on equal treatment into national law, is the key legislative tool in the promotion of non-discrimination and equal rights for all. The Act (**Section 6**) covers direct and indirect discrimination, as well as harassment and instruction or order to discriminate on the grounds of: age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation, or other personal characteristics. The Act also prohibits victimisation (**Section 8**), and arguably discrimination based on assumed characteristics and discrimination based on association with

79. For an in-depth analysis and comparison of national anti-discrimination law in EU Member States see: Chopin, I. & Uyen Do, T. for the European Network of Legal Experts in the Non Discrimination Field, (November 2010), “Developing Anti-Discrimination Law in Europe. The 27 EU Member States, Croatia, the Former Yugoslav Republic of Macedonia and Turkey compared”, available at: <http://ec.europa.eu/justice/discrimination/files/comparative_analysis2010_en.pdf>

80. Hiltunen, R., (2012), “Report On Measures To Combat Discrimination Directives 2000/43/EC and 2000/78/EC Country Report 2012 Finland”, p. 2, available at: <<http://www.non-discrimination.net/countries/finland>>

persons with particular characteristics.⁸¹ Its purpose is to foster and safeguard equality and enhance the protection provided by law to those who have been discriminated against. Discrimination regarding employment, recruitment and access to training is prohibited on the grounds required by the directives (**Section 2**). However, in providing public or private services including also social welfare, health care, social security benefits, housing and movable and immovable property and in military service the Non-Discrimination Act prohibits discrimination only on the ground of ethnic origin. Moreover, **Section 3** limits the scope of the Act by stating that it does not apply to the area of education and the application of provisions governing entry into and residence in the country by foreigners.⁸²

Gender equality is instead addressed in a separate law of general application, the 1986 **Act on Equality between Women and Men** (*Laki naisten ja miesten välisestä tasa-arvosta*). The act prohibits sex discrimination and imposes a duty to promote sex equality.⁸³

The **Criminal Code** (*Rikoslaki*) general provision on discrimination (**Section 11**) covers discrimination on the grounds of race, national or ethnic origin, color, language, sex, age, family ties, sexual preference, state of health, religion, political orientation, political or industrial activity or another comparable circumstance. In terms of norms concerning racism, the Code specifically contains a provision prohibiting **ethnic agitation** (**Section 10**) and **aggravated ethnic agitation** (**Section 10a**). Furthermore, **Section 6:5** allows judges to increase the punishment (Section 6:5) when the offence is motivated by the victim's race, color of skin, origin, national or ethnic origin, religion or belief, sexual orientation and disability or other comparable motive.⁸⁴ Punishment for discrimination laid down by law is in the form of fines or imprisonment for up to six months. However, in practice, sentences for discrimination have so far been fines.⁸⁵

81. Hiltunen, R., (2012), op. cit., p. 5

82. For further information see: The Equal Rights Trust, "Finland: Non-Discrimination Act (21/2004)", available at: <<http://www.equalrightstrust.org/view-subdocument/index.htm?id=66>>

83. For further information see: Eurofound, "Finland- Equality Act", available at: <<http://www.eurofound.europa.eu/emire/FINLAND/ANCHOR-TASA-ARVOLAKI-J-Auml-MST-Auml-LLDHETSLAGEN-Fl.htm>>

84. For further information see: Ministry of Justice – Finland, "Unofficial Translation – The Criminal Code of Finland", available at: <<http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>>

85. For further information see: Hiltunen, R., (2012), op.cit., p. 6

86. RED Network, "Atlas of racism & discrimination", available at: <<http://www.red-network.eu/?i=red-network.en.countries&id=5&view=racismAtlas>>

Domestic definition and legal provisions on Hate Speech

Legal Definition

The **Criminal Code** (**Section 10**) defines **ethnic agitation** as the spreading of expression of opinion or another message among the public where a certain group is threatened, defamed or insulted on the ground of race, color of skin, birth status, national or ethnic origin, religion or belief, sexual orientation and disability or comparable reason.⁸⁶

Legal Provisions

The legislation in Finland concerning hate speech was reformed in 2010/11. The aim of the law reform based on a government bill was to clarify and to some extent expand the applicability of the legislation when it comes to criteria of hate.

The core provisions of the **Criminal Code** are those of **Section 10**

(511/2011) on “**Ethnic agitation**” and **Section 10a** (511/2011) on “**Aggravated ethnic agitation**”. The former legal provision makes it punishable to distribute publicly such statements that threaten, denigrate or insult a national, racial, ethnic or religious, or a comparable group. In the 2011 reform, the scope of agitation was widened to include religion or belief, sexual orientation and disability.⁸⁷

Furthermore, the provision on “aggravated ethnic agitation” was included to cover the most serious offenses. The provision applies above all when the object of agitation is genocide or the preparation of genocide, a crime against humanity, an aggravated crime against humanity. For this type of offense the sentence ranges from four months to four years in prison.⁸⁸

If ethnic agitation is not applicable, the offense “**Breach of the sanctity of religion**” (Criminal Code: **Chapter 17, Section 10**) may apply. The background of this provision is public order and the constitutional guarantee of freedom of religion. Its meaning is to protect citizens’ religious beliefs and emotions and the sanctity of religion as an element social peace. According to legal experts, the provision only applies to that which is held sacred by a registered religious group, and not a particular religious group of people or a person that belongs to such a group. Its scope does, therefore, not constitute actual hate speech. Therefore, the boundary between the agitation offense and the breach of sanctity offense is also often unclear, and a lot of critical debate has been seen within legal academics on the necessity of the ‘breach provision’.⁸⁹

Lastly, if the target of hate speech is an individual person, the category of “**Public incitement to an offence**” (Criminal Code: **Chapter 17, Section 1**) may apply. This kind of hate speech against an individual may also constitute an unlawful threat or defamation. The crime of incitement does not have to be intentional as long as the offender is aware that the content of the message is threatening or abusive against a certain group. If the hate motive is not included in the elements of the offense, it may be taken into account as grounds for increasing the punishment. In the current provisions of aggravation religion is not mentioned individually, but the grounds for increasing the punishment also applies when the target of the offense is a religious group.⁹⁰

The Criminal Code also contains provisions on defamation (**Section 24:9**) and aggravated defamation (**24:10**). Defamation is defined as spreading of false information or a false insinuation of another person so that the act is conducive to causing damage or suffering to that person, or subjecting that person to contempt. The act is aggravated, if the offence is committed by using the mass media or otherwise by making the information or insinuation available to many persons.⁹¹

87. Ibid.

88. Ibid.

89. Ibid.

90. Ibid.

91. RED Network, “Atlas of racism & discrimination”, available at: <http://www.red-network.eu/?i=red-network.en.countries&id=5&view=racismAtlas>

1.5.2 Hungary

COUNTRY: HUNGARY	Constitutional provisions	Specific legislation	Civil and administrative law	Criminal law
Norms Concerning discrimination in general	<u>The Fundamental Law of Hungary</u> (2012) (<i>Magyarország Alaptörvénye</i>) Art. XV	<u>Act CXXV</u> (2003) on Equal Treatment and the Promotion on Equal Opportunities	<u>Act IV Civil Code</u> (1959) <u>Act XXII</u> (1992) on the Labour Code; <u>Act LXXIX</u> (1993) on Public Education; <u>Act CLV</u> (1997) on Consumer Protection; <u>Act XXVI</u> (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities; <u>Act CXI</u> (2011) on the Commissioner for Fundamental Rights; etc.	<u>The Hungarian Criminal Law</u> (2012): Art. 216 and 332
Norms concerning racism	<u>The Fundamental Law of Hungary</u> (2012) (<i>Magyarország Alaptörvénye</i>) Art. XV	<u>Act CXXV</u> (2003) on Equal Treatment and the Promotion on Equal Opportunities	<u>Act XXII</u> (1992) on the Labour Code; <u>Act LXXIX</u> (1993) on Public Education; <u>Act CLV</u> (1997) on Consumer Protection; <u>Act XXVI</u> (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities; <u>Act CXI</u> (2011) on the Commissioner for Fundamental Rights; etc.	<u>The Hungarian Criminal Law</u> (2012) Art. 216

92. Ministry of Public Administration and Justice Hungary, (2013), "The Fundamental Law of Hungary", available at: <<http://www.mfa.gov.hu/NR/rdonlyres/8204FB28-BF22-481A-9426-D2761D10EC7C/0/FUN-DAMENTALLAWOFHUNGARYmostrecentversion01102013.pdf>>

On the highest level of existing legal regulations against discrimination and racism stands **Art. XV** of the **Fundamental Law of Hungary**.⁹² The constitutional legal body was accepted in 2011 and

came into force on the 1st of January 2012. Since then the constitution has been amended four times. All these changes, and specifically the lengthily one that was passed in March 2013, triggered a heated debate. The Venice Commission,⁹³ the European Parliament,⁹⁴ major NGOs,⁹⁵ public opinion⁹⁶ and the Hungarian government itself,⁹⁷ have since been discussing on whether the amended constitution breached the EU democratic standards, the protection of human rights and the rule of law.

93. CoE – Venice Commission, (20 June 2011), “Hungary – New Constitution – Opinion adopted”, available at: <<http://www.venice.coe.int/webforms/events/?id=1326>>

94. European Parliament, (25 June 2013), “Report on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012)(2012/2130(INI)”, available at: <<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0229&language=EN>>

95. Human Rights Watch, (18 September 2013), “Hungary: Constitutional Change Falls Short”, available at: <<http://www.hrw.org/news/2013/09/18/hungary-constitutional-change-falls-short>>

96. BBC News Europe, (11 March 2013), “Hungary defies critics over change to constitution”, available at: <<http://www.bbc.co.uk/news/world-europe-21740743>>

97. “Memorandum - Remarks of the Government of Hungary on the Report of the European Parliament on the Situation of Fundamental Rights in Hungary”, (2 July 2013).

98. Equal Right Trust, “Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities”, available at: <<http://www.equalrightstrust.org/ertdocumentbank/SZMM094B.pdf>>

99. ECRI, “Equal Treatment Authority – Hungary”, available at: <http://www.coe.int/t/dghl/monitoring/ecri/good_practices/1-specialised%20bodies/sb_hungary_eta_EN.asp>

100. Hungary, “Hungary: Civil Code”, Act IV of 1959, (1 May 1960), available at: <<http://www.refworld.org/docid/4c3456fc2.html>>

101. Amnesty International, (27 June 2012), “New Hungarian Criminal Code: A missed opportunity to do more on hate crimes”, available at: <<http://www.amnesty.org/en/library/asset/EUR27/003/2012/en/8afaf662-b3c7-4a7e-aa66-f70c3a22f084/eur270032012en.html>>

Amongst the secondary legislation, the most comprehensive and ad hoc provisions are set in **Act CXXV (2003) on Equal Treatment and the Promotion of Equal Opportunities**.⁹⁸ This Act is relevant to the right to non-discrimination with regard to employment, social security, healthcare, housing, education, and training. **Art. 1** sets out an obligation to respect rights without any discrimination for the many reasons enumerated under **Art. 8** (e.g., gender, racial origin, color, nationality, political or other opinion, religion, etc.). Under this Act was also established the **Equal Treatment Authority**,⁹⁹ a specialized body that reviews the complaints it receives to see if the law on equal treatment has been violated according to the form of discrimination enunciated in article 8.

Moreover, there is also a series of civil and administrative laws which name and ban discrimination. Some examples, as reported in the table, are: Act XXII (1992) on the Labour Code; Act LXXIX (1993) on Public Education; Act CLV (1997) on Consumer Protection; Act XXVI (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities; Act CXI (2011) on the Commissioner for Fundamental Rights etc. Furthermore, the provisions of Act IV (1959) of the Civil Code¹⁰⁰ on the protection of inherent personal rights remain an important tool for combating discrimination in areas not covered by the Act CXXV (2003).

On the 1st of July 2013, a new Criminal Code came into force, **C Law (2012)**. The new Criminal Code introduced changes in the provisions protecting persons from hate-motivated assaults due to their real or perceived identity. Whereas the old legislation prohibited assaults exclusively on the ground of nationality, ethnicity, race or religion, the new law explicitly incorporates the fields of sexual orientation, gender identity and disability.

Nonetheless, some have argued that the new code missed the opportunity to fill in the existing gap of a general provision under which discriminatory motivation can be taken into account as part of investigation or prosecution of other crimes (including murder), and to introduce guidelines for police and prosecution authorities on the investigation of hate crimes.¹⁰¹ Indeed, in the past years, many international human rights monitoring bodies, including the European Commission against Racism and Intolerance (ECRI) and Amnesty International, have been recalling the systemic problem in the implementation of anti-discriminatory legislations.

Box 9

In Focus:Art. 216 - The Hungarian Criminal Law (2012)**Violence Against a Member of the Community**

(1) Any person who displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if violence against a member of the community is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by causing a significant injury of interest;
- d) by tormenting the aggrieved party;
- e) in a gang; or
- f) in criminal association with accomplices.

(4) Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

Domestic definition and provisions on hate speech**Legal Definition**

The term “hate speech” itself is not used in legislation; for the purpose of written law, this term is covered by the “crime of incitement against a community” used in **Art. 332** of the New Criminal Code.¹⁰² The New Criminal Code made minor corrections to the crime set forth in Article 269 of the previous Criminal Code, which was named “agitation against

102. Koltay, A., “Hate Speech and the Protection of Communities in the Hungarian Legal System – A Short Overview”, [hunmedialaw.org, available at: <http://hunmedialaw.org/dokumentum/554/hate_speech_regulation_in_Hungary.pdf>](http://hunmedialaw.org/dokumentum/554/hate_speech_regulation_in_Hungary.pdf)

a community”.

Legal Definition

Art. 332 of the New Criminal Code establishes the punishment for “a felony offence with imprisonment up to three years” for a person who “incites hatred before the general public against: a) the Hungarian Nation; b) any national, ethnic, racial group, or; c) certain groups of the population – with special regard to disability, sexual identity, or sexual orientation”.

Moreover, **Art. 335** of the New Criminal Code also prohibits symbols of despotism. According to it, any person who “distributes, uses in public, exhibits in public a swastika, the SS sign, an arrow-cross, a hammer and sickle, a five pointed red star or a symbol depicting the above, - unless a graver crime is realized – commits a misdemeanor, and shall be liable to punishment with a fine”. However, the article excludes from the punishment a person who uses one of the above-mentioned symbols for the purpose of education, science, art, information etc., and excludes the official symbols of states in forces.

1.5.3 Italy¹⁰³

COUNTRY: ITALY	Constitu- tional provi- sions	Specific legislation	Civil and administra- tive law	Criminal law
Norms Concerning discrimination in general	<u>Constitution of the Italian Republic</u> (Costituzione della Repubblica Italiana) (1947) Art. 3 (indirectly art. 10 and last modification of art. 117)	<u>Legisla- tive decree 286/98 Art. 2-43-44;</u> <u>Legislative decrees 215/2003 and 216/2003;</u> <u>Legislati- ve decree 198/2006</u> (Code of Equal Opportunities); <u>Labour Code (1970) Art. 8-15-16</u>	<u>Civil Code (1942) Art. 1343-1418;</u>	<u>Law n.645 (1952);</u> <u>Law n.654 (1975);</u> <u>Italian Code of Criminal Procedure (1988) art. 415;</u> <u>Law n. 205 "Mancino Law" (1993);</u> <u>Law 85/2006</u>
Norms concerning racism	Art. 3 (indirectly art. 10 and last modification of art. 117)	<u>Legislative decree 286/98 Art. 43;</u> <u>Legislative decree 215/2003</u>	<u>Civil Code (1942) Art. 1343-1418;</u>	<u>Law n. 205 "Mancino's Law" (1993) Art. 3</u>

The highest level legislative tools regarding discrimination are laid in the 1947 **Italian Constitution** (Costituzione della Repubblica Italiana). **Art. 3** guarantees the 'equal dignity' of all citizens and the principle of equality before the law 'without distinction based on sex, race, language, religion, political opinion, or personal and social conditions', and Italy's Constitutional Court has repeatedly interpreted the article as applicable to all persons within Italian territory. Moreover, whilst **Art. 2** recognises human rights, **Art. 10** and the last modification of **Art. 117** note that international treaties once ratified by the country are equal to National laws. This includes the effectiveness of important legislative means as regards the European Convention of Human Rights, the Treaty of European Union and the European Convention of Human Right. Besides these constitutional remarks, the **Italian Civil Code** approved in 1942 explains for examples that, in relation with current legislation, it is impossible to agree any contract providing racial discrimination (**Art. 1343**) and that any contract providing racial discrimination is void even if subscribed (**Art. 1418**).

Furthermore, Italy has a robust body of third level anti-discrimination regulations. The 1998 **Legislative Decree 286**, for instance, focuses

103. The main sources of the paragraph are the information passed on to UNICRI by Light ON Italian National Watching Point Representative

on: equality between citizens and foreigners in relation to the judicial protection of rights and legitimate interests when dealing with the public administration and accessing public services (Art. 2); actions of discrimination based on racial, ethnic, national or religious grounds acted against Italian citizens, EU citizens and stateless persons too (Art. 43); civil action against discrimination (Art. 44).

However, whilst specific norms existed before, these have often been deemed poor and unfit by European standards. Thus, comprehensive legislation was adopted in 2003 when Italy transposed EU Directives 43 (on equal treatment between persons irrespective of racial or ethnic origin) and 78 (one equal treatment in employment and occupation) in **Legislative Decrees 215** and **216** of July 9, 2003. Moreover, in December 2009, after a formal warning from the European Commission, the Italian government transposed the European directive on equal opportunities by a legislative decree (**Legislative Decree 5/2010 modification of the Legislative Decree 198/2006 - Code of Equal Opportunities**). The decree introduces important norms into Italian law, which protect women's jobs and remove several forms of discrimination. It also reinforces the existing equal opportunity bodies.

The Italian criminal code was approved in 1930, during the fascist period; consequently, there are no specific provisions describing racism as a crime (article 415 criminalise incitement to social hate). In 1952, **law n. 645** implemented the XII final and transitory disposition of the Constitution against racist propaganda and fascism. Afterwards, in 1975, **law n. 654** specifically introduced racism and discrimination crimes, but did not list discrimination or racism as aggravating elements in regard to other offenses. Indeed, the most important instrument in Italian law for prosecuting racist and other hate violence is the penalty enhancement provision contained in **Law n. 205** of 1993, commonly referred to as the "**Mancino's Law**". Its **Art. 3** allows judges to increase the sentence imposed for a crime: by up to half, if the crime was committed "with the purpose of discrimination or hatred based on ethnicity, nationality, race, or religion, or in order to facilitate the activity of organizations, associations, movements, or groups that have this purpose among their objectives." (Judges in Italy have discretion with respect to sentencing within the parameters established by law. A sentence for a racially-motivated offense can be increased by any amount of time up to one half again the minimum sentence for the offense in question). The aggravating circumstance of racist or other hate purpose can be applied to any crime, except those punishable by life in prison (the harshest penalty under Italian criminal law).

Domestic definition and provisions on hate speech

Legal Definition

Although Italy does not have an agreed legal definition of hate speech, Art. 3 of Law 654/1975 provides a general definition by describing it as "crime of propaganda of ideas based on ethnic or racial

hatred” and “violence or instigation to violence for racial, ethnic, national or religious reasons”.

Legal Provisions

Despite several international recommendations to firmly counter the dissemination of hate speech with effective measures, hate speech, as yet, is not regulated through a specific legislation.

However, the 1993 **Mancino’s Law**, which modified **Art. 3 of the Law 654/1975**, established that “inciting in any way or committing violence or acts of provocation to violence based on racist, ethnic, national or religious motives” constitutes a crime punishable by one to four years in prison. The same law also established and that “*propagating ideas based on racial superiority or racial or ethnic hatred, or inciting to commit or commit acts of discrimination for racial, ethnic, national or religious motives*” is a crime punishable by up to four year in prison.

However, in January 2006 the Parliament adopted an act, **Law 85**, that weakens the penalties against hate speech and instigation to racial discrimination. The new law modifies again the article 3 of the Law 654/1975 (modified by the Mancino’s Law) by substituting the word “instigate” for the original “incite”. Through Law 85 it was thus decreased the impact of the original penalty provisions: in case of racism or discriminative instigation, the punishment is reduced to one year and six months of imprisonment, which could, however, be substituted by a fine.¹⁰⁴

Moreover, the most recent amendment, approved by the Lower Chamber of Deputies and ready to be examined by the Higher Chamber of the *Senato*, adds homophobia and transphobia to the already existing aggravating circumstances. However, an additional sub-amendment, known as the Verini’s amendment, modifies the *Mancino’s Law* so that the penalties related to discrimination do not concern “organizations in the fields of politics, unions, culture, health care, education, religion or cults”.¹⁰⁵ Many human rights organizations, as well as several politicians and the civil society have been raising their concerns over the practical effects of such provision. According to such criticisms, the Verini’s sub-amendment would exclude the persecution of those political parties and social organizations which openly hold discrimination based on sexual orientation as one of their specific features.¹⁰⁶

In 2006, **Law 85** amended the previous criminal regulations (stated under **Law No. 654** dated October 13, 1975, as previously amended by **Law No. 205** dated June 25, 1993, i.e. *Mancino’s Law*), halving the penalty for the crime of propagating (formerly “spreading”) ideas based on racial superiority or hatred and instigation (formerly “incitement”) to commit acts of discrimination for racial, ethnic, national or religious motives, and thus reducing the scope of this circumstance.¹⁰⁷ As previously noted, the amendment thus changes the impact of the penalty provisions: in case of racism or discrimination incitement, the corresponding punishment is a fine and no longer imprisonment.

104. Human Rights Watch, (2011), “Everyday intolerance: Racist and Xenophobic Violence in Italy”, available at: <<http://www.hrw.org/sites/default/files/reports/italy0311WebRevised.pdf>>

105. Disegno di Legge approved by the lower chamber (Camera dei Deputati) on the 19 September 2013, available at: <<http://www.senato.it/service/PDF/PDFServer/BGT/00716085.pdf>>

106. For further information see: Bubici (2013), in ANDDOS (Associazione Nazionale contro le Discriminazioni da Orientamento Sessuale), available at: <<http://www.anddos.org/ecco-perche-la-legge-contro-lomofobia-e-transfobia-nel-testo-che-arrivera-per-la-discussione-al-senato-e-completamente-sbagliata/>>

107. Unione Forense per la Tutela dei Diritti Umani, (2012), “Observations for the thematic discussion on ‘Racist Hate Speech’”, p.7, available at: <<http://www.unionedirittiumani.it/wp-content/uploads/2012/07/Information-paper-on-racist-hate-speech-Italian-network-on-racial-discrimination.pdf>>

1.5.4 Slovenia¹⁰⁸

COUNTRY: SLOVENIA	Constitutional provisions	Specific legislation	Civil and administrative law	Criminal law
Norms Concerning discrimination in general	Constitution of the Republic of Slovenia (1991) (Ustava Republike Slovenije) Art. 14-63-64-65	The Act Implementing the Principle of Equal Treatment (2004) (<i>Zakon o uresničevanju načela enakega obravnavanja</i>)	The Employment Relationship Act (2013) (<i>Zakon o delovnih razmerjih</i>) Art. 6-7-47-8	Criminal Code (2008) (<i>Kazenski Zakonik</i>) Liability of Legal Persons for Criminal Offences Act (2005) Art 25
Norms concerning racism	Constitution of the Republic of Slovenia (Ustava Republike Slovenije) Art. 63	The Act Implementing the Principle of Equal Treatment (2004) (<i>Zakon o uresničevanju načela enakega obravnavanja</i>)	The Employment Relationship Act (2013) (<i>Zakon o delovnih razmerjih</i>) Art. 6-7-47-8	Criminal Code (2008) Art. 131-297-197-100-101-102

At the highest level of Slovenian anti-discriminatory legislation stand **Art. 14, 63, 64** and **65** of the **Constitution of the Republic of Slovenia** (1991) (*Ustava Republike Slovenije*). General anti-discrimination regulations (Equality before the Law) are provided in **Art. 14**. Instead, **Art. 63** (Prohibition of Incitement to Discrimination and Intolerance and Prohibition of Incitement to Violence and War) specifically focuses on the unconstitutionality of national, racial and religious discrimination. Finally, **Art. 64** regulates special rights of the Autochthonous Italian and Hungarian national communities in Slovenia, whilst **Art. 65** states that the status and special rights of the Roma community in Slovenia shall be regulated by law.

In terms of specific legislation the 2004 **Act Implementing the Principle of Equal Treatment** (*Zakon o uresničevanju načela enakega obravnavanja*, often translated as The Law on Equal Treatment, was adopted to fulfill the obligation of transposing EU anti-discrimination directives 2000/43/ES (directive on equal treatment in employment) and 2000/78/ES (directive on racial equality) in the Slovenian national law. The Act covers discrimination on grounds of *inter alia* national, racial or ethnic origin, language and religious convictions and in a number of fields, including employment, labour relations, participation in trade unions and interest associations, education, social security and access to and supply of goods and services. The Act also bans direct as well as indirect discrimination, victimisation and harassment, and provides for

108. Together with the information passed on to UNICRI by the Light ON Slovenian Watching Point Representative, the main sources of this paragraph are: European Network of Legal Experts in the Non-Discrimination Field, Slovenia Main Legislation, available at: <<http://www.non-discrimination.net/content/main-legislation-6>>; RED Network, Country Information on Slovenia, available at: <<http://www.red-network.eu/?i=red-network.en.countries&id=15&view=acismAtlas>>

the establishment of two ad-hoc bodies:

- the Government Council for Fulfilling the Principle of Equal Treatment (*Svet vlade RS za uresničevanje načela enakega obravnavanja*), under the mandate of monitoring the situation of racism and racial discrimination and assisting with the implementation of anti-discrimination legislation;
- the Advocate of the Principle of Equality (*Zagovornik oziroma Zagovornica načela enakosti*) which is competent of hearing and processing individual complaints including those of racial discrimination, carrying out surveys and publishing reports.

However, in the process of examining the transposition of the European Directives the European Commission highlighted some areas where the transposition was unfit. First of all it pointed out that the Act does not specifically mention that the prohibition of discrimination on grounds of racial or ethnic origin is also used in the access to self-employment, food, housing, health care, education and vocational training, and that the Act does not guarantee that a characteristic related to racial or ethnic origin constitutes a genuine and determining occupational requirement in this particular professional context or that the requirement is proportionate.

Moreover, the examination pointed out that the Act does not provide protection against retaliation for witnesses and other people who help victims of discrimination. Finally, in view of the Employment Equality Directive (2000/78/EC), the European Commission noted that the Act incorrectly transposed the definition of indirect discrimination, since it covers only the actual disadvantage but not possible disadvantage. Thus, in order to make unambiguous implementation of the provisions of the two Directives the Act Implementing the Principle of Equal Treatment was partly revised and amended in 2007.

Furthermore, with regard to the institution of the Advocate, concerns about its ability of independent and impartial assessment of complaints, especially in cases when the alleged perpetrator of discrimination is the Government, have been raised. These concerns mainly derive from the fact that this body functions within the Ministry of Labour, Family and Social Affairs and that the Advocate is nominated by the Government upon the proposal of the Minister of Labour, Family and Social Affairs. In addition, the Advocate has no support staff (it's a one-person body); it has insufficient investigative and no sanctioning powers; and its funding depends on the Ministry.

The most relevant provisions of civil law containing anti-discriminatory norms are gathered in the **Employment Relationship Act**. It prohibits direct as well as indirect discrimination in recruitment and employment linked to the sex, race, color, age, health or disability, religion, political or other beliefs, trade union membership, national or social origin, family status, financial status, sexual orientation or other personal circumstances employment seeking persons (**Art. 6**). The same article also defines the burden of proof and puts the liability for damages on the employer.

Furthermore, **Art. 7** prohibits any sexual and other harassment and bullying in the workplace. The employer is obliged to provide a working environment in a way to protect the dignity of workers at work (**Art. 47**). In the case of unlawful discrimination or harassment in the workplace the employer is liable to financially redress the damage to the job applicant or employee for damages under the general rules of civil law. As a non-pecuniary damage suffered by the applicant or employee shall be deemed also mental anguish due to the unequal treatment of the worker or the employer's discriminatory conduct or the failure to provide protection against sexual or other harassment or bullying in the workplace. In assessing the amount of non-pecuniary damage must be noted that it is effective and proportionate to the damage suffered by the applicant or employee and that it aims to discourage employers from re-offending (**Art. 8**).

The 2008 **Slovenian Criminal Code** (*Kazenski Zakonik*) contains provisions on prohibition of violation of right to equality and public incitement to hatred, violence, intolerance, and hate speech, although there is no general definition of racist-hate crime. Firstly the Code criminalises (**Art. 131**) depriving or restraining another person of any human right or liberty recognized by the international community or laid down by the Constitution or the statute due to differences in respect of nationality, race, skin colour, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance. **Art. 297**, instead, prohibits public incitement to religious, ethnic, racial hatred and any other strife, intolerance and provocation based on physical or mental deficiencies, sexual orientation or other personal circumstances.

The code also criminalises the violation of the principle of equality in relation to workplace mobbing (**Art. 197**). Moreover, the Penal Code also prohibits genocide (**Art. 100**), crimes against humanity, including those on the grounds of race, ethnic and religious affiliation (**Art. 101**), war crimes, including forced pregnancy aimed at affecting the ethnic composition of any population (**Art. 102**). The main issues related with the criminal code are that: a) it does not contain any specific provisions establishing racist motivation as an aggravating circumstance.

Moreover, **Art. 25** of the **Liability of Legal Persons for Criminal Offences Act** (2005) establishes criminal accountability of legal persons in case of violations of the following articles of the Penal Code: article 131 (Violation of Right to Equality), article 197 (Workplace Mobbing), article 198 (Violation of Rights Concerning Employment and Unemployment), article 297 (Public Incitement to Hatred, Violence or Intolerance).

Domestic definition and provisions on hate speech

Legal Definition

Art. 63 of the **Constitution** describes hates speech as "*any incitement to national, racial, religious or other discrimination and the inflaming of national, racial, religious or other hatred and intolerance*". However, the

most inclusive definition is stated in **Art. 297 of the Criminal Code** that criminalises conduct that “publicly provokes or stirs up hatred, violence or intolerance on the basis of nationality, race, religion or ethnic roots, gender, skin color, origin, financial situation, education, social position, political or other beliefs, disability, sexual orientation or any other personal circumstance” when “the conduct is carried out in a way that is likely to endanger or disturb public order”.

Legal Provisions

Art. 63, according to the above-mentioned definition, declares hate speech unconstitutional.

Art. 297 of the Criminal Code, after describing conduct that may be understood as a manifestation of hate speech, establishes that such conduct shall be punished by imprisonment of up to two years. Moreover, the second paragraph of the article stipulates that the same sentence shall be imposed on a person who publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activity or denies, diminishes the significance of, approves, disregards, makes fun of, or advocates genocide, holocaust, crimes against humanity, war crime, aggression, or other criminal offences against humanity as defined in the legal order of the Republic of Slovenia. If the offence is committed by publication in mass media, the editor or the person acting as the editor are also punished, except if it was a live broadcast and they were not able to prevent the offence. The Criminal Code also stipulates two aggravated forms of these crimes – if they were committed in official capacity or with coercion, threat etc.

Art. 8 of the **2001 Mass Media Act (ZMed)** prohibits “the dissemination of programming that encourages national, racial, religious, sexual or any other inequality, or violence and war, or incites national, racial, religious, sexual or any other hatred and intolerance”. Furthermore, **Art. 47** prohibits advertising that may “*prejudice respect for human dignity, incite discrimination on the grounds of race, sex or ethnicity, or political or religious intolerance; [...] give offence on the grounds of religious or political beliefs*”. Penalties equivalent to € 10,000 are available as sanctions under both provisions. Finally, hate speech is also prohibited, and thus prosecutable under Civil law, by **Art. 5** of the **Act Implementing the Principle of Equal Treatment**.¹⁰⁹

109. University of Oxford, Legal Research Center (South Africa), (2012), “Comparative Hate Speech Law: Annexure”, available at: <[http://www.law.ox.ac.uk/news/events/files/2012_-_LRC_Hate_Speech_-_Annexure_\(2\).pdf](http://www.law.ox.ac.uk/news/events/files/2012_-_LRC_Hate_Speech_-_Annexure_(2).pdf)>

1.5.5 The United Kingdom¹¹⁰

COUNTRIES: ENGLAND, NORTHERN IRELAND, SCOTLAND, WALES	Constitutional provisions	Civil and administrative law	Criminal Law	Other jurisdiction: NORTHERN IRELAND
Norms Concerning discrimination in general	No	<u>Equality Act (2010)</u> bringing together over 116 previously separated pieces of legislations.	<u>Offences (Aggravation by Prejudice) (Scotland) Act (2009)</u> <u>Criminal Justice Act (2003)</u> <u>International Criminal Court Act (2001)</u> <u>Crime and Disorder Act (1998)</u> amended by Anti-terrorism, Crime and Security Act (2001) and Part 11 of Schedule 9 Protection of Freedoms Act (2012) <u>Malicious Communications Act (1988)</u> <u>Public Order Act (1986); Parts I & II</u>	<u>Equal Pay (Northern Ireland) Act (1970)</u> <u>Sex Discrimination (Northern Ireland) Order (1976)</u> <u>Public Order (Northern Ireland) Order (1987)</u> <u>Disability Discrimination Act (DDA) (1995)</u> <u>Northern Ireland Act (1998) Sections 75 and 76</u> <u>Fair Employment and Treatment (Northern Ireland) Order (1998)</u>

110. Together with the information passed on to UNICRI by the Light ON UK National Watching Point Representative, the main sources of this paragraph are: <<http://www.legislation.gov.uk/>> and <<http://www.equalityhumanrights.com/>>

Norms concerning racism	No	<u>Equality Act (2010) or Race Relations Act (1976)</u> for acts of racial discrimination which took places previous 2010 <u>The Human Rights Act (1998)</u>	<u>Criminal Justice Act (2003); Provision 145</u> <u>Crime and Disorder Act (1998)</u> amended by Anti-terrorism, Crime and Security Act 2001 and Part 11 of Schedule 9 Protection of Freedoms Act (2012); Provisions 28-33 <u>Football Offences Act (1991); Section III</u> <u>Public Order Act (1986); Part III</u>	<u>Race Relations (Northern Ireland) Order (1997) Art. 3(1) and 3(1A)</u>
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The Equality Act 2010 consolidated the previous anti-discrimination legislative framework bringing together over 116 separate pieces of legislation into one single Act. The nine main acts/regulations that the Equality Act (2010) has merged are:

- the Equal Pay Act 1970
- the Sex Discrimination Act 1975
- the Race Relations Act 1976
- the Disability Discrimination Act 1995
- the Employment Equality (Religion or Belief) Regulations 2003
- the Employment Equality (Sexual Orientation) Regulations 2003
- the Employment Equality (Age) Regulations 2006
- the Equality Act 2006, Part 2
- the Equality Act (Sexual Orientation) Regulations 2007.

The Act simplifies, strengthens and harmonises the current legislation in order to protect people from discrimination in the workplace and in wider society. Furthermore, it established the **Equality Advisory Support Service (EASS)**, an ad-hoc helpline providing information and advice on discrimination and human rights issues. If an unlawful discriminative act occurred on or after the 1st of October 2010, the Equality Act applies and the EASS can assist victims in understanding how to proceed with their complaints.

Instead, if a discriminatory offence took place prior to October 2010, any relative legal proceedings will go ahead according to the legislation

under which they were brought, even if they may have continued after 1 October 2010. In this case the **Equality and Human Rights Commission (EHRC)** could provide victims' advisers with a series of questionnaire guidance booklets to help take a discrimination claim to the appropriate tribunal.

The EHRC was established with the 2006 Equality Act and carry a "statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine 'protected' grounds - age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment."

Moreover, the Parliament has passed a series of acts aimed at outlawing crime where the offender is motivated by a form of discrimination or hatred towards the victim, from the adoption of the **International Criminal Court Statute** to the **Malicious Communications Act** (1998) aimed at targeting harassing and abusive phone calls, letters or electronic communications "*for the purpose of causing distress or anxiety.*"

One of the most commonly used acts, which also specifically applies to crimes driven by discrimination towards the victim's race or religious beliefs (actual or perceived), is the **Crime and Disorder Act** (1988), amended by the Anti-terrorism, Crime and Security Act (2001) and **Part 11 of Schedule 9** Protection of Freedoms Act (2012). The table below shows some examples of the penalties attributed to racially or religiously aggravated offences according to the Act.

Fig. 4

Offence Maximum Penalty	Aggravated form Maximum Penalty	Basic form
Racially/religiously aggravated wounding/ grievous bodily harm (s.29(1)(a) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months
Racially/religiously aggravated actual bodily harm (s.29(1)(b) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months
Racially/religiously aggravated common assault (s.29(1)(c) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated damage (s.30(1) CDA)	Crown Court - 14 years imprisonment Magistrates' court - 6 months	Crown Court - 10 years imprisonment Magistrates' court - 3 months
Racially/religiously aggravated fear/provocation of violence (s.31(1)(a) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated intentional harassment/alarm/distress (s.31(1)(b) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated harassment/ alarm/distress (s.31(1)(c) CDA)	Magistrates' court - fine up to level 4	Magistrates' court - fine up to level 3
Racially/religiously aggravated harassment and stalking	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated harassment and stalking involving fear of violence or serious alarm or distress (s.32(1)(b) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months

Northern Ireland Legislation¹¹¹

Unlike in Wales and Scotland, anti-discrimination legislation is devolved in Northern Ireland. This implies that the Northern Ireland Assembly, and not the Parliament at Westminster, is responsible for passing or amending anti-discrimination legislation. As a result, many of the provisions that apply in the rest of the UK have been reflected in the legal framework in Northern Ireland via secondary legislation.

Section 75 of the Northern Ireland Act (1998) places public authorities in Northern Ireland under a duty to have due regard for the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without;
- persons with dependants and persons without.

Section 76 of the Act, instead, prohibits discrimination by public authorities on the grounds of religious belief or political opinion.

Beyond a series of other broader and ad-hoc antidiscrimination legislative tools (see table), antidiscrimination laws specifically related to race are set in the **Race Relations (Northern Ireland) Order** (1997). Indeed, **Art. 3(1)** and **3(1A)** prohibit direct as well as indirect discrimination and harassment on the grounds of: race, colour, ethnic or national origins, nationality, including belonging to the Irish Traveller community. These articles principally cover the area of employment, but also include, *inter alia*, education and the provision of goods, facilities and services. Both public and private sector organizations must adhere to Art. 3(1) and 3(1A).

However, in certain instances, individuals from minority ethnic communities should be considered religious minorities and could therefore be captured by the provision of the Northern Ireland Act. Furthermore, Section 76 is wider in its application than the Race Relations Order, since it is not restricted to certain circumstances such as the provision of goods, facilities and services.

Domestic definition and legal provisions on Hate Speech

Legal Definition

Hate speech, related to a person's color, race, nationality (including citizenship) or ethnic or national origins, is dealt with by **part III** of the **Public Order Act** (1986). Specifically, **section 18(1)** states that:

"A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if:

(a) he intends thereby to stir up racial hatred, or

111. This sub-paragraph's main sources are: Northern Ireland Human Rights Commission, "Racist Hate Crime. Human Rights and the Criminal Justice System in Northern Ireland", available at: <http://fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf>; Equality Challenge Unit, (2010), "Anti-discrimination law in Northern Ireland", available at: <<http://www.ecu.ac.uk/publications/anti-discrimination-law-in-northern-ireland>>

(b) having regard to all the circumstances racial hatred is likely to be stirred up thereby."

Legal Provisions

The Public Order Act, for a person guilty of an offence under part III, entails a maximum sentence of seven years imprisonment or a fine, or both. Furthermore, the Public Order Act was firstly amended by the **Racial and Religious Hatred Act** (2006) in order to extend the offence to religious hatred, and subsequently by the **Criminal Justice and Immigration Act** (2008) to include the offence of inciting hatred on the basis of sexual orientation. Finally, the **Football Offences Act** (1991) (amended by the **1999 Football Offences and Disorder Act**) forbids indecent or racist chanting at designated football matches.

Northern Ireland Legal Definition and Provisions

Hate speech in Northern Ireland is defined by **part III** of the **Public Order (Northern Ireland) Order** (1987). According to **section 9(1)**:

"A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if—

(a) he intends thereby to stir up hatred or arouse fear; or

(b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby."

Hatred and fear are defined by reference to religious belief, sexual orientation, disability, colour, race, nationality (including citizenship) or ethnic or national origins.

Section 16(1) establishes that a person guilty of an offence under this Part is liable:

"(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding [F9 7 years] or to a fine, or to both."

1.5.6 Comparison between domestic legal definitions and provisions on hate speech

To summarise, find hereunder a comparative chart with the legal framework **on hate speech definition and legislation** of the five countries involved in the project Light-On:

Fig. 5

Country	Legal Definition of Hate Speech	Legal Provisions on Hate Speech
Finland	<p><u>Criminal Code, Section 10 (511/2011)</u></p> <p>Ethnic agitation: <i>making available to the public or otherwise spreading among the public or keeping available for the public information, an expression of opinion or another message where a certain group is threatened, defamed or insulted on the basis of its race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or a comparable basis.</i></p>	<p><u>Criminal Code:</u></p> <p>Section 10 (511/2011)</p> <p>Section 10a (511/2011)</p> <p>Chapter 17, Section 1 (563/1998)</p>
Hungary	<p>The term "hate speech" itself is not used in legislation; for the purposes of written law Art. 332 of the <u>Hungarian Criminal Law</u> describes it as a "crime of incitement against a community".</p>	<p><u>The Hungarian Criminal Law (2012) Art. 332 & 335</u></p>
Italy	<p>No specific legal definition has so far been adopted. For the purposes of written law, Art. 3 Law 654/1975, "crime of propaganda of ideas based on ethnic or racial hatred" and "violence or instigation to violence for racial, ethnic, national or religious reasons"</p>	<p><u>Law 654/1975 Art. 3</u></p> <p>Amended by the <u>1993 Mancino's Law</u> and <u>Law 85/2006</u></p>
Slovenia	<p>Art.63 Constitution of the Republic of Slovenia: <i>"any incitement to national, racial, religious or other discrimination and the inflaming of national, racial, religious or other hatred and intolerance"</i></p> <p>Art. 297 Criminal Code: <i>"every conduct that publicly provokes or stirs up hatred, violence or intolerance on the basis of nationality, race, religion or ethnic roots, gender, skin color, origin, financial situation, education, social position, political or other beliefs, disability, sexual orientation or any other personal circumstance".</i></p>	<p><u>Constitution of the Republic of Slovenia (1991) Art. 63</u></p> <p><u>Criminal Code (2008) Art. 297</u></p> <p><u>Mass Media Act (ZMed) (2001) Art. 8 & 47</u></p> <p><u>Act Implementing the Principle of Equal Treatment (2004) Art. 5</u></p>

<p>The United Kingdom</p>	<p>Section 18(1) of the Public Order Act : <i>“threatening, abusive or insulting words or behaviour, or [...] written material which is threatening, abusive or insulting” and when racial hatred is “intended” or “likely to be stirred up thereby”</i>. The <u>Racial and Religious Hatred Act</u> (2006) and the <u>Criminal Justice and Immigration Act</u> (2008) further extended hate speech to those manifestations of hatred based on religion and sexual orientation discrimination.</p> <p>Section 9(11) of the Public Order (Northern Ireland) Act: <i>“threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if—(a) he intends thereby to stir up hatred or arouse fear; or (b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby.”</i></p>	<p><u>Public Order Act</u> (1986) Part III – Section 18(1) subsequently amended by the <u>Racial and Religious Hatred Act</u> (2006) and the <u>Criminal Justice and Immigration Act</u> (2008)</p> <p><u>Football Offences Act</u> (1991) amended by the <u>Football Offences and Disorder Act</u> (1999)</p> <p><u>Public Order (Northern Ireland) Order</u> (1987) – Section 9(11)</p>
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1.6 Our focus: Hate speech online

In the previous paragraphs we outlined what hate crime is by exploring the existing definitions, identifying different bias-motivations and understanding the legal framework at the international, regional and national level. As highlighted by ILGA-Europe, *“hate crimes are unique because they have a **social connotation** in their aim and consequences: they intend to send messages to entire groups - as well as to their families and other supporters - that they are unwelcome and unsafe in particular communities”*.¹¹²

Hate speech is a specific form of hate crime. The term **“hate speech”** usually refers to those expressions which are abusing, threatening or harassing, and which can incite to violence or discrimination against groups or individuals on the basis of their specific characteristics.

This manual focuses in particular on one specific form of hate speech: **hate speech online** and on its diffusion on the new media. In recent years, the advent and relentless growth of the Internet has produced undergoing and profound changes on the way that information and communication are produced and processed. The borderless, interactive and instantaneous nature of the Internet clearly holds far-reaching consequences in the dissemination of hate speech: *“[...]The Internet was heralded by first generation Internet critics for its ability to cross borders, destroy distance and break down real world barriers [...] Yet the anonymity, immediacy and global nature of the Internet has also made it an ideal tool for extremists and hatemongers to promote hate. Alongside the globalization of technology, there has been an incremental rise in the number of online hate groups and hate related activities taking place in the cyberspace”*.¹¹³

In the following pages we will attempt to define the phenomenon of hate speech. We will then touch upon those dilemmas and difficulties related to the establishment of borders between freedom of speech and hate speech. Finally, we will further refine our focus by specifically discussing the particularities of **hate speech online**. In paragraph 1.6.3 we will discern the different ways in which hate speech manifests itself online; in the last paragraph we will, instead, provide case-law examples of how some incidents of online racist hate speech have been dealt within different European jurisdictions.

The overall aim of this manual is to shine the spotlight on the issue of online hate speech by spreading awareness on the risks related to it and by providing practical guidance on how to prevent and limit its adverse consequences. It is fundamental to understand that, aside the harm caused by hate speech in the strict sense, there is a strong potential for online incidents to escalate into violence. Online hate speech can increase discrimination and heavily affect the integration of minorities by exacerbating insider/outsider discourse. Therefore, it can feed social unrest, promote violence and hinder peaceful community development.

112. For further information on ILGA-Europe and hate crimes against LGBT people refer to: http://www.ilga-europe.org/home/issues/hate_crime_hate_speech/what_is_hate_crime

113. Banks, (2010), op. cit., p.233

1.6.1 Defining Hate Speech

At present there is no universally accepted definition of the term 'hate speech', despite its frequent usage.¹¹⁴ Recommendation (97)20 of the CoE Committee of Ministers provides a simple definition of hate speech: *"the term 'hate speech' shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."* In this sense, hate speech covers comments which are necessarily directed against a person or a particular group of persons.¹¹⁵ In general, definitions of hate speech make reference to a number of the following components: the **content** of speech; the (written or oral) **tone** of speech; an evaluation of the **nature** of that speech; the (individual and collective) **targets** of that speech; and the potential **consequences or implications** of the speech act.¹¹⁶

Ultimately, though, hate speech is still a *"contested concept with states, academics and private companies providing varying definitions"*.¹¹⁷ Hereunder, we list a number of definitions by scholars and in different countries.

Raphael Cohen-Amalgor, for example, offers an extensive definition in the following terms: *"Hate speech is defined as bias-motivated, hostile, malicious speech aimed at a person or a group of people because of some of their actual or perceived innate characteristics. It expresses discriminatory, intimidating, disapproving, antagonistic, and/or prejudicial attitudes towards those characteristics, which include gender, race, religion, ethnicity, color, national origin, disability or sexual orientation. Hate speech is intended to injure, dehumanize, harass, intimidate, debase, degrade and victimize the targeted groups and to foment insensitivity and brutality against them"*.¹¹⁸

Sandra Coliver (1992) highlighted how: *"Hate speech' and 'hate expression' refer to expression which is abusive, insulting, intimidating, harassing and/or which incites violence, hatred or discrimination [...] based on that person's identification with a group on such grounds as 'race, ethnicity, national origin or religion"*.¹¹⁹ Finally, according to Human Rights Watch, hate speech is *"any form of expression regarded as offensive to racial, ethnic and religious groups and other discrete minorities, and to women"*.

Different are also the legal definitions adopted at country level throughout Europe. Some examples are provided here below:

- The Danish penal code (section 266 B) defines hate speech as publicly making statements that threaten, ridicule, or hold in contempt a group due to race, skin color, national or ethnic origin, faith, or sexual orientation
- In the Netherlands, the article 137c of the Criminal Code states: *"He who publicly, orally, in writing or graphically, intentionally*

114. CoE, "Hate Speech and the Media", available at: <<http://www.coe.int/t/dghl/cooperation/media/Meetings/Hate%20Speech%20Background%20Paper.pdf>>

115. Weber, A. (2009), "Manual on Hate Speech", Council of Europe, p.3, available at: <http://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/Hate_Speech_EN.pdf>

116. Titely, G., British Institute of Human Rights, Földi, L. (2012), "Starting Points for Combating Hate Speech Online", Council of Europe, Youth Department, available at: <<http://www.theewc.org/uploads/files/Starting%20points%20for%20Combating%20Hate%20Speech%20Online.pdf>>

117. Banks, J. (2011), "European regulation of cross-border hate speech in cyberspace: The limits of legislation", in *European Journal of Crime, Criminal Law and Criminal Justice*, 19 (1), pp. 1-13, available at: <<http://shura.shu.ac.uk/6902/>>

118. Titely, G., British Institute of Human Rights, Földi, L. (2012), op. cit., p.16.

119. Coliver, S., (1992), "Striking a balance. Hate Speech, Freedom of Expression and Non Discrimination", ARTICLE 19, p. 313, available at: <<http://www.article19.org/data/files/pdfs/publications/striking-a-balance.pdf>>

expresses himself insultingly regarding a group of people because of their race, their religion or their life philosophy, their heterosexual or homosexual orientation or their physical, psychological or mental disability, shall be punished by imprisonment of no more than a year or a monetary penalty of the third category”.

- In Iceland, article 233 of the Penal Code holds: “Anyone who in a ridiculing, slanderous, insulting, threatening or any other manner publicly assaults a person or a group of people on the basis of their nationality, skin colour, race, religion or sexual orientation, shall be fined or jailed for up to 2 years”.
- Norway prohibits hate speech, defined as “publicly making statements that threaten or ridicule someone or that incite hatred, persecution or contempt for someone due to their skin colour, ethnic origin, homosexual life style or orientation or, religion or philosophy of life” (Norwegian Penal Code, section 135a).
- Sweden prohibits hate speech, and defines it as “publicly making statements that threaten or express disrespect for an ethnic group or similar group regarding their race, skin colour, national or ethnic origin, faith or sexual orientation” (Swedish Penal Code, Chapter 16, section 8).

Expressions characterized as hate speech typically target racial and ethnic minorities but it can also be directed against women, LGBT people and religious minorities.¹²⁰ “[... L]egal definitions of hate speech tend to place questions of race and ethnic origin, and religion and philosophical belief in the foreground, with increasing attention being paid to sexuality, but relatively little being paid to gender, or ‘disability’”.¹²¹

In conclusion, for the purpose of this Training Manual we shall make reference to the definition of hate speech provided by Recommendation (97)20 of the CoE, cited above.

“the term ‘hate speech’ shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin”

120. Boromisza-Habashi, D. (2013), “Speaking Hatefully”

121. Titley, G., (2012), “Hate speech in Europe: considerations for the proposed campaign *Young People Combating Hate Speech in Cyberspace*”, p. 10, available at: <http://www.beznavisti.sk/wp-content/themes/beznavisti/podklady-a-materialy/uvahy_ku_kampani.pdf>

122. Main source of this paragraph is CoE (2012), “Mapping study on projects against hate speech online”, paragraph 3: *Cyberhate and freedom of expression*, available at: <http://www.coe.int/t/dg4/youth/Source/Training/Training_courses/2012_Mapping_projects_against_Hate_Speech.pdf>

1.6.2 The Borders between Controversial Humour, Freedom of Speech and Hate Speech¹²²

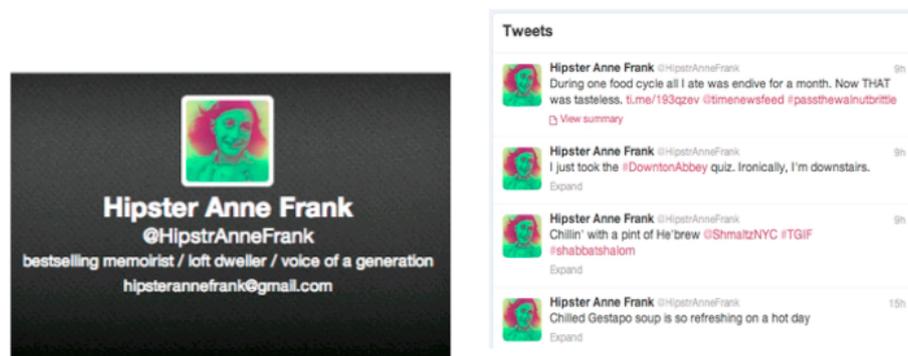
Reconciling rights which are at the core of democracy, such as freedom of belief and religion and freedom from discrimination, with the right to freedom of expression represents a significant challenge. When comedy and dark humour are included in the picture, establishing clear boundaries between what constitutes freedom of expression and what falls under the category of hate speech becomes an ever more complex

challenge. For example, the 2005 Danish cartoons controversy, arising from the dissemination of twelve cartoons depicting the prophet Mohammed by a Danish newspaper, sparked a heated debate on this very sensitive topic and even caused violent protests where a number of participants lost their lives.¹²³ At the core of the debate there is a clash between two opposed views of what constitutes freedom of expression: those who saw the satirical cartoons as an exercise of the right of freedom of expression, and those who perceived it as a denigration of religion and a direct insult to the Muslim community.

It goes without saying that the Web could not possibly have remained immune to the diffusion of *controversial humour*¹²⁴ and thus not be subjected to heated public debates between these two clashing perspectives. On the contrary, due to the different levels of editorial regulation and the possibility of users to publicly share all sorts of material the Internet has seen a wide diffusion of content (e.g. websites, social media pages, memes, etc.) that sit in-between debatable dark irony and hate speech.

For instance, the “Hipster Anne Frank” Twitter account recently received media attention (fig. 6). The Time Magazine journalist Eliana Dockterman wrote an article titled “Hipster Anne Frank: The Most Tasteless Twitter Handle Ever” quoting and criticizing some of the jokes tweeted from the account, such as “My skinny jeans are the skinniest” and “Does anyone know how to turn off the location finder on the new #iPhone7?”.¹²⁵ @HipsterAnneFrank persisted on a dark satirical tone and replied to this critic by tweeting the following: “During one food cycle all I ate was endive for a month. Now THAT was tasteless. ti.me/193qzev @timenewsfeed #passthewalnutbrittle” (fig. 6). The existence of the account and its controversial content generated a dual reaction: those who saw it as a satirical joke, and those who instead saw it as an offensive attack to the Jewish community.

Fig. 6
Hipster Anne Frank



Source: Screenshots of Hipster Anne Frank Twitter Page

123. Ashtana, A. & Hill, A. (2006), “Nigeria cartoon riots kill 16”, 19 February, in *The Guardian – The Observer*. Available at: <<http://www.theguardian.com/world/2006/feb/19/muhammadcartoons.ameliahill>>

124. For the purpose of this Manual, with controversial humour we intend those communicative materials, in this case disseminated on the Internet, which are thought by the author to be amusing or comic (such as statements and pictures), but that are likely to be perceived as offensive and thus spur debates and controversies on their contents.

125. Dockterman, E. (2013), “Hipster Anne Frank: The Most Tasteless Twitter Handle Ever”, 27 September, in *The Time Magazine*, available at: <<http://newsfeed.time.com/2013/09/27/hipster-anne-frank-the-most-tasteless-twitter-handle-ever/>>

Whilst the controversy of the case of Hipster Anne Frank gradually faded away after the creator of the account spontaneously decided to close it, other cases (fully explained in paragraphs 2.9.1, 2.9.2 and

2.9.3) have clearly managed to cross the much debated line separating humour, thus freedom of expression, and hate speech. In the end, such episodes, not without efforts and oppositions, have been **officially** recognised as incidents of hate speech by the concerned Internet Service Providers and Social Media Networking companies. How is it then possible to establish and define the limits to freedom of expression? To put it simply, where do we draw the line?

First of all, we should try to understand what comedy and satirical jokes are. As explained by Paul Sturges: *“Comedy is sometimes treated as if [it] were inconsequential, a means of amusement, merely merriment. [However,] dismissing comedy as just a laughing matter misses the point.”*¹²⁶ Comedy, as well as satirical jokes, fall under the category of expression and are therefore protected by those laws dealing with the right to freedom of expression.¹²⁷ Nonetheless, as we will see, this right also comes with duties and responsibilities. Accordingly, comedy, as a form of expression, is also subjected to these legal limits. The following pages will address the existing International and European articles protecting and regulating the issue of freedom of speech.

Art. 19 of the United Nations Universal Declaration of Human Rights (1947) is the most widely accepted formulation of the **right of free expression**. The article states that: *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”* There is, however, a substantial consideration to be made on the content of this article. It would be a mistake to regard human rights as separate concepts given to mankind by an external source: there is a structured reasoning behind them and, as such, it would be misleading to read and discuss Art. 19 in isolation from the other human rights protected by the Declaration such as for example **Art. 29** or **Art. 30**.¹²⁸

Box 10

Universal Declaration of Human Rights, Art. 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

126. Sturges, P., (2010), *“Comedy as Freedom of Expression”*, *Journal of Documentation*, 66(2): pp. 279-293

127. Ibid.

128. Sturges, P., (2006), *“Considerations Arising from the Danish Cartoons Affair”*, *IFLA Journal*, 32: pp. 181-188

Box 11

Universal Declaration of Human Rights, Art. 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

At a European level, instead, **Art. 10** of the ECHR stands as the centrepiece of the protection for the **right to freedom of expression**.

Box 12

European Convention on Human Rights, Art. 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Limits to the right of freedom of expression are allowed where the case met the requirements of **Article 17** (Prohibition of Abuse of Rights), i.e. when a person or group is engaged in activities aimed at the destruction, or limitation of the rights protected by the Convention. Additionally, even if the test for Article 17 is not met, Article 10 in itself represents a qualified right. The article, in its second section, clearly states that freedom of speech implies duties and responsibilities and, as such, may be subjected to restrictions or penalties as prescribed by law. This implies that in democratic societies, governments may limit freedom of expression where necessary in order to pursue one of the aims referred to in Art. 10 (2), but only in so far as they are provided for by law and in a manner which is proportionate. The test against which such limitations are evaluated is a strict one.

Box 13

*"[...] tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle **it may be considered necessary** in certain democratic societies **to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance** [...]"*

(Erbakan v. Turkey, ECHR judgment of 6 July 2006, § 56.)

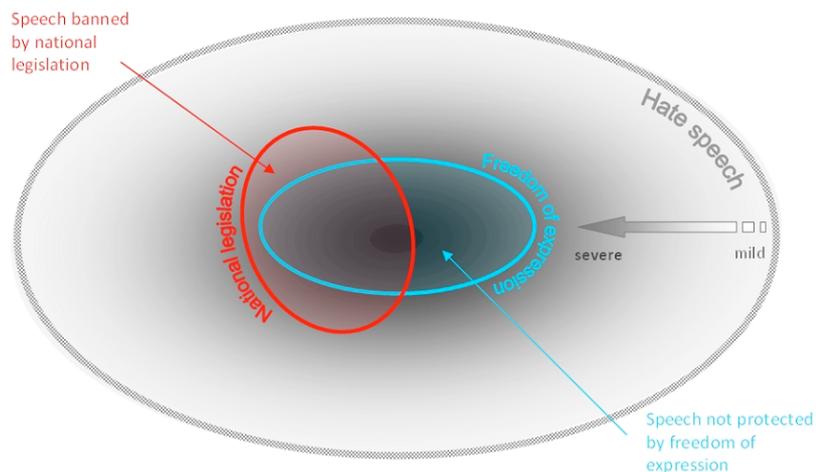
Source: ECHR(2013) Factsheet Hate Crime, 13 March

The **content** of the expression is not the deciding factor used to determine whether a speech has crossed the boundary of freedom of expression and thus fall in the category of hate speech; this is rather the **impact** of the expression, i.e. whether a particular instance is likely to incite violent or hatred, or affect the rights of others. Another deciding factor to establish whether the line has been crossed lies in the **intent or purpose** backing the speech. According to the 2009 CoE manual on hate speech, the factors considered by the Court when assessing if freedom of expression can be restricted are:

- The objective of the person whose freedom of speech was restricted;
- The content of the expression;
- The context, e.g. whether the person who made the statement is a journalist or politician;
- The profile of the people who are targets of opinions and expressions;
- The publicity and potential impact of the expression, e.g. whether the statement was made in a widely distributed newspaper or in a poem;
- The nature and gravity of the restriction.¹²⁹

Fig. 7
Boundaries of Hate Speech

2.1.2. The boundaries of hate speech



129. CoE, (2008), "Factsheet on hate speech", p.3, available at: www.coe.int/t/DC/Files/Source/FS_hate_en.doc

Source: CoE (2012), "Young People Combating Hate Speech On-line", p.9.

It should also be mentioned that Art. 10 allows member states some interpretative margins on the matter of freedom of expression. The reason behind this discretion clause lies on the substantial differences existing between the national legislation of the various countries, and on the fact that there is no European consensus on whether/how the matter should be regulated.

Nonetheless, this flexibility of interpretation is subject to the supervision of the ECHR.¹³⁰ For instance, in *Handyside v. the United Kingdom* (a case that prescribed the limitation of freedom of expression on the basis of morals' protection) the Court passed a crucial ruling stating that freedom of expression "*is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there would be no democratic society*".¹³¹

130. McGonagle, T., (2012), "The Council of Europe against online hate speech: Conundrums and challenges", available at: <http://hub.coe.int/c/document_library/get_file?uuid=62fab806-724e-435a-b7a5-153ce2b57c18&groupId=10227>

131. Ibid, p. 9

Box 14

ECHR DECISIONS on FREEDOM OF SPEECH vs. HATE CRIME

VONA v. HUNGARY

9 July 2013

The case concerned the dissolution of an **association** on account of the anti-Roma rallies and demonstrations organised by its movement.

No violation of Article 11 (freedom of assembly and association) of the Convention: The Court recalled that, as with political parties, the State was entitled to take preventive measures to protect democracy against associations if a sufficiently imminent prejudice to the rights of others undermined the fundamental values upon which a democratic society rested and functioned. In this case, a movement created by the applicant's association had led to demonstrations conveying a message of racial division, which, reminiscent of the Hungarian Nazi Movement (Arrow Cross), had had an intimidating effect on the Roma minority. Indeed, such paramilitary marches had gone beyond the mere expression of a disturbing or offensive idea, which is protected under the Convention, given the physical presence of a threatening group of organized activists. Therefore, the only way to effectively eliminate the threat posed by the movement had been to remove the organisational backup provided by the association.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-4430086-5326345#%7B%22itemid%22:%5B%22003-4430086-5326345%22%5D%7D>

NORWOOD v. THE UNITED KINGDOM (NO. 23131/03)

16.11.2004 (admissibility decision)

Mark Anthony Norwood displayed in his window a **poster** supplied by the British National Party, of which he was a member, representing the Twin Towers in flame. The picture was accompanied by the words "Islam out of Britain – Protect the British People". As a result, he was convicted of aggravated hostility towards a religious group. Mr Norwood argued, among other things, that his right to freedom of expression had been breached.

The Court found that such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, was incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and nondiscrimination and that Mr Norwood could not claim.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#%7B%22dmdocnumber%22:%5B%22708788%22%5D,%22itemid%22:%5B%22001-67632%22%5D%7D>

JERSILD v. DENMARK (NO. 15890/89)

23.09.1994

Jens Olaf Jersild, a journalist, made a **documentary** containing extracts from a television interview he had conducted with three members of a group of young people calling themselves “the Greenjackets”, who made abusive and derogatory remarks about immigrants and ethnic groups in Denmark. Mr Jersild was convicted of aiding and abetting the dissemination of racist remarks. He alleged a breach of his right to freedom of expression.

The Court drew a distinction between the members of the “Greenjackets”, who had made openly racist remarks, and Mr Jersild, who had sought to expose, analyse and explain this particular group of youths and to deal with “specific aspects of a matter that already then was of great public concern”. The documentary as a whole had not been aimed at propagating racist views and ideas, but at informing the public about a social issue. Accordingly, the Court held that there had been a **violation of Article 10**.

Details on the decision available at:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{%22dmdocnumber%22:\[%22695768%22\],%22itemid%22:\[%22001-57891%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{%22dmdocnumber%22:[%22695768%22],%22itemid%22:[%22001-57891%22]})

GARAUDY v. FRANCE (NO. 65831/01)

24.06.2003 (admissibility decision)

Roger Garaudy, the author of a **book** entitled The Founding Myths of Modern Israel, was convicted of the offences of disputing the existence of crimes against humanity, defamation in public of a group of persons – in this case, the Jewish community – and incitement to racial hatred. Mr Garaudy argued that his right to freedom of expression had been infringed.

The Court considered that the content of the applicant’s remarks had amounted to Holocaust denial, and pointed out that “[d]enying crimes against humanity [was] one of the most serious forms of racial defamation of Jews and of incitement to hatred of them”. Disputing the existence of clearly established historical events did not constitute scientific or historical research; the real purpose was to rehabilitate the National Socialist regime and accuse the victims themselves of falsifying history. As such acts were manifestly incompatible with the fundamental values which the Convention sought to promote, the Court applied Article 17 and held that Mr Garaudy was not entitled to rely on Article 10. The application was declared inadmissible.

Details on the decision available at:

[http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-788339-805233#{%22itemid%22:\[%22003-788339-805233%22\]}](http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-788339-805233#{%22itemid%22:[%22003-788339-805233%22]})

LEROY v. FRANCE (NO. 36109/03)

02.10.2008

Denis Leroy is a cartoonist. One of his **drawings** representing the attack on the World Trade Centre was published in a Basque weekly newspaper on 13 September 2011, with a caption which read: "We have all dreamt of it... Hamas did it". Having been sentenced to payment of a fine for "condoning terrorism", Mr Leroy argued that his freedom of expression had been infringed.

The Court considered that, through his work, the applicant had glorified the violent destruction of American imperialism, expressed moral support for the perpetrators of the attacks of 11 September, commented approvingly on the violence perpetrated against thousands of civilians and diminished the dignity of the victims. Despite the newspaper's limited circulation, the Court observed that the drawing's publication had provoked a certain public reaction, capable of stirring up violence and of having a demonstrable impact on public order in the Basque Country. The Court held that there had been **no violation of Article 10**.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-2501837-2699727#%22itemid%22:%22003-2501837-2699727%22>

Source: ECHR (2013), Factsheet Hate speech, July, available on-line at: http://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf

1.6.3 Hate speech online

In recent years, the media have become "*increasingly instantaneous, international and interactive*" mainly due to inexorable growth of the **Internet**.¹³² As underlined by the legal expert McGonagle for the CoE, "*These advances in information and communications technologies can clearly have far-reaching consequences for how hate speech is disseminated and processed. The internet holds unprecedented potential for multi-directional communicative activity: unlike traditional media, it entails relatively low entry barriers*".¹³³

In 2011, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information joined their forces and prepared a **Joint Declaration on Freedom of Expression and the Internet** (2011)¹³⁴ that once more shows how much central is the topic of Internet in relation to freedom of expression:

"a. Freedom of expression applies to the Internet, as it does to all means of communication. Restrictions on freedom of expression on the Internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to

132. McGonagle, T. op. cit., p.26

133. Ibid.

134. The full text is available at: <http://www.osce.org/fom/78309>

protect an interest which is recognized under international law...

b. When assessing the proportionality of a restriction on freedom of expression on the Internet, the impact of that restriction on the ability of the Internet to deliver positive freedom of expression outcomes must be weighed against its benefits in terms of protecting other interests."

As hinted above, some of the main features of the Internet, such as immediacy, anonymity and worldwide extension made it a perfect tool to spread and promote hate. The Anti-Defamation League defines cyber hate as: "[...] any use of electronic communications technology to spread anti-Semitic, racist, bigoted, extremist or terrorist messages or information. These electronic communication technologies include the Internet (i.e. websites, social networking sites, 'web 2.0' user-generated content, dating sites, blogs, online games, instant messages, and E-mail) as well as other computer – and cell-phone based information technologies (such as text messages and mobile phones)".¹³⁵

The **main methods** used to spread hate on the Internet are:¹³⁶

- Websites;
- blogs and online fora;
- emails and personal messages;
- online news portal;
- social networking sites;
- gaming;
- videos and music;
- automated content, astroturfing¹³⁷ and fictitious identities.

Several empirical studies proved that the **online diffusion of hate speech** is an **increasing trend**.¹³⁸ Statistics confirm the extent of the problem. In 2012 the Youth Department of the Council of Europe launched a survey on young people's experience of online hate speech.¹³⁹ The online survey collected 1,137 English and 137 French responses from several European countries. The majority of the survey contributors, which was open to participants aged 14 or over, were female (63%) and the predominant age group was 30+ (Fig. 8 & 9).

135. Anti-Defamation League (ADL) (2010), "Responding to Cyberhate. Toolkit for Action", p.1, available at: <<http://www.adl.org/assets/pdf/combating-hate/ADL-Responding-to-Cyberhate-Toolkit.pdf>>

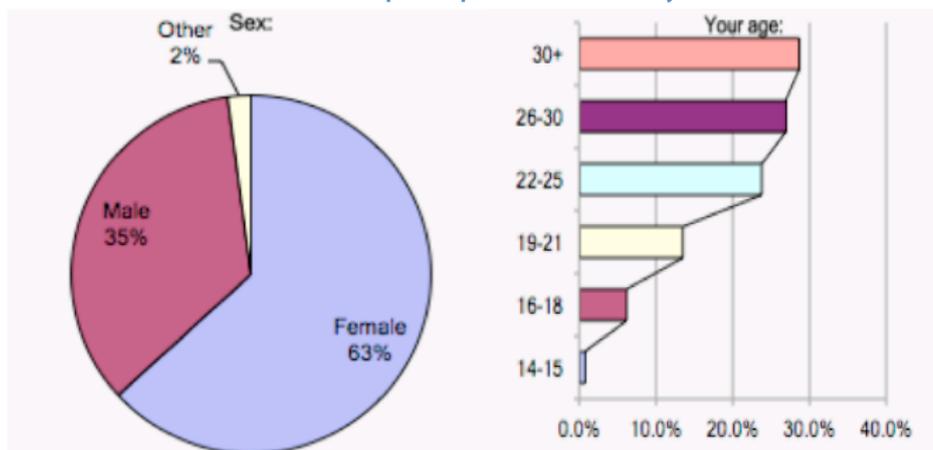
136. This distinction is reported in COE (2012), op. cit., pp. 20-28.

137. "Astroturfing" is defined as the practice of masking the sponsors of a message (e.g. political, advertising, religious or public relations) to give the appearance of it coming from a disinterested, grassroots participant.

138. E.g.: Perry, B., Olsson, P. (2009), "Cyberhate: The Globalization of Hate", in *Information & Communications Technology Law*, 18(2), pp. 185-199; Banks, J. (2010), op. cit.; Akdeniz, Y. (2009), "Racism on the Internet", Strasbourg, Council of Europe Publishing.

139. CoE (2012), "Survey on young people's attitudes and experience of online hate speech", more information available at: <http://youth-partnership-eu.coe.int/youth-partnership/news/news_47.html>

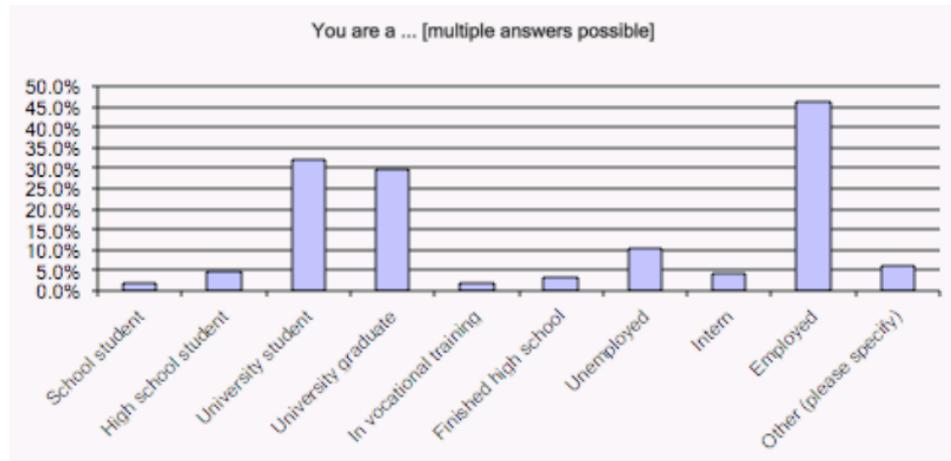
Fig. 8 & 9
Profile of participants in the survey



Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

From an occupational point of view the contributors ranged from a minority of school students to a majority of employed (Fig. 10).

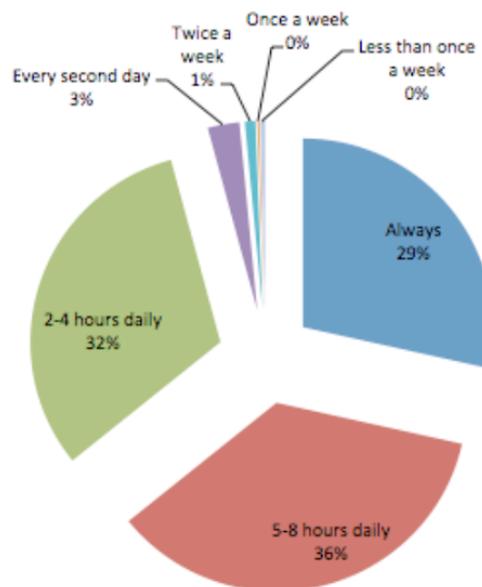
Fig. 10
Profile of participants in the survey



Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

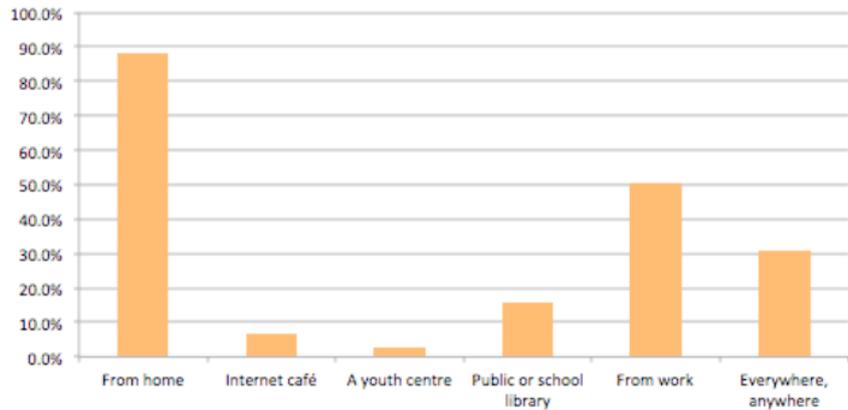
Data were also collected in reference to the participants' use of the Internet, and it was found that: 65% of them spent at least 5 hours daily connected to their Internet (fig. 11); that the majority of them connect from home or the office (fig. 12); and that the electronic devices used to connect were mainly Portable Computers, followed by Desk-top computers and smart phones (fig. 13).

Fig. 11
Time spent on the Internet



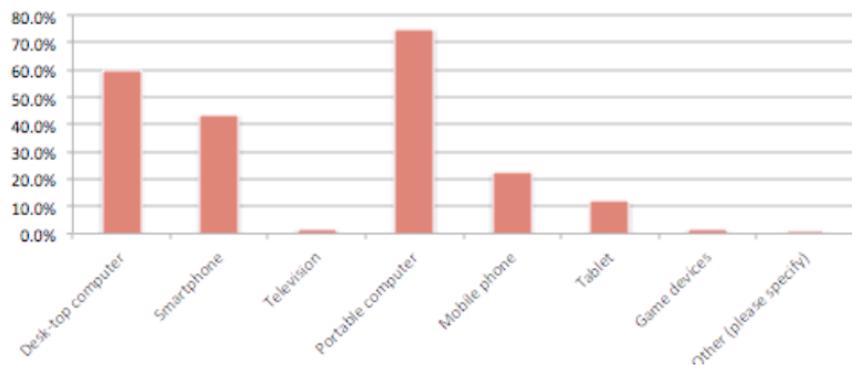
Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

Fig. 12
Connection to the Internet



Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

Fig. 13
Device used to connect to the Internet



Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

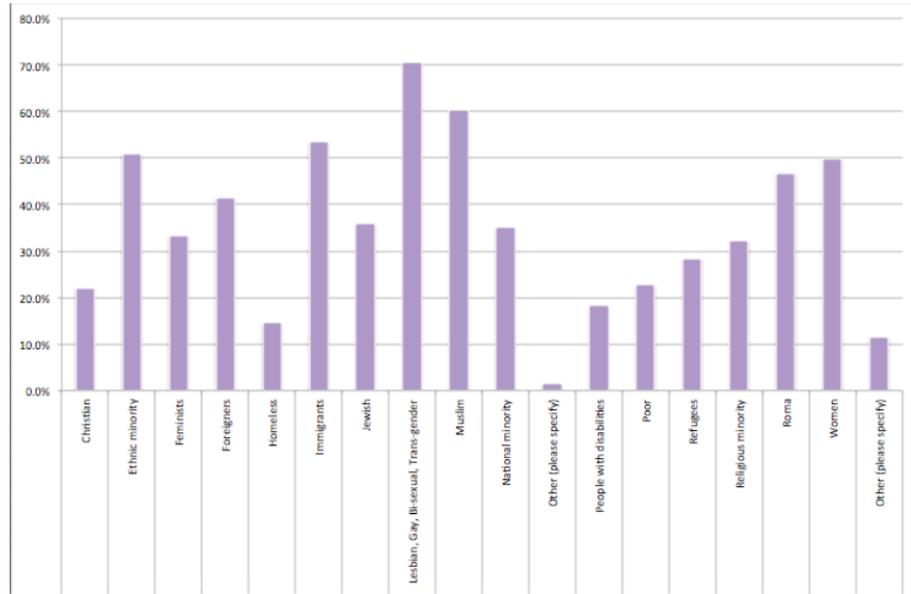
For the aim of the present manual, **the survey most revealing data** is that:

78% of the participants have encountered online hate speech

The survey also reveals that the discriminative categories mostly targeted by online hate speech are: "Gay, lesbian, trans-gender and bisexual", followed by "Muslim", "Immigrants", and "Ethnic minorities" (fig. 14).

Fig. 14

Discriminatory categories targeted by online hate speech



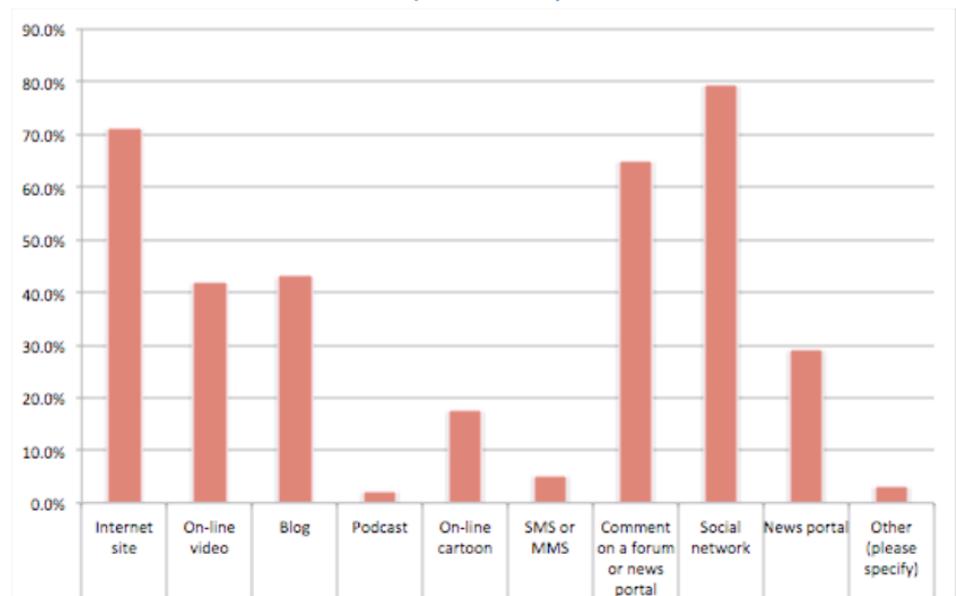
Source: CoE (2012), "Survey on young people's attitudes and experience of online hate speech"

According to the above-mentioned survey on young people's experience of online hate speech, among these methods, **hate speech online is mostly disseminated:**

- on social networks;
- on websites;
- amidst comments on forums or news portals.

Fig. 15

Where is hate speech mostly disseminated

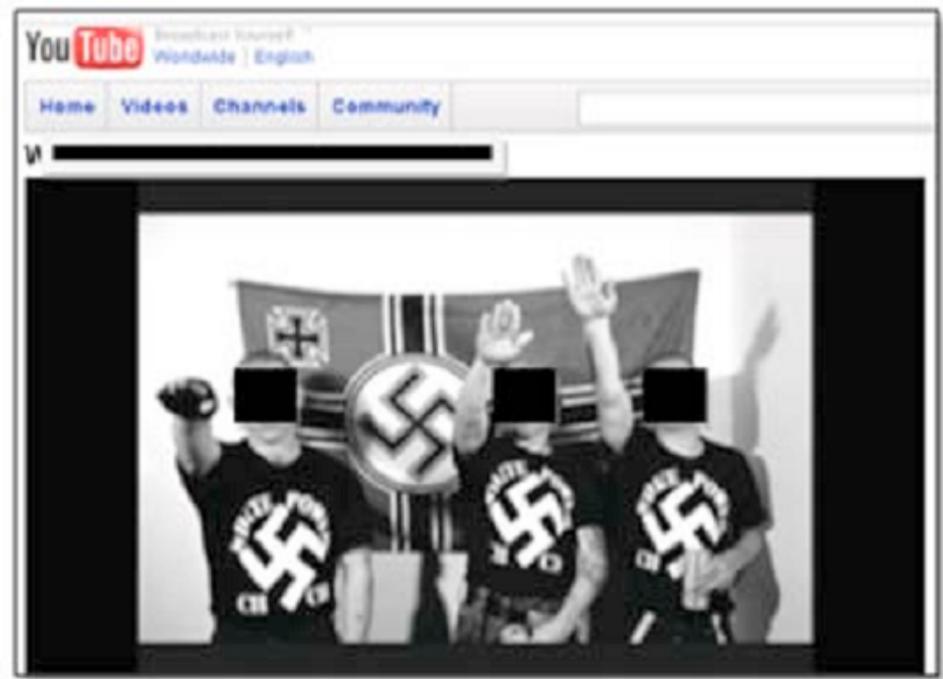


Source: CoE (2012), "Survey on young people's experience of online hate speech"

Furthermore, as well noted by the Council of Europe, "hate music and videos are also used to attract supporters – and often to raise revenue for racist groups. Record companies set up by such groups will typically

also contain links to games, videos, forums or other sites with connected ideologies. Hate sites, in turn, link to the download page for music clips or the record company itself¹⁴⁰.

Fig. 16
Snapshot of YouTube page



Source: CoE (2012), Mapping Study on projects against hate speech online. p.25

The present manual will mainly focus on those manifestations of hate speech occurring on websites, blogs, *fora* and social networks, and their respective regulation.

Websites, blogs and online *fora*

Websites dedicated to promoting or inciting hate against a particular group or groups are usually defined as “hate sites”. One among the most famous one is *Stormfront.org*, which describes itself as “a community of racial realists and idealists”, and offers a theme-based discussion forum with numerous boards for topics including ideology, science, revisionism, homeschooling etc. The site has a logo featuring the Celtic cross common to Neo-Nazi iconography surrounded by the motto ‘White Pride World Wide’.

In November 2013, the promoters of *Stormfront* were arrested and other 17 people have been denounced in Italy. According to the investigators the promoters covered roles of promotion and direction of the association, as well as of moderators of the forum. Several online materials have been seized, and the web space *stormfront.org* has been darkened. The investigation started in 2011 and the main objective was to identify the leaders and the affiliated to the virtual community related to the Italian section of the forum.¹⁴¹

140. CoE (2012), op. cit., pp. 24-25

141. For further information see: <http://www.adnkronos.com/IGN/News/Cronaca/Razzismo-incitamento-a-violenza-sul-web-arresti-e-perquisizioni-in-tutta-Italia_313899478429.html>

Fig.17
 Snapshot of Stormfront.org



Source: www.stormfront.org

Hate criminals have become more conscious of the need to propagate their ideology in a way that do not obviously appear as racist. The language is often more subtle, the messages are hidden beneath multiple examples or narrow statistics which confirm negative stereotypes about particular groups – but only because of the absence of other information.

A blog and online forum may be preferred to hate sites by perpetrators of online hate speech for different reasons: comments can be anonymous, new identities can be set up with ease, the impact on the individual concerned can be immediate and a few negative comments on a blog or in a forum are likely to encourage others to join in. In addition, if there is a lack of moderation or if the moderator is an individual who supports the attacks, those who might want to offer counter-examples or arguments can be easily rejected. The debate does not exist and a mutually supporting community is created by those left behind, sharing only stereotypes and bad comments.

Social networks and videos

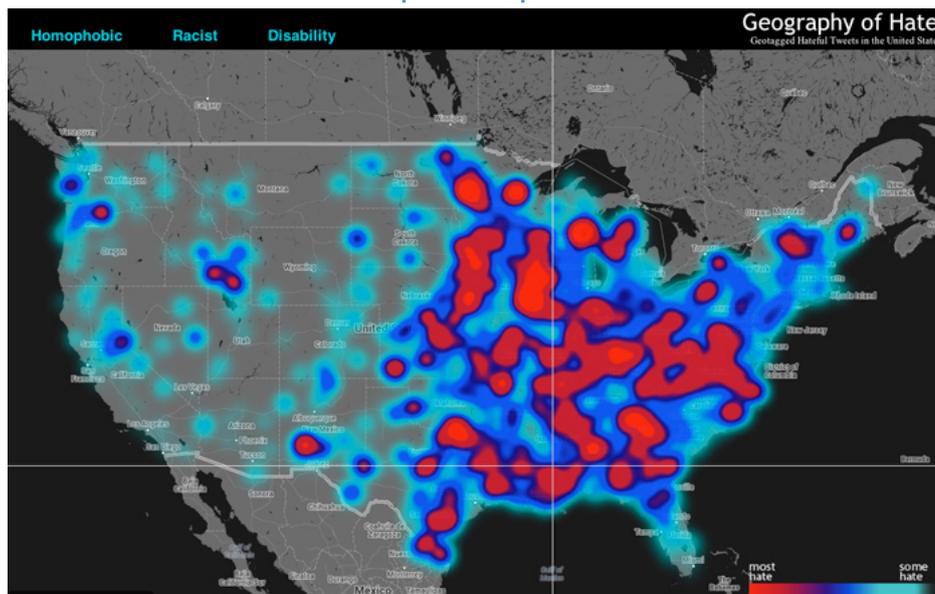
At the beginning of May 2013 **Facebook** exceeded 1.5 billion registered users: all together they publish about 250 billion of messages every day. On **Twitter**, the active users are about 200 millions and the average number of tweets per day is 400 millions. On **You Tube**, about 48 hours of new contents are published every minute.¹⁴² These numbers show the potential of the social network and the new media in spreading all kind of messages, even hate speech. Indeed, encountering pages that target particular groups, and even ones with extremist views calling for violence, is commonplace on social networks. *“Although in theory such sites can be removed, they are often difficult to find, because they may only be accessible to the site’s friends. And once removed, it is not difficult for the groups to restore the pages using a different username”*.¹⁴³

In May 2013 a group of student of the Humboldt State University in California elaborated a **“map of hate speech”** on Twitter, by selecting manually the unambiguously offensive contents over a sample of 150 thousands tweets containing derogatory words such as *nigger*, *cripple* or *wetback*. Despite the research field being limited to the U.S. and in a limited timeframe, it shows how big the problem can be.

142. For further information see: <http://www.ilpost.it/2013/05/13/lo-hate-speech-per-i-social-network/>

143. CoE (2012), op. cit., p.24

Fig. 18
Map of hate speech



Source : http://users.humboldt.edu/mstephens/hate/hate_map.html#

An example of hate speech online, although not related to racism, is the one of Caroline Criado Perez, who received several threats on Twitter after having led a successful campaign for a female figure to appear on a Bank of England note. A man and a woman have been jailed for abusing her over a social media website: they admitted they were among the users of 86 separate Twitter accounts from which the feminist campaigner had received abusive messages.¹⁴⁴

Fig. 19
Example of hate speech on Twitter



144. For further information see: The Guardian, (2014), "Two jailed for Twitter abuse of feminist campaigner", *TheGuardian*, (24 January 2014), available at: <http://www.theguardian.com/uk-news/2014/jan/24/two-jailed-twitter-abuse-feminist-campaigner>; case-law "R. v. John Raymond Nimmo and Isabelle Kate Sorley", *Judiciary of England and Wales*, 24 January 2014, available at: <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Judgments/r-v-nimmo-and-sorley.pdf>

Below, find a few other examples of how hate speech manifests itself online.

Fig. 20
Example of hate speech on Facebook



Source: CoE, 2012, p. 24

Fig. 21
Example of hate speech on Facebook 2



Source: OHPI (2013), p. 32

*“The rise in hate speech online is compounded by difficulties in policing such activities which sees the Internet remain largely unregulated. Criminal justice agencies are unlikely to proactively dedicate time and money to investigate offences that are not a significant public priority. Consequently, the police will rarely respond to online hate speech unless a specific crime is reported”.*¹⁴⁵

In this view, it seems that the unilateral and multilateral efforts to regulate online hate speech through criminal law might not be enough to effectively counter this phenomenon. The deterrent is not strong enough. Moreover, the intrinsic worldwide nature of the Internet makes the efforts of the total regulation of the online space impossible. One possible solution is to combine legal efforts with technological solutions, such as IPS user agreements, user end software, hotlines etc.

Moreover, the monitoring role of users and their key function in reporting online hate speech is of much importance in fighting this phenomenon, also in view of improving and increasing the response of the law enforcement authorities in this particular field.

This aspect will be therefore analyzed in the Section 2 of this Manual.

1.6.4 Some case-law examples of online racist hate speech

The two examples of case-law of online racist hate speech described below demonstrate how important is to establish an active collaboration between national law enforcement officials, legal professionals, victims of online hate speech and the various Internet Service Providers (IPS). Indeed, in terms of online hate speech, national laws can often be the most effective tools in assuring the protection of individual rights.

Yahoo!, Inc v. La Ligue Contre Le Racisme et L’Antisemitisme

The landmark court case of *Yahoo!, Inc v. La Ligue Contre Le Racisme et L’Antisemitisme* publicly exposed the complex jurisdiction dilemma arising from the online divulcation of hate speech. Furthermore, the case displayed the clash existing between the European legal culture - modeled on the historical background of World War II and supported by the will of preventing at all costs a relapse in its atrocities - and the United States attachment to the First Amendment of their Constitution, which enshrines freedom of speech as a fundamental right.

In April 2000, two French groups, the International League Against Racism and Anti-Semitism (LICRA) and the Union of French Jewish Students (UEJF), pressed charges against the American-based Internet Service Provider (ISP) *Yahoo!* for allowing the sale of Nazi memorabilia on its auction website.¹⁴⁶ In 2001 the High Court (*Tribunal de grande instance*) of Paris ruled that *Yahoo!* was contravening Article 645-1¹⁴⁷ *du*

145. Banks, J. (2010), op. cit., p.4

146. Kaplan, C. (2000), “French Nazi memorabilia Case Presents Jurisdiction Dilemma”, *Cyber Law Journal*, (11 August 2000), available at: <<http://partners.nytimes.com/library/tech/00/08/cyber/cyberlaw/11law.html>>

147. Article R645-1 of the French Criminal Code prohibits to wear or exhibit in public uniforms, insignias and emblems which “recall those used” by an organization or a person found guilty of crimes against humanity.

Code Penal, and was thus liable to restrict French citizens from gaining access to the sale of the Nazi merchandise.

Furthermore, the order required *Yahoo! France* to post a warning on fr.yahoo.com stating to any user of that website that, in the event the user accessed prohibited material through a search on Yahoo.com, he or she must “desist from viewing the site concerned [and be] subject to imposition of the penalties provided in French legislation”.¹⁴⁸ Failure to comply with the court order within three months would have resulted in a fine of 100,000 Francs per day.¹⁴⁹

Subsequently, *Yahoo!* brought before the United States District Court for the Northern District of California a related case concerning the enforcement of the French sentence. The majority of the judges ruled that the enforcement of the French verdict would breach the First Amendment of the American Constitution.¹⁵⁰

However, LICRA and the UEJF were not willing to back track on their legal fight and appealed this decision before the U.S. Court of Appeals for 9th Circuit, opening up a long-lasting judicial impasse on, *inter alia*, jurisdiction matters.¹⁵¹

The last en banc judgment was delivered in January 2006 by the U.S. Court of Appeals for 9th Circuit which reversed the judgment of the District Court and remanded the case with directions to dismiss the action.¹⁵² Once again the majority was split on whether to remand on ripeness or personal jurisdiction grounds and the case was dismissed for procedural reasons, avoiding thus the constitutional issue.¹⁵³ One of the Court judges, Judge William Fletcher, affirmed that: “*Yahoo! is necessarily arguing that it has a First Amendment right to violate French criminal law and to facilitate the violation of French criminal law by others. [...] the extent — indeed the very existence — of such an extraterritorial right under the First Amendment is uncertain*”.¹⁵⁴

Yahoo!, Inc v. La Ligue Contre Le Racisme et L’Antisemitisme, therefore, was closed by reaffirming once again the same jurisdictional and cultural dilemmas on the regulation of hate speech online that ignited the case in early 2000.

As Henry H. Perrit Jr., dean of the Chicago-Kent College of Law and expert in Internet Law stated: “*The Yahoo case points up a dilemma in the law of Jurisdiction. If a Web site is accessible to all, and is subject to jurisdiction by every nation on earth, then the laws of the lowest common denominator will govern the Internet. On the other hand, if we say that the only important law is the one where the content provider resides, then local values of foreign nations will not be enforced. We also run the risk of creating heavens for shyster practices*”.¹⁵⁵

[Italian Supreme Court decision: Racist Blog ruled as criminal association aimed at instigating discrimination and racial hatred](#)

The Italian Supreme Court, *Corte Suprema di Cassazione*, on the 13 July 2013 deposited a sentence that rejected the appeal of the

148. Justia US Law, (2006), “433 F.3d 1199: Yahoo! Inc., a Delaware Corporation, Plaintiff-appellee, v. La Ligue Contre Le Racisme et L’antisemitisme, a French Association; L’union Des Etudiants Juifs De France, a French Association, Defendants-appellants”, United States Court of Appeals, Ninth Circuit.- 433 F.3d 1199. Argued and Submitted March 24, 2005 Filed January 12, 2006, available at: <<http://law.justia.com/cases/federal/appellate-courts/F3/433/1199/546158/>>

149. Ibid.

150. Banks J. (2010), op. cit.

151. Reporters Committee for Freedom of the Press (2006), “Court throws out Yahoo case over French Web restrictions”, (18 February 2006), [rcfp.org](http://www.rcfp.org), available at: <<http://www.rcfp.org/browse-media-law-resources/news/court-throws-out-yahoo-case-over-french-web-restrictions>>

152. Justia US Law, op. cit.

153. Reporters Committee for Freedom of the Press, op. cit.

154. Ibid.

155. Kaplan, C., (2000), op. cit.

coordinator of a website designed to swell the ranks of the supporters of racial superiority. The defendant asked to be acquitted in the name of freedom of thought and association, and denied the jurisdiction of the Italian courts as the main website was set up and operated through a server based in the United States.¹⁵⁶

The court firmly ruled that the blog was to be considered a “criminal association aimed at instigating violence on the basis of racial, ethnic and religious discrimination” as it used its online structure: “to maintain active contact between its members, to proselytize, even by disseminating documents and texts glorifying racism, to plan out demonstrations or violent acts, to collect donations for its cause, and to census episodes or people (labeled as “Traitors” and “Italian criminals” as they supported equality and worked for the integration of immigrants).”¹⁵⁷

Accordingly, the blog coordinator was not protected by the constitutional rights of freedom of thought and association, but guilty of the crime of participation in an aimed at incitement to discrimination and racial hatred under art. 3c.3 of Law no. 654/1975 as originally decided by the *Tribunale della Libertà* in Rome.

Additionally, the Court established that the crime of propaganda and incitement to racial hatred and discrimination under Law no. 205/1993 (“Mancino’s Law”) constitutes an act of mere conduct, which is:

- a. supplemented by the mere consciousness and the will to propagate racist or incite racial discrimination;
- b. carried out regardless of the fact that propaganda or incitement is collected by the recipients of the message.

With this sentence, the *Corte di Cassazione* established that social networks and the Internet are certainly suitable tools to disseminate messages aimed at influencing the ideas and behavior of the public and, therefore, the propaganda of ideas based on racial hatred and racial discrimination constitutes the offense provided for by the legislation even when perpetrated through new technological media.¹⁵⁸

Furthermore, in terms of jurisdiction, the sentence ruled that it was of no-relevance the fact that the website was set up and hosted by a server abroad. Indeed, the crime fell under Art. 6 of the Italian Penal Code. The article establishes the state’s right to prosecute those who have set up an illegal activity in violation of its national criminal law, when at least a fraction of the activities of the criminal organization took place in the territory of the State.

To support this ruling, the Supreme Court also relied on its previous jurisprudence recalling a case where the offense of online defamation was established even if the indicted website had been registered abroad on the legal justification that the offense was actually perceived by users residing in Italy (Corte di Cassazione, sez. V, n. 4741 dd. 17.11.2000, dep. 27.12.2000).¹⁵⁹

156. Maciocchi, P., (2013), “Blog razzista, associazione a delinquere”, (1 August 2013), in *Il Sole 24 Ore*, available at: <<http://www.ilsole24ore.com/art/norme-e-tributi/2013-08-01/blog-razzista-associazione-delinquere-072444.shtml?uuiid=AbblulJl>>

157. ASGI, (2013), “Cassazione: rigettato il ricorso di un gestore di un sito web per associazione finalizzata all’incitamento all’odio razziale”, (10 August 2013), Corte Suprema di Cassazione, sez. III penale, sentenza n. 33179/13 del 31 luglio 2013, available at: <http://www.asgi.it/home_asgi.php?n=2854&l=it>

158. Ibid.

159. Corrias Lucente, G., (2013), “Il sito blog come associazione a delinquere”, (27 December 2013), in *MediaLaws*, available at: <<http://www.medialaws.eu/il-sito-blog-come-associazione-a-delinquere/>>

SECTION 2

Identifying and reporting hate speech online

2.1 Responding to hate crime

Police officers and investigators have a key role to play in responding to hate crimes. By addressing the case efficiently and carefully, police can reinforce the message that all hate crimes, including hate speech online, will be investigated, thus enhancing the likelihood of a successful prosecution.

160. FRA (2012), "Making hate crime visible in the European Union: acknowledging victims' rights", available at: http://fra.europa.eu/sites/default/files/fra-2012_hate-crime.pdf

161. Turner, N. "Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention", International Association of Chiefs of Police, available at http://www.google.it/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=0CGkQFjAG&url=http%3A%2F%2Finstructor.mstc.edu%2Finstructor%2Fmbesett%2FIntro%2520to%2520CJ%2FHate%2520Crimes%2520Reading%2520Assignment.doc&ei=pQILU66ANlr7Aayr4DoDg&usq=AFOjCNGkwByo23o6oEG4DXBrLiwfXvti_w&sig2=pMHclxBmKZum8Qt5IkLBSQ&bvm=bv.61725948,d.ZGU&cad=rja

162. The report is the result of a survey fielded in the 27 Member States of the European Union between 2 and 17 June 2012. Some 26,622 respondents from different social and demographic groups were interviewed face-to-face at home in their mother tongue on behalf of the Directorate General Justice. The methodology used was that of Eurobarometer surveys as carried out by the Directorate-General for Communication ("Research and Speechwriting" Unit). The report examined seven grounds of discrimination, i.e. gender, ethnic origin, religion or beliefs, age, disability, sexual orientation, and gender identity (being transsexual or transgender). Refer to: Special Eurobarometer 393 (2012), "Discrimination in the EU", available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf

- Why should law enforcement institutions care particularly about hate crime?**
- If a person abuses another, **why does it make a difference whether the offence was motivated by prejudice, as is the case of hate crimes?**

This paragraph aims at providing answers to these questions.

As clearly stated in 2012, FRA Report on "Making hate crime visible in the European Union: acknowledging victims' rights";¹⁶⁰ it is the responsibility of criminal justice systems to identify cases of hate crime.

As seen above, hate crimes retains some specificities in their effect on **victims** and on **community**:

- Hate crimes are often brutal and injurious.
- Victim(s) usually feel traumatised and frightened.
- Families of victims often feel frustrated and powerless.
- Other members of the community who share the victim's characteristics may also feel victimised and vulnerable.
- Hate incidents can escalate and prompt retaliatory action.
- Hate crimes and hate incidents create communitywide unrest.¹⁶¹

A rapid and efficient response by law enforcement is crucial therefore both for the victim and for the community at large. Failure to respond to hate crimes may jeopardise public safety and leave officers and departments open to increased scrutiny and possible liability.

2.2 Main reasons for not reporting

Research has shown that hate crimes often go **unreported** and are only reported when things have reached a crisis point. Why this occurs can be inferred from statistics available on discrimination in Europe. The 2012 Eurobarometer study "Discrimination in the EU"¹⁶² and the

2013 FRA annual report on anti-Semitism in the EU¹⁶³ clearly show how victims of hate crimes are **less likely** than victims of other types of violence to report attacks against them to the police. According to the Special Eurobarometer 393:

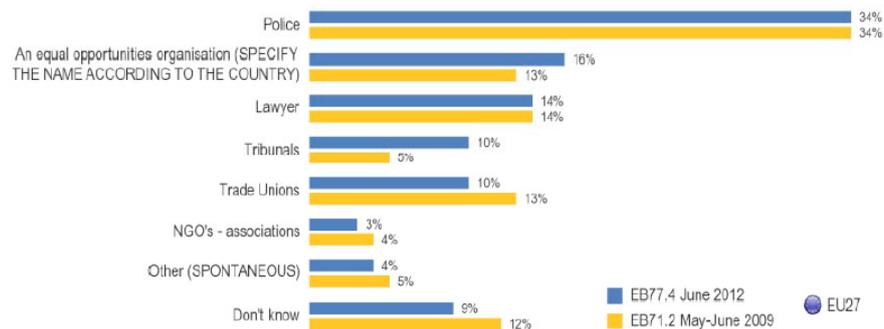
“Respondents who define themselves as belonging to a minority would be less likely than average to report their case to the police if they were victims of discrimination. Equally, Europeans who have experienced discrimination on multiple grounds (25%) or on a single ground (27%) are less likely to turn to the police than those have not experienced discrimination (35%)”¹⁶⁴

Additionally, Europeans belonging to a minority are less likely than average to report their case to the police if they become victims of discrimination. Equally, those who have experienced discrimination on multiple grounds (25%) or on a single ground (27%) are less likely to turn to the police than those have not experienced discrimination (35%).¹⁶⁵

Fig. 22

Institutions to which victims are likely to report to

QC12. If you were the victim of discrimination or harassment, to whom would you prefer to report your case?



Source: Eurobarometer 2012, p. 15

It is crucial to understand the **reasons for not reporting** in order to be able to overcome such challenge. As in the case of other similar crimes, such reasons include:

- **Lack of confidence in the police.** Minority groups have historically had strained relations with law enforcement and fear that crimes against them will not be taken seriously or that the police reaction will be unsympathetic or even hostile.
- **Concern about revenge attacks or fear of retaliation.**
- **Acceptance of violence and abuse: nothing will change anyway!** Many hate crime survivors suffer the trauma of victimization in silence rather than to expose themselves to these forms of “secondary victimization”.¹⁶⁶ This specific form of victimization has been defined by criminologists to describe the process in which a victim seeking assistance from the authorities

163. Based on the results of a survey carried out online during September and October 2012. The survey focused on Jewish people’s experiences and perceptions of hate crime, discrimination and anti-Semitism by analysing data from the responses of 5,847 self-identified Jewish people (aged 16 years or over) in eight EU Member States: Belgium, France, Germany, Hungary, Italy, Latvia, Sweden and the United Kingdom. Refer to: FRA (2013), “Discrimination and Hate Crime Against Jews in EU Member States: Experiences and Perceptions of Anti-Semitism”, available at: <<http://fra.europa.eu/en/publication/2013/discrimination-and-hate-crime-against-jews-eu-member-states-experiences-and>>

164. Special Eurobarometer 393, op. cit., p.10

165. Special Eurobarometer 393, op. cit., p.10

166. The Council of Europe defines secondary victimization as ‘the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim’, see: CoE, “Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims”, available at: <<https://wcd.coe.int/ViewDoc.jsp?id=1011109&>>

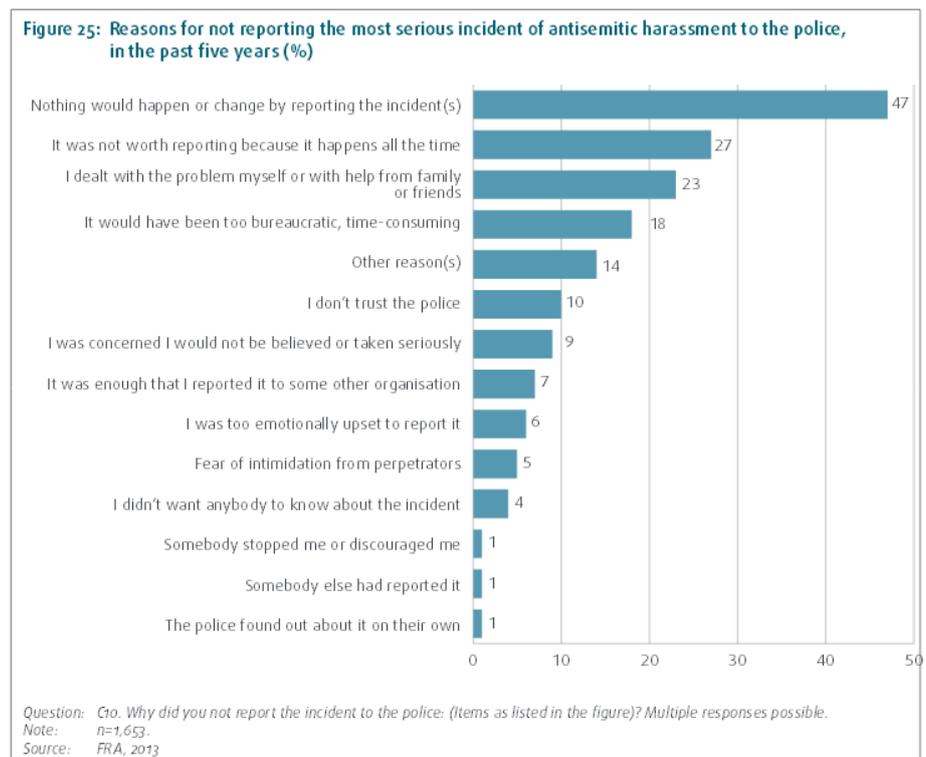
(in general, the police and people working in the judicial system) is blamed as a result.¹⁶⁷

Other reasons why victims may be reluctant to report or participating in investigation of a hate crime might be:¹⁶⁸

- fear of **re-victimisation or retaliation**;
- fear of having **privacy compromised**;
- fear of **jeopardising immigration status**, being reported or **deportation** (if applicable);
- **humiliation** or shame about being victimised;
- **lack of a victim support system**;
- **cultural** and language barriers.

The above mentioned survey on “Discrimination and Hate Crimes Against Jews in EU Member States” provides examples as to why victims do not report the incidents to police. Almost half (47%) of the respondents who have not reported the most serious incident say that nothing would have changed had they done so. About one quarter of the participants (27%) say that they did not report either because this type of incident happens all the time or because they handled the situation themselves or with the help of family or friends (23%). Almost one in five (18%) consider that reporting to the police is too bureaucratic or time consuming. See Figure 23 for details.

Fig. 23
Reasons for not reporting



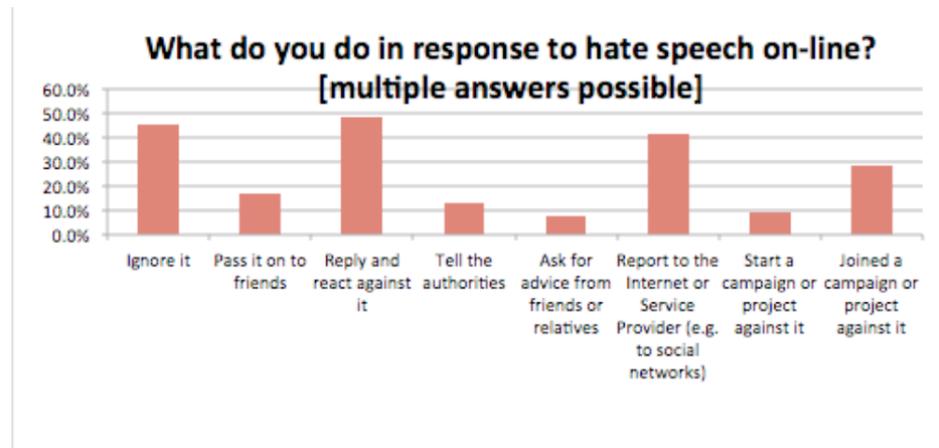
167. UNODC, (2010), “Manual on victimization surveys”, p. 55, available at: <http://www.unodc.org/documents/data-and-analysis/Crime-statistics/Manual_on_Victimization_surveys_2009_web.pdf>

168. Turner, N., op. cit.

Source: FRA (2013), “Discrimination and Hate Crimes Against Jews in EU Member States”, p. 51

As mentioned in a survey on young people’s attitudes and experience of online hate speech launched by the Youth Department of the Council of Europe,¹⁶⁹ when looking at the most common type of responses spurred by hate speech online (figure 24) it is striking to note that the first two reactions are in sharp contradiction. The most commonly reported way of dealing with hate speech online is to reply to it, whilst the second one consists in ignoring the event. Another observation regards the substantial difference in percentage of people that will report the event to the Internet or Service Provider (40%) and that of those who will report episodes of online hate speech to the authorities (around 12%).

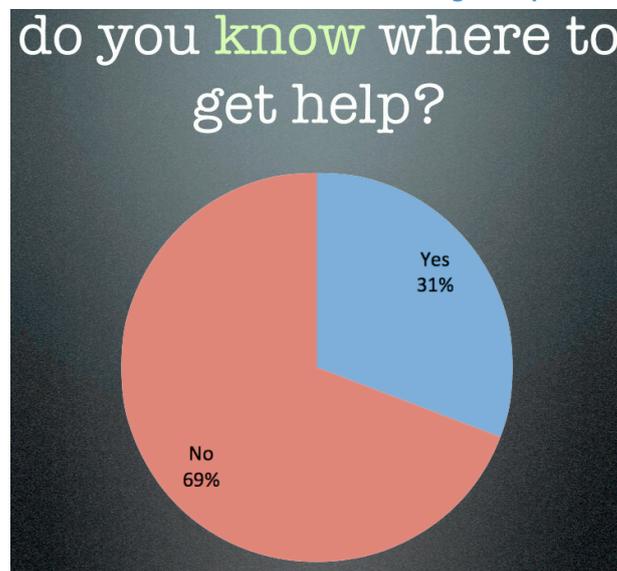
Fig. 24
Victims’ reactions to hate speech



Source: CoE (2012), “Survey on young people’s experiences and attitudes towards hate speech online”

This last remark is particularly indicative if we consider that **69%** of the people who completed the survey replied “no” to the question of whether they know where to get help in case of encountering online hate speech (fig. 25).

Fig. 25
Victims’ awareness of where to get help



Source: CoE (2012), “Survey on young people’s experiences and attitudes towards hate speech online”

169. The survey was launched within the framework of the project “Young people combating hate speech online” and it collected some 1,137 English and 137 French responses from several European countries. The majority of the survey contributors, which was open to participants aged 14 or over, were female (63%) and the predominant age group was 30+. More information available at: <http://youth-partnership-eu.coe.int/youth-partnership/news/news_47.html>

This scenario represents both a challenge and an opportunity for law enforcement and legal personnel to become active key players in changing this trend and in avoiding the risk of **double victimization**. It is essential that police and investigators provide an effective response to people reporting hate incidents, inspiring **confidence** amongst victims by responding and solving the case quickly.¹⁷⁰

2.3 How to investigate hate speech online

Law enforcement's response to an alleged crime of hate speech online should begin no differently than to any other crime. First of all, law enforcement officials must rapidly evaluate what has happened and take any necessary action to stabilize the situation and avoid any escalation. Two are the areas of concern which should be recognized by an officer responding to an alleged hate crime:

(1) **Sensitivity to the needs of the victim**, and (2) the identification of **elements of a bias crime**.¹⁷¹

2.3.1 A victim-centred approach

It is crucial to understand the impact that hate speech can have on victims as individuals and within their communities.

A victim of any crime may feel isolated from others, fearful that the occurrence will happen again, and angry that he or she has become a victim. In the case of hate crime such impacts are often more far-reaching. Evidence shows that hate crime has a strong impact on victims, mainly because they are abused for what they are perceived to be. They are forced to accept that their identity was targeted and that, for that reason, they remain at risk of falling victims of other similar crimes. Victims of hate crime may, therefore, experience symptoms of trauma.

It is in the intensity of their feelings of fear, anxiety and loss of confidence in others that their experiences can most significantly differ from those of the victims of other crimes not motivated by bias. Even in cases of violent crimes, the physical harm is often less significant than the accompanying sense of violation and humiliation.¹⁷² The person has been chosen to be victimised for no other reason than his or her race, ethnicity, or religion. There is nothing that this person can do to prevent becoming victimised again. This type of personal experience can result, many times, in a feeling of loss of control over one's life. Also, if left untreated, hate speech can fuel a cycle of hate where anger, resentment and fear escalate. This may have a destructive impact on society as a whole.

Law enforcement officials must attend carefully to the ways they interact and communicate with victims, their families and members of the community. A '**victim-centred approach**' needs to be adopted to

170. Refer to Viridian Housing, "Hate crime procedure", available online at: <<http://www.viridianhousing.org.uk/Resources/Viridian/Documents/ASB/Hate%20Crimes%20procedure.approved.doc>>

171. FBI (2012), "Hate Crime Data Collection Guidelines and Training Manual", 19 December, p. 24, available at: <<http://www.fbi.gov/about-us/cjis/ucr/data-collection-manual>>

172. FRA (2013), "Opinion of European Union Agency for Fundamental Rights on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime", p. 5, available at: <http://fra.europa.eu/sites/default/files/fra-opinion-2-2013-framework-decision-racism-xenophobia_en.pdf>. Refer also to: FRA (2012), op. cit., p. 20

respond to hate crime and hate speech. This means:

- ascribing a positive value to a person's complaint of harassment;
- respecting his or her wishes as to how matters should proceed;
- agreeing a course of action with the victim and delivering results;
- keeping the victim informed of progress on the action being taken.¹⁷³

During the interview with a hate crime victim, the objective must be to get a clear picture of what happened, but at the same time the interviewer should remember that the victim has to reconstruct distressing events or talk about very sensitive issues. Herby some useful tips for the police to support the victim while investigating the crime:

- remain calm, objective and professional;
- conduct the interview in a suitable and quiet environment;
- ask victim how he or she wants you to help him or her;
- request the assistance of translators when needed;
- let victims defer answering questions if they are too distraught and allow breaks in the interview;
- reassure victim that he or she is not to be blamed for what happened;
- voice your support of the actions the victim took to protect himself or herself and defuse the situation;
- show empathy and allow the victim to voice feelings about what happened;
- encourage victim to tell the story in his or her own words;
- ask the victim to recall, the best of his or her ability, the exact words of the perpetrator(s);
- ask the victim if he/she have family members or friends who can support him or her;
- inform the victim of what efforts can be made to enhance their safety;
- reassure the victim that every effort will be made to protect anonymity during the investigation;
- tell victim about the probable sequence of events in the investigation;
- provide information about community and department resources available to protect and support victim, their families and members of the community;
- in the case of online hate speech, ask the victim if he or she has managed to backup the online content of the hateful speech.

Avoid:

- being abrupt or rushed;
- tell victim that you know how he or she feel;
- asking the victim whether he or she thinks this was a bias or

173. For further information see: Viridian, "Hate Crimes procedure", available at: http://webcache.googleusercontent.com/search?q=cache:ddz3b_htA0AJ:www.viridianhousing.org.uk/Resources/Viridian/Documents/ASB/Hate%2520Crimes%2520procedure.approved.doc+&cd=1&hl=en&ct=clnk&gl=it&client=firefox-a

hate crime;

- criticizing the victim's behaviour;
- making assumptions about the victim's culture, religion, sexual orientation or lifestyle choices;
- allowing personal value judgments about the victim's behaviour, lifestyle or culture to affect your objectivity;
- using stereotyped or biased terms;
- belittling the seriousness of the incident, especially if the perpetrator is a juvenile;
- in the case of online hate speech, downplaying the seriousness of the crime because of its online nature.¹⁷⁴

When the **victim** or the **witness** of an incident of online hate speech is a **minor** or a **child**, the professional(s) investigating the case, beyond adopting a victim-centred approach, should specifically uphold child-sensitive and empathetic manners. In 2004 ECOSOC adopted the *Guidelines on Justice for Child Victims and Witnesses of Crime*,¹⁷⁵ which have been completed by the International Bureau for Children's Rights (IBCR) according to the three major cross cutting principles protected by the Convention on the Rights of the Child:

- a. **Dignity.** Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected;
- b. **Non-discrimination.** Every child has the right to be treated fairly and equally, regardless of his or her or the parent or legal guardian's race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;
- c. **Best interests of the child.** Every child has the right to have his or her best interests given primary consideration. This includes the right to protection and to a chance for harmonious development:
 - i. **Protection.** Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect including physical, psychological, mental, and emotional abuse and neglect;
 - ii. **Harmonious development.** Every child has the right to a chance for harmonious development and to a standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatized, every step should be taken to enable the child to enjoy healthy development.

174. UNICRI elaboration of Turner, N., op. cit., pp. 5-6; Danish Institute for Human Rights (DIHR) (2009-2011), "Tracing and Tackling crime Against LGBT Persons".

175. International Bureau for Children's Right (IBCR) (2003), adopted by ECOSOC with Res. 2004/27 of 21 July 2004, "Guidelines on Justice for Child Victims and Witnesses of Crime", available at: <http://ibcr.org/eng/the_un_guidelines_on_child_victims_and_witnesses_of_crime.html>

These guidelines represent a thorough tool to assure justice for child victims and witnesses of crime, including thus child victims or witnesses of hate speech online; the following box provides a focus on the instructions related to the right of the child to be protected from discrimination, but professionals are highly advised to consult

the entire protocol, which is available online at: http://www.un.org/en/pseataaskforce/docs/guidelines_on_justice_in_matters_involving_child_victims_and.pdf

Box 15

Guidelines on Justice for Child Victims and Witnesses of Crime

ANNEX

[...]

2. The right to be protected from discrimination

- a. Child victims and witnesses should have access to the justice process that protects them from discrimination based on the child, parent, or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- b. The justice process and support services available to child victims and witnesses and their families should be sensitive to the child's age, wishes, understanding, gender, sexual orientation, ethnic, cultural, religious, linguistic and social background, caste, socio-economic condition, immigration or refugee status, as well as to the special needs of the child, including health, abilities, and capacities. Professionals should be trained and educated about such differences.
- c. In many cases, special services and protections will need to be instituted to take account of the different nature of particular offences against children, such as sexual assault involving girl children.
- d. Age should not be a barrier to a child's right to participate fully in the justice process. Every child has the right to be treated as a capable witness, and his or her testimony should be presumed valid and credible at trial until proven otherwise and as long as his or her age and maturity allow the giving of intelligible testimony, with or without communication aids and other assistance.

2.3.2 Bias indicators

As mentioned, hate speech online is committed out of **bias motivation**. Therefore, after having adopted a victim-centered approach, an officer investigating the perpetration of an alleged hate crime should focus his/her attention on the identification of bias motivations. *"Due to the difficulty of ascertaining the offender's subjective motivation, bias is to be reported only if investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias".*¹⁷⁶

On this regards, it must be once more underlined that the mere fact the offender has a prejudice against the victim's actual or perceived race, ethnicity, or religion does not necessarily imply that a hate crime was involved. Rather, the offender's criminal act must have been motivated, in whole or in part, by bias. Often single facts may be not decisive as indicators of the bias motivation, but a combination of facts may support an objective determination of biased motivation.

176. FBI (2012), op. cit., p. 4.

Some indicators can be identified to make it easier for the police to **objectively** determine the existence of a bias motivation in a specific case, and in case to resolve to carry out further investigation.¹⁷⁷ In the case of racist hate speech online they are, for instance:

1. The offender and the victim belong to different race, ethnicity, and/or religion.
2. Bias-related comments or statements were made by the offender indicating the offender's bias.
3. Bias-related drawings, symbols, images or memes were posted on the Internet or sent to the victim by the offender.
4. The victim was visiting an online website, blog, social network where previous hate crimes had been committed because of race, ethnicity, and/or religion, and where tensions remained high against the victim's group.
5. Several incidents occurred in the considered online platform, at or about the same time, and the victims were all of the same race, ethnicity, and/or religion.
6. A substantial portion of the users of the specific online platform where the crime occurred perceived that the incident was motivated by bias.
7. The victim was engaged in activities related to his or her race, ethnicity, and/or religion. For example, the victim posted a video denouncing slavery or ethnic discrimination.
8. The incident coincided with a holiday or a date of particular significance relating to a race, ethnicity, or religion, e.g. during the Ramadam month or the Yom Kippur.
9. The offender was previously involved in a similar racist hate crime or is a racist hate group member.
10. There were indications that a racist hate group was involved. For example, a racist hate group claimed responsibility for the crime or was active in the specific website/blog/social network.
11. A historically-established animosity existed between the victim's and the offender's groups.
12. The victim, although not a member of the targeted racial, ethnicity, or religious group, was a member of an advocacy group supporting the victim group

177. Among others, refer to: OSCE/ODIHR (2010), "Understanding Hate Crimes: A Handbook for Bosnia and Herzegovina", p. 9, available at: <http://www.oscebih.org/documents/osce_bih_doc_2010122712342149eng.pdf> and FBI (2012), op. cit.

Box 16

HandoutIndicators of bias-motivated crime

Several factors to be considered in determining whether the incident is a suspected bias-motivated crime:

- Is the motivation of the alleged offender known?
- Was the incident known to have been motivated by racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias?
- Does the victim perceive the action of the offender to have been motivated by bias?
- Is there no clear other motivation for the incident?
- Were any racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias remarks made by the offender?
- Were there any offensive symbols, words, or acts which are known to represent a hate group or other evidence of bias against the victim's group?
- Did the incident occur on a holiday or other day of significance to the victim's or offender's group?
- Is the victim a member of a specific race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Was the offender of a different race, religion, ethnicity, sexual orientation, gender, or gender identity than the victim?
- Would the incident have taken place if the victim and offender were of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Were biased comments or statements made by the offender indicating offender's bias?
- Were bias-related drawings, images, symbols, pictures or memes publicly posted/ privately sent by the offender?
- Was the victim visiting an online platform where hate crimes on the base of race, religion, disability, ethnicity, sexual orientation, gender, or gender identity have been previously commonly reported and where tensions remained high against victim's group?
- Have several incidents occurred in the same website/blog/social network at or about the same time, and were the victims all of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
- Was the victim engaged in activities related to his or her race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Did the incident coincide with a holiday or a date of particular significance relating to a race, religion, disability, ethnicity, sexual orientation, gender, or gender identity, e.g., Martin Luther King Day, or Rosh Hashanah, the Transgender Day of Remembrance (November 20)?
- Was the offender previously involved in a similar hate crime or is a hate group member?
- Were there indications that a hate group was involved? For example, a hate group claimed responsibility for the crime or was active in the neighbourhood.

- Does a historically-established animosity exist between the victim's and offender's groups?
- Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?
- Has this victim been previously involved in similar situations?
- Are there other explanations for the incident, such as a childish prank, unrelated online vandalism, etc.?
- Did the offender have some understanding of the impact his or her actions would have on the victim?

Source: UNICRI elaboration of US Department of Justice, FBI (2012), "Hate Crime Data Collection Guidelines and Training Manual", available at: <http://www.fbi.gov/about-us/cjis/ucr/data-collection-manual>, pp. 24-25.

2.4 Legal challenges linked to hate speech online

2.4.1 Proving a case

This chapter provides a few indications are for lawyers or legal professionals working with institutions, associations and NGOs active in the defence of fundamental rights of minority groups.

Establishing the facts lies at the heart of any legal proceedings. When a legal professional is approached by a client claiming to be a victim of racist hate speech online there are three core matters to establish:

1. what facts can support the claim;
2. how to access these facts;
3. how to collect evidence to substantiate these facts.¹⁷⁸

In general, legal professionals dealing with claims of hate speech online are highly advised to consult with equality bodies, administrative bodies, law enforcement authorities and related NGOs. This type of consultation may be especially fruitful for accessing documents and obtaining witness, or third parties, statements prior to court hearings.¹⁷⁹

It is important to bear in mind that a case of hate speech online might be established in different legal proceedings. In civil cases "the general rule is that a complaint must be proven to be more probable than not".¹⁸⁰ In criminal cases, as well as in administrative ones, it is usually the duty of local authorities to investigate and establish the facts. Particularly, in criminal proceedings the standard of proof is the highest, as offenders might face severer sentences. Indeed, in criminal cases a complaint "must be proven beyond reasonable doubts".¹⁸¹

178. Farkas, L., (2011), "How to Present a Discrimination Claim: Handbook on seeking remedies under the EU Non-discrimination Directives", European Network of Legal Experts in the non-discrimination field, The European Commission Directorate-General for Justice, p. 110, available at: <http://ec.europa.eu/justice/discrimination/files/present_a_discrimination_claim_handbook_en.pdf>

179. Ibid, p. 51

180. Ibid, p. 46

181. Ibid.

Box 17

The European Commission established a series of useful tips to overcome procedural barriers when presenting discrimination claims, which may be equally applicable to claims of hate speech online:

- Use civil or administrative procedures or complain to the equality body instead of initiating criminal proceedings.
- Tackle the complexity of domestic anti-discrimination law by using information available from equality bodies and specialist non-governmental organizations.
- Take advantage of the skills and experience of the equality bodies.
- Seek financial assistance to pursue a case and secure adequate representation. In many countries legal aid is available from equality bodies.
- Seek a waiver from legal fees that may be payable in discrimination cases.
- Find the least expensive procedure: in general, proceedings before equality bodies and administrative authorities as well as criminal proceedings and mediation/conciliation are free of charge.
- If court proceedings are lengthy, then seek redress from equality bodies or inspectorates or through mediation.
- Request basic adjustments to court buildings to accommodate the needs of disabled victims in good time.

Source: EU (2011), How to present a discrimination claim. Handbook on seeking remedies under the EU Non-Discrimination Directive, p. 111

2.4.2 Determining legal liability¹⁸²

One of the greatest challenges arising from the diffusion of hate speech online is assessing the legal liability of the offenders. This difficulty derives from some of the main features of the Internet, such as its virtuality, anonymity and worldwide extension. First of all, several different actors may be involved in the creation and distribution of hateful content online by:

- a. creating or sourcing it;
- b. publishing it; developing it;
- c. hosting it;
- d. facilitating its dissemination, accessibility or retrievability.¹⁸³

Thus, various degrees of liability could be attributed to numerous actors, as each one may retain a different relationship with the hateful content. In general terms, relevant legal distinctions can be advanced in reference to different types of the so-called *User Generated Content* (UGC). When assessing different levels of liability/responsibility it is useful to account for the different levels of editorial involvement/control. Therefore, it is useful to evaluate if the hateful UGC is:

1. prepared by users and then incorporated into otherwise professionally-produced and editorially-controlled content;

182. This sub-paragraph is mainly based on McConagle (2013) "The Council of Europe against online hate speech: Conundrums and challenges".

183. McGonagle, T. (2013), op. cit., p. 28.

2. a stand-alone episode, i.e. UGC that exists alongside professionally-produced and editorially-controlled content;
3. the product of co-creation by media professionals and users;
4. created via and maintained on purpose-built fora and networks and is not incorporated into professional media content.¹⁸⁴

Moreover, determining liability for hate speech online is a complicated matter from a jurisdictional perspective. Hate speech can be propagated via *Internet Service Providers* (ISPs) based in different jurisdictions. As previously explained, there is little consistency between national legislations on the matter. Above all, this becomes apparent if we consider the substantially different legal and cultural approach that the various European and the American jurisdictions ascribe to the protection/regulation of free speech.

Forum-shopping is very common among people actively involved in the distribution of hate content on the Internet: it means “the practice of strategically choosing favourable jurisdictions in which to host a site.”¹⁸⁵ Hate websites are often built so that they are hosted in jurisdictions more tolerant of hate speech.¹⁸⁶ Websites that have been blocked or banned in one country are sometimes relocated to another, more favourable, jurisdiction.¹⁸⁷

The issue is further complicated when considering that different ISPs, even within a single jurisdiction, often have different policies on hate speech. The same can be said about Social Networking options, such as Twitter and Facebook. Therefore, legal professionals assisting victims of hate speech online need to be fully aware of both the characteristics of the jurisdiction of the ISP or Social Network service hosting the racist content, and its hate speech policies. Specifically since, as outlined in some of the case-studies and the law-cases considered in this manual, the policies and practices on hate speech of many ISP and Social Networking sites are evolving to meet national legal standards.

An emblematic example of this trend is the newly developed *Country Withheld Content* (CWC) tool of Twitter. Since the official introduction of this tool, Twitter has continued to see an increase in the number of requests received and correspondent number of withholdings.

184. Ibid, p. 29.
 185. Ibid, p. 27.
 186. Ibid, p. 27.
 187. For example the website of the Holocaust denier Ernst Zündel. See: Akdeniz, Y., (9 January 2006) “Stocktaking on Efforts to Combat Racism on the Internet”, Background Paper for the High Level Seminar of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, Fourth Session, United Nations Commission on Human Rights Doc. No. E/CN.4/2006/WG.21/BP.1, 16-27 January 2006, pp.16-18.

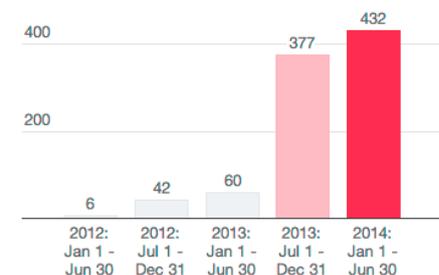
Fig. 26
Removal request received by Twitter

Removal requests include government requests (and other complaints of illegal content from authorized reporters) we've received to remove or withhold content on Twitter.

Governments generally make removal requests for content that may be illegal in their respective jurisdictions. For example, we may receive a court order requiring the removal of defamatory statements, or law enforcement may ask us to remove prohibited content.

Removal requests

January 2012 to present



Source: Twitter, Get the data, Embed this chart

Source: Snapshot of Twitter Transparency Report

2.4.3 Quantifying the harm¹⁸⁸

Also as a lawyer, embracing and understanding the perspective of the victim is fundamental. As stressed above, the suffering of the victim can deepen when the medium for the creation and diffusion of the offensive content is the Internet. However, harm caused by racist hate speech is not easy to assess and quantify.

Anonymity is considered to be a cornerstone of the Internet as it is supposed to protect privacy and foster the right to freedom of speech. However, the results of such anonymity may be, in some circumstances, greater than its advantages, as in the case of the diffusion of hate speech online and its harmful effect on its victims. On one side in fact, hate offenders gather a sort of “Dutch courage” from anonymity by detaching themselves from the consequences of their actions and words. On the other side, victims of hate speech online may feel powerless and profoundly threatened by this anonymity. For instance, the very suspicion that the anonymous offender might be a person known is likely to increase the victim distress. A victim of racist hate speech online could end up fearing that the anonymous offender might live nearby, attend the same school, or be part of his/her professional networks.¹⁸⁹

Moreover, the victim might be overwhelmed by the perception that the dissemination of hate speech on the Internet is **uncontrollable**, and potentially **long-lasting**. Online content is generally more durable than its offline equivalent, and this is equally true for racist hate speech. Its persistence is mainly linked to multi- or cross-posting, extensive hyper-linking and modification of meta tags that increase its online searchability. This means that: *“there is a danger that victims of hate speech will continuously, or at least repeatedly, be confronted by the same instances of hate speech after their original articulation”*.¹⁹⁰

Furthermore, the initial racist content in the form of picture, memes, images, statements etc., might also remain online after the ISP or the Social Networking Company removed it or blocked access to it, spurring in the victim a sense of long-lasting powerlessness and enhancing the overall negative effect of the original crime.

Lastly, another extremely distressful effect that victims of hate speech might experience results from the alleged “**social validity**” attributed by other users to the content of those hate messages circulating on social networks (large number of likes, shares, followers, favourites, mentions etc...).¹⁹¹

Therefore, even though quantifying the harm in cases of hate speech online is not a straightforward process, the legal professional in charge of assisting the victim must take into consideration the above-described repercussions caused by the medium of Internet that as an overall enhanced the distress suffered by the victim. Seeking advice from specialized equality bodies, NGOs and experts in the field can be very useful.

188. This sub-paragraph, as the previous one, is mainly based on McConagle (2013) “The Council of Europe against online hate speech: Conundrums and challenges”.

189. McGonagle, T., (2013), op. cit., p.29

190. Ibid, p. 30

191. Ibid, p. 29

2.5 The role of Equality Bodies in providing assistance and advice to victims

Article 13 of the EU Racial Equality Directive established as minimum requirement that Member States should have one or more **specialised bodies** that, amongst other duties, provide independent assistance to victims of discrimination in pursuing their complaints.¹⁹² As highlighted by the European Commission, “Equality bodies are the most specialized, accessible and cheapest providers of advice, assistance and more on discrimination”.¹⁹³

First of all, equality bodies can provide victims and defence lawyers with **advices** and **information**. Some, such as the Slovenian Advocate of the Principle of Equality, provide usually non binding opinion on complaints submitted to them. Following such advices the victims are nonetheless free to decide whether to take the case to court.¹⁹⁴

Some specialized bodies are mandated to provide **legal assistance** to victims of discrimination. This is the case of the Finnish, the Hungarian, the Italian, the Northern Irish and British bodies.

The Hungarian Equal Treatment Authority is one of the European specialized bodies mandated with substantial powers. For instance the Hungarian equality body can:

- a. Intervene, in relation to the principle of equal treatment, in the judicial review of a public administrative decision brought by another public administrative body;
- b. Investigate complaints of discrimination;
- c. Usually enforce compliance with their investigations by all parties involved;
- d. Apply sanctions on the basis of an investigation.¹⁹⁵

In general equality bodies are involved in a range of activities aimed at providing independent assistance to victims of discrimination, such as:

- providing information about the existence of anti-discrimination laws and about the possibility to take legal action to seek remedy or compensation for an act of discrimination;
- directing people who experience discrimination to an organization/institution that could help them;
- helping people who experience discrimination to come to an amicable settlement/mutual agreement (mediation) with the discriminators; and
- giving legal advice and representation to people who have been discriminated

Equality bodies can also:

- conduct independent surveys on discrimination,
- publish independent reports and make recommendations on any issue relating to discrimination.

192. Farkas, L. (2011), op. cit., p. 68

193. Ibid, p. 7

194. Ibid, p. 69

195. Ibid, p. 70

Most equality bodies also promote equal treatment through information campaigns aimed at the general public and by providing support to employers and service providers on good equality practice.¹⁹⁶

For information on individual national equality bodies visit: <http://www.equineteurope.org/-Member-organisations->

2.6 The role of NGOs and associations

Local NGOs and other relevant organizations can also be very helpful in positively supporting and assisting victims of hate speech online. Indeed, the EU Non-discrimination Directives made it incumbent on Member States to ensure that NGOs or other organizations/foundations/charities with a legitimate interest in guarantying the effectiveness of the directives may engage, either **on behalf** or **in support** of the victim, and granted his/her previous approval, in any judicial and/or administrative procedure in which equal treatment can be enforced.¹⁹⁷

Few Member States allow these types of organizations to represent victims of discrimination in legal proceedings. Relevant exceptions are the United Kingdom and France. In the former country, associations with sufficient interest (*locus standi*) can bring judicial review actions under administrative law against public authorities and in the latter NGOs combating ethnic, racial and religious discrimination may even act as civil parties in some criminal actions.¹⁹⁸

Moreover, in most European countries, interested third parties, including equality bodies and local NGOs, have **the right to intervene** in court proceedings to support the cause of one party. This is for example the case of Hungary. However, it has been reported a restrictive practice of intervention in Hungarian courts. Many national NGOs have been denied the right to intervene even in administrative proceedings initiated on the basis of their official reports.¹⁹⁹

Nonetheless, in all Member States NGOs and other anti-discrimination organizations should be able to support victims of discrimination prior and during the proceedings. For instance, a common and useful form of support is for individual lawyers working with these organizations to represent victims of discrimination (including victims of racist hate speech online) in court.²⁰⁰

The following table summarizes and provides references for some of the most important NGOs and relevant organizations in the five countries involved in the Light On project.

196. For more information see: [http://www.equineteurope.org/-Equality-bodies->](http://www.equineteurope.org/-Equality-bodies-)

197. Farkas, L. (2011), op. cit., p.66

198. Ibid, p.67

199. Ibid, p.71

200. Ibid, p.66

Fig. 27

Countries	National Associations/Networks/NGOs dealing with Discrimination and Racism
Finland	The Finnish League for Human Rights (FLHR): www.fidh.org The Finnish Red Cross: www.ifrc.org The Equality.fi website: www.yhdenvertaisuus.fi
Hungary	Társaság a Szabadságjogokért: www.tasz.hu Hungarian Helsinki Committee: www.helsinki.hu Nemzeti és Etnikai Kisebbségi Jogvédő Irodát (NEKI): www.neki.hu Gyűlölet-bűncselekmények Elleni Munkacsoport (GYEM): www.gyuloletellen.hu Blue Line Child-Crisis Foundation: www.kek-vonal.hu
Italy	Amnesty International Italy: www.amnesty.it Associazione 21 Luglio: www.21luglio.org Lunaria: www.lunaria.org SOS Razzismo: www.sosrazzismo.it
Slovenia	Amnesty International Slovenia: www.amnesty.si Pravno-informacijski center (PIC): www.pic.si Peace Institute: www.mirovni-institut.si
United Kingdom	The Equality Advisory Support Service (EASS): www.equalityhumanrights.com True Vision: www.report-it.org.uk Tell MAMA: www.tellmamauk.org Citizens Advice Bureau (CAB): www.adviceguide.org.uk Stop Hate Crime: www.stophateuk.org Hands Off My Friend: www.handsoffmyfriend.org

Besides administrative and criminal measures, alternative approaches might also be effective in halting hate speech online. An initiative worth mentioning is INHOPE, a successful collaboration between civil society interest groups and individual ISP or content providers in combating illegal content, including hate speech.²⁰¹ INHOPE comprise a network of 49 hotlines in 43 countries worldwide, and allows the public to make anonymous online report on potentially illegal content.²⁰²

201. McConagle, (2013), op. cit., p.31.

202. For further information see: <<http://www.inhope.org>>

2.7 General tips for online reporting

Some practical tips and concrete examples on how to report online hate speech incidents are provided in the following paragraphs. These tips are equally important for law enforcement officials, legal professionals and NGOs assisting a victim of hate speech, and of course for victims themselves.

2.7.1 How to report an incident²⁰³

As reported in the “Responding to Online Hate” guide elaborated by the Media Awareness Network, it is of vital importance that online hate speech do not go unanswered. Due to the fluidity of the online content, the reporting needs to be as specific as possible.

Box 18

When reporting an incident, include as much information as possible:

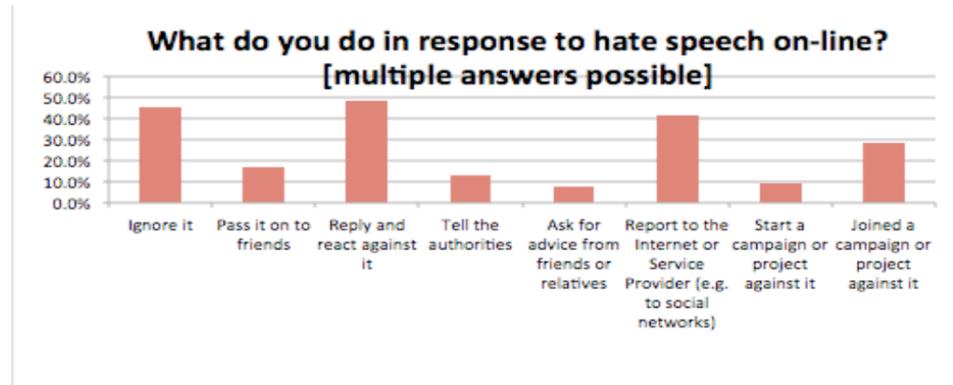
- When did this happen? Noting the time and date is important because some online content, such as discussion threads in chatrooms, can quickly disappear.
- How was the content delivered? Was the victim sent something directly through email, SMS, text message, instant message, or private messaging? Did the victim come across something while browsing the Web?
- If the message was sent directly to the victim:
 - Make sure the victim keeps the original email or save the chat/text log.
 - If possible, save the username or email address of the person sending the hateful message.
- If the victim has encountered the content on a website:
 - Copy and paste the address of the site by clicking your Web browser’s address bar, highlighting the full Web address and copying and then pasting it into a word processor.
 - Take a screenshot of the content in question to give to police. (On Windows computers, hit the “Print Screen” key, then go to a graphic or word processing program and select “Paste” from the “Edit” menu; on a Mac, hitting Command-Shift-3 will save the current screen image as a graphic file on your desktop).

Source: MNet (2012), “Responding Online Hate Crime”, p.13.

203. The main source of this paragraph is: Media Awareness Network (MNet), (2012), “Responding to Online Hate”, available at: <http://mediasmarts.ca/sites/default/files/pdfs/Responding_Online_Hate_Guide.pdf>

It is of great importance to deliver to victims targeted suggestions on how to respond to incidents of online hate speech. As seen above, the majority of people tend to react against hate speech online by directly replying to hate statements.

Fig. 28
Responses to hate speech on-line



Source: CoE, (2012), "Survey on young people's experiences and attitudes towards hate speech online".

However, engaging with those who spread hate speech online is problematic. *"It does not work to be confrontational and angry. Some good practice emerged from research on the psychology of such groups, as follows:*

- *People seek out others who share their opinion online, creating an echo chamber where that opinion intensifies and radicalises. Simply being there and calmly disagreeing triggers some group members to question their views.*
- *If your presence is interpreted as trying to convert them, they reject you.*
- *The more you shut people up, block them or remove their posts, the more radical they become as they feel persecuted further.*
- *Answer hostile posts in a neutral way. This immediately disallows extremists to dominate the public space. By answering the question or statement you also send a message that the opponent is worthy of your time.*
- *Once you have engaged them, highlight the irrational parts of their arguments. Your contribution should make them question their process of thinking, rather than the ideology as this creates an "us versus them" relation.*
- *It is important to engage safely and protect your personal data. The group developed tips for ensuring privacy online"²⁰⁴*

204. The main source of this paragraph is CoE: UNITED, (2012), "Step in! Be active against racist propaganda and hate speech online", available at: <http://www.coe.int/t/dg4/youth/Source/Training/Study_sessions/2012_UNITED_.pdf>

Box 19

Beware! Security online

There is significantly more data available on the Internet than we realize; search engines such as Google only show us approximately 5% of it – the rest is stored on the “deep web”. Even if you delete information, it is very rarely untraceable. Pages such as www.pipl.com pull data from different sources to create profile on us, and your personal data is used for advertising and marketing. Many services on the Internet are able to be offered for “free” as your personal data is the currency and it is used to advertise.

Frequent changes to the terms of use of such services mean that users do not check and reset their privacy settings each time that happens. Referring to personal information, it is a commonly held belief that one can only know 5 people really well, and around 20 people quite well; when a person has 500 Facebook friends, their level of privacy clearly decreases, and the risk is multiplied through their network of friends.

Source: UNITED (2012), p. 19

The report elaborated by UNITED and the Council of Europe, “Step in!”, suggests five different strategies to report hate speech online, which can be different according to the content of the ‘verbal attack’.²⁰⁵ The first step to be undertaken is therefore to evaluate the content of the speech and then select one of the main strategies accordingly:

1. Criminal complaint;
2. Request for removal of content to the author;
3. Notification of illegal/hateful content to Administrator of site;
4. Notification of illegal/hateful content to internet service provider;
5. Notification of complaints bureau – INACH – INHOPE.²⁰⁶

The most appropriate option is dependant on whether the content is hosted in your own country and is therefore subject to national legislation, or internationally. Fundamental criteria to guide the decision is whether the content in question is on the Internet as a web page, blog, audiovisual recording or a post on the social network and if it is on a domain hosted in your national state or abroad. If the content is hosted on your national server (the domain ends with a country code) the procedure is easier both to identify the author and to communicate with all stakeholders. Moreover, for any content placed on the domain extension national legislation applies.

However, authors are usually aware of this and therefore content that violates applicable legislation is often placed in a large majority of cases on servers located abroad. Regardless of where the content is located, it must be documented and saved it for future reference. **Always have a backup of the content of the hate speech incident!**

205. CoE: UNITED, (2012), op. cit., p. 16-19

206. INACH is the International Network Against CyberHate; INHOPE is the International Association of Internet Hotlines

Box 20

How to Backup

It is very important to create a local copy of each case of the hate speech online, because it is possible that the person who posted the original comment, video etc., removes as soon as they become aware of any proceedings, and thus destroy the evidence of its existence. There are a number of programmes and ways to backup the entire website, such as Get Left (<http://sourceforge.net/projects/getleftdown/files/latest/download>).

Usually it is not necessary to backup the entire website, but only certain content.

Backup videos from portals like YouTube with a download helper program. <https://addons.mozilla.org/en-US/firefox/addon/video-downloadhelper/> or similar add on can create a local copy of the video.

The easiest way to backup a particular statement or comment in a debate is the print screen. Therefore, click on this title located in the upper right corner of the keyboard. Save a copy of your current view and run any graphics program, e.g. MS Paint (drawing). Ctrl + opens the file in the observed state of the screen and it is possible to edit, crop etc.

Source: UNITED, 2012, p. 17.

1. Criminal complaint

Criminal complaint is the appropriate course of action when dealing with cases that: store extensive materials (website), is a repeated action of individuals (blogs), or the activity of an organised group.

2. Request for removal of content to the author

The second option is to contact the author and ask him/her to remove his/her comments, posts and statements. It is worth stating what criminal law was violated in their statements and warn them of the potential legal consequences of their actions.

This approach can be effective in the case of persons, whose ideology is not clear-cut and the threat of prosecution is intimidating. The anonymous nature of the Internet, however, reduces the real impact of such action.

3. Notification of objectionable content to administrator

In the event that the notice does not bring the desired effect, for various reasons that was not possible, communication starts with the website administrator. If the domain where such content is hosted is national, the procedure is simple - after finding the contact address, just write an email giving them all relevant information. It is essential to restate the quote, provide a link to the place where it is and refer to the

part of their legislation or terms of service that was breached. To find the contact:

1. Open <http://whois.domaintools.com/>
2. In the search field on the page, write the name of the website.
3. The results should show who the domain registrar is, who are the operators, their contacts, and other data.

In the case of foreign domains follow the procedure described hereunder.

4. [Reporting content to ISPs](#)²⁰⁷

If the website administrator does not respond, you can contact the provider - the company which provides space on their servers for websites hosting such objectionable content. In most cases however, administrators fulfill requests for content removal if it is illegal.

In case of foreign domains, follow this procedure:

1. Open a page with service whois: <http://whois.domaintools.com/>
2. Find who the registrar is and where a particular page is hosted.
3. If the registrar of domain is a real person, this information is very important for possible criminal prosecution as well as the next steps.
4. Given that registrars often prefer to protect their anonymity, they use companies that register domains instead of them. Sometimes it is therefore impossible to ascertain the individual registrar that way.
5. In any case, you need to check whether the provider's rules contain references to the nature of content, such as if inciting hatred is illegal. These rules are often called Terms of Service (ToS), or Acceptable Use Policy (AUP). It is necessary to locate the word "hate" within these Terms or policies. Usually, the provider reserves the right to assess a particular page against these rules.
6. Next step is to write an email to the provider, stating breach of ToS by the author of that content.

207. For further reference: CEJI – A Jewish Contribution to an Inclusive Europe, (2012), "Facing Facts! Guidelines for monitoring hate crimes and hate motivated incidents", available at: <<http://www.ceji.org/media/Guidelines-for-monitoring-of-hate-crimes-and-hate-motivated-incidents-PROTECTED.pdf>>

Box 21

Steps for reporting to ISPs

- ✓ Find the web site's ISP, for instance by entering the name of the website into a service such as www.Domaintools.com, which lists the ISP as the "IP Location". Verify the conditions imposed by the ISP: look at the Terms of Service, Community Guidelines or Acceptable Use Policy.
- ✓ When complaining to an ISP of hosting company you must be specific about the relevant offensive material ⇒ supply the web site's name, URL and screen image. If possible also indicate the policy violated.
- ✓ Provide all relevant information to make it as easy as possible for the ISP to understand and respond the complaint quickly. Clarity is essential: explain carefully, analytically and with references if possible. Precision and economy of words can go a long way to communicating your point.
- ✓ Complaints should be calm, polite and to the point. Use the format of form specified by the ISP if one is provided. Be clear and tell exactly what you are asking them to do to remedy the situation. Specifically request a response.
- ✓ If the website has anonymous registration: web site owners can use anonymous registration service (ARS) to hide their identity to avoid taking responsibility for hateful, inflammatory, misleading or distorted content. In these cases the company providing the anonymous registration should be contacted. To do this, identify the registration privacy service, proxy registration or anonymous registration service. Go to www.whois.com or www.betterwhois.com to determine the registrant of the web site. Then go to the ARS's website and see if its own Terms of Services were violated.

Source: CEJI (2012), Make Hate Crime Visible. Facing Facts, p.25.

5. Report to complaints bureau

INACH²⁰⁸/ INHOPE²⁰⁹ has a network of national offices tasked with collecting and dealing with complaints related to hate-inciting or illegal content on the Internet.

208. For further information see: <<http://inach.net/>>

209. For further information see: <<http://www.inhope.org/gns/home.aspx>>

2.8 Steps for reporting incidents on most used social media

All the main social networking sites as well as the platforms for posting online videos have their specific policies and rules of functioning which define what content can be posted and spread online and, on the other side, how illicit contents can be reported by the users with the final aim to possibly remove them. We will now go through the standards of the main online platforms considered in this manual to analyze them and to present concrete cases of hate speech online and how they have been faced and, eventually, solved.

It is worth noting that the Anti-Defamation League compiled a full and exhaustive list of the policies and reporting options of the main companies acting online, to facilitate the direct access of the online users to consult the standard and submit a complaint in real time. The full list is accessible at: <http://www.adl.org/combating-hate/cyber-safety/c/cyber-safety-action-guide.html>.

It is important that legal authorities, law enforcement agents and other professionals assisting victims of online hate speech are aware of these steps. Firstly, acquiring this knowledge makes it easier to adopt a victim-centred approach and effectively help victims by pointing them to the right path of reporting online. Secondly, as the following paragraphs will highlight, even when the online reporting of the victims fails, there are increasing possibilities that ISPs and Social Networking companies may have established policies to collaborate more efficiently with law enforcement and national authorities on the regulation and removal of hate speech.

2.8.1 Facebook

In its **Community Standards**, Facebook provides an idea of what type of expression is acceptable and what type of content may be reported and removed. In particular, with regards to **hate speech**:

"Facebook does not permit hate speech, but distinguishes between serious and humorous speech. While we encourage you to challenge ideas, institutions, events, and practices, we do not permit individuals or groups to attack others based on their race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or medical condition".

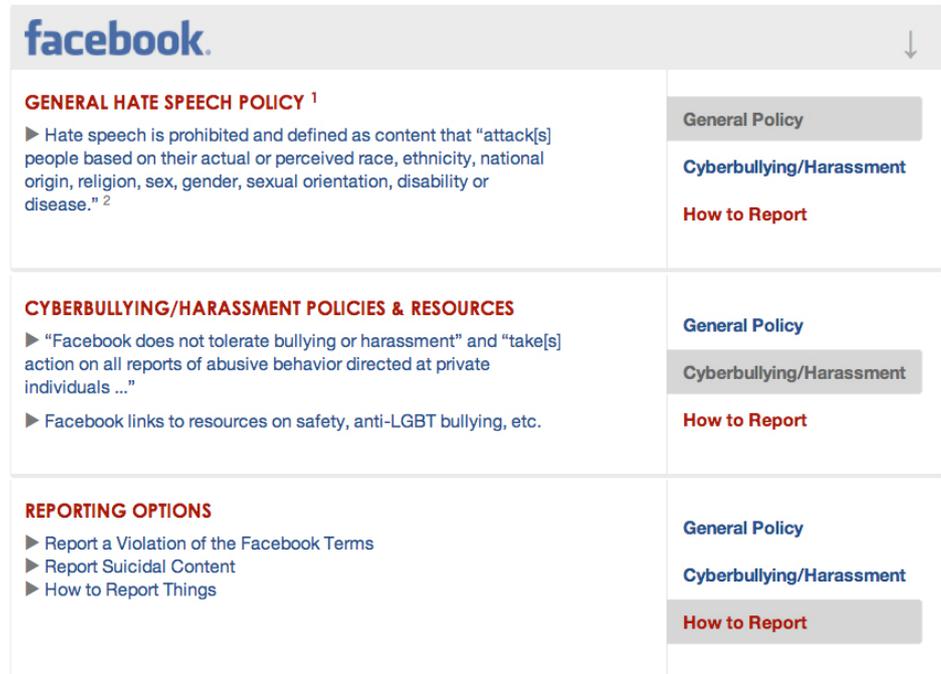
Regarding bullying and harassment:

"Facebook does not tolerate bullying or harassment. We allow users to speak freely on matters and people of public interest, but take action on all reports of abusive behavior directed at private individuals. Repeatedly targeting other users with unwanted friend requests or messages is a form of harassment."

Moreover, on specific field of discrimination, such as LGBT cyber bullying, the social network partners with a team of national organizations,

and in its Safety Center dedicated page Facebook provides direct links to the different organizations: <https://www.facebook.com/safety/tools/>

Fig. 29
Facebook policy



Source: Snapshot of the ADL website regarding Facebook policy and reporting options

On the reporting side, Facebook offer different options.

First of all, there is a specific form that can be compiled whenever one encounters a violation of the Facebook standards:

Fig. 30
Report a violation on Facebook

Report a Violation of the Facebook Terms

Please use this form to report violations of the Facebook Terms.

- What issue are you trying to report?
- My account is hacked
 - Someone is pretending to be me
 - Someone is using my email address for their Facebook account
 - Someone is using my photos or my child's photos without my permission
 - Something on Facebook violates my rights
 - I found an underage child on Facebook
 - Other abuse or harrassment

Send

Source: Snapshot of the Facebook “Report a violation” webpage

Secondly, the social network offers a dedicated page to explain “How to report things” both as Facebook user and in case you do not have an account. In this latter case you can use the same form as above, while

in case you are a registered user a series of practical indications are provided depending if you are reporting abuses concerning photos, events, groups etc.

In particular, on the Facebook Page on Social Reporting,²¹⁰ the staff encourages users to utilize the report buttons located across the site, in order to inform if the content found violates the terms of use and to take it down. At the moment, report flows are in place for Facebook users for photos and wall posts. The social network plans to extend the functionality to Profiles, Groups, Pages and Events soon.

To provide with a practical example, screenshots of the reporting flow is provided below:

Click on “Report this photo” link:

Fig. 31



First you can choose (A) “I don’t like this photo”, or (B) “This photo is bullying or harassing me”, or (C) “No, this photo is about something else”.

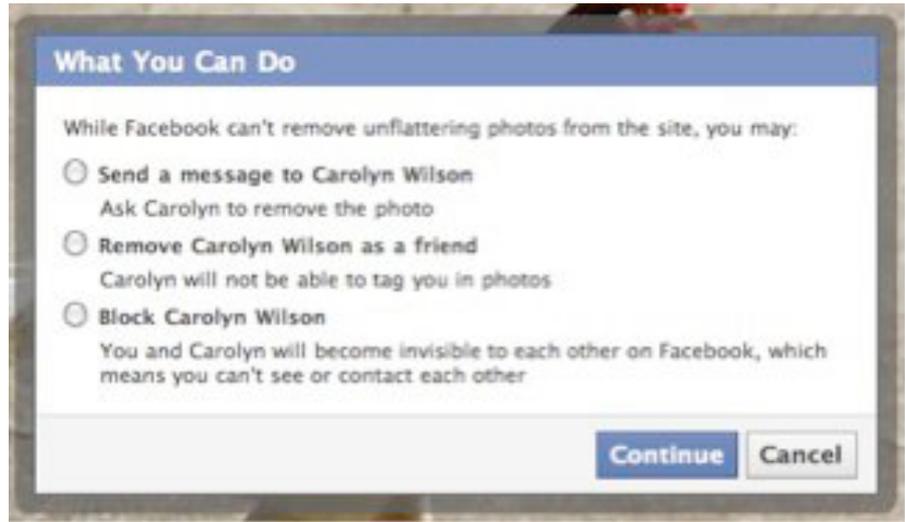
Fig. 32



210. For further information see: <https://www.facebook.com/note.php?note_id=196124227075034>

If you select option (A): "I don't like this photo":

Fig. 33



Select first option: "Send a message to Carolyn Wilson"

Fig. 34



Click on "Continue" and you will receive the following message:

Fig. 35



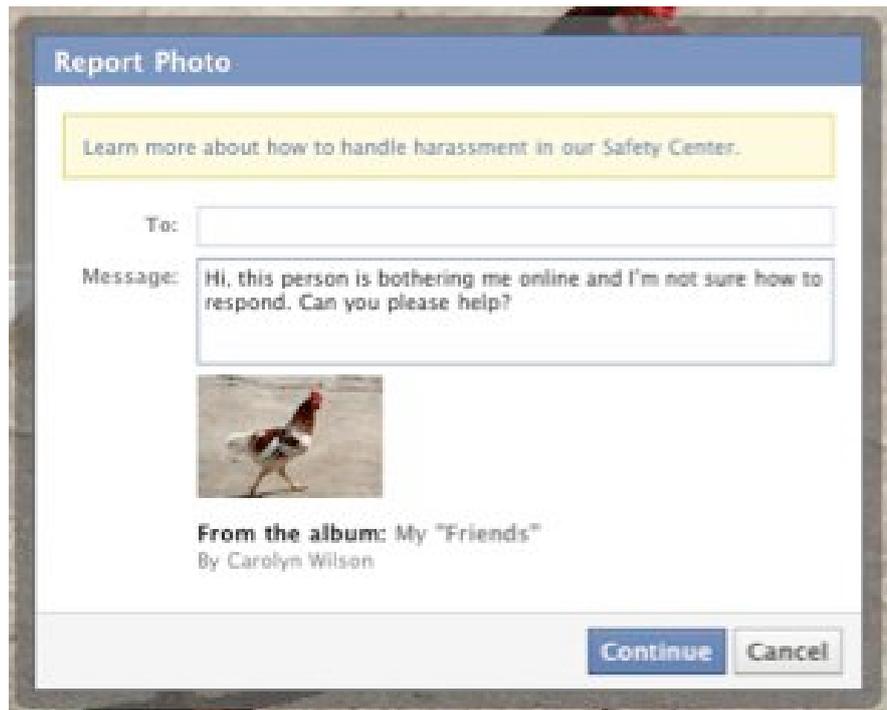
If you select option (B): “This photo is harassing or bullying me”

Fig. 36



If you select option (C): “Get help from a trusted friend”, you are invited to enter an email address and given suggested language. Suggested text is provided but can be customized.

Fig. 37



After sending the message, you will receive this acknowledgement:

Fig. 38



If you also choose to block the person, you will see this acknowledgement.

Fig. 39



If instead you have selected “This photo is about something else”:

Fig. 40



You are given the option to send a message, remove the friendship link, block and/or report.

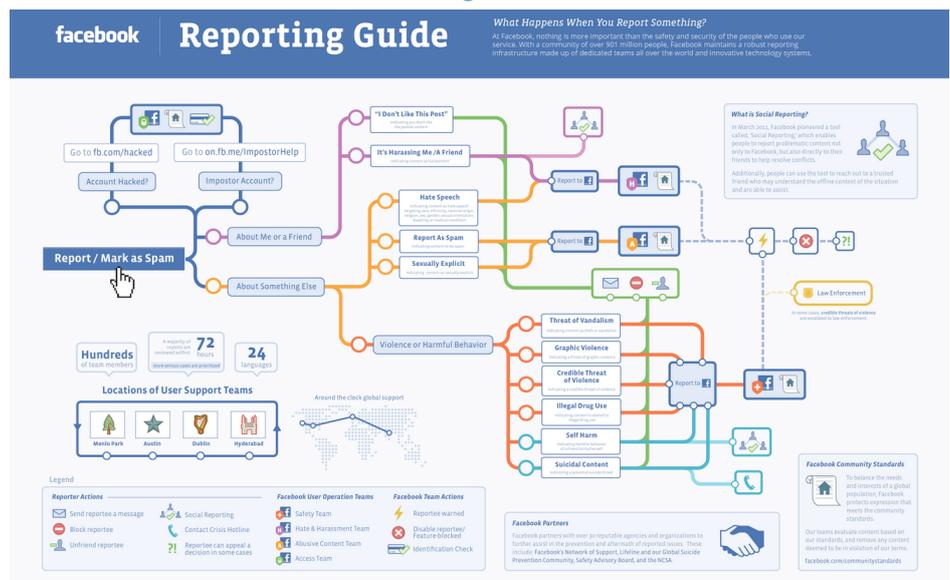
Fig. 41



In order to try to make things clearer for the users, in 2012 Facebook published an info-graphic guide to explain the functioning of the reporting system throughout its different steps.²¹¹ Facebook stressed that dedicated teams are handling such reports “24 hours a day, seven days a week,” noting its offices throughout the world and saying that its user operations department is divided into four specific teams:

- Safety;
- Hate and harassment;
- Access;
- Abusive content.

Fig. 42



Source: Snapshot of Facebook Reporting Guide

211. A full explanation can be found at the relevant Facebook page, available at: <<https://www.facebook.com/notes/facebook-safety/what-happens-after-you-click-report/432670926753695>>

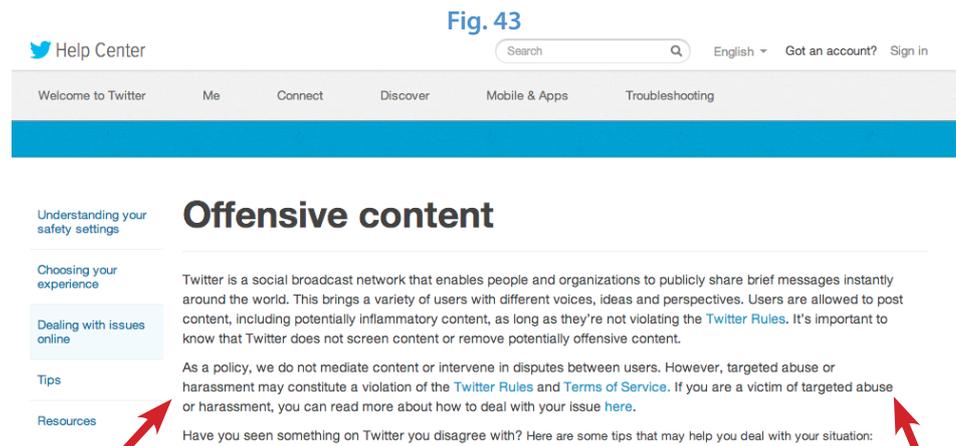
The Australian Online Hate Prevention Institute (OHPI) developed several studies analyzing cases of racist hate speech online and in particular on Facebook. The approach of the Institute is critical and aims at improving the existing security systems against hate online. In

particular, OHPI underlines that there are limited channels to enforce human rights legislation in relation to Facebook as the ultimate response from social network appears to be blocking the hateful content on a country by country basis.

An explicative case study take from the study will be provided in the next section of this manual. However, besides the critics provided and explained by the Institute through practical examples, the report also provides a set of Recommendation addressed to Facebook with the objective of improving the prevention and fight against hate speech online.²¹²

2.8.2 Twitter

Twitter’s general policy surrounding User Generated Content is that it does not mediate content or intervene in disputes between users (fig. 43). This general rule derives from the commitment to guarantee the right of freedom of speech and expression to its 200 million active users all around the world.



Source: Snapshot of Twitter Help Center

However, Twitter has a set of rules which governs how users can behave on its platform. These rules are designed to balance offering its users a service that allows open dialogue and discussion whilst protecting the rights of others. On a initial step, Twitter’s Safety and Security Centre contains articles on how to deal with potentially offensive content, such as “considering the context” and “blocking and ignoring” the user who published the potentially offensive post. Furthermore, if offensive content violates certain Twitter Rules it may fall under the category of **targeted abuse or harassment** and it thus might be subjected to removal and block.

Targeted abuse or harassment is regulated from the perspective of perpetrators and not from those of the potential victims. As a twitter user you might be engaging in targeted abuse and thus violate Twitter Rules if: “you are sending messages to a user from multiple accounts, if the sole purpose of your account is to send abusive messages to other,

212. See OHPI (2013), op. cit., pp.14-17

and if the reported behaviour is one-sided or includes threats”.

Fig. 44

Abuse and Spam

Twitter strives to protect its users from abuse and spam. User abuse and technical abuse are not tolerated on Twitter.com, and may result in permanent suspension. Any accounts engaging in the activities specified below may be subject to permanent suspension.

- **Serial Accounts:** You may not create multiple accounts for disruptive or abusive purposes, or with overlapping use cases. Mass account creation may result in suspension of all related accounts. Please note that any violation of the Twitter Rules is cause for permanent suspension of all accounts.
- **Targeted Abuse:** You may not engage in targeted abuse or harassment. Some of the factors that we take into account when determining what conduct is considered to be targeted abuse or harassment are:
 - if you are sending messages to a user from multiple accounts;
 - if the sole purpose of your account is to send abusive messages to others;
 - if the reported behavior is one-sided or includes threats

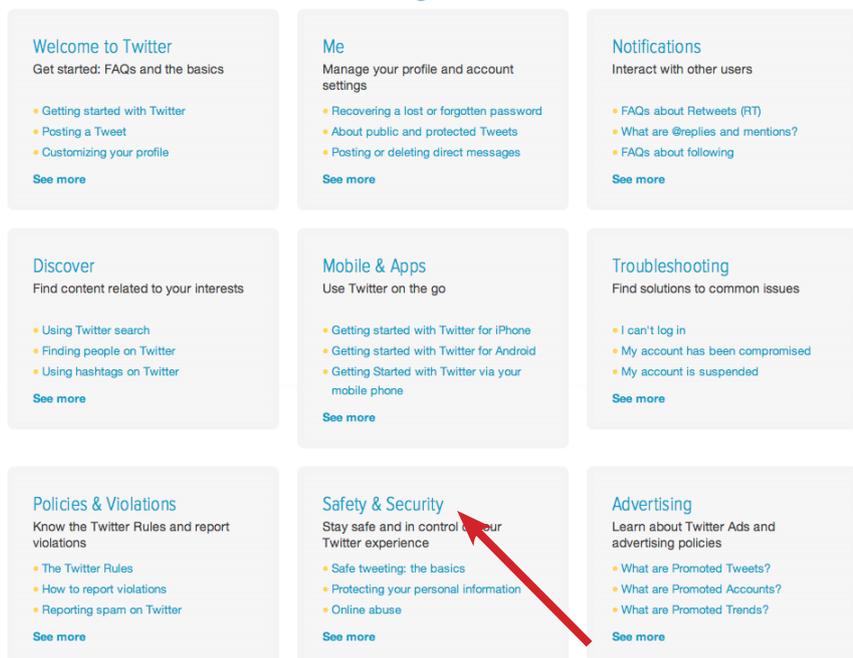
Source: Snapshot of Twitter Help Center

The policy has been subjected to heated criticism, especially in Europe,²¹³ as it does not specifically deal with hate speech. Therefore, Twitter has recently established an ongoing dialogue with organizations that have developed a strong expertise on hate speech over the years. Field-specialists such as the Anti-Defamation League, the International Network Against CyberHate or the Against Violent Extremism Network are providing Twitter with advice on how to develop policies to prevent abuse on their platform and also regularly escalate content that requires action from Twitter’s end.²¹⁴

For reporting abusing content on Twitter there are two options: (A) visiting the online Twitter Help Centre, or (B) directly reporting the abusive tweet and account by clicking on “Report Tweet”.

Two are the procedures that users can follow through the **Twitter Help Centre** (<https://support.twitter.com/>). The first way of reporting abusive content is to click on the hyperlink of “**Online abuse**” under the section **Safety and Security** (fig. 45).

Fig. 45



Source: Snapshot of Twitter Help Center

213. Byrne, J., (2013), “Critics: Twitter needs to police hate speech”, (26 October 2013), *The New York Post*, available at: <<http://nypost.com/2013/10/26/hate-speech-running-rampant-on-twitter/>>; Mc Elwee, S. (2013), “The Case for Censoring Hate Speech”, in *Huffington Post*, 24 July, available at: <http://www.huffingtonpost.com/sean-mcelwee/hate-speech-online_b_3620270.html>

214. Information passed on to the Emerging Crimes Unit at UNICRI during a conference call by a representative of the Twitter Trust & Safety Team (March 2014).

The page that will then open (as shown in Fig. 46) suggests a gradual three-step approach in dealing with online abuse:

- ❑ If a user sees or receives an @reply that he/she does not like, Twitter suggests to **unfollow** and end any communication with the user posting offensive content.
- ❑ If the offensive behaviour continues, the recommendation is instead to **block** the user. In this way that person will not be able to follow you or see your profile picture and account.
- ❑ Finally, if a user receives continuous, unwanted and targeted @ replies, he/she is advised to **report** the behaviour to Twitter. By clicking on “**here**”, the user will be directed to the online web form to report targeted harassment.

Fig. 46

Online abuse

Being the target of online abuse is not easy to deal with. Knowing the appropriate steps to take to address your situation can help you through the process.

When to report it?

We've all seen something on the Internet we disagree with or have received unwanted communication. Such behavior does not necessarily constitute online abuse. If you see or receive an @reply you don't like, [unfollow](#) and end any communication with that user.

If the behavior continues, it is recommend that you [block the user](#). Blocking will prevent that person from following you or seeing your profile picture on their profile page or in their timeline; additionally, their @replies or mentions will not show in your mentions tab (although these Tweets may still appear in search).

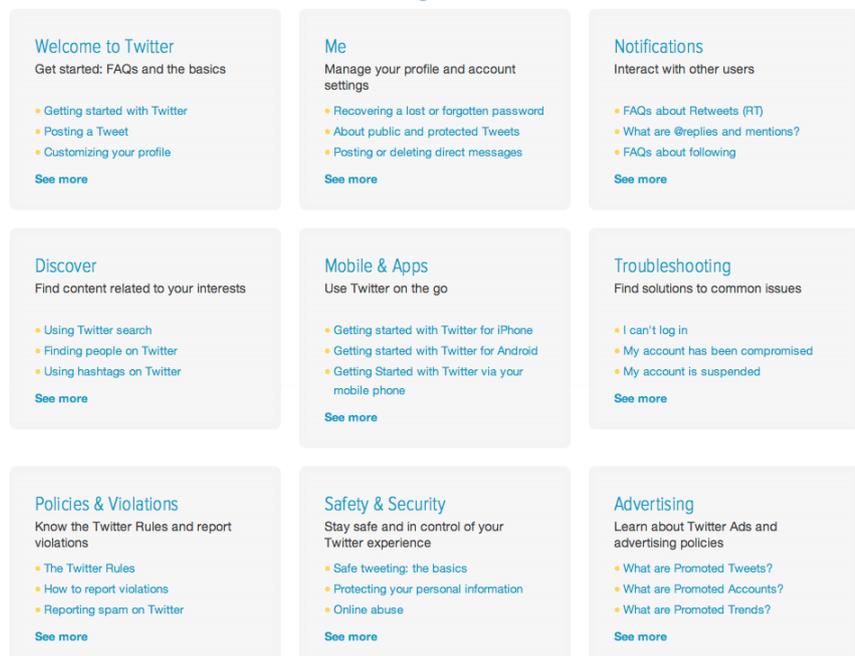
Abusive users often lose interest once they realize that you will not respond. If the user in question is a friend, try addressing the issue offline. If you have had a misunderstanding, it may be possible to clear the matter up face to face or with the help of a trusted individual.

If you continue receiving unwanted, targeted and continuous @replies on Twitter, and feel it constitutes online abuse, consider reporting the behavior to Twitter [here](#).

Source: Snapshot of Twitter Help Center

Furthermore, the second way of reporting targeted harassment through Twitter online Help Center is to click on the link on “**How to report violations**” in the section **Policies and Violations** (fig. 47).

Fig. 47



<p>Welcome to Twitter Get started: FAQs and the basics</p> <ul style="list-style-type: none"> Getting started with Twitter Posting a Tweet Customizing your profile <p>See more</p>	<p>Me Manage your profile and account settings</p> <ul style="list-style-type: none"> Recovering a lost or forgotten password About public and protected Tweets Posting or deleting direct messages <p>See more</p>	<p>Notifications Interact with other users</p> <ul style="list-style-type: none"> FAQs about Retweets (RT) What are @replies and mentions? FAQs about following <p>See more</p>
<p>Discover Find content related to your interests</p> <ul style="list-style-type: none"> Using Twitter search Finding people on Twitter Using hashtags on Twitter <p>See more</p>	<p>Mobile & Apps Use Twitter on the go</p> <ul style="list-style-type: none"> Getting started with Twitter for iPhone Getting started with Twitter for Android Getting Started with Twitter via your mobile phone <p>See more</p>	<p>Troubleshooting Find solutions to common issues</p> <ul style="list-style-type: none"> I can't log in My account has been compromised My account is suspended <p>See more</p>
<p>Policies & Violations Know the Twitter Rules and report violations</p> <ul style="list-style-type: none"> The Twitter Rules How to report violations Reporting spam on Twitter <p>See more</p>	<p>Safety & Security Stay safe and in control of your Twitter experience</p> <ul style="list-style-type: none"> Safe tweeting: the basics Protecting your personal information Online abuse <p>See more</p>	<p>Advertising Learn about Twitter Ads and advertising policies</p> <ul style="list-style-type: none"> What are Promoted Tweets? What are Promoted Accounts? What are Promoted Trends? <p>See more</p>

Source: Snapshot of Twitter Help Center

Once opened the page, the user will need to scroll down to the “Abusive behavior and violent threats” section (fig.48).

Fig. 48

Abusive behavior and violent threats

When reporting abusive behavior on Twitter, please provide the following:

- Description of problem, including length of time the abusive behavior has been happening
- Tweet URLs (to find the exact link of a Tweet, please review [this article](#))
- Tweet text (copy and paste the text of the Tweet into the form)
- Your email address

Please note: If you believe you may be in danger, please contact your local law enforcement authority in addition to reporting the content to Twitter so that the situation can also be addressed offline.

To report abusive behavior on Twitter, [click here](#).

For more information about Twitter’s abusive behavior policy, [click here](#).

For more information about reporting abusive behavior on Twitter, [click here](#).

Source: Snapshot of Twitter Help Center

The section already clarifies which information the user will need to provide Twitter with when reporting the abusive content:

- a detailed description of the problem;
- the tweet URLs;
- the text of the tweet;
- a personal email address.

This last information is particularly important when considering that just the user who has been the direct victim of targeted harassment can report the abusive content to Twitter (fig. 49).

Fig. 49

Who can report abusive behavior on Twitter?

In order to investigate reports of abusive behaviors, violent threats or a breach of privacy, we need to be in contact with the actual person affected or their authorized representative. We are unable to respond to requests from uninvolved parties regarding those issues to mitigate the likelihood of false or unauthorized reports. If you are not an authorized representative but you are in contact with the individual, encourage the individual to file a report through our forms.

Source: Snapshot of Twitter Help Center

As in the previously described way of reporting targeted harassment, the user can thus proceed in reporting the abusive user/tweet by answering and completing a series of questions and statements that will progressively appear on the screen.

Please note that only Twitter users who have been directly affected can report abusive and harassing content. Other users that have acknowledged an offensive content are invited to read the “Support Article”, and contact Twitter or their local authorities (fig. 50). On the same page users can also find useful links to several online resources dealing with the issue arising from hurtful content and interactions.

Fig. 50

Reach out to the people you trust

When dealing with negative or hurtful interactions, it can help to turn to family and friends for support and advice. Oftentimes, talking with your relatives or a close friend may help you figure out how you want to handle the situation or let you express your feelings so you can move on.

Help others

Trying to figure out how to help someone in such a situation can be daunting. [This Twitter Support article](#) offers some suggestions.

If you see a violent or abusive message directed at someone else, communicate your concern to the recipient and encourage them to contact Twitter and their local authorities.

There are many online resources that can help. Click [here](#) for a list of our safety resources.

Source: Snapshot of Twitter Help Center

The alternative option available for Twitter users is to directly click on the “**more**” button beneath the tweet considered abusive and select the option “**report tweet**” (fig. 51).

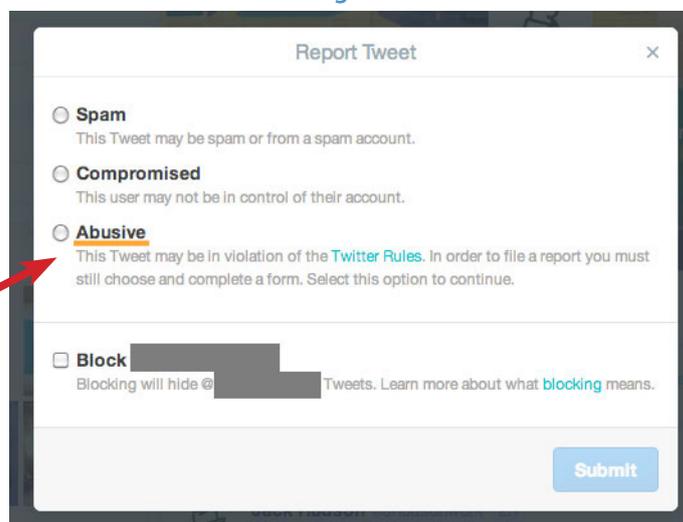
Fig. 51



Source: Snapshot of a hateful tweet

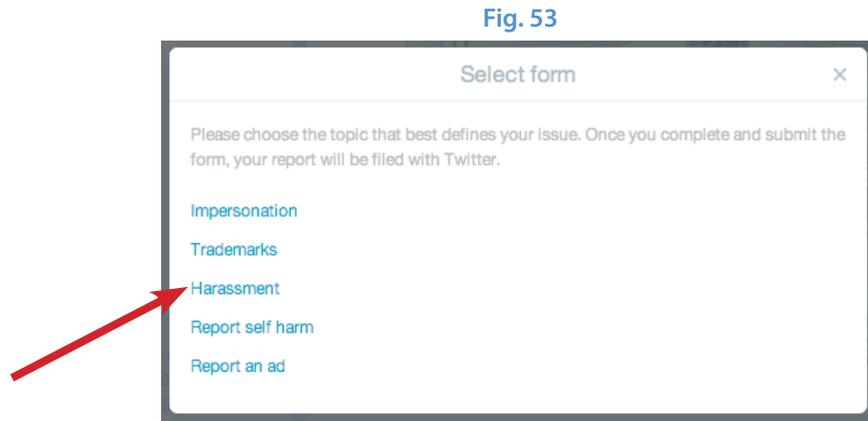
Once chosen to Report the Tweet, the user will then need to select the “Abusive” category and proceed in the submission of the report (fig. 52).

Fig. 52



Source: Snapshot of Twitter reporting procedure

The next step is to select the type of abusive content that the user wants to report. As seen above hate speech on Twitter currently falls under the umbrella of targeted harassment, in this window, it is then necessary to click on the “Harassment” hyperlink (fig. 53). Once again the user willing to report the targeted abusive content will have to answer a series of questions and provide detailed information that will progressively appear on the screen in order to successfully file a report.



Source: Snapshot of Twitter reporting procedure

The **Twitter Trust & Safety Team** is responsible for investigating and responding to reports of violations of the Twitter Rules, including reports on abusive behaviour and violent threats. If the team discover that the account violates the Twitter rules, actions ranging from warning the user up to permanently suspending the account will be taken accordingly. If no breach of the Twitter rules is discovered, the team will most likely ask the user victim for additional information regarding the harassment. If after a second investigation they still don't find any evidence of direct harassment, then they will provide the user with useful information and tips on how to deal effectively with the situation.

Such suggestions range from advising the user to block the author of the tweet(s) considered abusive, to urging him/her to contact the local law enforcement authorities. Indeed, as the following paragraph will fully explain, through the help of national law enforcement and legal personnel, those Twitter users victim of hate speech may be more successful in having their cases endorsed and their persecutor fined or convicted according to national legislations.

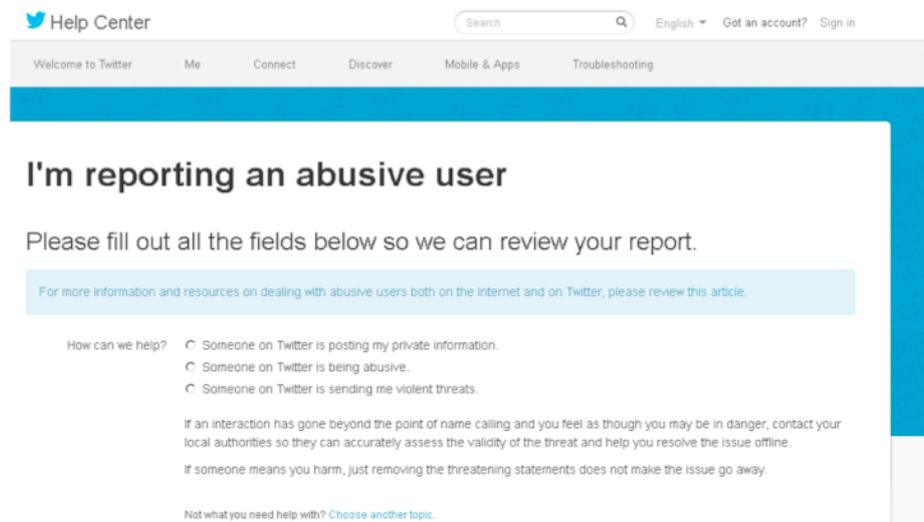
[The Important Role of National Law Enforcement and Legal Personnel](#)

Several times, in both the above-mentioned processes of reporting abusive content, and both within the page of the **Abusive Behaviour Policy** and under the Safety and Security section on the initial page of Twitter Help Center, users are advised to contact local authorities. Below are the two are the main circumstances when, and reasons why national law enforcement and legal personnel hold such an important

role:

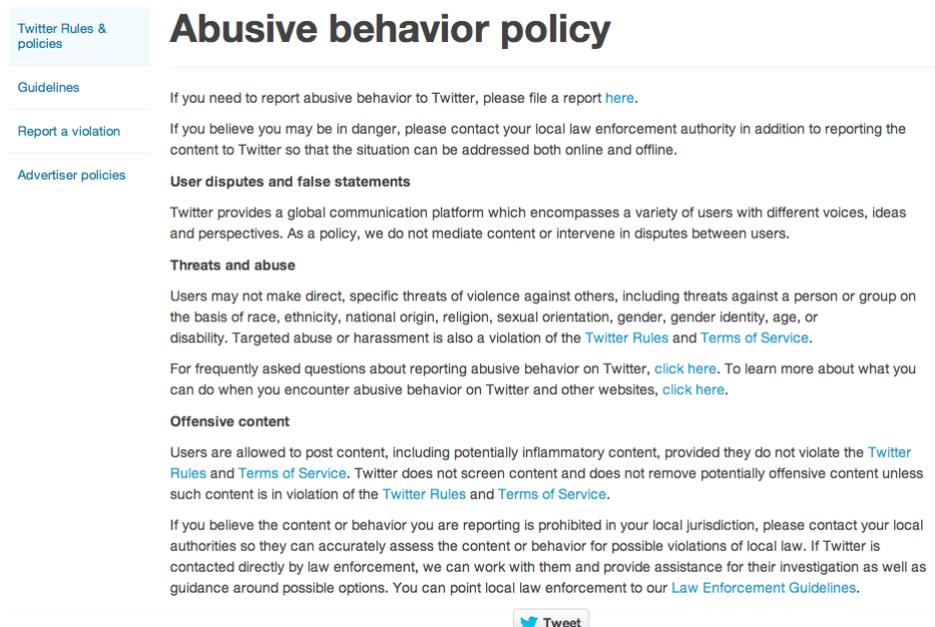
1. When a user believe to be in physical danger, since *“If someone means you harm, just removing the threatening statements does not make the issue go away”*, and as just local law enforcement authorities have the right tools to promptly address the issue (fig. 54);
2. When a user believes that the content or behaviour that he/she is reporting might be prohibited by the local jurisdiction. Indeed, when Twitter receives a report from local law enforcement authorities in relation to a tweet containing hate speech that violates national laws, it will be able to take action against the offenders even if their behaviours do not violate the Twitter Rules.

Fig. 54



Source: Snapshot of Twitter Help Center

Fig. 55



Source: Snapshot of Twitter Abusive Behavior Policy

Twitter also fully explains what a user should do when working in collaboration with law enforcement (fig. 56):

Fig. 56

Take threats seriously

If you believe you are in physical danger, contact the local law enforcement authorities who have the tools to address the issue.

If you decide to work with law enforcement, make sure to do the following:

- document the violent or abusive messages with print-outs or screenshots
- be as specific as possible about why you are concerned
- provide any context you have around who you believe might be involved, such as evidence of abusive behavior found on other websites
- provide any information regarding previous threats you may have received

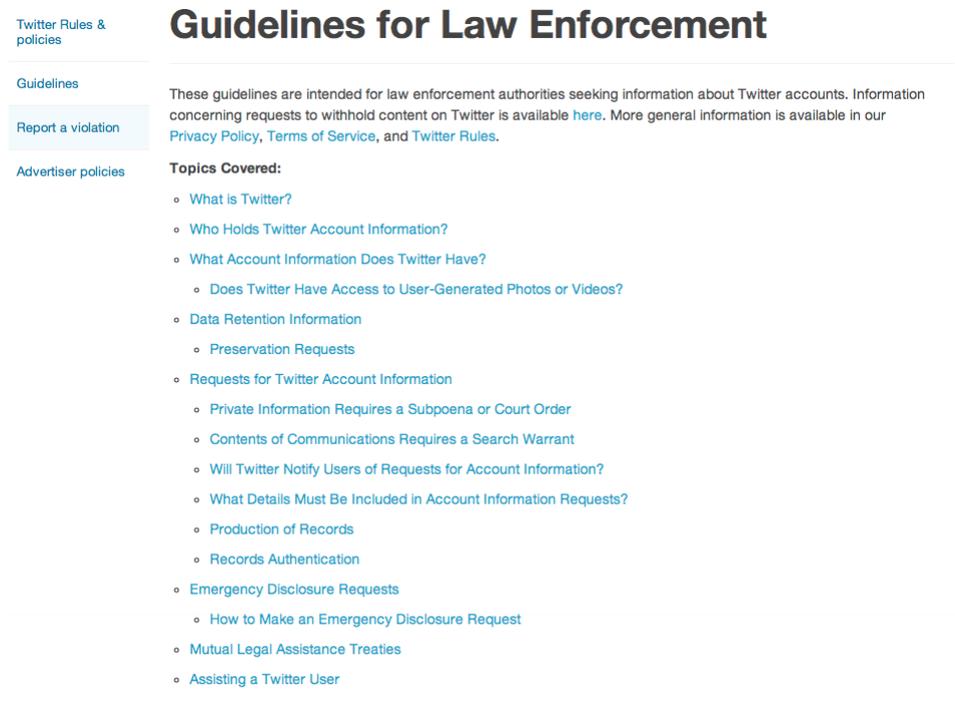
You can report the content to Twitter [here](#).

Source: Snapshot of “Take threats seriously”

Moreover, Twitter also have a section targeted at Law Enforcement authorities, i.e. **Twitter’s Law Enforcement Actions page** (fig. 57), which is accessible from the page on Abusive Behavior Policy. This page contains guidelines for law enforcement personnel seeking to request information about Twitter users.

Information regarding requests to withhold content is available on the “Country Withheld Content article” and requests can be filed directly through a web form.

Fig. 57



Twitter Rules & policies

Guidelines for Law Enforcement

These guidelines are intended for law enforcement authorities seeking information about Twitter accounts. Information concerning requests to withhold content on Twitter is available [here](#). More general information is available in our [Privacy Policy](#), [Terms of Service](#), and [Twitter Rules](#).

Topics Covered:

- [What is Twitter?](#)
- [Who Holds Twitter Account Information?](#)
- [What Account Information Does Twitter Have?](#)
 - [Does Twitter Have Access to User-Generated Photos or Videos?](#)
- [Data Retention Information](#)
 - [Preservation Requests](#)
- [Requests for Twitter Account Information](#)
 - [Private Information Requires a Subpoena or Court Order](#)
 - [Contents of Communications Requires a Search Warrant](#)
 - [Will Twitter Notify Users of Requests for Account Information?](#)
 - [What Details Must Be Included in Account Information Requests?](#)
 - [Production of Records](#)
 - [Records Authentication](#)
- [Emergency Disclosure Requests](#)
 - [How to Make an Emergency Disclosure Request](#)
- [Mutual Legal Assistance Treaties](#)
- [Assisting a Twitter User](#)
 - [General Inquiries](#)

Source: Snapshot of Guidelines for Law Enforcement

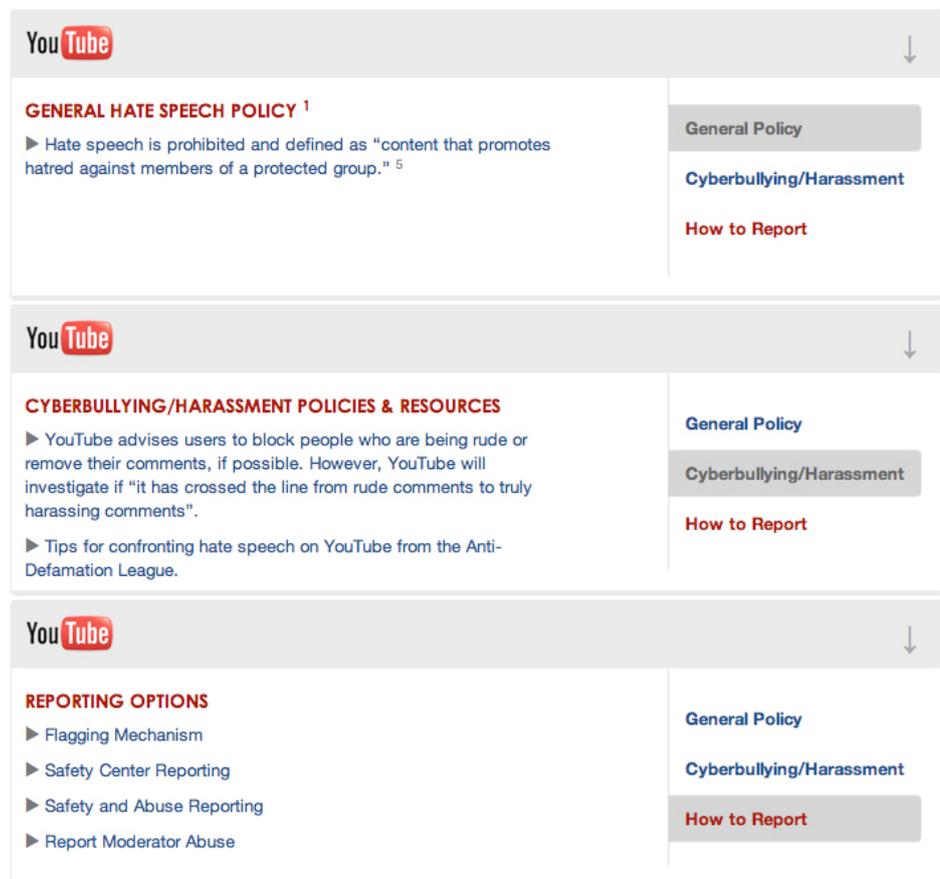
2.8.3 You Tube

YouTube does not permit hate speech (understood as speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status and sexual orientation/gender identity) and has also a zero tolerance policy towards predatory behaviour, stalking, threats, harassment, invading privacy or the revealing of other members’ personal information. Anyone caught doing these things may be permanently banned from YouTube. Reporting options are:

- Report tool;
- Privacy Reporting;
- Legal Reporting.

The **Policy and Safety Hub** of You Tube dedicates a specific section to Hate Speech. A definition of hate speech is provided, together with some practical indications for reporting hateful content (URL to Policy & Safety Hub available at <http://www.youtube.com/yt/policyandsafety/>)

Fig. 58



Source: Snapshot of the ADL website regarding You Tube policy and reporting options

The *Community Guidelines* describe what kind of content is and is not allowed on YouTube. Per the guidelines, You Tube does not allow hate speech. In particular it is stated: “We encourage free speech and defend everyone’s right to express unpopular points of view. But we don’t permit

hate speech (speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status, and sexual orientation/gender identity)."

Fig. 59

Hate speech

We encourage free speech and try to defend your right to express unpopular points of view, but we don't permit hate speech.

Hate speech refers to content that promotes violence or hatred against individuals or groups based on certain attributes, such as:

- race or ethnic origin
- religion
- disability
- gender
- age
- veteran status
- sexual orientation/gender identity

There is a fine line between what is and what is not considered to be hate speech. For instance, it is generally okay to criticize a nation-state, but not okay to post malicious hateful comments about a group of people solely based on their race.

Reporting hateful content

Keep in mind that not everything that's mean or insulting is hate speech. If you're upset by content that a specific person is posting, you may wish to consider [blocking the user](#).

However, if you feel that content violates our hate speech policy, report it to YouTube for review in one of the following ways:

- **Flag the video** : You may report hateful content by [flagging the video](#).
- **File an abuse report** : If you have found multiple videos, comments, or a user's entire account that you wish to report, please visit our [reporting tool](#), where you will be able to submit a more detailed report.

Source: Snapshot of Policy Center, Hate Speech, You Tube website

Harassment and cyber bullying might include:

- Abusive videos, comments, messages.
- Revealing someone's personal information.
- Maliciously recording someone without their consent.
- Deliberately posting content in order to humiliate someone.
- Making hurtful and negative comments/videos about another person.

In this case, some tips and advices are provided to prevent and contrast these phenomena. Besides what can be done online, in case of an escalation or threat the suggestion is to report what happened to the local law enforcement authority.

Fig. 60

Tips and advice :

- Pause before you post. Think seriously about how you may be perceived online and do not post anything that may compromise your reputation or safety.
- Speak up: Tell friends to stop cyberbullying and voice your opinion against cyberbullying when you see it on the site.
- Tell an adult if you remain concerned about another's actions towards you online.
- Try [deleting comments](#) and [blocking the user](#) if another user is bothering you, so they can't view your videos or leave more comments. You can also turn comments off for any video or manage comments by requiring pre-approval before they get posted.]
- Respect people's opinions online but know when it crosses the line. We want YouTube to be a dynamic and expressive platform but we do not want users to feel intimidated or threatened.
- Report harassing users and content via YouTube's [reporting tool](#).

To learn about tools available to you to help you manage your experience on the site, especially abusive users, please visit our [Privacy and safety settings](#) page.

Sometimes criticism and insults can escalate into more serious forms of harassment and cyberbullying. If specific threats are made against you and you feel unsafe, tell a trusted adult and report it to your local law enforcement agency.

Source: snapshot of Harassment and Cyberbullying, Safety Center, on You Tube web page

Regarding the reporting options, different modalities are suggested. One of the options is blocking the user: *“Blocking someone on YouTube will stop them from making comments on your videos or Channel, and they won't be able to contact you through private messages either”.*

Fig. 61

Here's how to block someone on YouTube

1. Visit their Channel page, which should have a URL similar to www.youtube.com/user/NAME
2. On their "About" tab, click the **flag icon** 
3. Click **Block User**

You can also block someone through your [Address Book](#) . If the person you're trying to block is one of your contacts, select the checkbox next to their name and click the Block button. If they're not in your Contacts, you can add them as a contact by clicking the Add New button.

Source: Snapshot of Privacy and Safety Settings, Safety Center, on You Tube web page

Another option is flagging the video: since “it would be impossible to review [...] [the] 72 hours video charged every minute”, basically YouTube relies on community members to flag content that they find inappropriate. Then the staff reviews flagged videos and those that violate the Community Guidelines are removed.

Fig. 62

How to flag a video:

1. Below the video player, click on the "Flag" button
2. Click on the reason for flagging that best fits the violation within the video.
3. Provide any additional details that may help the review team make their decision.



Flagging videos is anonymous - Users cannot tell who flagged a video. However, we do require you to be logged in to use our flagging tools.

Source: snapshot of Reporting Center, on You Tube web page

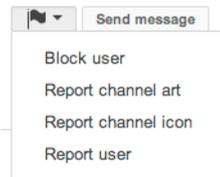
Fig. 63

Flag a channel

You may report users, inappropriate background images or profile avatars through the reporting flow located on the bottom of every channel.

How to flag a channel:

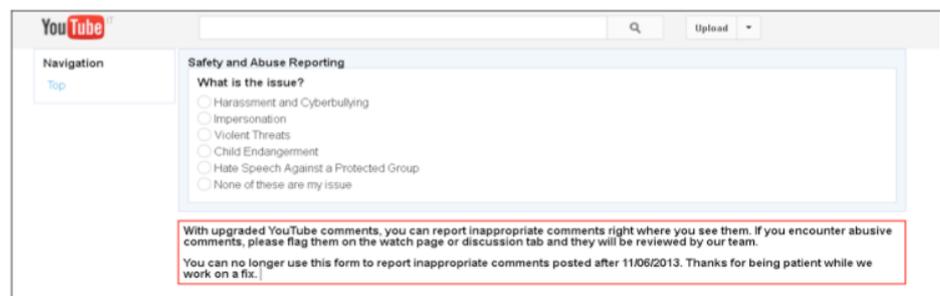
1. Visit the channel page you wish to report
2. Click "About"
3. Click the Flag drop down button
4. Select the option that best suits your issue



Source: snapshot of Reporting Center, on YouTube web page

It is also possible to submit a more detailed complaint through the Reporting Tool in cases where there are multiple videos, comments or a user’s entire account that may require further investigation.

Fig. 64



Source: snapshot of <http://www.youtube.com/reportabuse>

Other YouTube users can post comments on videos and channels. There are different ways to moderate comments including:²¹⁵

- Take action on comments. Click the arrow in the upper right of a comment on the channel or video to see different reporting options.
- Remove takes down the comment from YouTube. If the comment has any replies, they will also be removed. Note that if the comment was also shared on Google+, it will still be live there.
- Ban from channel blocks the user from posting comments on videos and a channel.

Another tool available for the users is the **Policy and Safety Hub**. In particular, through the Reporting and Enforcement Center people should: *“Learn about reporting content on YouTube, the actions our teams take when reviewing content, and what this means for you”*.

215. For further information on “Comment Moderation” see also: <<https://support.google.com/youtube/answer/111870?hl=en>>

Fig. 65

Reporting and Enforcement Center

Learn about reporting content on YouTube, the actions our teams take when reviewing content, and what this means for you.

Have an issue with content on YouTube?

- [Report a Video](#)
- [Report an Abusive User](#)
- [Report a Privacy Violation](#)
- [Report a Legal Complaint](#)



Policy Enforcement

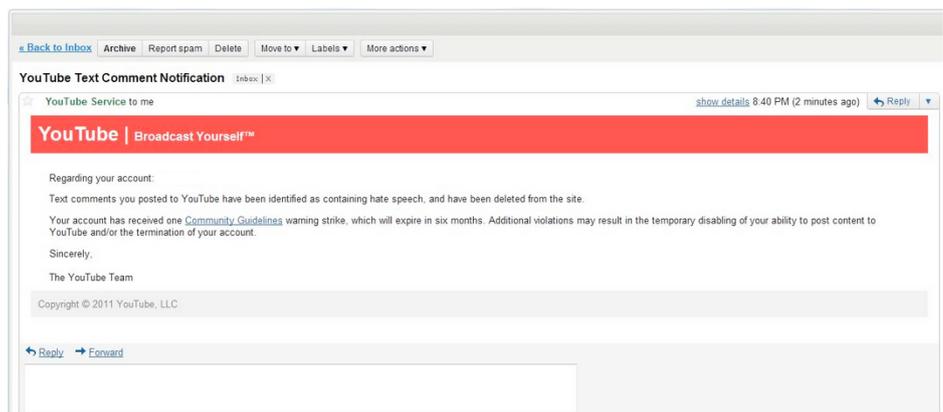
What happens after content is reported to our team for review? The articles below detail our enforcement of the Community Guidelines.

 <p>Flagging Videos Learn how to flag and find answers to your questions about the flagging process.</p>	 <p>Other Reporting Options There are a number of ways to report content to our team for review. Learn about them here.</p>
 <p>Age Restrictions We age-restrict content that is not appropriate for younger audiences. Find out what type of content will be age-gated by our review team.</p>	 <p>Community Guidelines Strikes Learn about the actions YouTube takes on accounts that are found to have violated our Community Guidelines.</p>

Source: Snapshot of Safety section on YouTube

Here below is provided an example of what happens when content is identified as containing hate speech:

Fig. 66



Source: Snapshot YouTube Text Comment Notification

2.8.4 Wikipedia

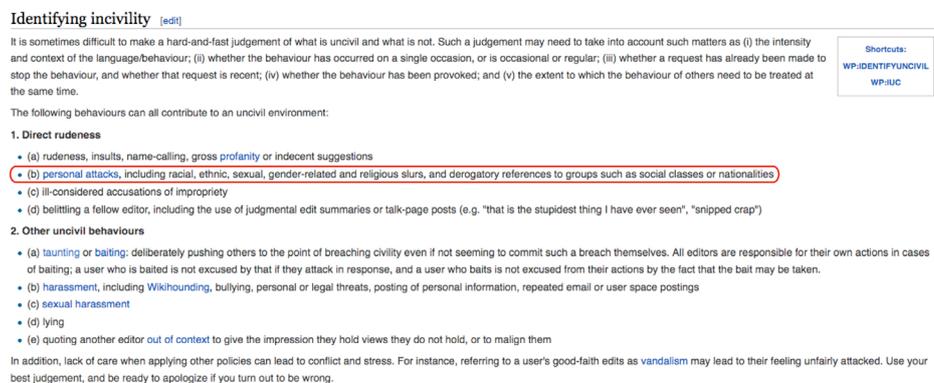
Wikipedia deals with hate speech through its Policy on **Civility**, which is part of Wikipedia’s Code of Conduct and one of Wikipedia’s five pillars. The policy broadly describes the standards expected of users when interacting and sets out a series of suggestions to deal with “incivility”. Furthermore, *“it applies to all editors and all interaction on Wikipedia, including on user and article talk pages, in edit summaries, and in any other discussion with or about fellow Wikipedians.”*²¹⁶ Five matters are to be considered when making a judgment on what is uncivil and what is not:

- the intensity and context of the language/behaviour;
- whether the behaviour has occurred on a single occasion, or is occasional or regular;
- whether a request has already been made to stop the behaviour, and whether that request is recent;
- whether the behaviour has been provoked;
- the extent to which the behaviour of others need to be treated at the same time.

The “Assume Good Faith Guideline” is also mentioned in this section. This guideline call for editors to *“not assume any more intentional wrongdoing than the evidence clearly supports, and given equally plausible interpretations of the evidence, choose the **most** positive one”*.²¹⁷

However, amongst the behaviours adducing to an uncivil environment, **“direct rudeness”** is listed as the first and forefront negative conduct. When looking at what constitutes direct rudeness it is clear that hate speech falls within this category. Direct rudeness, in fact, includes: *“personal attacks, including racial, ethnic, sexual, gender-related and religious slurs, and derogatory references to groups such as social classes or nationalities.”* (Fig. 67).

Fig. 67



Identifying incivility [edit]

It is sometimes difficult to make a hard-and-fast judgement of what is uncivil and what is not. Such a judgement may need to take into account such matters as (i) the intensity and context of the language/behaviour; (ii) whether the behaviour has occurred on a single occasion, or is occasional or regular; (iii) whether a request has already been made to stop the behaviour, and whether that request is recent; (iv) whether the behaviour has been provoked; and (v) the extent to which the behaviour of others need to be treated at the same time.

The following behaviours can all contribute to an uncivil environment:

1. Direct rudeness

- (a) rudeness, insults, name-calling, gross **profanity** or indecent suggestions
- **(b) personal attacks, including racial, ethnic, sexual, gender-related and religious slurs, and derogatory references to groups such as social classes or nationalities**
- (c) ill-considered accusations of impropriety
- (d) belittling a fellow editor, including the use of judgmental edit summaries or talk-page posts (e.g. "that is the stupidest thing I have ever seen", "snipped crap")

2. Other uncivil behaviours

- (a) **taunting or baiting**: deliberately pushing others to the point of breaching civility even if not seeming to commit such a breach themselves. All editors are responsible for their own actions in cases of baiting; a user who is baited is not excused by that if they attack in response, and a user who baits is not excused from their actions by the fact that the bait may be taken.
- (b) **harassment**, including **Wikihounding**, bullying, personal or legal threats, posting of personal information, repeated email or user space postings
- (c) **sexual harassment**
- (d) lying
- (e) quoting another editor **out of context** to give the impression they hold views they do not hold, or to malign them

In addition, lack of care when applying other policies can lead to conflict and stress. For instance, referring to a user's good-faith edits as **vandalism** may lead to their feeling unfairly attacked. Use your best judgement, and be ready to apologize if you turn out to be wrong.

Shortcuts:
WP:IDENTIFYUNCIVIL
WP:JUC

Source: Snapshot of Wikipedia’s page on Civility

Wikipedia provides a series of incremental suggestions on how to deal with uncivil behaviours. The majority of these suggestions point out to positive, humble and polite ways for editors to interact and negotiate with each other on what may be considered or not to be

216. For further information refer to: <<https://en.wikipedia.org/wiki/Wikipedia:Civility>>

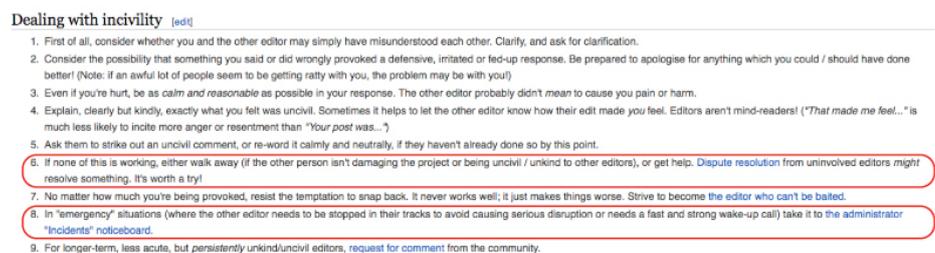
217. Ibid.

uncivil behaviour according to the online encyclopaedia's standards. Specifically, points 3 and 7 remark on how editors should maintain calm and reasonable in their responses, and how, no matter how much they have been provoked, to resist the temptation of backfiring with similar tones and behaviours.

If all the more "soft" measures fail to halt uncivil behaviours, then editors are left with two options (fig. 68):

- ❑ Referring to the **Dispute resolution noticeboard (DSN)**, a set of *informal* places and ways to resolve small content disputes. From politely explaining a personal objection on the user's talk page, to *Request for Comment on user conduct (RfCs)*, and as last step – only when other avenues, including RfCs, have been tried and failed – request the help of the *Arbitration Committee*, who will scrutinise all sides involved in the dispute, and create binding resolutions.
- ❑ Bringing the matter before the attention of the **Administrators "Incidents" noticeboard**, especially when situations are particularly severe and might risk escalating in serious disruption.

Fig. 68



Source: Snapshot of Wikipedia's page on Civility

A completely different attitude should be adopted in case of **Threats of violence**, which should be immediately reported by e-mail to the Wikimedia Foundation at: emergency@wikimedia.org.

At the very end of the spectrum of all the available options, Wikipedia in cases of major incivility, including personal attacks, harassment and hate speech prescribes the **immediate blocking of the uncivil content and editor** (fig. 69).

Fig. 69



Source: Snapshot of Wikipedia's page on Civility

2.9 Case studies of online reporting of incidents of racist hate speech

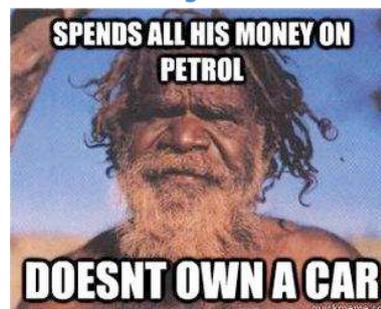
Through the following section we present some case studies on reporting manifestations of hate speech online and how they have been dealt with. Our case studies specifically refer to episodes occurred on three of the online *fora* analysed in the manual: Facebook, Wikipedia and Twitter.

2.9.1 Case Study 1: Facebook memes - Racism against Aborigines in Australia²¹⁸

Between June and August 2012 two Facebook pages named *Aboriginal Memes* and *Abo Memes* greatly contributed to the spread of racist images targeting Indigenous Australians on the Internet. The racist content mainly took the form of Internet memes,²¹⁹ i.e. multi-media messages consisting of an image that contains both a picture and a typically humorous text.

Some of the memes posted on the pages were based on specifically Australian negative stereotypes of Indigenous Australians, such as the allusion to substance abuse (fig. 70); others, instead, relied on universal racist and de-humanizing references (fig. 71 & fig. 72).

Fig. 70



Source: OHPI (2012), p.14.

218. The main source of the paragraph is: Online Hate Prevention Institute (OHPI), (2012), "Aboriginal Memes & Online Hate Report", (October 2012), available at: <<http://ohpi.org.au/reports/IR12-2-Aboriginal-Memes.pdf>>

219. The Oxford Dictionary online defines a meme as: "An image, video, piece of text, etc., typically humorous in nature, that is copied and spread rapidly by Internet users, often with slight variations". According to OHPI, the term was coined by Richard Dawkins in his 1976 book "The Selfish Gene", and it stands for a cultural idea that can move through a society, morphing and changing along the way (OHPI, 2012, p. 12)

Fig. 71



Source: OHPI (2012), p. 14

Fig. 72



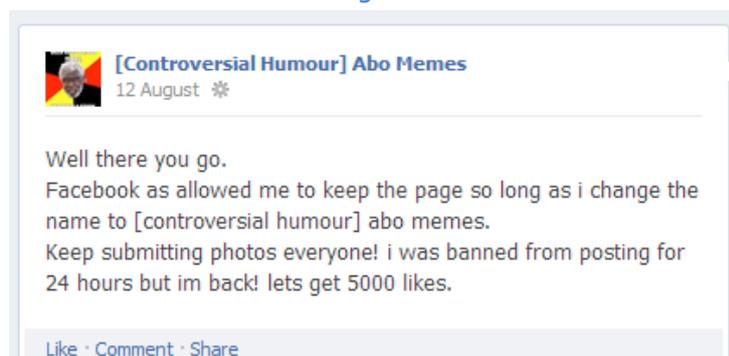
Source: OHPI (2012), p. 14

These Facebook pages were not the only online platforms where such images were circulating, but they achieved the greatest popularity and, most importantly, encouraged their fans to create and share additional images of a similar racist nature.²²⁰ On 9 August 2012 the *Aboriginal Memes* page, which is believed to have been created by a 16 year old boy from Western Australia,²²¹ was deleted by its creator after it reached 4,440 fans. However, the *Abo Memes* page remained online and achieved more than 2,970 likes.

The online diffusion of this type of racist material and the growing popularity of the *Aboriginal Memes* page spurred passionate reactions. Throughout the month of August online petitions, Facebook pages and groups dedicated to shutting down the offensive material were set up. Moreover, the Australian Human Rights Commission's Race Discrimination Commissioner officially condemned the spread of the Aboriginal memes. The Online Hate Prevention Institute (OHPI), which was monitoring the situation, confirmed that one of the petitions reached over 17,000 signatures within 48 hours.²²² Furthermore, OHPI announced that the creator(s) of the Facebook pages may have been breaching the Australian Racial Discrimination Act (1975), as both pages were soliciting hate speech.²²³

Within this context, Facebook's response unfolded in stages. Initially, Facebook suspended both pages in order to review their content. After the first review, Facebook's original position was that the content did not breach its terms of service.²²⁴ Indeed, both pages were restored and made publicly available on the condition that their creator(s) renamed them to underline their "Controversial" content.

Fig. 73



Source: OHPI (2012), p. 20

220. OHPI, (2012), op. cit. p. 19

221. BBC News Asia, (2012), "Facebook removes 'racist' page in Australia", (9 August 2012), BBC News Online, available at: <<http://www.bbc.com/news/world-asia-19191595>>

222. OHPI (2012), *ibid.*

223. OHPI (2012), *ibid.*

224. OHPI (2012), *ibid.*

Fig. 74



Source: OHPI (2012), p. 20

A series of personal attacks against anti-racism activists, including direct menaces towards OHPI's CEO, triggered a second stage in Facebook's response to the situation: the social network promptly removed all the fake profiles that were generating these personal attacks. However, soon these profiles were replaced and the harassment started again. At this point Facebook traced the series of fake profiles, which were created by the same user, and closed them. The user behind the attacks was left with just one account.

The third stage occurred once the Race Discrimination Commissioner and the Australian Communications and Media Authority made public statements denouncing the racist nature of the memes. The contents had also been referred to the Classification Board, and this implied that an adverse rating from them would have empowered the Australian Communications and Media Authority to demand the removal of the pages. However, Facebook anticipated the response of the Classification Board by blocking access to the page *Abo Memes* and other similar ones within Australia (at this point the initial page, *Aboriginal Memes*, had already been removed by its creator).

After almost two years since the Australian block, on 9 January 2014, a new *Aboriginal Memes* Facebook page targeting Indigenous Australians was once again created (fig. 75). As in the previous cases, the racist content mainly took the shape of Internet memes. Some of these memes had been newly generated, while some others were identical to the ones shared on those Facebook pages blocked to Australian users in 2012.²²⁵ Additionally, the text posted by the administrator of the page used hateful and denigrating language.

Fig. 75



Source: OHPI (2014), 15 February

225. OHPI, (2014 a), "Facebook & Wix act on Aboriginal Memes", (15 February 2014), available at: <<http://ohpi.org.au/facebook-wix-act-on-aboriginal-memes/>>

Fig. 76



Source: OHPI (2014), 15 February

Some users swiftly reported the new page to Facebook for hate speech. The initial response of Facebook staff, after they reviewed the page's content, was that it did not breach its community standards and that it could thus remain online. However, Facebook reversed its decision and officially announced the blocking of the page's content to Australian users as it was violating the community policy on hate speech.²²⁶ The page was blocked on 27 January within less than a month of its original creation. As OPHI noted in a press release, Facebook this time acted quicker and thus "it should be congratulated for that"; however, concerns remain in as far as "reports made by users about serious hate speech continue to be [initially] largely rejected by Facebook staff".²²⁷

2.9.2 Case Study 2: Wikipedia - "Vandalism vs. Woman"

In 2011 Anita Sarkeesian, a Canadian-American feminist, media critic and blogger launched a Kickstarter campaign for a project called "*Tropes vs Women in Video Games*" to further inquire on what she saw as the objectification of women in the gaming culture. After thirty days Sarkeesian, who originally aimed to raise six thousand dollars for her project, had accumulated USD 158,917 from nearly seven thousand donors. Her successful campaign triggered a stream of online harassment, which included hate words based on gender, as well as racist biases.

Sarkeesian was the victim of hate speech on various online platforms: she received harassing insults and threats on gaming websites, on her YouTube channel, on Twitter, and over the course of the 5 and 6 June 2012 even her Wikipedia page was altered by a group of wiki-vandals.²²⁸ The content of her Wikipedia page was edited to state that she was of Jewish origins and that she was "*an entitled nigger kitchen and hooker*

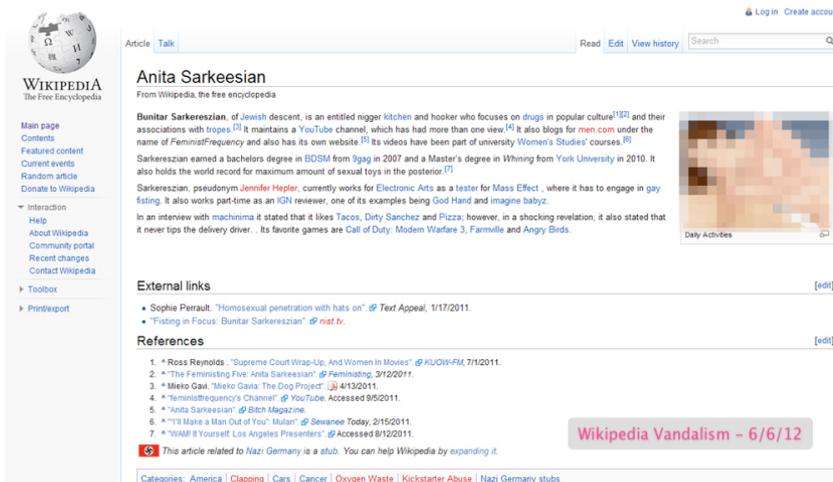
226. OHPI (2014b), "Briefing: Aboriginal Memes 2014", (27 January 2014), available at: <<http://ohpi.org.au/briefing-aboriginal-memes-2014/>>

227. Ibid.

228. Greenhouse, E., (2013), "Twitter's Free-Speech Problem", (1 August 2013), *The New Yorker*

who focuses on drugs in popular culture and their association with tropes" (fig. 77).

Fig. 77
Wikipedia page on Anita Sarkeesian.

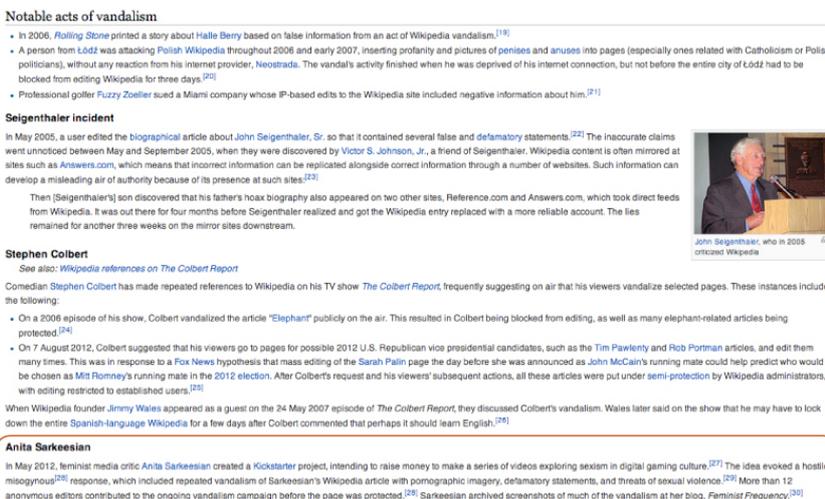


Source: Snapshot of Anita Sarkeesian's blog

Furthermore, the offenders changed the page categories and modified the external links to re-route to porn sites. As Sarkeesian noted in her blog, the act of vandalism on Wikipedia was not the result of "just one or two trolls but was a coordinated cyber mob style effort involving a whole gang working together".²²⁹ In fact, several Internet fora organizing the harassment were proudly posting screenshots of the modified Wikipedia page inciting others to contribute. Moreover, when examining the IP addresses logged in the revision history, Wikipedia discovered that more than 12 anonymous people had been working together to sabotage the page.²³⁰

Wikipedia moderators, on the evening of the second day, officially confirmed that the page was subject to an act of vandalism and promptly proceeded with removing the uncivil content and protecting the page, so that only editors with registered accounts could make further changes. Wikipedia thus proved the effectiveness of its policy and of the mechanism regulating personal harassment, i.e. hate speech, and received the written appreciation from the victim of this episode of hate speech.²³¹

Fig. 78
Wikipedia Notable Acts of Vandalism



Source: Screenshot of Wikipedia page on Vandalism

229. Sarkeesian, A., (2012), "Harassment via Wikipedia Vandalism", (10 June 2012), Feminist Frequency, available at: <<http://www.feministfrequency.com/2012/06/harassment-and-misogyny-via-wikipedia/>>

230. Wikipedia Page on Vandalism, available at <http://en.wikipedia.org/wiki/Vandalism_on_Wikipedia>

231. Sarkeesian, A., (2012), op. cit.

2.9.3 Case Study 3: Twitter - a new country-by-country policy

Twitter’s policy on hate speech does not, as yet, provide for the blocking of **potentially** offensive content. Thus, many contentious tweets and accounts, whose content sits between dark humour and hate speech, can currently be found on its online platform (fig. 79).

Fig.79
Adolf Hitler Twitter Account



Source: Snapshot of <https://twitter.com/DictatorHitler>

However, in October 2012 the diffusion of the Anti-Semitic hashtag #UnBonJuif caused a wave of outrage in France and made it to the International News.²³² Images and statements were tweeted in conjunction with the hashtag, which translates as #AGoodJew, in order to divulgate hateful racist messages on Twitter. For example, one user tweeted the hashtag along with an image of a young boy in a Nazi concentration camp (fig. 80); another user instead associated the hashtag with an image of some dirt in a dustpan, presumably referring to Jewish ashes (fig. 81).

Fig. 80
#UnBonJuif



Source: Snapshot of Le Monde.fr (2012)

232. Gordts, E., (2012), “#UnBonJuif: Anti-Semitic Hashtag Causes Outrage In France”, (16 October 2012), *The Huffigton Post*, available at: <http://www.huffingtonpost.com/2012/10/16/unbonjuif-twitter_n_1971676.html>

Fig. 81
#UnBonJuif



Source: Snapshot of Jspace (2012)

Fig. 82 shows some of the statements that were circulating on Twitter in reference to the hashtag: “#UnBonJuif doit être cuit à point”, which translates to “A good Jew must be cooked to perfection” and “#UnBonJuif est un home mort :)” meaning “#UnBonJuif is a dead man :)”.

Fig. 82
#UnBonJuif



Source: Snapshot of Jspace (2012)

233. Le Monde (2012), “#UnBonJuif : un concours de blagues antisémites sur Twitter”, 15 October 2012, *Le Monde.fr*, available at: <http://www.lemonde.fr/technologies/article/2012/10/14/unbonjuif-un-concours-de-blagues-antisemites-derape-sur-twitter_1775233_651865.html#xtor=AL-32280515>

234. Gordts, E., (2012), op. cit.

According to Le Monde on the 10 October it became the third most tweeted hash tag in France²³³, and French anti-racism organizations condemned the incident and urged Twitter to take responsibility. “We are taking this extremely seriously,” Guillaume Ayne, director of SOS Racisme, told France24; “There is a deep-rooted anti-Semitism in France, and there is a very small step between racist words and racist acts”²³⁴.

The Association of Jewish Students in France (UEJF) began a legal action against the site, asking a Paris court to force Twitter to reveal details of accounts that used the hashtag so that legal action could be taken according to National laws. Twitter, however, claimed to be bound only by US laws in this sense, and that it would only reveal users' details if a US court ordered it to do so.²³⁵

On the contrary, the Tribunal de Grande Instance of Paris ruled otherwise. The court underlined that Twitter's own terms state that "international users accept they must respect all local laws concerning online conduct and acceptable content" and that the UEJF request for Twitter to reveal some account details was thus "legitimate".²³⁶ Twitter appealed against this decision but lost the case and was sentenced to pay €1,500 and to cover the UEJF's legal expenses.²³⁷

However, it is worth noticing, that Twitter, since January 2012 has embraced a new policy and has become more active in establishing collaboration with local law enforcement authorities in order to block those tweets and accounts in breach of national laws. Twitter, in an official blog-post explaining the new policy, clarified that content will be blocked exclusively inside the countries where the tweets and accounts are proven in violation of local laws. Nonetheless, they will not be removed from their global audience.²³⁸ The new policy was created to meet the legal and cultural challenges arising from the global expansion of the use of this social media and at the same time to guarantee the company's commitment to freedom of expression. Twitter, in the blog post, remarked:

*"As we continue to grow internationally, we will enter countries that have different ideas about the contours of freedom of expression. Some differ so much from our ideas that we will not be able to exist there. Others are similar but, for historical or cultural reasons, restrict certain types of content, such as France or Germany, which ban pro-Nazi content."*²³⁹

The new policy saw its first implementation on October 2012 when Twitter blocked in Germany the Besseres Hannover— @xbimmix account (fig. 83).²⁴⁰

235. Marchive, V., (2013a), "Twitter ordered to give up details of racist tweeters", 25 January 2013, ZD Net, available at: <<http://www.zdnet.com/twitter-ordered-to-give-up-details-of-racist-tweeters-7000010283/>>

236. Le Monde (2013), "La justice française ordonne à Twitter d'aider à identifier les auteurs de tweets litigieux", 24 January, Le Monde.fr, available at: <http://www.lemonde.fr/technologies/article/2013/01/24/la-justice-francaise-ordonne-a-twitter-d-aider-a-identifier-les-auteurs-de-tweets-litigieux_1822165_651865.html>

237. Marchive, V., (2013b), "Twitter's appeal against racist tweets case written off", 18 June, ZD Net, available at: <<http://www.zdnet.com/twitters-appeal-against-racist-tweets-case-written-off-7000016943/>>

238. Twitter, (2012), "Tweets still must flow", (26 January 2012), Twitter Blog, available at: <<https://blog.twitter.com/2012/tweets-still-must-flow>>

239. Ibid.

240. Aljazeera Europe, (2012), "Twitter blocks Nazi account in landmark move", (18 October 2012), available at: <<http://www.aljazeera.com/news/europe/2012/10/20121018105249321791.html>>

Fig. 83
Besser-Hannover Twitter Account



Source: Screenshot of Besseres-Hannover Twitter account

In September 2012, after the Ministry of the Interior in Lower Saxony banned and seized the assets of the group Besseres Hannover, the head of the local police requested to Twitter to block the group’s account.²⁴¹ The group was alleged to divulgate illegal expressions of pro-Nazi sentiment and to be working against the constitutional order and the norm of intercultural understanding. Indeed, the group was posting on its account several images and tweets that reinforced the police findings. The undemocratic, thus unconstitutional nature of the group is, for example, reflected in a tweet of the 18 of August (see fig. 84) where a picture of a “demokratie” sign written on the sand near the seashore is followed by the text: “Let’s be a wave!”.

Fig. 84
Besser-Hannover Twitter Post



Source: Screenshot of Besseres-Hannover Twitter account

Furthermore, fig. 85 and fig. 86 show two racist tweets from the German group. The first one shows a picture of a street signboard written in Arabic accompanied by a text that reads “On the streets of the capital: when you get a little hungry, go and get yourself a....??!? #overforeignization #Berlin”. On the same note, the second tweet refers to an image of a pork curry sausage and fries together with the following text: “We should educate our ‘fellow citizens daily on German culture, by pestering them with photos of CuWuPo!”.²⁴²

Fig. 85



Source: Screenshot of Besseres-Hannover Twitter account

241. Chilling Effects, (2012), “German Police ask Twitter to Close Account”, (25 September 2012), available at: <<http://www.chillingeffects.org/international/notice.cgi?NoticeID=643172>>

242. ‘CuWuPo’ means curry, sausage and fries

Fig. 86
Besser-Hannover Twitter Post



Source: Screenshot of Besser-Hannover Twitter account

Amongst other illegal activities, German press suggested that the group was distributing free racist materials in schools, sending abusive video messages to officials and threatening physical violence against immigrants.²⁴³ Moreover, the police suspected that the group was in the process of forming a neo-Nazi criminal organization which made the issue more urgent to be dealt with.²⁴⁴

In October 2012 Twitter, in accordance with its new policy, proceeded with the blocking of the Besser-Hannover account to the German public. The then-Twitter General Counsel Alex Macgillivray²⁴⁵ tweeted an official confirmation and reassured the censorship-skeptics that Twitter possess *“the tools to do it narrowly & transparently”*, namely the reinforcement of the partnership with Chilling Effects²⁴⁶ which makes it easier to find notices related to Twitter (fig. 87).²⁴⁷

243. Bradshaw, T., (2012), “Twitter’s first local block silences neo-Nazis in Germany”, (18 October 2012), [blog.ft.com](http://blogs.ft.com/tech-blog/2012/10/twitter-block/), available at: <<http://blogs.ft.com/tech-blog/2012/10/twitter-block/>>

244. Refer to: <http://marketingland.com/twitter-takes-censorship-action-against-hate-group-in-germany-24263>

245. Mcgillivray recently left Twitter, for further information see: Halliday, J., (2013), “Lawyer and champion of free speech Alex Macgillivray to leave Twitter”, (30 August 2013) *The Guardian*, available at: <<http://www.theguardian.com/technology/2013/aug/30/twitter-alex-macgillivray-free-speech>>

246. Chilling Effects is an organization that aims to help you understand the protections that the First Amendment and intellectual property laws give to your online activities. It is the result of joint project of the Electronic Frontier Foundation and Harvard, Stanford, Berkeley, University of San Francisco, University of Maine, George Washington School of Law, and Santa Clara University School of Law clinics.

247. Bradshaw, T., (2012), op. cit.

Fig. 87
Twitter comments on the blocking of the Besser-Hannover account



Source: <http://blogs.ft.com/tech-blog/2012/10/twitter-block/>

The picture below (fig. 88) displays a screenshot of the page were German users are redirected when searching for the group’s account or tweets:

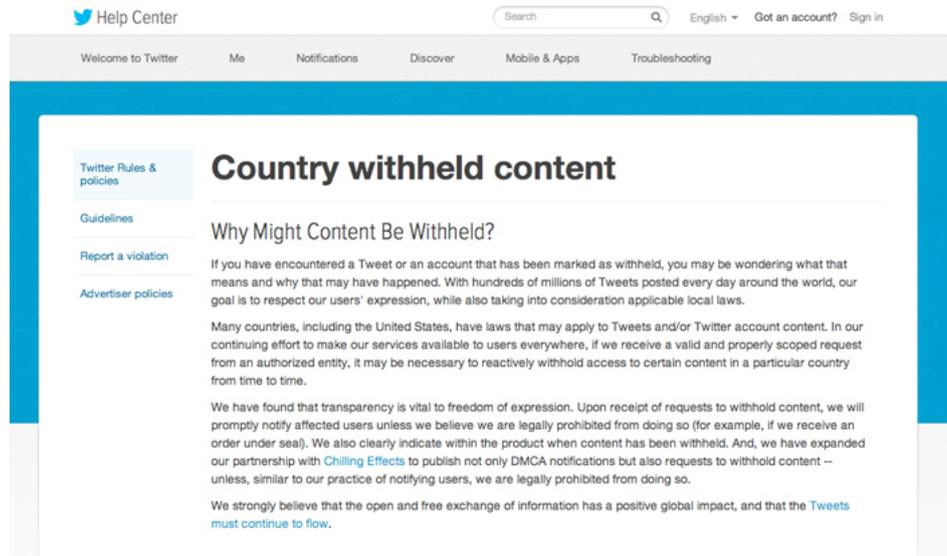
Fig. 88
Outlook of the Besser-Hannover Account Page for German Users



Source: Screenshot of the page displayed to German users related to the Besseres-Hannover Twitter account

By Clicking on the “learn more” hyperlink users are re-directed to the following page of Twitter’s Help Center (fig. 89). Twitter explains how everyone, in the name of transparency - which is “*vital to freedom of expression*” - is able to access and see the requests to withhold content by visiting the Chilling Effects page.

Fig. 89
Twitter’s Help Center on Country Withheld Content



Source: Snapshot of Twitter Help center page on withheld content

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Research Institute

LIGHT ON: Investigating and Reporting Online Hate Speech

HANDOUTS

LIGHT ON
your turn to stop racism



LIGHT ON is a project co-financed by the Fundamental Rights and
Citizenship Programme of the European Union

FORM 1

LIGHT ON: Investigating and Reporting Hate Speech Online

ATTENDANCE LIST

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TRAINING CURRICUM

REFERENCE TEXT

HANDOUTS

SLIDES



POSTER 1

(Opening Session)

GROUND RULES

- ✓ Actively participate and share your experience: your contribution is most welcomed!
 - ✓ Listen and respect others when they are talking
- ✓ Speak from your own experience instead of generalizing ("I" instead of "they," "we," and "you")
 - ✓ Be on time
- ✓ Respectfully challenge others by asking questions, but refrain from personal attack: focus on ideas
- ✓ Participate to the fullest of your ability and aim at including every individual voice
- ✓ Instead of invalidating someone else's story with your own spin, share your own experience
- ✓ The goal is not to agree: it is about hearing and exploring divergent perspectives
- ✓ Remember that body language and non verbal responses can be as disrespectful as words
 - ✓ Please, switch off your mobile phones!

CARDS 1**Participants Expectations****(Opening Session)**

What advice, information or skills do you want to get from this training?	What advice, information or skills don't you need or don't you want from this training?	Which question about racist hate speech and hate speech online did you come to this training with?
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CARDS 2 A)

Section 1- Activity 4

Find the Perfect Match: International Conventions

ARTICLE	CONVENTION
(a) "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Art. 2	(1) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted in 1965
(b) "Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." Art. 2	(2) The Convention Relating to the Status of Refugees adopted in 1951
(c) "The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin." Art. 3	(1) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted in 1965
(d) "States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination [...]" Art.4	(1) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted in 1965
(e) "(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof." Art. 4	(3) Convention on the Prevention and Punishment of the Crime of Genocide adopted in 1951

<p>(f)</p> <p>“(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law.” Art. 4</p>	<p>(4)</p> <p>Universal Declaration on Human Rights (UDHR) adopted by the United Nations General Assembly in 1948</p>
<p>(g)</p> <p>“(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.” Art. 4</p>	<p>(5)</p> <p>UNESCO Declaration on Race and Racial Prejudice adopted in 1978</p>
<p>(h)</p> <p>“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Art. 20(2)</p>	<p>(1)</p> <p>The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) adopted in 1965</p>
<p>(i)</p> <p>“Racism includes racist ideologies, prejudiced attitudes, discriminatory behavior, structural arrangements and institutionalized practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practice it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security.” Art. 2 (2)</p>	<p>(6)</p> <p>Convention on the Rights of the Child (CRC) adopted by the United Nations General Assembly in 1989</p>
<p>(j)</p> <p>“(1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>(2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.” Art. 2 (1) (2)</p>	<p>(7)</p> <p>International Covenant on Civil and Political Rights adopted in 1996</p>

CARDS 2 B)

Section 1- Activity 4

Find the Perfect Match

CONVENTIONS	ARTICLE(S)
(1) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	(d), (e), (f), (g)
(2) The Convention Relating to the Status of Refugees	(c)
(3) Convention on the Prevention and Punishment of the Crime of Genocide	(b)
(4) Universal Declaration on Human Rights (UDHR)	(a)
(5) UNESCO Declaration on Race and Racial Prejudice	(i)
(6) Convention on the Rights of the Child (CRC)	(j)
(7) International Covenant on Civil and Political Rights	(h)

HANDOUT 1

Section 1 – Activity 4

Handout 1 A) Finland

COUNTRY: FINLAND	Constitutional provisions	Specific legislation	Criminal law
Norms Concerning discrimination in general	<u>Constitution Act of Finland</u> (1999) (<i>Suomen perustuslaki</i>) 2(6)	<u>The Non-Discrimination Act</u> (2004) <u>Act on Equality between Women and Men</u> (1986)	<u>The Criminal Code</u> (1889) (<i>Rikoslaki</i>) Section 10:11
Norms concerning racism	<u>Constitution Act of Finland</u> (1999) (<i>Suomen perustuslaki</i>) 2(6)	<u>The Non-Discrimination Act</u> (2004) Section 6	<u>The Criminal Code</u> (1889) (<i>Rikoslaki</i>) Section 10, Section 10(a), Section 6(5)

The 1999 **Constitution Act of Finland** (*Suomen perustuslaki*), in conformity with article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that: “Everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person” (**Chapter 2 – Section 6**). The constitutional prohibition of discrimination may be directly invoked in courts, and regular laws are to be interpreted in accordance to it. The constitutional anti-discrimination provision has been applied mainly in situations involving the use of public power, but it may in some instances have a bearing on relationships between private parties as well.

Within the realm of civil law, the 2004 **Non-Discrimination Act**, adopted in order to transpose the EU directives on equal treatment into national law, is the key legislative tool in the promotion of non-discrimination and equal rights for all. The Act (**Section 6**) covers direct and indirect discrimination, as well as harassment and instruction or order to discriminate on the grounds of: age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation, or other personal characteristics. The Act also prohibits victimisation (**Section 8**), and arguably discrimination based on assumed characteristics and discrimination based on association with persons with particular characteristics. Its purpose is to foster and safeguard equality and enhance the protection provided by law to those who have been discriminated against. Discrimination regarding

employment, recruitment and access to training is prohibited on the grounds required by the directives (**Section 2**). However, in providing public or private services including also social welfare, health care, social security benefits, housing and movable and immovable property and in military service the Non-Discrimination Act prohibits discrimination only on the ground of ethnic origin. Moreover, **Section 3** limits the scope of the Act by stating that it does not apply to the area of education and the application of provisions governing entry into and residence in the country by foreigners.

Gender equality is instead addressed in a separate law of general application, the 1986 **Act on Equality between Women and Men** (*Laki naisten ja miesten välisestä tasa-arvosta*). The act prohibits sex discrimination and imposes a duty to promote sex equality.

The **Criminal Code** (*Rikoslaki*) general provision on discrimination (**Section 11**) covers discrimination on the grounds of race, national or ethnic origin, color, language, sex, age, family ties, sexual preference, state of health, religion, political orientation, political or industrial activity or another comparable circumstance. In terms of norms concerning racism, the Code specifically contains a provision prohibiting **ethnic agitation** (**Section 10**) and **aggravated ethnic agitation** (**Section 10a**). Furthermore, **Section 6:5** allows judges to increase the punishment (Section 6:5) when the offence is motivated by the victim's race, color of skin, origin, national or ethnic origin, religion or belief, sexual orientation and disability or other comparable motive. Punishment for discrimination laid down by law is in the form of fines or imprisonment for up to six months. However, in practice, sentences for discrimination have so far been fines.

Domestic definition and legal provisions on Hate Speech

Legal Definition

The **Criminal Code** (**Section 10**) defines **ethnic agitation** as the spreading of expression of opinion or another message among the public where a certain group is threatened, defamed or insulted on the ground of race, color of skin, birth status, national or ethnic origin, religion or belief, sexual orientation and disability or comparable reason.

Legal Provisions

The legislation in Finland concerning hate speech was reformed in 2010/11. The aim of the law reform based on a government bill was to clarify and to some extent expand the applicability of the legislation when it comes to criteria of hate.

The core provisions of the **Criminal Code** are those of **Section 10** (511/2011) on "**Ethnic agitation**" and **Section 10a** (511/2011) on "**Aggravated ethnic agitation**". The former legal provision makes it punishable to distribute publicly such statements that threaten, denigrate or insult a national, racial, ethnic or religious, or a comparable group. In the 2011 reform, the scope of agitation was widened to include

religion or belief, sexual orientation and disability.

Furthermore, the provision on “aggravated ethnic agitation” was included to cover the most serious offenses. The provision applies above all when the object of agitation is genocide or the preparation of genocide, a crime against humanity, an aggravated crime against humanity. For this type of offense the sentence ranges from four months to four years in prison.

If ethnic agitation is not applicable, the offense “**Breach of the sanctity of religion**” (Criminal Code: **Chapter 17, Section 10**) may apply. The background of this provision is public order and the constitutional guarantee of freedom of religion. Its meaning is to protect citizens’ religious beliefs and emotions and the sanctity of religion as an element social peace. According to legal experts, the provision only applies to that which is held sacred by a registered religious group, and not a particular religious group of people or a person that belongs to such a group. Its scope does, therefore, not constitute actual hate speech. Therefore, the boundary between the agitation offense and the breach of sanctity offense is also often unclear, and a lot of critical debate has been seen within legal academics on the necessity of the ‘breach provision’.

Lastly, if the target of hate speech is an individual person, the category of “**Public incitement to an offence**” (Criminal Code: **Chapter 17, Section 1**) may apply. This kind of hate speech against an individual may also constitute an unlawful threat or defamation. The crime of incitement does not have to be intentional as long as the offender is aware that the content of the message is threatening or abusive against a certain group. If the hate motive is not included in the elements of the offense, it may be taken into account as grounds for increasing the punishment. In the current provisions of aggravation religion is not mentioned individually, but the grounds for increasing the punishment also applies when the target of the offense is a religious group.

The Criminal Code also contains provisions on defamation (**Section 24:9**) and aggravated defamation (**24:10**). Defamation is defined as spreading of false information or a false insinuation of another person so that the act is conducive to causing damage or suffering to that person, or subjecting that person to contempt. The act is aggravated, if the offence is committed by using the mass media or otherwise by making the information or insinuation available to many persons.

Handout 1 B) Hungary

COUNTRY: HUNGARY	Constitu- tional provi- sions	Specific legislation	Civil and administrative law	Criminal law
Norms Concerning discrimination in general	<u>The Fundamental Law of Hungary (2012) (Magyarország Alaptörvénye)</u> Art. XV	<u>Act CXXV (2003) on Equal Treatment and the Promotion on Equal Opportunities</u>	<u>Act IV Civil Code (1959)</u> <u>Act XXII (1992) on the Labour Code;</u> <u>Act LXXIX (1993) on Public Education;</u> <u>Act CLV (1997) on Consumer Protection;</u> <u>Act XXVI (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities;</u> <u>Act CXI (2011) on the Commissioner for Fundamental Rights; etc.</u>	<u>The Hungarian Criminal Law (2012):</u> Art. 216 and 332
Norms concerning racism	<u>The Fundamental Law of Hungary (2012) (Magyarország Alaptörvénye)</u> Art. XV	<u>Act CXXV (2003) on Equal Treatment and the Promotion on Equal Opportunities</u>	<u>Act XXII (1992) on the Labour Code;</u> <u>Act LXXIX (1993) on Public Education;</u> <u>Act CLV (1997) on Consumer Protection;</u> <u>Act XXVI (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities;</u> <u>Act CXI (2011) on the Commissioner for Fundamental Rights; etc.</u>	<u>The Hungarian Criminal Law (2012)</u> Art. 216

On the highest level of existing legal regulations against discrimination and racism stands **Art. XV** of the **Fundamental Law of Hungary**. The constitutional legal body was accepted in 2011 and

came into force on the 1st of January 2012. Since then the constitution has been amended four times. All these changes, and specifically the lengthily one that was passed in March 2013, triggered a heated debate. The Venice Commission, the European Parliament, major NGOs, public opinion and the Hungarian government itself, have since been discussing on whether the amended constitution breached the EU democratic standards, the protection of human rights and the rule of law.

Amongst the secondary legislation, the most comprehensive and ad hoc provisions are set in **Act CXXV (2003) on Equal Treatment and the Promotion of Equal Opportunities**. This Act is relevant to the right to non-discrimination with regard to employment, social security, healthcare, housing, education, and training. **Art. 1** sets out an obligation to respect rights without any discrimination for the many reasons enumerated under **Art. 8** (e.g., gender, racial origin, color, nationality, political or other opinion, religion, etc.). Under this Act was also established the **Equal Treatment Authority**, a specialized body that reviews the complaints it receives to see if the law on equal treatment has been violated according to the form of discrimination enunciated in article 8.

Moreover, there is also a series of civil and administrative laws which name and ban discrimination. Some examples, as reported in the table, are: Act XXII (1992) on the Labour Code; Act LXXIX (1993) on Public Education; Act CLV (1997) on Consumer Protection; Act XXVI (1998) on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities; Act CXI (2011) on the Commissioner for Fundamental Rights etc. Furthermore, the provisions of Act IV (1959) of the Civil Code¹⁰⁰ on the protection of inherent personal rights remain an important tool for combating discrimination in areas not covered by the Act CXXV (2003).

On the 1st of July 2013, a new Criminal Code came into force, **C Law (2012)**. The new Criminal Code introduced changes in the provisions protecting persons from hate-motivated assaults due to their real or perceived identity. Whereas the old legislation prohibited assaults exclusively on the ground of nationality, ethnicity, race or religion, the new law explicitly incorporates the fields of sexual orientation, gender identity and disability.

Nonetheless, some have argued that the new code missed the opportunity to fill in the existing gap of a general provision under which discriminatory motivation can be taken into account as part of investigation or prosecution of other crimes (including murder), and to introduce guidelines for police and prosecution authorities on the investigation of hate crimes. Indeed, in the past years, many international human rights monitoring bodies, including the European Commission against Racism and Intolerance (ECRI) and Amnesty International, have been recalling the systemic problem in the implementation of anti-discriminatory legislations.

**FOCUS:**Art. 216 - The Hungarian Criminal Law (2012)**Violence Against a Member of the Community**

(1) Any person who displays an apparently anti-social behavior against others for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, of aiming to cause panic or to frighten others, is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of a certain societal group, in particular on the grounds of disability, gender identity or sexual orientation, or compels him by force or by threat of force to do, not to do, or to endure something, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if violence against a member of the community is committed:

- a) by displaying a deadly weapon;
- b) by carrying a deadly weapon;
- c) by causing a significant injury of interest;
- d) by tormenting the aggrieved party;
- e) in a gang; or
- f) in criminal association with accomplices.

(4) Any person who engages in the preparation for the use of force against any member of the community is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

Domestic definition and provisions on hate speech**Legal Definition**

The term "hate speech" itself is not used in legislation; for the purpose of written law, this term is covered by the "crime of incitement against a community" used in **Art. 332** of the New Criminal Code. The New Criminal Code made minor corrections to the crime set forth in Article 269 of the previous Criminal Code, which was named "agitation against a community".

Legal Definition

Art. 332 of the New Criminal Code establishes the punishment for "a felony offence with imprisonment up to three years" for a person who "incites hatred before the general public against: a) the Hungarian

Nation; b) any national, ethnic, racial group, or; c) certain groups of the population – with special regard to disability, sexual identity, or sexual orientation”.

Moreover, **Art. 335** of the New Criminal Code also prohibits symbols of despotism. According to it, any person who “distributes, uses in public, exhibits in public a swastika, the SS sign, an arrow-cross, a hammer and sickle, a five pointed red star or a symbol depicting the above, - unless a graver crime is realized – commits a misdemeanor, and shall be liable to punishment with a fine”. However, the article excludes from the punishment a person who uses one of the above-mentioned symbols for the purpose of education, science, art, information etc., and excludes the official symbols of states in forces.

Handout 1 C) Italy

COUNTRY: ITALY	Constitu- tional provi- sions	Specific legislation	Civil and administra- tive law	Criminal law
Norms Concerning discrimination in general	<u>Constitution of the Italian Republic</u> (Costituzione della Repubblica Italiana) (1947) Art. 3 (indirectly art. 10 and last modification of art. 117)	<u>Legislative decree 286/98 Art. 2-43-44;</u> <u>Legislative decrees 215/2003 and 216/2003;</u> <u>Legislative decree 198/2006</u> (Code of Equal Opportunities); <u>Labour Code (1970) Art. 8-15-16</u>	<u>Civil Code (1942) Art. 1343-1418;</u>	<u>Law n.645 (1952);</u> <u>Law n.654 (1975);</u> <u>Italian Code of Criminal Procedure (1988) art. 415;</u> <u>Law n. 205 "Mancino Law" (1993);</u> <u>Law 85/2006</u>
Norms concerning racism	Art. 3 (indirectly art. 10 and last modification of art. 117)	<u>Legislative decree 286/98 Art. 43;</u> <u>Legislative decree 215/2003</u>	<u>Civil Code (1942) Art. 1343-1418;</u>	<u>Law n. 205 "Mancino's Law" (1993) Art. 3</u>

The highest level legislative tools regarding discrimination are laid in the 1947 **Italian Constitution** (Costituzione della Repubblica Italiana). **Art. 3** guarantees the 'equal dignity' of all citizens and the principle of equality before the law 'without distinction based on sex, race, language, religion, political opinion, or personal and social conditions', and Italy's Constitutional Court has repeatedly interpreted the article as applicable to all persons within Italian territory. Moreover, whilst **Art. 2** recognises human rights, **Art. 10** and the last modification of **Art. 117** note that international treaties once ratified by the country are equal to National laws. This includes the effectiveness of important legislative means as regards the European Convention of Human Rights, the Treaty of European Union and the European Convention of Human Right. Besides these constitutional remarks, the **Italian Civil Code** approved in 1942 explains for examples that, in relation with current legislation, it is impossible to agree any contract providing racial discrimination (**Art. 1343**) and that any contract providing racial discrimination is void even if subscribed (**Art. 1418**).

Furthermore, Italy has a robust body of third level anti-discrimination regulations. The 1998 **Legislative Decree 286**, for instance, focuses

on: equality between citizens and foreigners in relation to the judicial protection of rights and legitimate interests when dealing with the public administration and accessing public services (Art. 2); actions of discrimination based on racial, ethnic, national or religious grounds acted against Italian citizens, EU citizens and stateless persons too (Art. 43); civil action against discrimination (Art. 44).

However, whilst specific norms existed before, these have often been deemed poor and unfit by European standards. Thus, comprehensive legislation was adopted in 2003 when Italy transposed EU Directives 43 (on equal treatment between persons irrespective of racial or ethnic origin) and 78 (one equal treatment in employment and occupation) in **Legislative Decrees 215** and **216** of July 9, 2003. Moreover, in December 2009, after a formal warning from the European Commission, the Italian government transposed the European directive on equal opportunities by a legislative decree (**Legislative Decree 5/2010 modification of the Legislative Decree 198/2006 - Code of Equal Opportunities**). The decree introduces important norms into Italian law, which protect women's jobs and remove several forms of discrimination. It also reinforces the existing equal opportunity bodies .

The Italian criminal code was approved in 1930, during the fascist period; consequently, there are no specific provisions describing racism as a crime (article 415 criminalise incitement to social hate). In 1952, **law n. 645** implemented the XII final and transitory disposition of the Constitution against racist propaganda and fascism. Afterwards, in 1975, **law n. 654** specifically introduced racism and discrimination crimes, but did not list discrimination or racism as aggravating elements in regard to other offenses. Indeed, the most important instrument in Italian law for prosecuting racist and other hate violence is the penalty enhancement provision contained in **Law n. 205** of 1993, commonly referred to as the "**Mancino's Law**". Its **Art. 3** allows judges to increase the sentence imposed for a crime: by up to half, if the crime was committed "with the purpose of discrimination or hatred based on ethnicity, nationality, race, or religion, or in order to facilitate the activity of organizations, associations, movements, or groups that have this purpose among their objectives." (Judges in Italy have discretion with respect to sentencing within the parameters established by law. A sentence for a racially-motivated offense can be increased by any amount of time up to one half again the minimum sentence for the offense in question). The aggravating circumstance of racist or other hate purpose can be applied to any crime, except those punishable by life in prison (the harshest penalty under Italian criminal law).

Domestic definition and provisions on hate speech

Legal Definition

Although Italy does not have an agreed legal definition of hate speech, Art. 3 of Law 654/1975 provides a general definition by describing it as "crime of propaganda of ideas based on ethnic or racial hatred" and "violence or instigation to violence for racial, ethnic, national

or religious reasons”.

Legal Provisions

Despite several international recommendations to firmly counter the dissemination of hate speech with effective measures, hate speech, as yet, is not regulated through a specific legislation.

However, the 1993 **Mancino’s Law**, which modified **Art. 3 of the Law 654/1975**, established that “inciting in any way or committing violence or acts of provocation to violence based on racist, ethnic, national or religious motives” constitutes a crime punishable by one to four years in prison. The same law also established and that “*propagating ideas based on racial superiority or racial or ethnic hatred, or inciting to commit or commit acts of discrimination for racial, ethnic, national or religious motives*” is a crime punishable by up to four year in prison.

However, in January 2006 the Parliament adopted an act, **Law 85**, that weakens the penalties against hate speech and instigation to racial discrimination. The new law modifies again the article 3 of the Law 654/1975 (modified by the Mancino’s Law) by substituting the word “instigate” for the original “incite”. Through Law 85 it was thus decreased the impact of the original penalty provisions: in case of racism or discriminative instigation, the punishment is reduced to one year and six months of imprisonment, which could, however, be substituted by a fine.

Moreover, the most recent amendment, approved by the Lower Chamber of Deputies and ready to be examined by the Higher Chamber of the *Senato*, adds homophobia and transphobia to the already existing aggravating circumstances. However, an additional sub-amendment, known as the Verini’s amendment, modifies the *Mancino’s Law* so that the penalties related to discrimination do not concern “organizations in the fields of politics, unions, culture, health care, education, religion or cults”. Many human rights organizations, as well as several politicians and the civil society have been raising their concerns over the practical effects of such provision. According to such criticisms, the Verini’s sub-amendment would exclude the persecution of those political parties and social organizations which openly hold discrimination based on sexual orientation as one of their specific features.

In 2006, **Law 85** amended the previous criminal regulations (stated under **Law No. 654** dated October 13, 1975, as previously amended by **Law No. 205** dated June 25, 1993, i.e. *Mancino’s Law*), halving the penalty for the crime of propagating (formerly “spreading”) ideas based on racial superiority or hatred and instigation (formerly “incitement”) to commit acts of discrimination for racial, ethnic, national or religious motives, and thus reducing the scope of this circumstance . As previously noted, the amendment thus changes the impact of the penalty provisions: in case of racism or discrimination incitement, the corresponding punishment is a fine and no longer imprisonment.

Handout 1 D) Slovenia

COUNTRY: SLOVENIA	Constitutional provisions	Specific legislation	Civil and administrative law	Criminal law
Norms Concerning discrimination in general	<u>Constitution of the Republic of Slovenia</u> (1991) (<i>Ustava Republike Slovenije</i>) Art. 14-63-64-65	<u>The Act Implementing the Principle of Equal Treatment</u> (2004) (<i>Zakon o uresničevanju načela enakega obravnavanja</i>)	<u>The Employment Relationship Act</u> (2013) (<i>Zakon o delovnih razmerjih</i>) Art. 6-7-47-8	<u>Criminal Code</u> (2008) (<i>Kazenski Zakonik</i>) <u>Liability of Legal Persons for Criminal Offences Act</u> (2005) Art 25
Norms concerning racism	<u>Constitution of the Republic of Slovenia</u> (<i>Ustava Republike Slovenije</i>) Art. 63	<u>The Act Implementing the Principle of Equal Treatment</u> (2004) (<i>Zakon o uresničevanju načela enakega obravnavanja</i>)	<u>The Employment Relationship Act</u> (2013) (<i>Zakon o delovnih razmerjih</i>) Art. 6-7-47-8	<u>Criminal Code</u> (2008) Art. 131-297-197-100-101-102

At the highest level of Slovenian anti-discriminatory legislation stand **Art. 14, 63, 64** and **65** of the **Constitution of the Republic of Slovenia** (1991) (*Ustava Republike Slovenije*). General anti-discrimination regulations (Equality before the Law) are provided in **Art. 14**. Instead, **Art. 63** (Prohibition of Incitement to Discrimination and Intolerance and Prohibition of Incitement to Violence and War) specifically focuses on the unconstitutionality of national, racial and religious discrimination. Finally, **Art. 64** regulates special rights of the Autochthonous Italian and Hungarian national communities in Slovenia, whilst **Art. 65** states that the status and special rights of the Roma community in Slovenia shall be regulated by law.

In terms of specific legislation the 2004 **Act Implementing the Principle of Equal Treatment** (*Zakon o uresničevanju načela enakega obravnavanja*, often translated as The Law on Equal Treatment, was adopted to fulfill the obligation of transposing EU anti-discrimination directives 2000/43/ES (directive on equal treatment in employment) and 2000/78/ES (directive on racial equality) in the Slovenian national law. The Act covers discrimination on grounds of *inter alia* national, racial or ethnic origin, language and religious convictions and in a number of fields, including employment, labour relations, participation in trade unions and interest associations, education, social security and access to and supply of goods and services. The Act also bans direct as well as indirect discrimination, victimisation and harassment, and provides for

the establishment of two ad-hoc bodies:

- the Government Council for Fulfilling the Principle of Equal Treatment (*Svet vlade RS za uresničevanje načela enakega obravnavanja*), under the mandate of monitoring the situation of racism and racial discrimination and assisting with the implementation of anti-discrimination legislation;
- the Advocate of the Principle of Equality (*Zagovornik oziroma Zagovornica načela enakosti*) which is competent of hearing and processing individual complaints including those of racial discrimination, carrying out surveys and publishing reports.

However, in the process of examining the transposition of the European Directives the European Commission highlighted some areas where the transposition was unfit. First of all it pointed out that the Act does not specifically mention that the prohibition of discrimination on grounds of racial or ethnic origin is also used in the access to self-employment, food, housing, health care, education and vocational training, and that the Act does not guarantee that a characteristic related to racial or ethnic origin constitutes a genuine and determining occupational requirement in this particular professional context or that the requirement is proportionate.

Moreover, the examination pointed out that the Act does not provide protection against retaliation for witnesses and other people who help victims of discrimination. Finally, in view of the Employment Equality Directive (2000/78/EC), the European Commission noted that the Act incorrectly transposed the definition of indirect discrimination, since it covers only the actual disadvantage but not possible disadvantage. Thus, in order to make unambiguous implementation of the provisions of the two Directives the Act Implementing the Principle of Equal Treatment was partly revised and amended in 2007.

Furthermore, with regard to the institution of the Advocate, concerns about its ability of independent and impartial assessment of complaints, especially in cases when the alleged perpetrator of discrimination is the Government, have been raised. These concerns mainly derive from the fact that this body functions within the Ministry of Labour, Family and Social Affairs and that the Advocate is nominated by the Government upon the proposal of the Minister of Labour, Family and Social Affairs. In addition, the Advocate has no support staff (it's a one-person body); it has insufficient investigative and no sanctioning powers; and its funding depends on the Ministry.

The most relevant provisions of civil law containing anti-discriminatory norms are gathered in the **Employment Relationship Act**. It prohibits direct as well as indirect discrimination in recruitment and employment linked to the sex, race, color, age, health or disability, religion, political or other beliefs, trade union membership, national or social origin, family status, financial status, sexual orientation or other personal circumstances employment seeking persons (**Art. 6**). The

same article also defines the burden of proof and puts the liability for damages on the employer.

Furthermore, **Art. 7** prohibits any sexual and other harassment and bullying in the workplace. The employer is obliged to provide a working environment in a way to protect the dignity of workers at work (**Art. 47**). In the case of unlawful discrimination or harassment in the workplace the employer is liable to financially redress the damage to the job applicant or employee for damages under the general rules of civil law. As a non-pecuniary damage suffered by the applicant or employee shall be deemed also mental anguish due to the unequal treatment of the worker or the employer's discriminatory conduct or the failure to provide protection against sexual or other harassment or bullying in the workplace. In assessing the amount of non-pecuniary damage must be noted that it is effective and proportionate to the damage suffered by the applicant or employee and that it aims to discourage employers from re-offending (**Art. 8**).

The 2008 **Slovenian Criminal Code** (*Kazenski Zakonik*) contains provisions on prohibition of violation of right to equality and public incitement to hatred, violence, intolerance, and hate speech, although there is no general definition of racist-hate crime. Firstly the Code criminalises (**Art. 131**) depriving or restraining another person of any human right or liberty recognized by the international community or laid down by the Constitution or the statute due to differences in respect of nationality, race, skin colour, religion, ethnic roots, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance. **Art. 297**, instead, prohibits public incitement to religious, ethnic, racial hatred and any other strife, intolerance and provocation based on physical or mental deficiencies, sexual orientation or other personal circumstances.

The code also criminalises the violation of the principle of equality in relation to workplace mobbing (**Art. 197**). Moreover, the Penal Code also prohibits genocide (**Art. 100**), crimes against humanity, including those on the grounds of race, ethnic and religious affiliation (**Art. 101**), war crimes, including forced pregnancy aimed at affecting the ethnic composition of any population (**Art. 102**). The main issues related with the criminal code are that: a) it does not contain any specific provisions establishing racist motivation as an aggravating circumstance.

Moreover, **Art. 25** of the **Liability of Legal Persons for Criminal Offences Act** (2005) establishes criminal accountability of legal persons in case of violations of the following articles of the Penal Code: article 131 (Violation of Right to Equality), article 197 (Workplace Mobbing), article 198 (Violation of Rights Concerning Employment and Unemployment), article 297 (Public Incitement to Hatred, Violence or Intolerance).

Domestic definition and provisions on hate speech

Legal Definition

Art. 63 of the **Constitution** describes hate speech as “*any incitement to national, racial, religious or other discrimination and the inflaming of national, racial, religious or other hatred and intolerance*”. However, the most inclusive definition is stated in **Art. 297 of the Criminal Code** that criminalises conduct that “publicly provokes or stirs up hatred, violence or intolerance on the basis of nationality, race, religion or ethnic roots, gender, skin color, origin, financial situation, education, social position, political or other beliefs, disability, sexual orientation or any other personal circumstance” when “the conduct is carried out in a way that is likely to endanger or disturb public order”.

Legal Provisions

Art. 63, according to the above-mentioned definition, declares hate speech unconstitutional.

Art. 297 of the Criminal Code, after describing conduct that may be understood as a manifestation of hate speech, establishes that such conduct shall be punished by imprisonment of up to two years. Moreover, the second paragraph of the article stipulates that the same sentence shall be imposed on a person who publicly disseminates ideas on the supremacy of one race over another, or provides aid in any manner for racist activity or denies, diminishes the significance of, approves, disregards, makes fun of, or advocates genocide, holocaust, crimes against humanity, war crime, aggression, or other criminal offences against humanity as defined in the legal order of the Republic of Slovenia. If the offence is committed by publication in mass media, the editor or the person acting as the editor are also punished, except if it was a live broadcast and they were not able to prevent the offence. The Criminal Code also stipulates two aggravated forms of these crimes – if they were committed in official capacity or with coercion, threat etc.

Art. 8 of the **2001 Mass Media Act (ZMed)** prohibits “the dissemination of programming that encourages national, racial, religious, sexual or any other inequality, or violence and war, or incites national, racial, religious, sexual or any other hatred and intolerance”. Furthermore, **Art. 47** prohibits advertising that may “*prejudice respect for human dignity, incite discrimination on the grounds of race, sex or ethnicity, or political or religious intolerance; [...] give offence on the grounds of religious or political beliefs*”. Penalties equivalent to € 10,000 are available as sanctions under both provisions. Finally, hate speech is also prohibited, and thus prosecutable under Civil law, by **Art. 5** of the **Act Implementing the Principle of Equal Treatment**.

Handout 1 E) The United Kingdom

COUNTRIES: ENGLAND, NORTHERN IRELAND, SCOTLAND, WALES	Constitutional provisions	Civil and administrative law	Criminal Law	Other jurisdiction: NORTHERN IRELAND
<p>Norms Concerning discrimination in general</p>	<p>No</p>	<p><u>Equality Act</u> (2010) bringing together over 116 previously separated pieces of legislations.</p>	<p><u>Offences (Aggravation by Prejudice) (Scotland) Act</u> (2009)</p> <p><u>Criminal Justice Act</u> (2003)</p> <p><u>International Criminal Court Act</u> (2001)</p> <p><u>Crime and Disorder Act</u> (1998) amended by Anti-terrorism, Crime and Security Act (2001) and Part 11 of Schedule 9 Protection of Freedoms Act (2012)</p> <p><u>Malicious Communications Act</u> (1988)</p> <p><u>Public Order Act</u> (1986); Parts I & II</p>	<p><u>Equal Pay (Northern Ireland) Act</u> (1970)</p> <p><u>Sex Discrimination (Northern Ireland) Order</u> (1976)</p> <p><u>Public Order (Northern Ireland) Order</u> (1987)</p> <p><u>Disability Discrimination Act (DDA)</u> (1995)</p> <p><u>Northern Ireland Act</u> (1998) Sections 75 and 76</p> <p><u>Fair Employment and Treatment (Northern Ireland) Order</u> (1998)</p>

TRAINING CURRICUM

REFERENCE TEXT

HANDOUTS

SLIDES

Norms concerning racism	No	<p><u>Equality Act (2010) or Race Relations Act (1976)</u> for acts of racial discrimination which took places previous 2010</p> <p><u>The Human Rights Act (1998)</u></p>	<p><u>Criminal Justice Act (2003); Provision 145</u></p> <p><u>Crime and Disorder Act (1998)</u> amended by Anti-terrorism, Crime and Security Act 2001 and Part 11 of Schedule 9 Protection of Freedoms Act (2012); Provisions 28-33</p> <p><u>Football Offences Act (1991); Section III</u></p> <p><u>Public Order Act (1986); Part III</u></p>	<p><u>Race Relations (Northern Ireland) Order (1997) Art. 3(1) and 3(1A)</u></p>
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The Equality Act 2010 consolidated the previous anti-discrimination legislative framework bringing together over 116 separate pieces of legislation into one single Act . The nine main acts/regulations that the Equality Act (2010) has merged are:

- the Equal Pay Act 1970
- the Sex Discrimination Act 1975
- the Race Relations Act 1976
- the Disability Discrimination Act 1995
- the Employment Equality (Religion or Belief) Regulations 2003
- the Employment Equality (Sexual Orientation) Regulations 2003
- the Employment Equality (Age) Regulations 2006
- the Equality Act 2006, Part 2
- the Equality Act (Sexual Orientation) Regulations 2007.

The Act simplifies, strengthens and harmonises the current legislation in order to protect people from discrimination in the workplace and in wider society. Furthermore, it established the **Equality Advisory Support Service (EASS)**, an ad-hoc helpline providing information and advice on discrimination and human rights issues. If an unlawful discriminative act occurred on or after the 1st of October 2010, the Equality Act applies and the EASS can assist victims in understanding how to proceed with their complaints.

Instead, if a discriminatory offence took place prior to October 2010,

any relative legal proceedings will go ahead according to the legislation under which they were brought, even if they may have continued after 1 October 2010. In this case the Equality and **Human Rights Commission (EHRC)** could provide victims' advisers with a series of questionnaire guidance booklets to help take a discrimination claim to the appropriate tribunal.

The EHRC was established with the 2006 Equality Act and carry a "statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine 'protected' grounds - age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment."

Moreover, the Parliament has passed a series of acts aimed at outlawing crime where the offender is motivated by a form of discrimination or hatred towards the victim, from the adoption of the **International Criminal Court statute** to the **Malicious Communications Act** (1998) aimed at targeting harassing and abusive phone calls, letters or electronic communications "*for the purpose of causing distress or anxiety.*"

One of the most commonly used acts, which also specifically applies to crimes driven by discrimination towards the victim's race or religious beliefs (actual or perceived), is the **Crime and Disorder Act** (1988), amended by the Anti-terrorism, Crime and Security Act (2001) and **Part 11 of Schedule 9** Protection of Freedoms Act (2012). The table below shows some examples of the penalties attributed to racially or religiously aggravated offences according to the Act.

Offence Maximum Penalty	Aggravated form Maximum Penalty	Basic form
Racially/religiously aggravated wounding/grievous bodily harm (s.29(1)(a) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months
Racially/religiously aggravated actual bodily harm (s.29(1)(b) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months
Racially/religiously aggravated common assault (s.29(1)(c) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated damage (s.30(1) CDA)	Crown Court - 14 years imprisonment Magistrates' court - 6 months	Crown Court - 10 years imprisonment Magistrates' court - 3 months
Racially/religiously aggravated fear/provocation of violence (s.31(1)(a) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated intentional harassment/alarm/distress (s.31(1)(b) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated harassment/alarm/distress (s.31(1)(c) CDA)	Magistrates' court - fine up to level 4	Magistrates' court - fine up to level 3
Racially/religiously aggravated harassment and stalking (s.32(1)(a) CDA)	Crown Court - 2 years imprisonment Magistrates' court - 6 months	Magistrates' court - 6 months
Racially/religiously aggravated harassment and stalking involving fear of violence or serious alarm or distress (s.32(1)(b) CDA)	Crown Court - 7 years imprisonment Magistrates' court - 6 months	Crown Court - 5 years imprisonment Magistrates' court - 6 months

Northern Ireland Legislation

Unlike in Wales and Scotland, anti-discrimination legislation is devolved in Northern Ireland. This implies that the Northern Ireland Assembly, and not the Parliament at Westminster, is responsible for passing or amending anti-discrimination legislation. As a result, many of the provisions that apply in the rest of the UK have been reflected in the legal framework in Northern Ireland via secondary legislation.

Section 75 of the Northern Ireland Act (1998) places public authorities in Northern Ireland under a duty to have due regard for the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without;
- persons with dependants and persons without.

Section 76 of the Act, instead, prohibits discrimination by public authorities on the grounds of religious belief or political opinion.

Beyond a series of other broader and ad-hoc antidiscrimination legislative tools (see table), antidiscrimination laws specifically related to race are set in the **Race Relations (Northern Ireland) Order** (1997). Indeed, **Art. 3(1)** and **3(1A)** prohibit direct as well as indirect discrimination and harassment on the grounds of: race, colour, ethnic or national origins, nationality, including belonging to the Irish Traveller community. These articles principally cover the area of employment, but also include, *inter alia*, education and the provision of goods, facilities and services. Both public and private sector organizations must adhere to Art. 3(1) and 3(1A).

However, in certain instances, individuals from minority ethnic communities should be considered religious minorities and could therefore be captured by the provision of the Northern Ireland Act. Furthermore, Section 76 is wider in its application than the Race Relations Order, since it is not restricted to certain circumstances such as the provision of goods, facilities and services.

Domestic definition and legal provisions on Hate Speech

Legal Definition

Hate speech, related to a person's color, race, nationality (including citizenship) or ethnic or national origins, is dealt with by **part III** of the **Public Order Act** (1986). Specifically, **section 18(1)** states that:

"A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if:

(a) he intends thereby to stir up racial hatred, or

(b) having regard to all the circumstances racial hatred is likely to be stirred up thereby."

Legal Provisions

The Public Order Act, for a person guilty of an offence under part III, entails a maximum sentence of seven years imprisonment or a fine, or both. Furthermore, the Public Order Act was firstly amended by the **Racial and Religious Hatred Act** (2006) in order to extend the offence to religious hatred, and subsequently by the **Criminal Justice and Immigration Act** (2008) to include the offence of inciting hatred on the basis of sexual orientation. Finally, the **Football Offences Act** (1991) (amended by the **1999 Football Offences and Disorder Act**) forbids indecent or racist chanting at designated football matches.

Northern Ireland Legal Definition and Provisions

Hate speech in Northern Ireland is defined by **part III** of the **Public Order (Northern Ireland) Order** (1987). According to **section 9(1)**:

"A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if—

(a) he intends thereby to stir up hatred or arouse fear; or

(b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby."

Hatred and fear are defined by reference to religious belief, sexual orientation, disability, colour, race, nationality (including citizenship) or ethnic or national origins.

Section 16(1) establishes that a person guilty of an offence under this Part is liable:

"(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding [F9 7 years] or to a fine, or to both."

of expression, and that one of these is the denigration of religion and through that the insulting of the community of religious people.

The central concern, then, is the question whether there are limits to freedom of expression? Following from this there is a cluster of other questions. If freedom of expression does have limits, just how are these limits defined? Is the giving of offence one of the possible limits to freedom of expression? How can we identify the boundaries of what might legitimately be considered offensive? Is there any kind of right to take offence?

Source: Sturges, P. (2006), "Limits to Freedom of Expression? Considerations Arising from the Danish Cartoons Affair", IFLA Journal, 32: pp.181-188. Available at: <http://www.ifla.org/files/assets/faife/publications/sturges/cartoons.pdf>

HANDOUT – 2 B)

Section 1 Activity 5

EXAMPLE OF ARGUMENT CLAIMING THAT FREEDOM OF SPEECH INCLUDES HATE SPEECH

Hate speech is merely saying hateful things. It is not the same as discrimination, harassment, threats or violence – all of which are qualitatively worse and are rightly criminalized.

I don't approve of hate speech and believe it should be discouraged and challenged. However, I don't think it should be criminalized, unless it is expressed in a particularly aggressive, inflammatory or sustained manner, in which case it would amount to criminal threats or harassment.

One of the main problems with hate speech laws is defining what constitutes hate. Unlike incitement to violence, it is highly subjective. The line between hate speech and legitimate unpalatable viewpoints is hard to draw with certainty, clarity and consistency.

Free speech is one of the hallmarks of a democratic society. It should only be restricted in extreme, compelling circumstances. Criminalizing views that are objectionable and offensive is the slippery slope to censorship and to the closing down of open debate. It is also counter-productive. It risks making martyrs of people with bigoted opinions and deflects from the real solution to hate speech: education and rational debate. Hate speech should be protested and challenged, not criminalized.

I disagree that hate speech is an expression of discrimination. It's an expression of prejudice; not discrimination. Words and discrimination are two different things – unless the words explicitly incite unlawful discrimination; in which case they should be crimes because they incite criminal acts.

Mere hateful views shouldn't be criminal. Who decides what is hateful? The state should not have such power. It's open to abuse [...].

Although it is claimed that hate speech influences people to commit hate violence, it's difficult to demonstrate that anyone has responded to hateful words with violent acts. The causal link is unproven. [...]

[...] If a person is subjected to prolonged, extreme hatred it is damaging, wrong and should be criminalized. But this amounts to harassment and can be dealt with using anti-harassment laws, without the need for legislation against hate speech.

Hate speech laws address a problem after it has happened. I'd prefer to eradicate hate before it's expressed. Suppressing hate speech by use of the criminal law is, at best, a short-term fix. A better solution is education against hateful ideas.

[...] People aren't born hateful. They become hateful. Education can prevent hate. Prevention is better than punishment.

HANDOUT – 2 C)

Section 1 Activity 5

EXAMPLE OF ARGUMENT CLAIMING THAT FREEDOM OF SPEECH DOES NOT INCLUDE HATE SPEECH

A consensus exists in most Western democracies on the legitimacy of using laws to punish or inhibit hate speech, in order to prevent hate crimes, provide redress to victims, support vulnerable groups, protect human rights, and promote values of equality and respect. Countries have international obligations to combat racism, which require enacting hate speech legislation. Reasonable limits can be placed on freedom of expression to balance it against other fundamental rights, such as freedom from discrimination.

[...] While laws are only one tool among many to fight hate speech, they should at least be used against the most egregious cases. Courts and tribunals are capable of objectively weighing evidence and applying criteria to ensure that legitimate free speech or merely offensive speech are not captured.

Hate speech is dangerous because words have power and can influence others to act. [...] Words do not have to incite violence explicitly to cause violence. Hate speech promotes division and intolerance; it harms and marginalizes the vulnerable groups it targets. Hate speech is a public expression of discrimination against a vulnerable group (based on race, gender, sexual orientation, disability etc) and it is counter-productive not to criminalize it.

[...] Having no hate speech laws is unjust – as if people’s dignity and human rights should be up for debate in the public square and ‘may the best argument win’. A society that allows hate speech to go unpunished is one that tolerates discrimination and invites violence. [...] hate speech is a precursor to violence.

Hate speech has no redeeming value, so we should never pretend it occupies a rightful spot in the marketplace of ideas, or has anything to do with ‘rational debate’. Challenging hate speech through education and debate is not enough. Governments have a duty to protect citizens and reduce discrimination and violence by criminalizing hate speech.

Defining a crime with certainty, clarity and consistency is always a somewhat subjective exercise, but one that courts are expressly designed to do. Hate speech can be defined and prosecuted fairly without going down a slippery slope.

Specific arrests or even prosecutions of hate speakers may not meet the test of criminal hate speech, and do not prove that hate speech laws are counter-productive. [...] The justice system is a human institution and abuses can happen, but the answer is to refine and reform laws, not to scrap them. [...] one bad law or the abuse of laws is not an argument

against hate speech laws.

[...] Hate speech is destructive to society and to its victims. Enduring hatred over years can limit people's opportunities, isolate them socially, push them into poverty, lead to loss of self-esteem and depression, and endanger their health and safety. It is wrong to diminish the dignity and lives of some people just so others can freely spout hate against them.

HANDOUT 3

Section 1 Activity 5

ECHR DECISIONS on FREEDOM OF SPEECH vs. HATE CRIME

Source for this handout: ECHR (2013), Factsheet Hate speech, July, available online at: http://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf

ECHR DECISIONS on FREEDOM OF SPEECH vs. HATE CRIME

NORWOOD v. THE UNITED KINGDOM (NO. 23131/03)

16.11.2004 (admissibility decision)

Mark Anthony Norwood displayed in his window a **poster** supplied by the British National Party, of which he was a member, representing the Twin Towers in flame. The picture was accompanied by the words "Islam out of Britain – Protect the British People". As a result, he was convicted of aggravated hostility towards a religious group. Mr Norwood argued, among other things, that his right to freedom of expression had been breached.

The Court found that such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, was incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and nondiscrimination and that Mr Norwood could not claim.

More details on the decision available at:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{%22dmdocnumber%22:\[%22708788%22\],%22itemid%22:\[%22001-67632%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{%22dmdocnumber%22:[%22708788%22],%22itemid%22:[%22001-67632%22]})

ECHR DECISIONS on FREEDOM OF SPEECH vs. HATE CRIME

JERSILD v. DENMARK (NO. 15890/89)

23.09.1994

Jens Olaf Jersild, a journalist, made a **documentary** containing extracts from a television interview he had conducted with three members of a group of young people calling themselves “the Greenjackets”, who made abusive and derogatory remarks about immigrants and ethnic groups in Denmark. Mr Jersild was convicted of aiding and abetting the dissemination of racist remarks. He alleged a breach of his right to freedom of expression.

The Court drew a distinction between the members of the “Greenjackets”, who had made openly racist remarks, and Mr Jersild, who had sought to expose, analyse and explain this particular group of youths and to deal with “specific aspects of a matter that already then was of great public concern”. The documentary as a whole had not been aimed at propagating racist views and ideas, but at informing the public about a social issue. Accordingly, the Court held that there had been a **violation of Article 10**.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#%7B%22dmdocnumber%22:%5B%22695768%22%2C%22itemid%22:%5B%22001-57891%22%5D%7D>

ECHR DECISIONS on FREEDOM OF SPEECH vs. HATE CRIME

GARAUDY v. FRANCE (NO. 65831/01)

24.06.2003 (admissibility decision)

Roger Garaudy, the author of a **book** entitled *The Founding Myths of Modern Israel*, was convicted of the offences of disputing the existence of crimes against humanity, defamation in public of a group of persons – in this case, the Jewish community – and incitement to racial hatred. Mr Garaudy argued that his right to freedom of expression had been infringed.

The Court considered that the content of the applicant’s remarks had amounted to Holocaust denial, and pointed out that “[d]enying crimes against humanity [was] one of the most serious forms of racial defamation of Jews and of incitement to hatred of them”. Disputing the existence of clearly established historical events did not constitute scientific or historical research; the real purpose was to rehabilitate the National Socialist regime and accuse the victims themselves of falsifying history. As such acts were manifestly incompatible with the fundamental values which the Convention sought to promote, the Court applied Article 17 and held that Mr Garaudy was not entitled to rely on Article 10. The application was declared inadmissible.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-788339-805233#%7B%22itemid%22:%5B%22003-788339-805233%22%5D%7D>

LEROY v. FRANCE (NO. 36109/03)

02.10.2008

Denis Leroy is a cartoonist. One of his **drawings** representing the attack on the World Trade Centre was published in a Basque weekly newspaper on 13 September 2011, with a caption which read: "We have all dreamt of it... Hamas did it". Having been sentenced to payment of a fine for "condoning terrorism", Mr Leroy argued that his freedom of expression had been infringed.

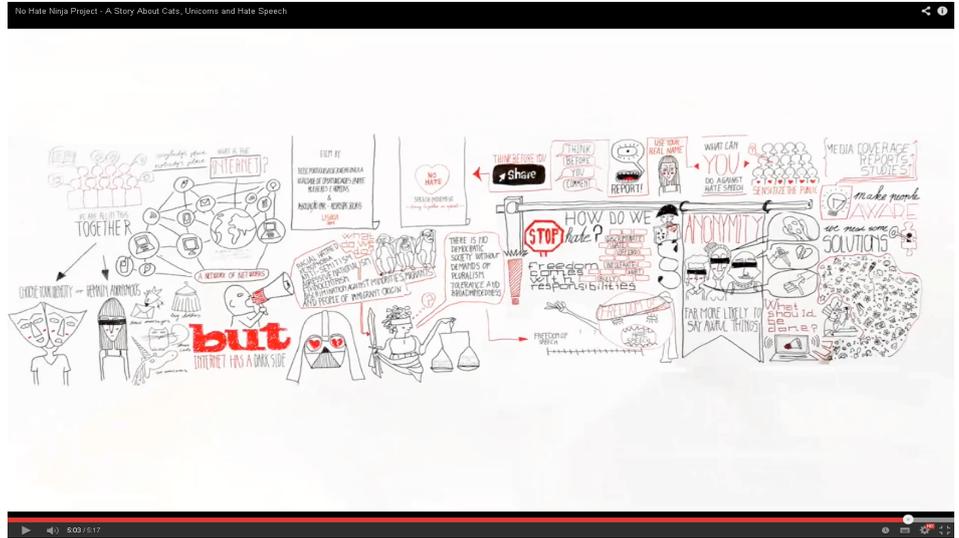
The Court considered that, through his work, the applicant had glorified the violent destruction of American imperialism, expressed moral support for the perpetrators of the attacks of 11 September, commented approvingly on the violence perpetrated against thousands of civilians and diminished the dignity of the victims. Despite the newspaper's limited circulation, the Court observed that the drawing's publication had provoked a certain public reaction, capable of stirring up violence and of having a demonstrable impact on public order in the Basque Country. The Court held that there had been **no violation of Article 10**.

Details on the decision available at:

<http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-2501837-2699727#%22itemid%22:%22003-2501837-2699727%22>

HANDOUT 4

Section 1- Activity 6



Source: No HateSpeech Movement, <https://www.youtube.com/watch?v=kp7ww3KvccE>

HANDOUT 5 A)

Section 1 – Activity 6

[Yahoo!, Inc v. La Ligue Contre Le Racisme et L'Antisemitisme](#)

The landmark court case of *Yahoo!, Inc v. La Ligue Contre Le Racisme et L'Antisemitisme* publicly exposed the complex jurisdiction dilemma arising from the online divulgence of hate speech. Furthermore, the case displayed the clash existing between the European legal culture - modeled on the historical background of World War II and supported by the will of preventing at all costs a relapse in its atrocities - and the United States attachment to the First Amendment of their Constitution, which enshrines freedom of speech as a fundamental right.

In April 2000, two French groups, the International League Against Racism and Anti-Semitism (LICRA) and the Union of French Jewish Students (UEJF), pressed charges against the American-based Internet Service Provider (ISP) *Yahoo!* for allowing the sale of Nazi memorabilia on its auction website. In 2001 the High Court (*Tribunal de grande instance*) of Paris ruled that *Yahoo!* was contravening Article 645-1154 *du Code Penal*, and was thus liable to restrict French citizens from gaining access to the sale of the Nazi merchandise.

Furthermore, the order required *Yahoo! France* to post a warning on *fr.yahoo.com* stating to any user of that website that, in the event the user accessed prohibited material through a search on *Yahoo.com*, he or she must “desist from viewing the site concerned [and be] subject to imposition of the penalties provided in French legislation”. Failure to comply with the court order within three months would have resulted in a fine of 100,000 Francs per day.

Subsequently, *Yahoo!* brought before the United States District Court for the Northern District of California a related case concerning the enforcement of the French sentence. The majority of the judges ruled that the enforcement of the French verdict would breach the First Amendment of the American Constitution.

However, LICRA and the UEJF were not willing to back track on their legal fight and appealed this decision before the U.S. Court of Appeals for 9th Circuit, opening up a long-lasting judicial impasse on, *inter alia*, jurisdiction matters.

The last *en banc* judgment was delivered in January 2006 by the U.S. Court of Appeals for 9th Circuit which reversed the judgment of the District Court and remanded the case with directions to dismiss the action. Once again the majority was split on whether to remand on ripeness or personal jurisdiction grounds and the case was dismissed for procedural reasons, avoiding thus the

constitutional issue. One of the Court judges, Judge William Fletcher, affirmed that: *"Yahoo! is necessarily arguing that it has a First Amendment right to violate French criminal law and to facilitate the violation of French criminal law by others. [...] the extent — indeed the very existence — of such an extraterritorial right under the First Amendment is uncertain"*.

Yahoo!, Inc v. La Ligue Contre Le Racisme et L'Antisemitisme, therefore, was closed by reaffirming once again the same jurisdictional and cultural dilemmas on the regulation of hate speech online that ignited the case in early 2000.

As Henry H. Perrit Jr., dean of the Chicago-Kent College of Law and expert in Internet Law stated: *"The Yahoo case points up a dilemma in the law of Jurisdiction. If a Web site is accessible to all, and is subject to jurisdiction by every nation on earth, then the laws of the lowest common denominator will govern the Internet. On the other hand, if we say that the only important law is the one where the content provider resides, then local values of foreign nations will not be enforced. We also run the risk of creating heavens for shyster practices"*.

Questions to be debated in the group

- Did the case solve the jurisdiction dilemma arising from the online divulgation of hate speech?
- What was the overall result?
- Which are the legal provisions of your own country that could be used in a similar case?

HANDOUT 5 B)

Section 1 – Activity 6

Italian Supreme Court decision: Racist Blog ruled as criminal association aimed at instigating discrimination and racial hatred

The Italian Supreme Court, *Corte Suprema di Cassazione*, on the 13 July 2013 deposited a sentence that rejected the appeal of the coordinator of a website designed to swell the ranks of the supporters of racial superiority. The defendant asked to be acquitted in the name of freedom of thought and association, and denied the jurisdiction of the Italian courts as the main website was set up and operated through a server based in the United States.

The court firmly ruled that the blog was to be considered a “criminal association aimed at instigating violence on the basis of racial, ethnic and religious discrimination” as it used its online structure: “to maintain active contact between its members, to proselytize, even by disseminating documents and texts glorifying racism, to plan out demonstrations or violent acts, to collect donations for its cause, and to census episodes or people (labeled as “Traitors” and “Italian criminals” as they supported equality and worked for the integration of immigrants).”

Accordingly, the blog coordinator was not protected by the constitutional rights of freedom of thought and association, but guilty of the crime of participation in an aimed at incitement to discrimination and racial hatred under art. 3c.3 of Law no. 654/1975 as originally decided by the *Tribunale della Libertà* in Rome.

Additionally, the Court established that the crime of propaganda and incitement to racial hatred and discrimination under Law no. 205/1993 (“Mancino’s Law”) constitutes an act of mere conduct, which is:

- a) supplemented by the mere consciousness and the will to propagate racist or incite racial discrimination;
- b) carried out regardless of the fact that propaganda or incitement is collected by the recipients of the message.

With this sentence, the *Corte di Cassazione* established that social networks and the Internet are certainly suitable tools to disseminate messages aimed at influencing the ideas and behavior of the public and, therefore, the propaganda of ideas based on racial hatred and racial discrimination constitutes the offense provided for by the legislation even when perpetrated through new technological media.

Furthermore, in terms of jurisdiction, the sentence ruled that it was of no-relevance the fact that the website was set up and hosted by a server abroad. Indeed, the crime fell under Art. 6 of the Italian Penal Code. The article establishes the state's right to prosecute those who have set up an illegal activity in violation of its national criminal law, when at least a fraction of the activities of the criminal organization took place in the territory of the State.

To support this ruling, the Supreme Court also relied on its previous jurisprudence recalling a case where the offense of online defamation was established even if the indicted website had been registered abroad on the legal justification that the offense was actually perceived by users residing in Italy (Corte di Cassazione, sez .V, n. 4741 dd. 17.11.2000, dep. 27.12.2000).

Questions to be debated in the group

- How did the Italian Supreme Court solve the jurisdiction dilemma originating from the case?
- Which are the legal provisions of your own country that could be used in a similar case?

HANDOUT 6

Section 2 – Activity 1

True of False Exercise

QUESTION	TRUE	FALSE
Hate crimes rarely brutal or injurious		
Hate crime victims usually are traumatized		
Families of hate crime victims feel frustrated and powerless		
Hate crimes rarely affect other members of the community		
Online hate incidents can escalate and prompt retaliatory action		
Community unrest can be triggered by online hate crimes		
Boundaries between freedom of speech and hate speech are easily assessed according to European legal framework		
American-based Internet companies are always bound by 1 st Amendment of the US Constitution granting Freedom of Speech		
According to a 2012 CoE survey, less than 32% of the participants experienced online hate speech		
Hate speech online only targets people from different religion and ethnicity		
Online anonymity does not contribute to the dissemination of hate speech online		
Criminal justice agencies act proactively in collaboration with IPS		
Victims of hate crimes in Europe usually feel very confident that they will be supported by the police		
According to a 2012 CoE survey, online hate speech is mostly diffused through blogs		
People usually report online hate speech incidents promptly		

HANDOUT 7A)

Section 2 – Activity 2

Background and Full Description of the incident of Online Hate Speech & Victim Role

You are a 23 year old Somali girl and you have recently moved to Bristol, where you have enrolled in a Journalism Course. Your written English is at a very good level, but you still feel hesitant and not that confident when it comes to the spoken command of the language. You are Muslim and you wear a veil, but you had no concern of being discriminated on the basis of these facts, as you had been told that the UK is a very multicultural country.

Last month you wrote an ironic article titled “Somali Breakfast Club” on your online blog describing the cravings that you were experiencing for the perfect *canjeero*, a typical Somali pancake-like bread generally eaten for breakfast together with butter and sugar. You therefore encouraged your online followers in the UK to set up a monthly morning event where to gather together and prepare a genuine Somali-style breakfast.

The blog article, which you also posted on your Facebook page and Twitter account, triggered a completely unexpected hateful reaction. Firstly, you began receiving critical comments on your blog post. The content of the hateful comments ranged from gender-based insults such as “*One clever thing you have said: women should be in the kitchen cooking. So stop wasting you time writing!*”, to racial invectives like “*You are an african monkey, stop contaminating our culture, go back home or learn how to eat bacon and eggs*”. You felt really upset about these comments and decided to directly reply to them.

However, the situation escalated and you received some comments on your twitter account and direct messages that were threatening you of violence and rape. Once again the discriminative arguments used by your offenders referred to gender, racial and religious biases. One of the most graphic tweets read: “*I know where you live muslim bitch, tonight I will tie you with your stupid veil and rape you*”. You also have a screenshot of the message on your mobile phone. You received over 60 tweets of this type, but not all seemed to come from the same account. At this stage you decided to report the harassment to Twitter. However, Twitter has not yet got back to you, but you continue to receive threatening and offensive messages.

Meanwhile a Facebook page, “Orangutans want Breakfast” has been created mocking and insulting your country of origin with direct reference to you and the initiative you had been trying to set up. Posts directly targeting you have been circulating since, and someone also managed to get hold of your email address. Also other members of the Somali community in Bristol have been targeted by this page and this fact is causing increasing social unrest. You have reported the content of the page to Facebook, but again you are still waiting for a response.

You are feeling increasingly scared: you fear that some of the people threatening you could really know where you live. You have removed your personal blog and suspended the Journalism course as the worse anxiety originates from the unproven suspect that one of the aggressors might be indeed studying with you.

You have read on Twitter Help Centre that, in case you feel in danger, you should immediately contact your local police office. This suggestion has been voiced by your closest friends and hence you decided to report the events to your nearest police station. Nonetheless, you remain uncertain that contacting them is going to make any difference. You are worried that the police officials might not take your report seriously, or judge your initial blog article inappropriate.

You are about to walk into an interview with a police officer who should assess the events. You feel scared and you are regretting having taken this decision. You are specifically worried that the police officer will not be able to understand your spoken English and will not, anyway, be capable of helping you. If anything, you already feel “judged” for having allowed something like this to have happened to you. Thus, you are extremely skeptical in providing in-depth information.

HANDOUT 7 B)

Section 2 – Activity 2

Role Play scenario: Police Officer Role

You have been working at the central Bristol police Station for the past 20 years. The neighbourhood covered by your station has notably been populated by ethnic minorities from a long period before you even began working there. You are, thus, familiar with crimes linked to discrimination.

However, you are not very knowledgeable in the field of new technology and its recent developments. You have heard of Facebook and Twitter because your son and daughter have signed up, but personally you have never used them.

A pile of urgent cases are begging for attention on your desk: the murder of Lady Jane's dog, a robbery in Belle Park, the hateful graffiti on Miss Geery's wall, and the disappearance of the wedding ring of the butcher's daughter. Yet, you are asked by your supervisor to conduct an interview with a 23 year old Somali girl claiming to be the victim of online hate speech. The expert officer who usually deals with online incidents is out of office and will be back in a week.

You don't know the exact details of what happened to her, just that she is claiming to be a victim of racist hate speech online and that her offenders began targeting her last month, after she wrote an article about Somali traditional breakfast on her online blog. You also know that some offenders got hold of her email address (This is why you always tell your children not to disclose personal information online!).

You are very much willing to help the girl, but you would also like to resolve this case quickly in order to move on to the other cases. You are about to walk into an interview with the girl to assess the events.

HANDOUT 7 C)

Section 2 – Activity 2

A Victim-Centered Approach: Interview Checklist

During the interview with a hate crime victim, the objective must be to get a clear picture of what happened, but at the same time the interviewer should remember that the victim has to reconstruct distressing events or talk about very sensitive issues.

Hereby some useful tips for the police to support the victim while investigating the crime remain calm, objective and professional:

- ask victim how he or she wants you to help him or her;
- conduct the interview in a suitable and quiet environment;
- request the assistance of translators when needed;
- let victim defer answering questions if they are too distraught and allow breaks in the interview;
- reassure victim that he or she is not to be blamed for what happened;
- voice your support of the actions the victim took to protect himself or herself and defuse the situation;
- show empathy and allow the victim to voice feelings about what happened;
- encourage victim to tell the story in his or her own words;
- ask the victim to recall, the best of his or her ability, the exact words of the perpetrator(s);
- ask victim if they have family members or friends who can support him or her;
- inform the victim of what efforts can be made to enhance their safety;
- reassure the victim that every effort will be made to protect anonymity during the investigation;
- tell victim about the probable sequence of events in the investigation;
- provide information about community and department resources available to protect and support victim, their families and members of the community;
- in the case of online hate speech, ask the victim if he or she has managed to backup the online content of the hate speech.

Avoid:

- being abrupt or rushed;
- tell victim that you know how he or she feel;
- asking the victim whether he or she thinks this was a bias or hate crime;
- criticizing the victim's behavior;
- making assumptions about the victim's culture, religion, sexual orientation or lifestyle choices;
- allowing personal value judgments about the victim's behavior, lifestyle or culture to affect your
- objectivity;
- using stereotyped or biased terms;
- belittling the seriousness of the incident, especially if the perpetrator is a juvenile;
- in the case of online hate speech, downplaying the seriousness of the crime because of its online nature.

Source: UNICRI elaboration of Nancy Turner "Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention"

HANDOUT 8

Section 2- Activity 3

Indicators of bias-motivated crime

Several factors to be considered in determining whether the incident is a suspected bias-motivated crime:

- Is the motivation of the alleged offender known?
- Was the incident known to have been motivated by racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias?
- Does the victim perceive the action of the offender to have been motivated by bias?
- Is there no clear other motivation for the incident?
- Were any racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias remarks made by the offender?
- Were there any offensive symbols, words, or acts which are known to represent a hate group or other evidence of bias against the victim's group?
- Did the incident occur on a holiday or other day of significance to the victim's or offender's group?
- Is the victim a member of a specific race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Was the offender of a different race, religion, ethnicity, sexual orientation, gender, or gender identity than the victim?
- Would the incident have taken place if the victim and offender were of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Were biased comments or statements made by the offender indicating offender's bias?
- Were bias-related drawings, images, symbols, pictures or memes publicly posted/ privately sent by the offender?
- Was the victim visiting an online platform where hate crimes on the base of race, religion, disability, ethnicity, sexual orientation, gender, or gender identity have been previously commonly reported and where tensions remained high against victim's group?

- Have several incidents occurred in the same website/blog/ social network at or about the same time, and were the victims all of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
- Was the victim engaged in activities related to his or her race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Did the incident coincide with a holiday or a date of particular significance relating to a race, religion, disability, ethnicity, sexual orientation, gender, or gender identity, e.g., Martin Luther King Day, or Rosh Hashanah, the Transgender Day of Remembrance (November 20)?
- Was the offender previously involved in a similar hate crime or is a hate group member?
- Were there indications that a hate group was involved? For example, a hate group claimed responsibility for the crime or was active in the neighbourhood.
- Does a historically-established animosity exist between the victim's and offender's groups?
- Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?
- Has this victim been previously involved in similar situations?
- Are there other explanations for the incident, such as a childish prank, unrelated online vandalism, etc.?
- Did the offender have some understanding of the impact his or her actions would have on the victim?

Source: UNICRI elaboration of US Department of Justice, FBI (2012), "Hate Crime Data Collection Guidelines and Training Manual", available at: <http://www.fbi.gov/about-us/cjis/ucr/data-collection-manual>, pp. 24-25.



HANDOUT 9

Section 2- Activity 5

Information to be collected when reporting a case of hate speech online

When reporting an incident, include as much information as possible:

- ▷ When did this happen? Noting the time and date is important because some online content, such as discussion threads in chatrooms, can quickly disappear.
- ▷ How was the content delivered? Was the victim sent something directly through email, SMS, text message, instant message, or private messaging? Did the victim come across something while browsing the Web?
 - ▷ If the message was sent directly to the victim:
 - Make sure the victim keeps the original email or save the chat/text log.
 - If possible, save the username or email address of the person sending the hateful message.
 - ▷ If the victim has encountered the content on a website:
 - Copy and paste the address of the site by clicking your Web browser's address bar, highlighting the full web address and copying and then pasting it into a word processor.
 - Take a screenshot of the content in question to give to police. (On Windows computers, hit the "Print Screen" key, then go to a graphic or word processing program and select "Paste" from the "Edit" menu; on a Mac, hitting Command-Shift-3 will save the current screen image as a graphic file on your desktop).

Source: MNet (2012), "Responding Online Hate Crime", p.13.

HANDOUT 10 A)

Section 2 – Activity 5

Facebook

In its **Community Standards**, Facebook provides an idea of what type of expression is acceptable and what type of content may be reported and removed. In particular, with regards to **hate speech**:

“Facebook does not permit hate speech, but distinguishes between serious and humorous speech. While we encourage you to challenge ideas, institutions, events, and practices, we do not permit individuals or groups to attack others based on their race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or medical condition”.

Regarding bullying and harassment:

“Facebook does not tolerate bullying or harassment. We allow users to speak freely on matters and people of public interest, but take action on all reports of abusive behavior directed at private individuals. Repeatedly targeting other users with unwanted friend requests or messages is a form of harassment.”

Moreover, on specific field of discrimination, such as LGBT cyberbullying, the social network partners with a team of national organizations, and in its Safety Center dedicated page Facebook provides direct links to the different organizations: <https://www.facebook.com/safety/tools/>

Fig. 1
Facebook policy

facebook	
<p>GENERAL HATE SPEECH POLICY ¹</p> <ul style="list-style-type: none"> ▶ Hate speech is prohibited and defined as content that “attack[s] people based on their actual or perceived race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or disease.” ² 	<ul style="list-style-type: none"> General Policy Cyberbullying/Harassment How to Report
<p>CYBERBULLYING/HARASSMENT POLICIES & RESOURCES</p> <ul style="list-style-type: none"> ▶ “Facebook does not tolerate bullying or harassment” and “take[s] action on all reports of abusive behavior directed at private individuals ...” ▶ Facebook links to resources on safety, anti-LGBT bullying, etc. 	<ul style="list-style-type: none"> General Policy Cyberbullying/Harassment How to Report
<p>REPORTING OPTIONS</p> <ul style="list-style-type: none"> ▶ Report a Violation of the Facebook Terms ▶ Report Suicidal Content ▶ How to Report Things 	<ul style="list-style-type: none"> General Policy Cyberbullying/Harassment How to Report

On the reporting side, Facebook offer different options.

First of all, there is a specific form that can be compiled whenever one encounters a violation of the Facebook standards:

Fig. 2
Report a violation on Facebook

Report a Violation of the Facebook Terms

Please use this form to report violations of the Facebook Terms.

- What issue are you trying to report?
- My account is hacked
 - Someone is pretending to be me
 - Someone is using my email address for their Facebook account
 - Someone is using my photos or my child's photos without my permission
 - Something on Facebook violates my rights
 - I found an underage child on Facebook
 - Other abuse or harrassment

Send

Secondly, the social network offers a dedicated page to explain “*How to report things*” both as Facebook user and in case you do not have an account. In this latter case you can use the same form as above, while in case you are a registered user a series of practical indications are provided depending if you are reporting abuses concerning photos, events, groups etc.

In particular, on the Facebook Page on Social Reporting, the staff encourages users to utilize the report buttons located across the site, in order to inform if the content found violates the terms of use and to take it down. At the moment, report flows are in place for Facebook users for photos and wall posts. The social network plans to extend the functionality to Profiles, Groups, Pages and Events soon.

To provide with a practical example, screenshots of the reporting flow is provided below:

Click on “Report this photo” link:

Fig. 3



My "Friends"
By Carolyn Wilson · 1 of 1

Tag This Photo
Share
Download
Report This Photo

First you can choose (A) “I don’t like this photo”, or (B) “This photo is bullying or harassing me”, or (C) “No, this photo is about something else”.

Fig. 4



Is this photo about you?

Yes, this photo is about me:

- I don't like this photo
- This photo is harassing or bullying me

No, this photo is about something else:

- Spam or scam
- Nudity or pornography
- Graphic violence
- Attacks individual or group
- Hate symbol
- Illegal drug use

Is this your intellectual property?

Continue Cancel

If you select option (A): “I don’t like this photo”:

Fig. 5



What You Can Do

While Facebook can't remove unflattering photos from the site, you may:

- Send a message to Carolyn Wilson
Ask Carolyn to remove the photo
- Remove Carolyn Wilson as a friend
Carolyn will not be able to tag you in photos
- Block Carolyn Wilson
You and Carolyn will become invisible to each other on Facebook, which means you can't see or contact each other

Continue Cancel

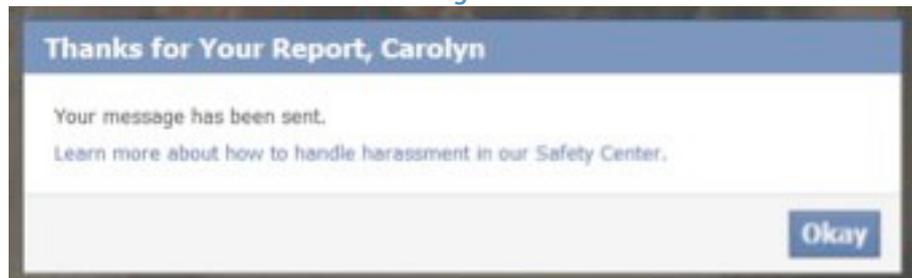
Select first option: “Send a message to Carolyn Wilson”

Fig. 6



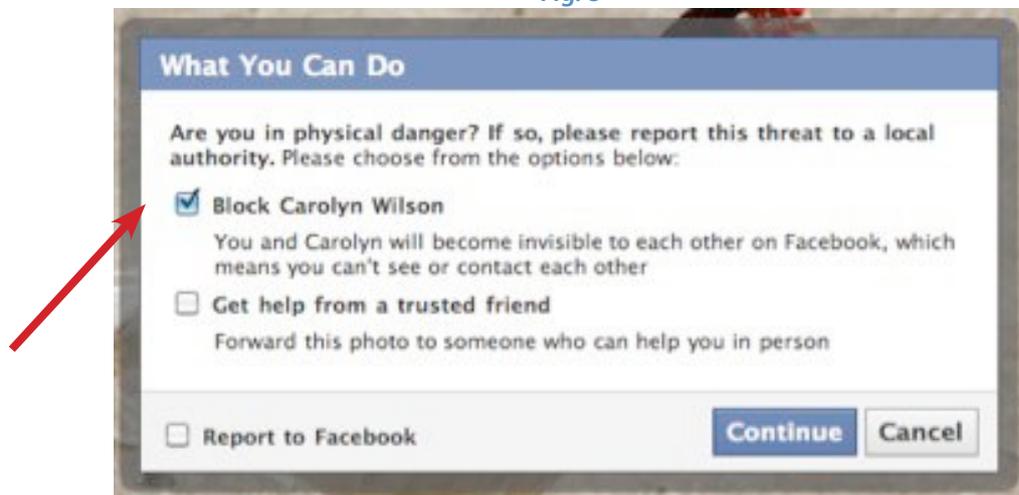
Click on "Continue" and you will receive the following message:

Fig. 7



If you select option (B): "This photo is harassing or bullying me"

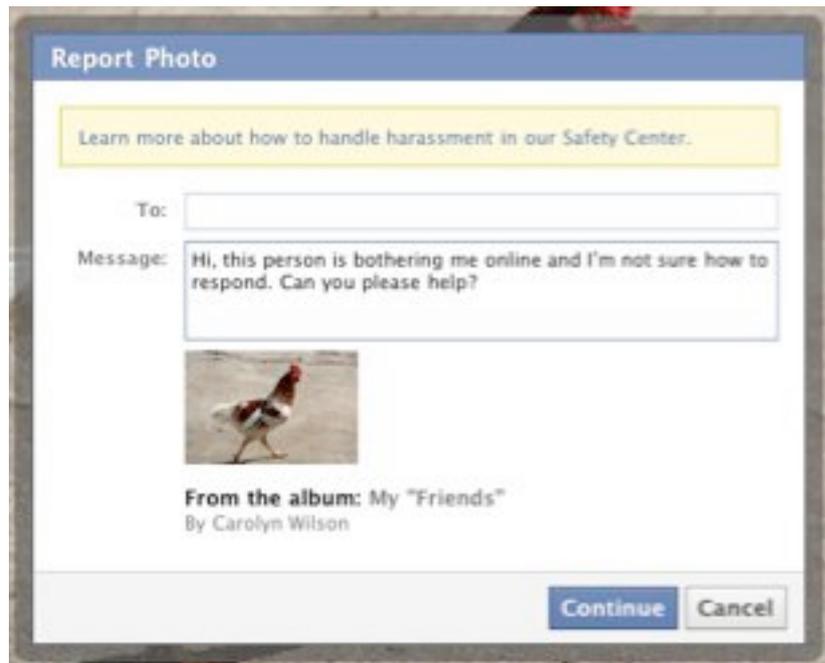
Fig. 8



If you select option (C): "Get help from a trusted friend", you are invited to enter an email address and given suggested language. Suggested

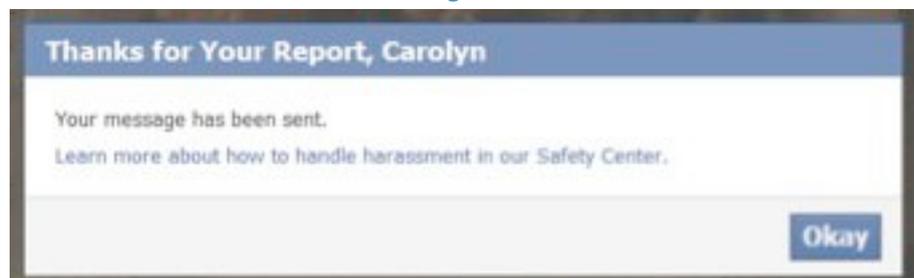
text is provided but can be customized.

Fig. 9



After sending the message, you will receive this acknowledgement:

Fig. 10



If you also choose to block the person, you will see this acknowledgement.

Fig. 11



If instead you have selected “This photo is about something else”:

Fig. 12



You are given the option to send a message, remove the friendship link, block and/or report.

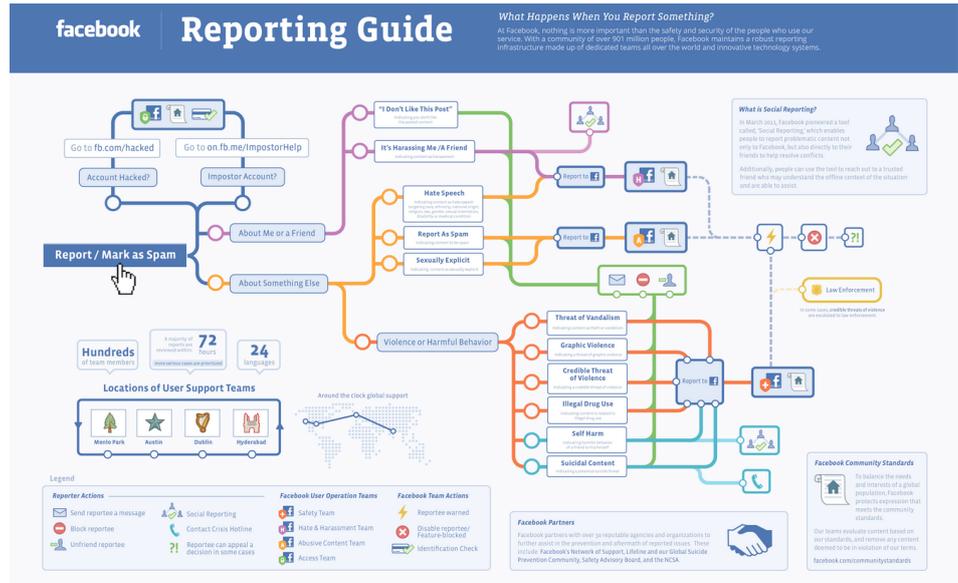
Fig. 13



In order to try to make things clearer for the users, in 2012 Facebook published an info-graphic guide to explain the functioning of the reporting system throughout its different steps. Facebook stressed that dedicated teams are handling such reports “24 hours a day, seven days a week,” noting its offices throughout the world and saying that its user operations department is divided into four specific teams:

- Safety;
- Hate and harassment;
- Access;
- Abusive content.

Fig. 14



The Australian Online Hate Prevention Institute (OHPI) developed several studies analyzing cases of racist hate speech online and in particular on Facebook. The approach of the Institute is critical and aims at improving the existing security systems against hate online. In particular, OHPI underlines that there are limited channels to enforce human rights legislation in relation to Facebook as the ultimate response from social network appears to be blocking the hateful content on a country by country basis.

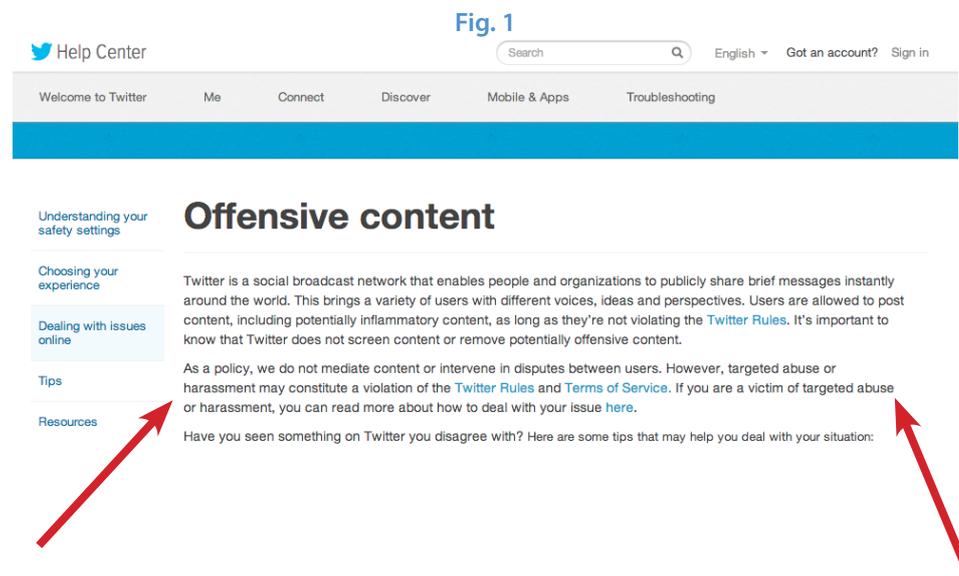
An explicative case study take from the study will be provided in the next section of this manual. However, besides the critics provided and explained by the Institute through practical examples, the report also provides a set of Recommendation addressed to Facebook with the objective of improving the prevention and fight against hate speech online.

HANDOUT 10 B)

Section 2 – Activity 5

Twitter

Twitter’s general policy surrounding User Generated Content is that it does not mediate content or intervene in disputes between users (see Fig. 1). This general rule derives from the commitment to guarantee the right of freedom of speech and expression to its 200 million active users all around the world.



However, Twitter has a set of rules which governs how users can behave on its platform. These rules are designed to balance offering its users a service that allows open dialogue and discussion whilst protecting the rights of others. On a initial step, Twitter’s Safety and Security Centre contains articles on how to deal with potentially offensive content, such as “considering the context” and “blocking and ignoring” the user who published the potentially offensive post. Furthermore, if offensive content violates certain Twitter Rules it may fall under the category of **targeted abuse or harassment** and it thus might be subjected to removal and block.

Targeted abuse or harassment is regulated from the perspective of perpetrators and not from those of the potential victims. As a twitter user you might be engaging in targeted abuse and thus violate Twitter Rules if: *“you are sending messages to a user from multiple accounts, if the sole purpose of your account is to send abusive messages to other, and if the reported behaviour is one-sided or includes threats”*.

Fig. 2

Abuse and Spam

Twitter strives to protect its users from abuse and spam. User abuse and technical abuse are not tolerated on Twitter.com, and may result in permanent suspension. Any accounts engaging in the activities specified below may be subject to permanent suspension.

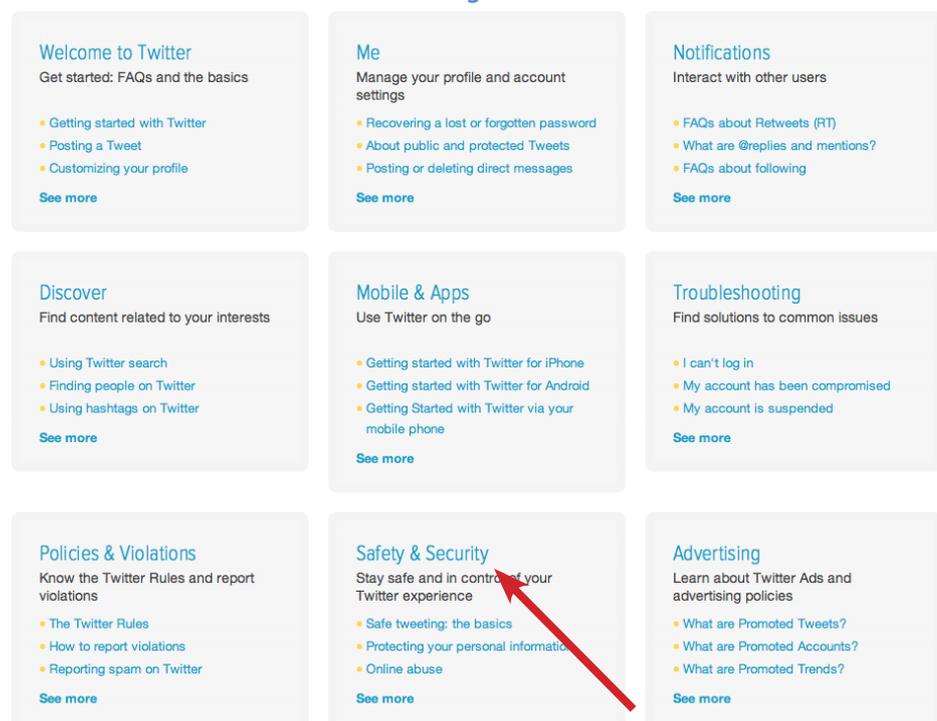
- **Serial Accounts:** You may not create multiple accounts for disruptive or abusive purposes, or with overlapping use cases. Mass account creation may result in suspension of all related accounts. Please note that any violation of the Twitter Rules is cause for permanent suspension of all accounts.
- **Targeted Abuse:** You may not engage in targeted abuse or harassment. Some of the factors that we take into account when determining what conduct is considered to be targeted abuse or harassment are:
 - if you are sending messages to a user from multiple accounts;
 - if the sole purpose of your account is to send abusive messages to others;
 - if the reported behavior is one-sided or includes threats

The policy has been subjected to heated criticism, especially in Europe, as it does not specifically deal with hate speech. Therefore, Twitter has recently established an ongoing dialogue with organizations that have developed a strong expertise on hate speech over the years. Field-specialists such as the Anti-Defamation League, the International Network Against CyberHate or the Against Violent Extremism Network are providing Twitter with advice on how to develop policies to prevent abuse on their platform and also regularly escalate content that requires action from Twitter's end.

For reporting abusing content on Twitter there are two options: (A) visiting the online Twitter Help Centre, or (B) directly reporting the abusive tweet and account by clicking on "Report Tweet".

Two are the procedures that users can follow through the **Twitter Help Centre** (<https://support.twitter.com/>). The first way of reporting abusive content is to click on the hyperlink of "**Online abuse**" under the section **Safety and Security** (See figure 3).

Fig. 3



The page that will then open (as shown in Fig. 4) suggests a gradual three-step approach in dealing with online abuse:

- ❑ If a user sees or receives an @reply that he/she does not like, Twitter suggests to **unfollow** and end any communication with the user posting offensive content.
- ❑ If the offensive behaviour continues, the recommendation is instead to **block** the user. In this way that person will not be able to follow you or see your profile picture and account.
- ❑ Finally, if a user receives continuous, unwanted and targeted @ replies, he/she is advised to **report** the behaviour to Twitter. By clicking on “**here**”, the user will be directed to the online web form to report targeted harassment.

Fig. 4

Online abuse

Being the target of online abuse is not easy to deal with. Knowing the appropriate steps to take to address your situation can help you through the process.

When to report it?

We've all seen something on the Internet we disagree with or have received unwanted communication. Such behavior does not necessarily constitute online abuse. If you see or receive an @reply you don't like, [unfollow](#) and end any communication with that user.

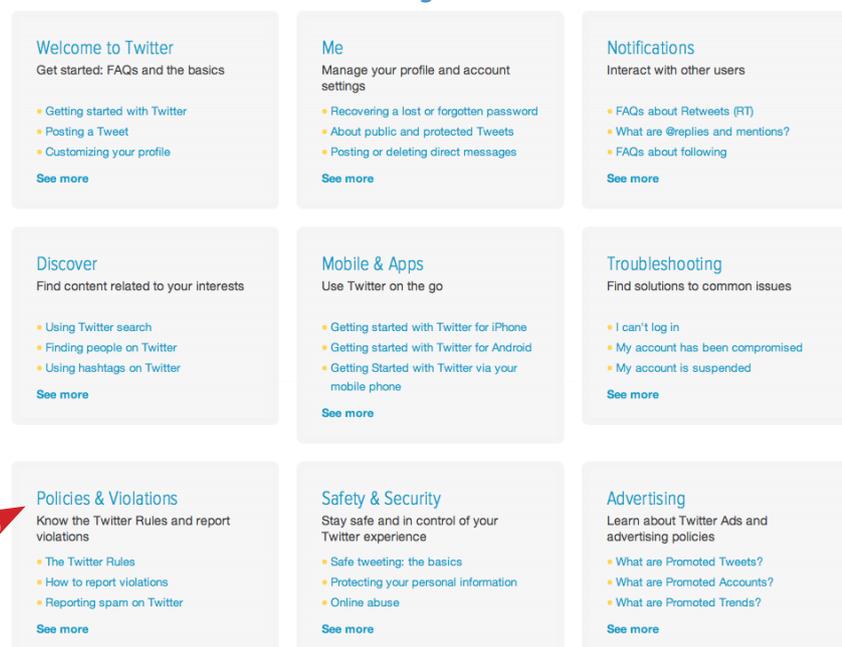
If the behavior continues, it is recommend that you [block the user](#). Blocking will prevent that person from following you or seeing your profile picture on their profile page or in their timeline; additionally, their @replies or mentions will not show in your mentions tab (although these Tweets may still appear in search).

Abusive users often lose interest once they realize that you will not respond. If the user in question is a friend, try addressing the issue offline. If you have had a misunderstanding, it may be possible to clear the matter up face to face or with the help of a trusted individual.

If you continue receiving unwanted, targeted and continuous @replies on Twitter, and feel it constitutes online abuse, consider reporting the behavior to Twitter [here](#).

Furthermore, the second way of reporting targeted harassment through Twitter online Help Center is to click on the link on “**How to report violations**” in the section **Policies and Violations** (Fig. 5).

Fig. 5



<p>Welcome to Twitter Get started: FAQs and the basics</p> <ul style="list-style-type: none"> Getting started with Twitter Posting a Tweet Customizing your profile <p>See more</p>	<p>Me Manage your profile and account settings</p> <ul style="list-style-type: none"> Recovering a lost or forgotten password About public and protected Tweets Posting or deleting direct messages <p>See more</p>	<p>Notifications Interact with other users</p> <ul style="list-style-type: none"> FAQs about Retweets (RT) What are @replies and mentions? FAQs about following <p>See more</p>
<p>Discover Find content related to your interests</p> <ul style="list-style-type: none"> Using Twitter search Finding people on Twitter Using hashtags on Twitter <p>See more</p>	<p>Mobile & Apps Use Twitter on the go</p> <ul style="list-style-type: none"> Getting started with Twitter for iPhone Getting started with Twitter for Android Getting Started with Twitter via your mobile phone <p>See more</p>	<p>Troubleshooting Find solutions to common issues</p> <ul style="list-style-type: none"> I can't log in My account has been compromised My account is suspended <p>See more</p>
<p>Policies & Violations Know the Twitter Rules and report violations</p> <ul style="list-style-type: none"> The Twitter Rules How to report violations Reporting spam on Twitter <p>See more</p>	<p>Safety & Security Stay safe and in control of your Twitter experience</p> <ul style="list-style-type: none"> Safe tweeting: the basics Protecting your personal information Online abuse <p>See more</p>	<p>Advertising Learn about Twitter Ads and advertising policies</p> <ul style="list-style-type: none"> What are Promoted Tweets? What are Promoted Accounts? What are Promoted Trends? <p>See more</p>

Once opened the page, the user will need to scroll down to the “Abusive behavior and violent threats” section (Fig. 6).

Fig. 6

Abusive behavior and violent threats

When reporting abusive behavior on Twitter, please provide the following:

- Description of problem, including length of time the abusive behavior has been happening
- Tweet URLs (to find the exact link of a Tweet, please review [this article](#))
- Tweet text (copy and paste the text of the Tweet into the form)
- Your email address

Please note: If you believe you may be in danger, please contact your local law enforcement authority in addition to reporting the content to Twitter so that the situation can also be addressed offline.

To report abusive behavior on Twitter, [click here](#).

For more information about Twitter's abusive behavior policy, [click here](#).

For more information about reporting abusive behavior on Twitter, [click here](#).

The section already clarifies which information the user will need to provide Twitter with when reporting the abusive content:

- a detailed description of the problem;
- the tweet URLs;
- the text of the tweet;
- a personal email address.

This last information is particularly important when considering that just the user who has been the direct victim of targeted harassment can report the abusive content to Twitter (Fig. 7).

Fig. 7

Who can report abusive behavior on Twitter?

In order to investigate reports of abusive behaviors, violent threats or a breach of privacy, we need to be in contact with the actual person affected or their authorized representative. We are unable to respond to requests from uninvolved parties regarding those issues to mitigate the likelihood of false or unauthorized reports. If you are not an authorized representative but you are in contact with the individual, encourage the individual to file a report through our forms.

As in the previously described way of reporting targeted harassment, the user can thus proceed in reporting the abusive user/tweet by answering and completing a series of questions and statements that will progressively appear on the screen.

Please note that only Twitter users who have been directly affected can report abusive and harassing content. Other users that have acknowledged an offensive content are invited to read the “Support Article”, and contact Twitter or their local authorities (Fig. 7). On the same page users can also find useful links to several online resources dealing with the issue arising from hurtful content and interactions (Fig. 8).

Fig. 8

Reach out to the people you trust

When dealing with negative or hurtful interactions, it can help to turn to family and friends for support and advice. Oftentimes, talking with your relatives or a close friend may help you figure out how you want to handle the situation or let you express your feelings so you can move on.

Help others

Trying to figure out how to help someone in such a situation can be daunting. [This Twitter Support article](#) offers some suggestions.

If you see a violent or abusive message directed at someone else, communicate your concern to the recipient and encourage them to contact Twitter and their local authorities.

There are many online resources that can help. Click [here](#) for a list of our safety resources.

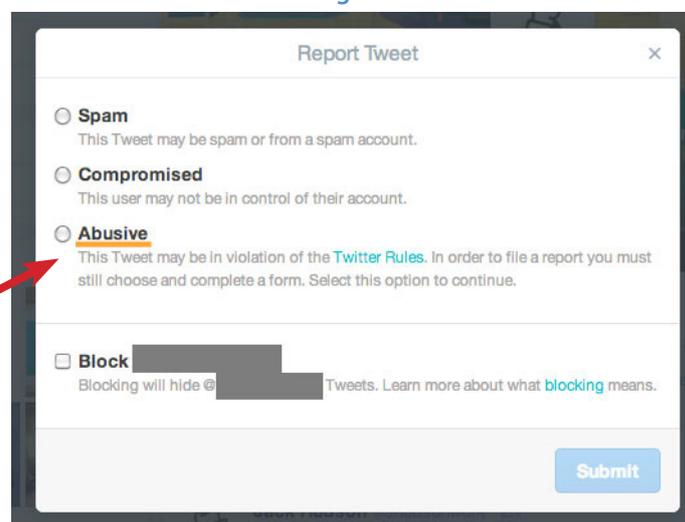
The alternative option available for Twitter users is to directly click on the **“more”** button beneath the tweet considered abusive and select the option **“report tweet”** (Fig. 9).

Fig. 9



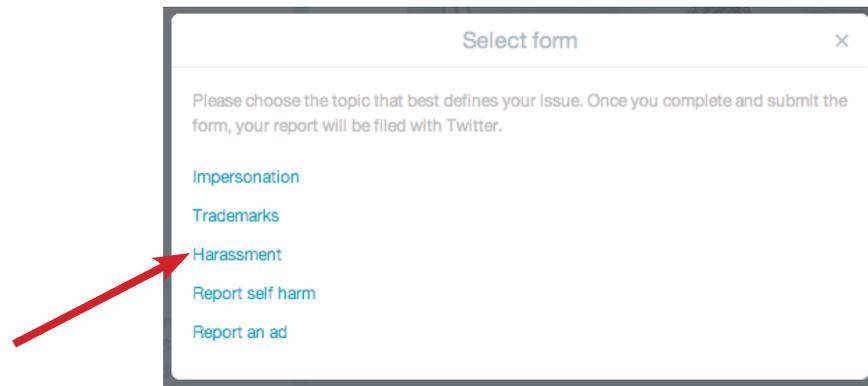
Once chosen to Report the Tweet, the user will then need to select the **“Abusive”** category and proceed in the submission of the report (Fig. 10).

Fig. 10



The next step is to select the type of abusive content that the user wants to report. As seen above hate speech on Twitter currently falls under the umbrella of targeted harassment, in this window, it is then necessary to click on the “Harassment” hyperlink (Fig. 11). Once again the user willing to report the targeted abusive content will have to answer a series of questions and provide detailed information that will progressively appear on the screen in order to successfully file a report.

Fig. 11



The **Twitter Trust & Safety Team** is responsible for investigating and responding to reports of violations of the Twitter Rules, including reports on abusive behaviour and violent threats. If the team discover that the account violates the Twitter rules, actions ranging from warning the user up to permanently suspending the account will be taken accordingly. If no breach of the Twitter rules is discovered, the team will most likely ask the user victim for additional information regarding the harassment. If after a second investigation they still don't find any evidence of direct harassment, then they will provide the user with useful information and tips on how to deal effectively with the situation.

Such suggestions range from advising the user to block the author of the tweet(s) considered abusive, to urging him/her to contact the local law enforcement authorities. Indeed, as the following paragraph will fully explain, through the help of national law enforcement and legal personnel, those Twitter users victim of hate speech may be more successful in having their cases endorsed and their persecutor fined or convicted according to national legislations.

[The Important Role of National Law Enforcement and Legal Personnel](#)

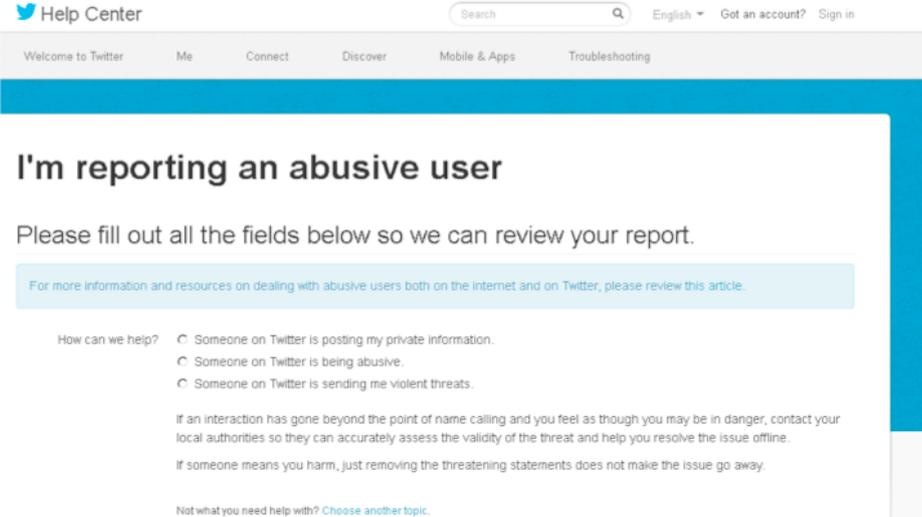
Several times, in both the above-mentioned processes of reporting abusive content, and both within the page of the **Abusive Behaviour Policy** and under the Safety and Security section on the initial page of Twitter Help Center, users are advised to contact local authorities. Below are the two are the main circumstances when, and reasons why national law enforcement and legal personnel hold such an important role:

1. When a user believe to be in physical danger, since *“If someone means you harm, just removing the threatening statements does*

not make the issue go away”, and as just local law enforcement authorities have the right tools to promptly address the issue (Fig. 12);

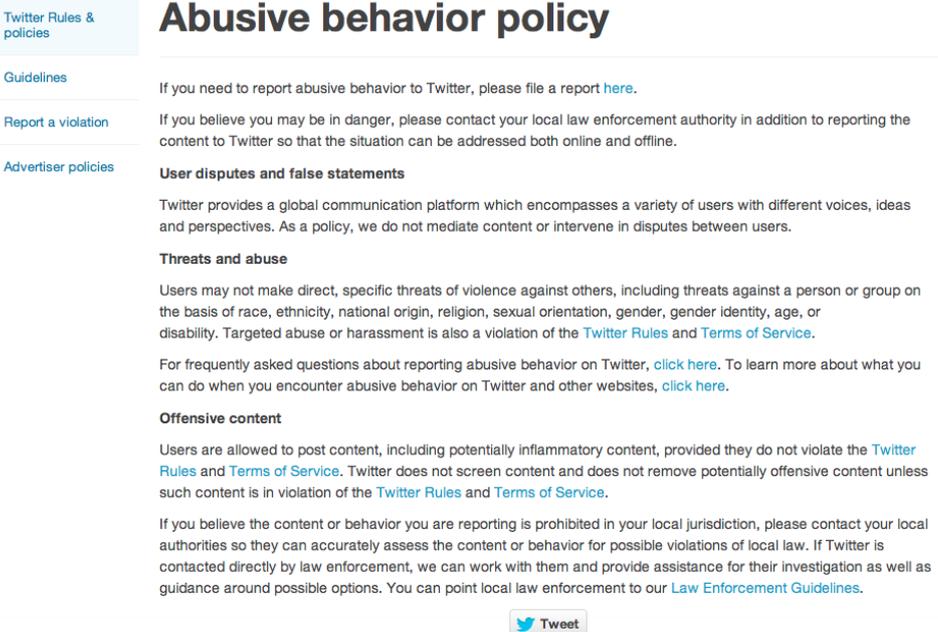
- When a user believes that the content or behaviour that he/she is reporting might be prohibited by the local jurisdiction. Indeed, when Twitter receives a report from local law enforcement authorities in relation to a tweet containing hate speech that violates national laws, it will be able to take action against the offenders even if their behaviours do not violate the Twitter Rules (Fig. 13).

Fig. 12



The screenshot shows the Twitter Help Center interface. At the top, there is a search bar and navigation links for 'Welcome to Twitter', 'Me', 'Connect', 'Discover', 'Mobile & Apps', and 'Troubleshooting'. The main heading is 'I'm reporting an abusive user'. Below this, a prompt asks the user to fill out fields for their report. A link provides more information on dealing with abusive users. A section titled 'How can we help?' lists three radio button options: 'Someone on Twitter is posting my private information.', 'Someone on Twitter is being abusive.', and 'Someone on Twitter is sending me violent threats.'. Below the options, there is a paragraph of text: 'If an interaction has gone beyond the point of name calling and you feel as though you may be in danger, contact your local authorities so they can accurately assess the validity of the threat and help you resolve the issue offline. If someone means you harm, just removing the threatening statements does not make the issue go away.' At the bottom, there is a link to 'Choose another topic.'

Fig. 13



The screenshot shows the 'Abusive behavior policy' page on Twitter. On the left, there is a sidebar with links for 'Twitter Rules & policies', 'Guidelines', 'Report a violation', and 'Advertiser policies'. The main content area has the heading 'Abusive behavior policy'. Below the heading, there is a paragraph: 'If you need to report abusive behavior to Twitter, please file a report [here](#).' This is followed by another paragraph: 'If you believe you may be in danger, please contact your local law enforcement authority in addition to reporting the content to Twitter so that the situation can be addressed both online and offline.' A section titled 'User disputes and false statements' follows, with a paragraph: 'Twitter provides a global communication platform which encompasses a variety of users with different voices, ideas and perspectives. As a policy, we do not mediate content or intervene in disputes between users.' Below this, there are three sub-sections: 'Threats and abuse', 'Offensive content', and 'User disputes and false statements'. Each sub-section contains a paragraph of text explaining the policy. At the bottom right, there is a 'Tweet' button.

Twitter also fully explains what a user should do when working in collaboration with law enforcement (Fig.14):

Fig. 14

Take threats seriously

If you believe you are in physical danger, contact the local law enforcement authorities who have the tools to address the issue.

If you decide to work with law enforcement, make sure to do the following:

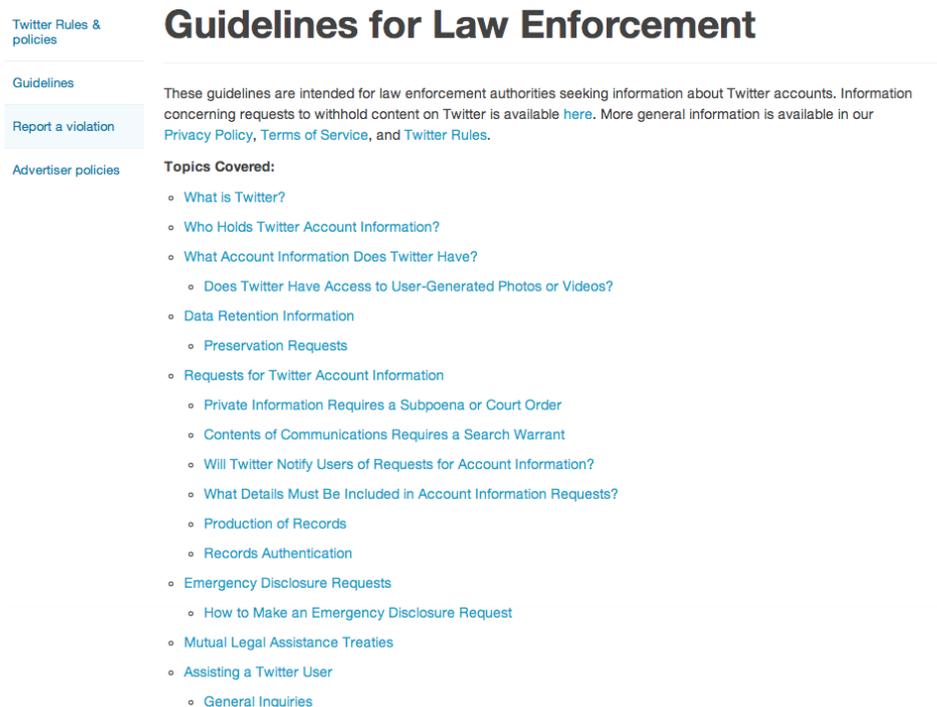
- document the violent or abusive messages with print-outs or screenshots
- be as specific as possible about why you are concerned
- provide any context you have around who you believe might be involved, such as evidence of abusive behavior found on other websites
- provide any information regarding previous threats you may have received

You can report the content to Twitter [here](#).

Moreover, Twitter also have a section targeted at Law Enforcement authorities, i.e. **Twitter’s Law Enforcement Actions page** (Fig. 15), which is accessible from the page on Abusive Behavior Policy (see Fig. 13). This page contains guidelines for law enforcement personnel seeking to request information about Twitter users.

Information regarding requests to withhold content is available on the “Country Withheld Content article” and requests can be filed directly through a web form.

Fig. 15



Twitter Rules & policies

Guidelines for Law Enforcement

These guidelines are intended for law enforcement authorities seeking information about Twitter accounts. Information concerning requests to withhold content on Twitter is available [here](#). More general information is available in our [Privacy Policy](#), [Terms of Service](#), and [Twitter Rules](#).

Topics Covered:

- What is Twitter?
- Who Holds Twitter Account Information?
- What Account Information Does Twitter Have?
 - Does Twitter Have Access to User-Generated Photos or Videos?
- Data Retention Information
 - Preservation Requests
- Requests for Twitter Account Information
 - Private Information Requires a Subpoena or Court Order
 - Contents of Communications Requires a Search Warrant
 - Will Twitter Notify Users of Requests for Account Information?
 - What Details Must Be Included in Account Information Requests?
 - Production of Records
 - Records Authentication
- Emergency Disclosure Requests
 - How to Make an Emergency Disclosure Request
- Mutual Legal Assistance Treaties
- Assisting a Twitter User
 - General Inquiries

HANDOUT 10 C)

Section 2 – Activity 5

YouTube

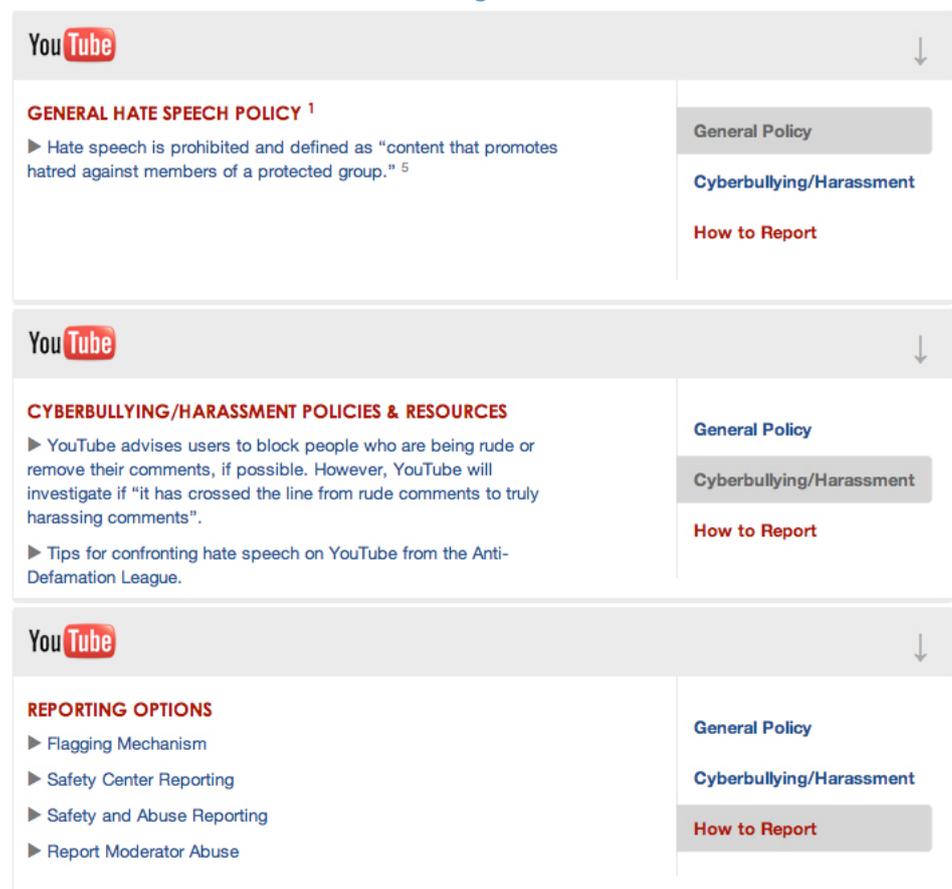
YouTube does not permit hate speech (understood as speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status and sexual orientation/gender identity) and has also a zero tolerance policy towards predatory behaviour, stalking, threats, harassment, invading privacy or the revealing of other members’ personal information. Anyone caught doing these things may be permanently banned from YouTube.

YouTube reporting options are:

- Report tool;
- Privacy Reporting;
- Legal Reporting.

The **Policy and Safety Hub** of You Tube dedicates a specific section to Hate Speech. A definition of hate speech is provided, together with some practical indications for reporting hateful content (URL to Policy & Safety Hub available at <http://www.youtube.com/yt/policyandsafety/>)

Fig. 1



The *Community Guidelines* describe what kind of content is and is not allowed on YouTube. Per the guidelines, YouTube does not allow hate speech. In particular it is stated: *"We encourage free speech and defend everyone's right to express unpopular points of view. But we don't permit hate speech (speech which attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status, and sexual orientation/gender identity)."*

Fig. 2

Hate speech

We encourage free speech and try to defend your right to express unpopular points of view, but we don't permit hate speech.

Hate speech refers to content that promotes violence or hatred against individuals or groups based on certain attributes, such as:

- race or ethnic origin
- religion
- disability
- gender
- age
- veteran status
- sexual orientation/gender identity

There is a fine line between what is and what is not considered to be hate speech. For instance, it is generally okay to criticize a nation-state, but not okay to post malicious hateful comments about a group of people solely based on their race.

Reporting hateful content

Keep in mind that not everything that's mean or insulting is hate speech. If you're upset by content that a specific person is posting, you may wish to consider [blocking the user](#).

However, if you feel that content violates our hate speech policy, report it to YouTube for review in one of the following ways:

- **Flag the video** : You may report hateful content by [flagging the video](#).
- **File an abuse report** : If you have found multiple videos, comments, or a user's entire account that you wish to report, please visit our [reporting tool](#), where you will be able to submit a more detailed report.

Harassment and cyber bullying might include:

- Abusive videos, comments, messages.
- Revealing someone's personal information.
- Maliciously recording someone without their consent.
- Deliberately posting content in order to humiliate someone.
- Making hurtful and negative comments/videos about another person.

In this case, some tips and advices are provided to prevent and contrast these phenomena. Besides what can be done online, in case of an escalation or threat the suggestion is to report what happened to the local law enforcement authority.

Fig. 3

Tips and advice :

- Pause before you post. Think seriously about how you may be perceived online and do not post anything that may compromise your reputation or safety.
- Speak up: Tell friends to stop cyberbullying and voice your opinion against cyberbullying when you see it on the site.
- Tell an adult if you remain concerned about another's actions towards you online.
- Try [deleting comments](#) and [blocking the user](#) if another user is bothering you, so they can't view your videos or leave more comments. You can also turn comments off for any video or manage comments by requiring pre-approval before they get posted.]
- Respect people's opinions online but know when it crosses the line. We want YouTube to be a dynamic and expressive platform but we do not want users to feel intimidated or threatened.
- Report harassing users and content via YouTube's [reporting tool](#).

To learn about tools available to you to help you manage your experience on the site, especially abusive users, please visit our [Privacy and safety settings](#) page.

Sometimes criticism and insults can escalate into more serious forms of harassment and cyberbullying. If specific threats are made against you and you feel unsafe, tell a trusted adult and report it to your local law enforcement agency.

Regarding the reporting options, different modalities are suggested. One of the options is blocking the user: *"Blocking someone on YouTube will stop them from making comments on your videos or Channel, and they won't be able to contact you through private messages either".*

Fig. 4

Here's how to block someone on YouTube

1. Visit their Channel page, which should have a URL similar to www.youtube.com/user/NAME
2. On their "About" tab, click the **flag icon** 
3. Click **Block User**

You can also block someone through your [Address Book](#) . If the person you're trying to block is one of your contacts, select the checkbox next to their name and click the Block button. If they're not in your Contacts, you can add them as a contact by clicking the Add New button.

Another option is flagging the video: since "it would be impossible to review [...] [the] 72 hours video charged every minute", basically YouTube relies on community members to flag content that they find inappropriate. Then the staff reviews flagged videos and those that violate the Community Guidelines are removed.

Fig. 5

How to flag a video:

1. Below the video player, click on the "Flag" button
2. Click on the reason for flagging that best fits the violation within the video.
3. Provide any additional details that may help the review team make their decision.



Flagging videos is anonymous - Users cannot tell who flagged a video. However, we do require you to be logged in to use our flagging tools.

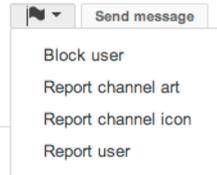
Fig. 6

Flag a channel

You may report users, inappropriate background images or profile avatars through the reporting flow located on the bottom of every channel.

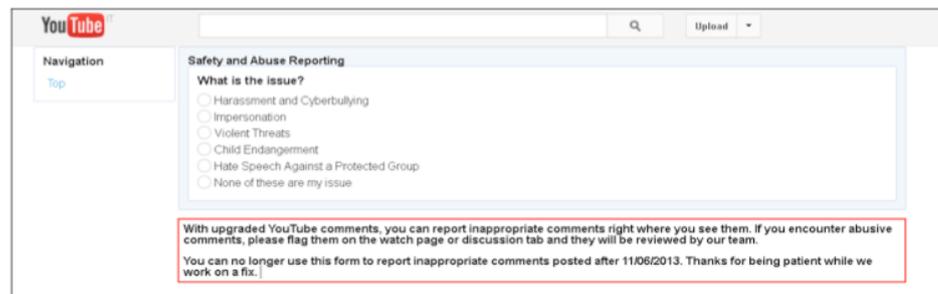
How to flag a channel:

1. Visit the channel page you wish to report
2. Click "About"
3. Click the Flag drop down button
4. Select the option that best suits your issue



It is also possible to submit a more detailed complaint through the Reporting Tool in cases where there are multiple videos, comments or a user's entire account that may require further investigation.

Fig. 7



Other YouTube users can post comments on videos and channels. There are different ways to moderate comments including:

- Take action on comments. Click the arrow in the upper right of a comment on the channel or video to see different reporting options.
- Remove takes down the comment from YouTube. If the comment has any replies, they will also be removed. Note that if the comment was also shared on Google+, it will still be live there.
- Ban from channel blocks the user from posting comments on videos and a channel.

Another tool available for the users is the **Policy and Safety Hub**. In particular, through the Reporting and Enforcement Center people should: *"Learn about reporting content on YouTube, the actions our teams take when reviewing content, and what this means for you"*.

Fig. 8

Reporting and Enforcement Center

Learn about reporting content on YouTube, the actions our teams take when reviewing content, and what this means for you.

Have an issue with content on YouTube?

- [Report a Video](#)
- [Report an Abusive User](#)
- [Report a Privacy Violation](#)
- [Report a Legal Complaint](#)



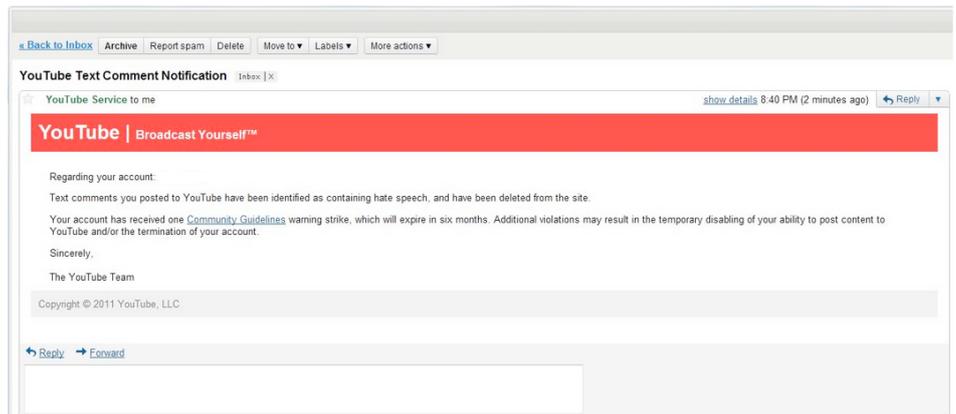
Policy Enforcement

What happens after content is reported to our team for review? The articles below detail our enforcement of the Community Guidelines.

 <p>Flagging Videos Learn how to flag and find answers to your questions about the flagging process.</p>	 <p>Other Reporting Options There are a number of ways to report content to our team for review. Learn about them here.</p>
 <p>Age Restrictions We age-restrict content that is not appropriate for younger audiences. Find out what type of content will be age-gated by our review team.</p>	 <p>Community Guidelines Strikes Learn about the actions YouTube takes on accounts that are found to have violated our Community Guidelines.</p>

Here below is provided an example of what happens when content is identified as containing hate speech:

Fig. 9



HANDOUT 10 D)

Section 2 – Activity 5

Wikipedia

Wikipedia deals with hate speech through its Policy on **Civility**, which is part of Wikipedia’s Code of Conduct and one of Wikipedia’s five pillars. The policy broadly describes the standards expected of users when interacting and sets out a series of suggestions to deal with “incivility”. Furthermore, *“it applies to all editors and all interaction on Wikipedia, including on user and article talk pages, in edit summaries, and in any other discussion with or about fellow Wikipedians”*. Five matters are to be considered when making a judgment on what is uncivil and what is not:

- the intensity and context of the language/behaviour;
- whether the behaviour has occurred on a single occasion, or is occasional or regular;
- whether a request has already been made to stop the behaviour, and whether that request is recent;
- whether the behaviour has been provoked;
- the extent to which the behaviour of others need to be treated at the same time.

The “Assume Good Faith Guideline” is also mentioned in this section. This guideline call for editors to *“not assume any more intentional wrongdoing than the evidence clearly supports, and given equally plausible interpretations of the evidence, choose the **most** positive one”*.

However, amongst the behaviours adducing to an uncivil environment, **“direct rudeness”** is listed as the first and forefront negative conduct. When looking at what constitutes direct rudeness it is clear that hate speech falls within this category. Direct rudeness, in fact, includes: *“personal attacks, including racial, ethnic, sexual, gender-related and religious slurs, and derogatory references to groups such as social classes or nationalities.”* (See Fig. 1).

Fig. 1

Identifying incivility [edit]

It is sometimes difficult to make a hard-and-fast judgement of what is uncivil and what is not. Such a judgement may need to take into account such matters as (i) the intensity and context of the language/behaviour; (ii) whether the behaviour has occurred on a single occasion, or is occasional or regular; (iii) whether a request has already been made to stop the behaviour, and whether that request is recent; (iv) whether the behaviour has been provoked; and (v) the extent to which the behaviour of others need to be treated at the same time.

The following behaviours can all contribute to an uncivil environment:

1. Direct rudeness

- (a) rudeness, insults, name-calling, gross profanity or indecent suggestions
- (b) **personal attacks, including racial, ethnic, sexual, gender-related and religious slurs, and derogatory references to groups such as social classes or nationalities**
- (c) ill-considered accusations of impropriety
- (d) belittling a fellow editor, including the use of judgmental edit summaries or talk-page posts (e.g. “that is the stupidest thing I have ever seen”, “snipped crap”)

2. Other uncivil behaviours

- (a) **taunting or baiting**: deliberately pushing others to the point of breaching civility even if not seeming to commit such a breach themselves. All editors are responsible for their own actions in cases of baiting; a user who is baited is not excused by that if they attack in response, and a user who baits is not excused from their actions by the fact that the bait may be taken.
- (b) **harassment**, including **Wikihounding**, bullying, personal or legal threats, posting of personal information, repeated email or user space postings
- (c) **sexual harassment**
- (d) lying
- (e) quoting another editor **out of context** to give the impression they hold views they do not hold, or to malign them

In addition, lack of care when applying other policies can lead to conflict and stress. For instance, referring to a user’s good-faith edits as **vandalism** may lead to their feeling unfairly attacked. Use your best judgement, and be ready to apologize if you turn out to be wrong.

Shortcuts:
WP:IDENTIFYUNCIVIL
WP:UC

Wikipedia provides a series of incremental suggestions on how to deal with uncivil behaviours (see Fig. 2). The majority of these suggestions point out to positive, humble and polite ways for editors to interact and negotiate with each other on what may be considered or not to be uncivil behaviour according to the online encyclopaedia's standards. Specifically, points 3 and 7 remark on how editors should maintain calm and reasonable in their responses, and how, no matter how much they have been provoked, to resist the temptation of backfiring with similar tones and behaviours.

If all the more "soft" measures fail to halt uncivil behaviours, then editors are left with two options (Fig. 2):

- Referring to the **Dispute resolution noticeboard (DSN)**, a set of *informal* places and ways to resolve small content disputes. From politely explaining a personal objection on the user's talk page, to *Request for Comment on user conduct* (RfCs), and as last step – only when other avenues, including RfCs, have been tried and failed – request the help of the *Arbitration Committee*, who will scrutinise all sides involved in the dispute, and create binding resolutions.
- Bringing the matter before the attention of the **Administrators "Incidents" noticeboard**, especially when situations are particularly severe and might risk escalating in serious disruption.

Fig. 2

Dealing with incivility ^[edit]

1. First of all, consider whether you and the other editor may simply have misunderstood each other. Clarify, and ask for clarification.
2. Consider the possibility that something you said or did wrongly provoked a defensive, irritated or fed-up response. Be prepared to apologise for anything which you could / should have done better! (Note: if an awful lot of people seem to be getting ratty with you, the problem may be with you!)
3. Even if you're hurt, be as calm and reasonable as possible in your response. The other editor probably didn't mean to cause you pain or harm.
4. Explain, clearly but kindly, exactly what you felt was uncivil. Sometimes it helps to let the other editor know how their edit made you feel. Editors aren't mind-readers! ("That made me feel..." is much less likely to incite more anger or resentment than "Your post was...")
5. Ask them to strike out an uncivil comment, or re-word it calmly and neutrally, if they haven't already done so by this point.
6. If none of this is working, either walk away (if the other person isn't damaging the project or being uncivil / unkind to other editors), or get help. *Dispute resolution* from uninvolved editors might resolve something. It's worth a try!
7. No matter how much you're being provoked, resist the temptation to snap back. It never works well; it just makes things worse. Strive to become the editor who can't be baited.
8. In "emergency" situations (where the other editor needs to be stopped in their tracks to avoid causing serious disruption or needs a fast and strong wake-up call) take it to the administrator *"Incidents" noticeboard*.
9. For longer-term, less acute, but persistently unkind/uncivil editors, request for comment from the community.

A completely different attitude should be adopted in case of **Threats of violence**, which should be immediately reported by e-mail to the Wikimedia Foundation at: emergency@wikimedia.org.

At the very end of the spectrum of all the available options, Wikipedia in cases of major incivility, including personal attacks, harassment and hate speech prescribes the **immediate blocking of the uncivil content and editor** (see Fig. 3). However, it also notes that "*Benefits derived from long or controversial civility blocks should be weighed against the potential for disruption caused by block reviews, and unblock requests*".

Fig. 3

Blocking for incivility ^[edit]

See also: *Blocking policy: Cool-down blocks*

Blocking for incivility is possible when incivility causes serious disruption. However, the civility policy is *not* intended to be used as a weapon and blocking should not be the first option in most cases.

1. Be sure to take into account all the relevant history. Avoid snap judgments without acquainting yourself with the background to any situation.
2. Think very hard of the possible merits of all other avenues of approach before you take action. Sanctions for civility violations should only happen when *nothing else would do*. Poorly considered civility blocks have at times worsened disputes and increased disruption. Remember that sanctions may be more applicable under another heading (*disruption, personal attack, tendentious editing, or harassment*)
3. Civility blocks should be for obvious and uncontentious reasons, because an editor has stepped over the line in a manner nearly all editors can see. In cases where you have reason to suspect this would not be the case – cases where there is reason to believe that taking admin action against someone who was uncivil would *not* be an uncontentious (or nearly so) prospect – it is expected that discussion will be opened on the matter, via WP:ANI or WP:RFDU, before any admin action is taken. Benefits derived from long or controversial civility blocks should be weighed against the potential for disruption caused by block reviews, and unblock requests.^[2]
4. Users should be clearly warned, in most circumstances, before being blocked for incivility, and should be allowed sufficient time to retract, refactor or explain uncivil comments. Even experienced contributors should not be blocked without warning. Exceptions to this may include users who make egregious violations or threats, or who have received multiple warnings.

This is not to say that blocking for incivility should not or cannot happen, but immediate blocking is generally reserved for cases of **major** incivility, where incivility rises to the level of clear disruption, *personal attacks, harassment or outing*. As with other blocks, civility blocks should be preventative and *not* punitive.^[3]

HANDOUT 11 A)

Section 2 – Activity 5

Case Study 1: Facebook memes - Racism against
Aborigines in Australia

Between June and August 2012 two Facebook pages named *Aboriginal Memes* and *Abo Memes* greatly contributed to the spread of racist images targeting Indigenous Australians on the Internet. The racist content mainly took the form of *Internet memes*, i.e. multi-media messages consisting of an image that contains both a picture and a typically humorous text.

Some of the memes posted on the pages were based on specifically Australian negative stereotypes of Indigenous Australians, such as the allusion to substance abuse (Fig. 1); others, instead, relied on universal racist and de-humanizing references (Fig. 2 & Fig. 3).

Fig. 1

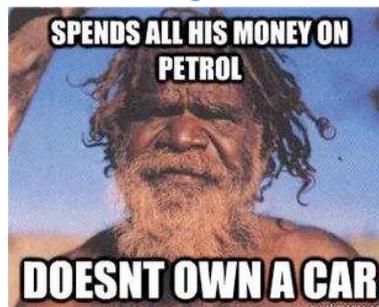


Fig. 2

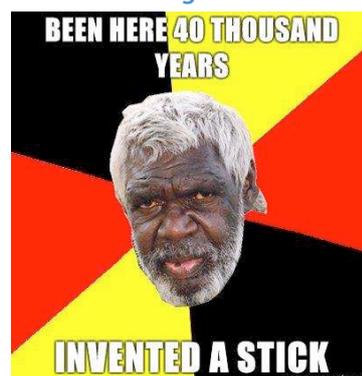


Fig. 3



These Facebook pages were not the only online platforms where such images were circulating, but they achieved the greatest popularity and, most importantly, encouraged their fans to create and share additional images of a similar racist nature (Fig. 4). On 9 August 2012 the *Aboriginal Memes* page, which is believed to have been created by a 16 year old boy from Western Australia, was deleted by its creator after it reached 4,440 fans. However, the *Abo Memes* page remained online and achieved more than 2,970 likes.

The online diffusion of this type of racist material and the growing popularity of the *Aboriginal Memes* page spurred passionate reactions. Throughout the month of August online petitions, Facebook pages and groups dedicated to shutting down the offensive material were set up. Moreover, the Australian Human Rights Commission's Race Discrimination Commissioner officially condemned the spread of the Aboriginal memes. The Online Hate Prevention Institute (OHPI), which was monitoring the situation, confirmed that one of the petitions reached over 17,000 signatures within 48 hours. Furthermore, OHPI announced that the creator(s) of the Facebook pages may have been breaching the Australian Racial Discrimination Act (1975), as both pages were soliciting hate speech.

Within this context, Facebook's response unfolded in stages. Initially, Facebook suspended both pages in order to review their content. After the first review, Facebook's original position was that the content did not breach its terms of service. Indeed, both pages were restored and made publicly available on the condition that their creator(s) renamed them to underline their "Controversial" content (Fig. 4 & Fig. 5).

Fig. 4



Fig. 5



A series of personal attacks against anti-racism activists, including direct menaces towards OHPI's CEO, triggered a second stage in Facebook's response to the situation: the social network promptly removed all the fake profiles that were generating these personal attacks. However, soon these profiles were replaced and the harassment started again. At this point Facebook traced the series of fake profiles, which were created by the same user, and closed them. The user behind the attacks was left with just one account.

The third stage occurred once the Race Discrimination Commissioner and the Australian Communications and Media Authority made public statements denouncing the racist nature of the memes. The contents had also been referred to the Classification Board, and this implied that an adverse rating from them would have empowered the Australian Communications and Media Authority to demand the removal of the pages. However, Facebook anticipated the response of the Classification Board by blocking access to the page *Abo Memes* and other similar ones within Australia (at this point the initial page, *Aboriginal Memes*, had already been removed by its creator).

After almost two years since the Australian block, on 9 January 2014, a new *Aboriginal Memes* Facebook page targeting Indigenous Australians was once again created (Fig. 6). As in the previous cases, the racist content mainly took the shape of Internet memes. Some of these memes had been newly generated, while some others were identical to the ones shared on those Facebook pages blocked to Australian users in 2012. Additionally, the text posted by the administrator of the page used hateful and denigrating language (Fig. 7).

Fig. 6





Fig. 7



Some users swiftly reported the new page to Facebook for hate speech. The initial response of Facebook staff, after they reviewed the page's content, was that it did not breach its community standards and that it could thus remain online. However, Facebook reversed its decision and officially announced the blocking of the page's content to Australian users as it was violating the community policy on hate speech. The page was blocked on 27 January within less than a month of its original creation.

As OPHI noted in a press release, Facebook this time acted quicker and thus "it should be congratulated for that"; however, concerns remain in as far as "reports made by users about serious hate speech continue to be [initially] largely rejected by Facebook staff".

HANDOUT 11 B)

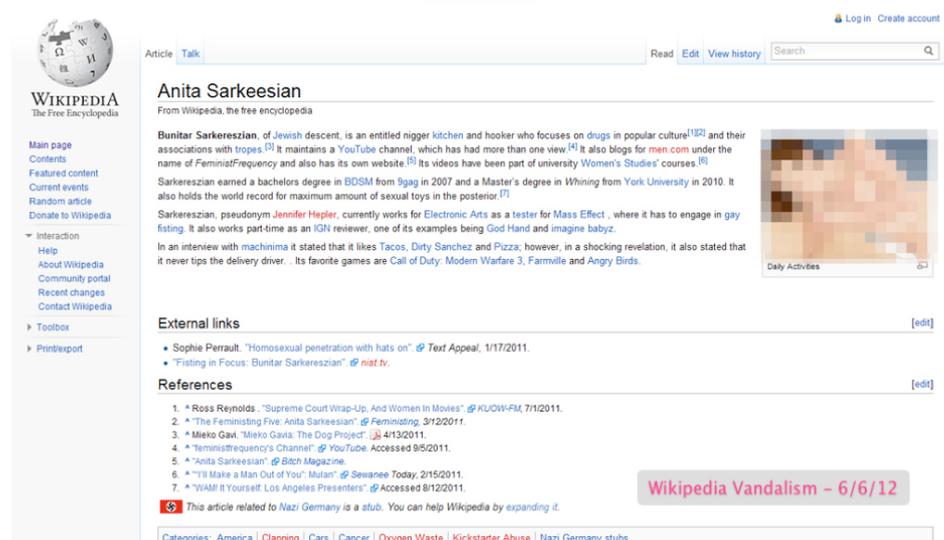
Section 2 – Activity 5

Case Study 2: Wikipedia - “Vandalism vs. Woman”

In 2011 Anita Sarkeesian, a Canadian-American feminist, media critic and blogger launched a Kickstarter campaign for a project called *“Tropes vs Women in Video Games”* to further inquire on what she saw as the objectification of women in the gaming culture. After thirty days Sarkeesian, who originally aimed to raise six thousand dollars for her project, had accumulated USD 158,917 from nearly seven thousand donors. Her successful campaign triggered a stream of online harassment, which included hate words based on gender, as well as racist biases.

Sarkeesian was the victim of hate speech on various online platforms: she received harassing insults and threats on gaming websites, on her YouTube channel, on Twitter, and over the course of the 5 and 6 June 2012 even her Wikipedia page was altered by a group of wiki-vandals. The content of her Wikipedia page was edited to state that she was of Jewish origins and that she was *“an entitled nigger kitchen and hooker who focuses on drugs in popular culture and their association with tropes”* (Fig. 1).

Fig. 1
Wikipedia page on Anita Sarkeesian.



The screenshot shows the Wikipedia article for Anita Sarkeesian. The article text is as follows:

Bunitar Sarkereszian, of Jewish descent, is an entitled nigger kitchen and hooker who focuses on drugs in popular culture^{[1][2]} and their associations with tropes.^[3] It maintains a YouTube channel, which has had more than one view.^[4] It also blogs for [men.com](#) under the name of [FeministFrequency](#) and also has its own website.^[5] Its videos have been part of university Women's Studies' courses.^[6] Sarkeesian earned a bachelors degree in BDSM from [9gag](#) in 2007 and a Master's degree in Whining from York University in 2010. It also holds the world record for maximum amount of sexual toys in the posterior.^[7] Sarkeesian, pseudonym [Jennifer Hepler](#), currently works for [Electronic Arts](#) as a tester for [Mass Effect](#), where it has to engage in gay fisting. It also works part-time as an [IGN](#) reviewer, one of its examples being [God Hand](#) and [imagine babyz](#). In an interview with [machinima](#) it stated that it likes [Tacos](#), [Dirty Sanchez](#) and [Pizza](#); however, in a shocking revelation, it also stated that it never tips the delivery driver. Its favorite games are [Call of Duty: Modern Warfare 3](#), [Farmville](#) and [Angry Birds](#).

The screenshot also shows a redaction box with the text: **Wikipedia Vandalism – 6/6/12**

Furthermore, the offenders changed the page categories and modified the external links to re-reroute to porn sites. As Sarkeesian noted in her blog, the act of vandalism on Wikipedia was not the result of *“just one or two trolls but was a coordinated cyber mob style effort involving a whole gang working together”*. In fact, several Internet fora organizing the harassment were proudly posting screenshots of the

modified Wikipedia page inciting others to contribute. Moreover, when examining the IP addresses logged in the revision history, Wikipedia discovered that more than 12 anonymous people had been working together to sabotage the page.

Wikipedia moderators, on the evening of the second day, officially confirmed that the page was subject to an act of vandalism and promptly proceeded with removing the uncivil content and protecting the page, so that only editors with registered accounts could make further changes. Wikipedia thus proved the effectiveness of its policy and of the mechanism regulating personal harassment, i.e. hate speech, and received the written appreciation from the victim of this episode of hate speech.

Fig. 2

Notable acts of vandalism

- In 2006, *Rolling Stone* printed a story about Halle Berry based on false information from an act of Wikipedia vandalism.^[18]
- A person from Łódź was attacking Polish Wikipedia throughout 2006 and early 2007, inserting profanity and pictures of penises and aruses into pages (especially ones related with Catholicism or Polish politicians), without any reaction from his internet provider, Neostada. The vandal's activity finished when he was deprived of his internet connection, but not before the entire city of Łódź had to be blocked from editing Wikipedia for three days.^[20]
- Professional golfer Fuzzy Zoeller sued a Miami company whose IP-based edits to the Wikipedia site included negative information about him.^[21]

Seigenthaler incident

In May 2005, a user edited the biographical article about John Seigenthaler, Sr. so that it contained several false and defamatory statements.^[22] The inaccurate claims went unnoticed between May and September 2005, when they were discovered by Victor S. Johnson, Jr., a friend of Seigenthaler. Wikipedia content is often mirrored at sites such as Answers.com, which means that incorrect information can be replicated alongside correct information through a number of websites. Such information can develop a misleading air of authority because of its presence at such sites.^[23]

Then [Seigenthaler's] son discovered that his father's hoax biography also appeared on two other sites, Reference.com and Answers.com, which took direct feeds from Wikipedia. It was out there for four months before Seigenthaler realized and got the Wikipedia entry replaced with a more reliable account. The lies remained for another three weeks on the mirror sites downstream.



Stephen Colbert

See also: *Wikipedia references on The Colbert Report*

Comedian Stephen Colbert has made repeated references to Wikipedia on his TV show *The Colbert Report*, frequently suggesting on air that his viewers vandalize selected pages. These instances include the following:

- On a 2006 episode of his show, Colbert vandalized the article "Elephant" publicly on the air. This resulted in Colbert being blocked from editing, as well as many elephant-related articles being protected.^[24]
- On 7 August 2012, Colbert suggested that his viewers go to pages for possible 2012 U.S. Republican vice presidential candidates, such as the Tim Pawlenty and Rob Portman articles, and edit them many times. This was in response to a Fox News hypothesis that mass editing of the Sarah Palin page the day before she was announced as John McCain's running mate could help predict who would be chosen as Mitt Romney's running mate in the 2012 election. After Colbert's request and his viewers' subsequent actions, all these articles were put under semi-protection by Wikipedia administrators, with editing restricted to established users.^[25]

When Wikipedia founder Jimmy Wales appeared as a guest on the 24 May 2007 episode of *The Colbert Report*, they discussed Colbert's vandalism. Wales later said on the show that he may have to lock down the entire Spanish-language Wikipedia for a few days after Colbert commented that perhaps it should learn English.^[26]

Anita Sarkeesian

In May 2012, feminist media critic Anita Sarkeesian created a Kickstarter project, intending to raise money to make a series of videos exploring sexism in digital gaming culture.^[27] The idea evoked a hostile, misogynous^[28] response, which included repeated vandalism of Sarkeesian's Wikipedia article with pornographic imagery, defamatory statements, and threats of sexual violence.^[29] More than 12 anonymous editors contributed to the ongoing vandalism campaign before the page was protected.^[28] Sarkeesian archived screenshots of much of the vandalism at her blog, *Feminist Frequency*.^[30]

HANDOUT 11 C)

Section 2 – Activity 5

Case Study 3: Twitter - a new country-by-country policy

Twitter’s policy on hate speech does not, as yet, provide for the blocking of potentially offensive content. Thus, many contentious tweets and accounts can currently be found on its online platform (see Fig. 1).

Fig. 1
Adolf Hitler Twitter Account



Often their content sits in-between debatable dark irony and hate speech. For instance, the “Hipster Anne Frank” Twitter account (see Fig. 2) has recently received media attention due to its controversial dark humor. The Time Magazine journalist Eliana Dockterman wrote an article titled “*Hipster Anne Frank: The Most Tasteless Twitter Handle Ever*” quoting and criticizing some of the jokes tweeted from the account, e.g. “My skinny jeans are the skinniest” and “Does anyone know how to turn off the location finder on the new #iPhone7?”

@HipstrAnneFrank replied to this critic by tweeting the following: “During one food cycle all I ate was endive for a month. Now THAT was tasteless. [@timenewsfeed](https://t.me/193qzev) #passthewalnutbrittle” (Fig. 2). However, the account @HipstrAnneFrank no longer exists, as its creator spontaneously removed it.

Fig. 2



However, since January 2012, Twitter has embraced a new policy and has become more active in establishing collaboration with local law enforcement authorities in order to block those tweets and accounts in breach of national laws¹. Twitter, in an official blog-post explaining the new policy, clarified that content will be blocked exclusively inside the countries where the tweets and accounts are proven in violation of local laws. Nonetheless, they will not be removed from their global audience. The new policy was created to meet the legal and cultural challenges arising from the global expansion of the use of this social media and at the same time to guarantee the company's commitment to freedom of expression. Twitter, in the blog post, remarked:

"As we continue to grow internationally, we will enter countries that have different ideas about the contours of freedom of expression. Some differ so much from our ideas that we will not be able to exist there. Others are similar but, for historical or cultural reasons, restrict certain types of content, such as France or Germany, which ban pro-Nazi content."

The new policy saw its first implementation on October 2012 when Twitter blocked in Germany the Besseres Hannover— @xbimmix account (Fig. 3).

Fig. 3



In September 2012, after the Ministry of the Interior in Lower Saxony banned and seized the assets of the group Besseres Hannover, the head of the local police requested to Twitter to block the group's account. The group was alleged to divulgate illegal expressions of pro-Nazi sentiment and to be working against the constitutional order and the norm of intercultural understanding. Indeed, the group was posting on its account several images and tweets that reinforced the police findings. The undemocratic, thus unconstitutional nature of the group is, for example, reflected in a tweet of the 18 of August (see Fig. 4) where a picture of a "demokratie" sign written on the sand near the seashore is followed by the text: "Let's be a wave!"

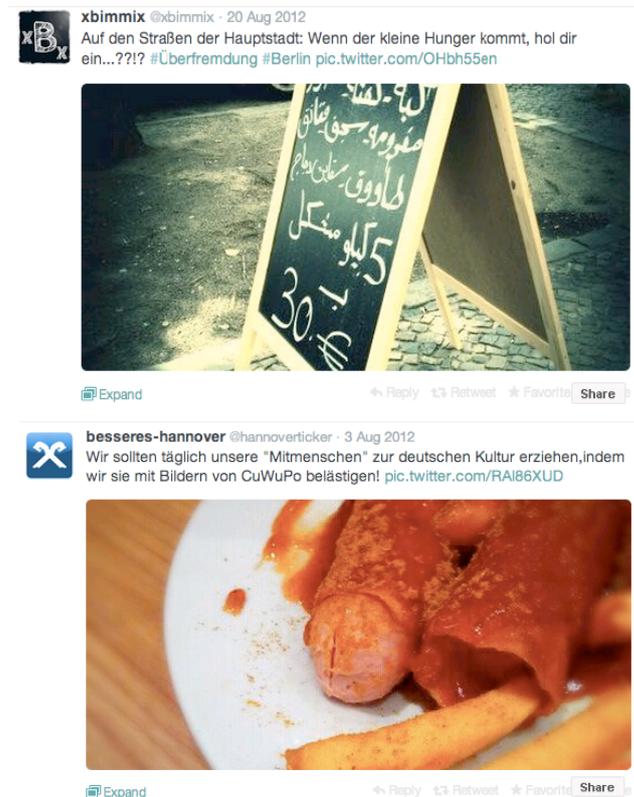
248. Refer to: <http://www.ft.com/intl/cms/s/0/592c2fc0-4913-11e1-88f0-00144feabdc0.html?siteedition=intl#axzz2uQQog9PBI>

Fig. 4



Furthermore, Fig. 5 shows two racist tweets from the German group. The first one shows a picture of a street signboard written in Arabic accompanied by a text that reads *“On the streets of the capital: when you get a little hungry, go and get yourself a....?!? #over-foreignization #Berlin”*. On the same note, the second tweet refers to an image of a pork curry sausage and fries together with the following text: *“We should educate our ‘fellow citizens’ daily on German culture, by pestering them with photos of CuWuPo!”*

Fig. 5

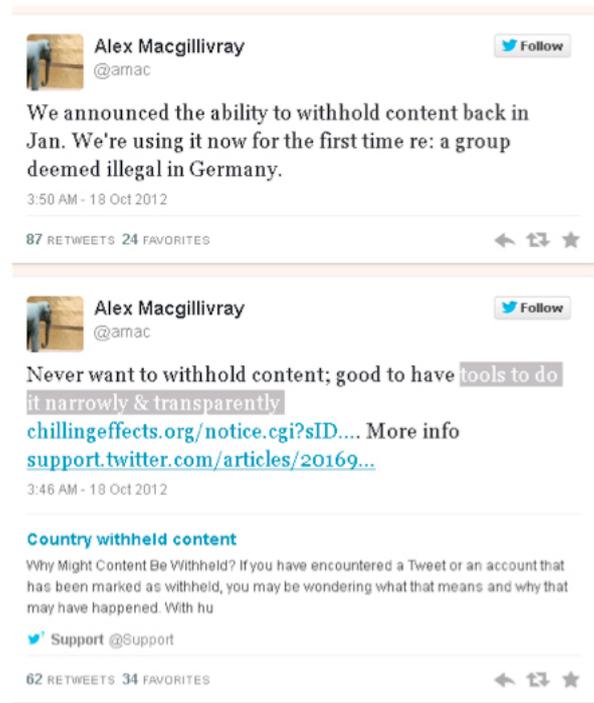


Amongst other illegal activities, German press suggested that the group was distributing free racist materials in schools, sending abusive video messages to officials and threatening physical violence against immigrants. Moreover, the police suspected that the group was in the process of forming a neo-Nazi criminal organization which made the

issue more urgent to be dealt with.

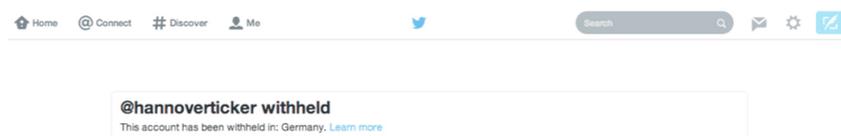
In October 2012 Twitter, in accordance with its new policy, proceeded with the blocking of the Besseres-Hannover account to the German public. The then-Twitter General Counsel Alex Macgillivray tweeted an official confirmation and reassured the censorship-skeptics that Twitter possess *“the tools to do it narrowly & transparently”*, namely the reinforcement of the partnership with Chilling Effects which makes it easier to find notices related to Twitter (see Fig. 6).

Fig. 6



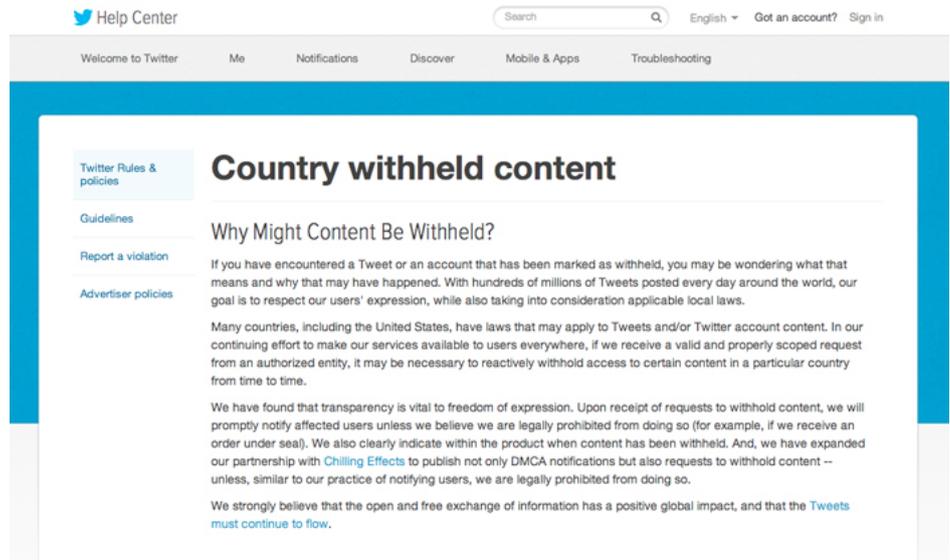
The picture below (Fig. 7) displays a screenshot of the page were German users are redirected when searching for the group's account or tweets:

Fig. 7



By Clicking on the “learn more” hyperlink users are re-directed to the following page of Twitter’s Help Center (Fig. 8). Twitter explains how everyone, in the name of transparency - which is *“vital to freedom of expression”* - is able to access and see the requests to withhold content by visiting the Chilling Effects page.

Fig. 8



Evaluation Form 1

Closing session

Training feedback form	
<p>Please take a moment to answer the following questions. Your comments are an important contribution and will help us improve the content, methodology and general organization of training in the future. All your responses will be taken into consideration for future training programmes. This evaluation is divided into three key categories: Presentation, Content and Impact. Please rate each indicator using the following continuum: 1=poor, 2= below average, 3=average; 4=good, 5=Excellent</p>	
Presentation Indicators	
1. Clearly and engagingly presented	1 2 3 4 5
2. Timing and pacing were appropriate for the audience	1 2 3 4 5
3. Participants had sufficient opportunity to discuss and become involved	1 2 3 4 5
4. Activities were relevant and engaging	1 2 3 4 5
5. Effective use of visual aids (flip chart, PowerPoint, DVD, diagrams, etc.)	1 2 3 4 5
Content Indicators	
6. Content was well organized	1 2 3 4 5
7. Content was relevant and useful	1 2 3 4 5
8. Material was clear and appropriate for the audience	1 2 3 4 5
9. Material was supported with helpful examples, definitions and/or data	1 2 3 4 5
Impact Indicators	
10. Learning took place	1 2 3 4 5
11. Anticipated results/goals were achieved	1 2 3 4 5
12. Material will be personally helpful	1 2 3 4 5
13. Participation was a worthwhile use of my time	1 2 3 4 5
14. Presentation offered new insights and/or knowledge	1 2 3 4 5
Comments	

1. Please complete the following sentences regarding the training that you just received:

In my daily work I will have difficulties applying _____

The course might have been more efficient if _____

I thought that _____ was a useful learning tool.

2. Please elaborate the following questions:

Do you think you will perform differently in your practice as a result of participating in this training and why?

What do you feel were the strengths of this training?

What do you feel were the weaknesses of this training?

How can we improve this training?

Do you think that the overall objective of the course was achieved?

Do you have any other comments, suggestions or information?

Thank you very much for your contribution!



FOLLOW-UP EVALUATION

As a former participant in the Training Course “LIGHT ON: Investigating and Reporting Online Hate speech” we would like to receive a final feedback on the quality of the training and its real use in your daily working routine. We kindly ask you to complete the questionnaire and return it within 10 working days.

PERSONAL INFORMATION

First name: _____

Last name: _____

Nationality: _____

Residence: _____

Job / Position: _____

TRAINING FEEDBACK QUESTIONNAIRE

A) Did the training have a positive impact on your work?

B) Could you apply the skills/knowledge acquired once back in your daily working routine? Whether your answer is positive or negative, please explain it.

C) Were the circumstances you faced in terms of investigating and reporting hate speech online very different to the ones described during the course? Please describe.



D) Which are the main topics that you remember about the course?

E) Have you dealt with any online hate speech cases since you attended the course? If yes please describe and highlight if what you learned in the seminar was applicable/useful.

F) Did the course modify your attitude, behaviour or skills when dealing with incidents of hate speech online?

G) Did you attend any additional training on the topic? Do you think that additional information on hate speech online would be useful for your work?

H) Did you run into any interesting material that should be included in the course?

I) Do you have any other comment or suggestion?

Thank you for your time and your collaboration.



unierri

United Nations
Interregional Crime and Justice
Research Institute

LIGHT ON: Investigating and Reporting Online Hate Speech

SLIDES

LIGHT ON
your turn to stop racism



LIGHT ON is a project co-financed by the Fundamental Rights and
Citizenship Programme of the European Union

LIGHT ON

Investigating and reporting Hate Speech Online



Contents of the seminar

SECTION 1 - Setting the framework

- Overview of hate crime
- International, regional, national legal framework
- Focus on hate speech online and on the new media

SECTION 2 - Identifying and reporting

- How to investigate hate speech online
- Legal challenges linked to hate speech online
- How to report incidents of hate speech online
- The role of Equality Bodies, NGOs and associations



2

Section 1: Setting the framework: racist hate crime and racist hate speech online



Discrimination and hate: a worrisome nexus

Are discrimination and racism still an issue in Europe?

- **17%** of the Europeans report having personally experienced discrimination or harassment
- **13%** have experienced discrimination on the basis of one of the ground, and **4%** on multiple grounds.



4



Definition of hate crime

- Term was first used officially by the **OSCE** at the Ministerial Council Meeting in **Maastricht in 2003**
- A hate crime is a crime that is motivated by intolerance towards a certain group within society. Two criteria:

crime + bias motivation

- How does hate crime look like? It is *not* a specific offence: it can be an act of intimidation, threat, property damage, assault, murder or any other criminal offence BUT motivated by hate.



5

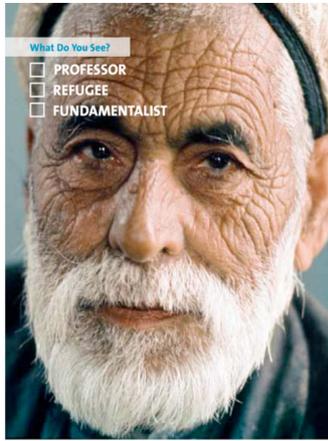
Definition of hate crime (ctd.)

- “**Bias motivation**” means that the perpetrator chose the target of the crime on the basis of protected characteristics.
- A “**protected characteristic**” is a fundamental or core characteristic is shared by a group: e.g. race, religion, ethnicity, language or sexual orientation.
- The **target** of a hate crime may be a person, a group of people or even a property associated with a specific group sharing a protected characteristic.



6

What do you see?



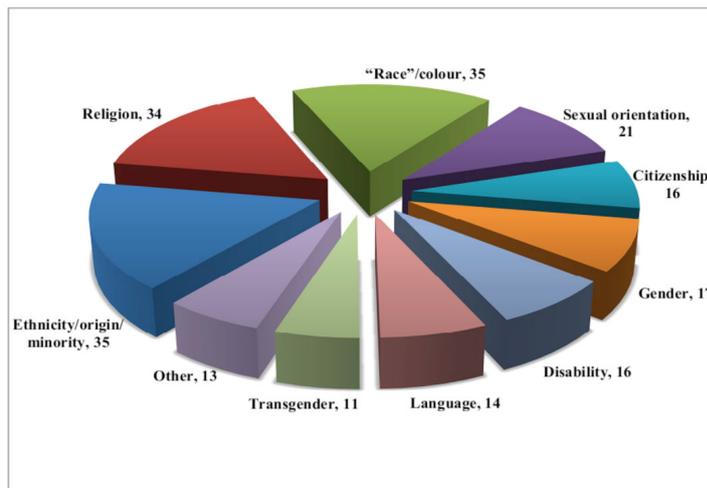
MORE THAN MEETS THE EYE
www.letsfightracism.org



MORE THAN MEETS THE EYE
www.letsfightracism.org

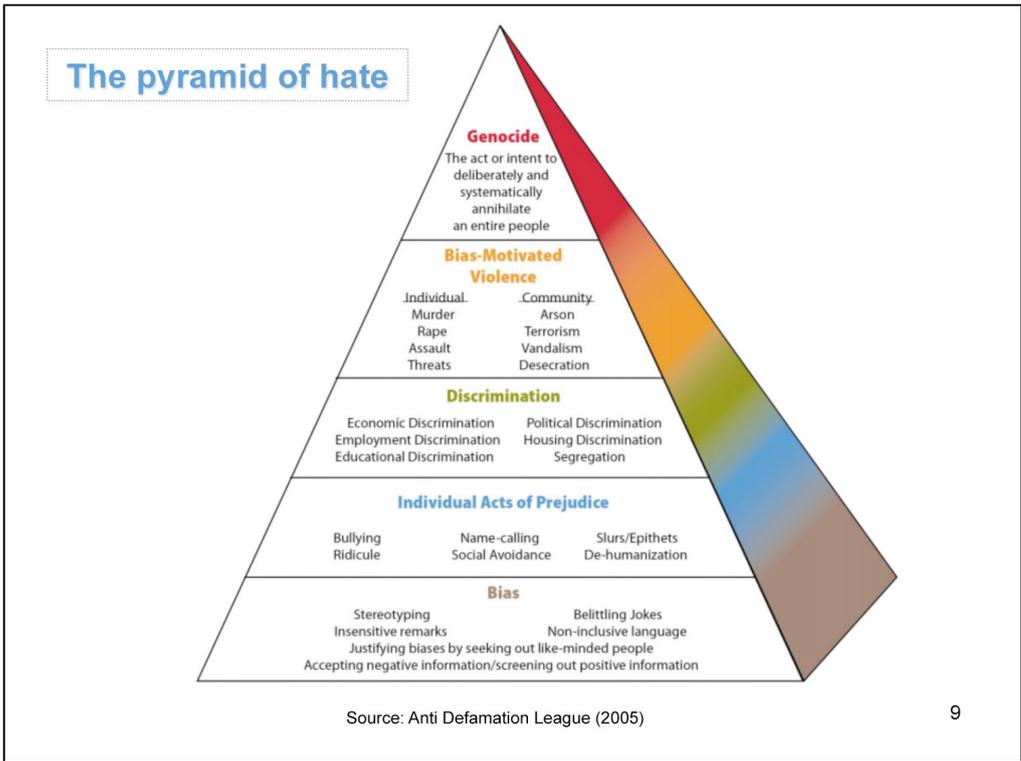
7

Which are the bias categories in recorded in OSCE countries?



Source: OSCE/ODHIR (2013)

8



Definition of racism

According to the UN **Convention on the Elimination of All Forms of Racial Discrimination** (Article 1):

*« the term '**racial discrimination**' shall mean any distinction, exclusion, restriction or preference based on **race, colour, descent, or national or ethnic origin** which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life»*



10

Definition of racism (ctd.)

The EU explicitly banned racism in art 21 of the **Charter of Fundamental Rights** of the European Union, which states that:

*«any discrimination based on any ground such as **sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited»***



11

Anti-Discrimination and Hate Crimes International Laws

- 1948 • Universal Declaration Human Rights
- 1951 • Convention Relating to the Status of Stateless Persons
- 1954 • International Convention on the Elimination of All Forms of Racial Discrimination
- 1965 • Convention on the Prevention and Punishment of the Crime of Genocide
- 1966 • The Convention Relating to the Status of Refugees
- 1968 • TIME magazine cover: 1968
- 1976 • International Convention on the Suppression and Punishment of the Crime Apartheid
- 1978 • International Covenant on Civil and Political Rights
- 1979 • UNESCO Declaration on Race and Racial Prejudice
- 1981 • Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- 1989 • Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- 1989 • Convention on the Rights of the Child
- 2001 • The Durban Declaration and Program of Action
- 2009 • Outcome Document of the Durban Review Conference



EU anti-discrimination Directives

- Directive 2000/43/EC “Racial Equality” (Racial and ethnic origin for employment, education, social protection and social advantages, goods and services including housing)
- Directive 2000/78/EC “Employment Equality” (Age, disability, sexual orientation, religion or belief in employment)
- Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law

EU laws take precedence over domestic law; thus national courts must give priority to the EU laws. However, their application in domestic courts is slightly more complicated: as it is up to Member States to decide how “transpose” the Directives

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Defining racist hate speech

Recommendation (97)20 of the CoE Committee of Ministers provides a definition:

«the term ‘hate speech’ shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin»



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Defining racist hate speech (ctd.)

In general, legal definitions of hate speech in countries in the EU make reference to:

- the **content** of speech;
- the (written or oral) **tone** of speech;
- an evaluation of the **nature** of that speech;
- the (individual and collective) **targets** of that speech;
- and the **potential consequences or implications** of the speech act.

(Source: CoE, 2012)



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Defining racist hate speech (ctd.)

Legal definitions in European penal codes:

- **Denmark** “publicly making statements that threaten, ridicule, or hold in contempt a group due to race, skin color, national or ethnic origin, faith, or sexual orientation”
- **Netherlands** “He who publicly, orally, in writing or graphically, intentionally expresses himself insultingly regarding a group of people because of their race, their religion or their life philosophy, their heterosexual or homosexual orientation or their physical, psychological or mental disability, shall be punished...”



16

Defining racist hate speech (ctd.)

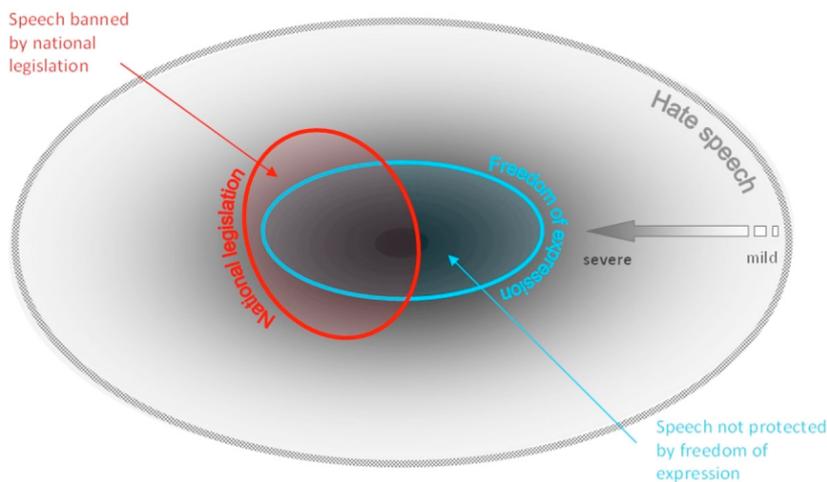
- In **Iceland** “Anyone who in a ridiculing, slanderous, insulting, threatening or any other manner publicly assaults a person or a group of people on the basis of their nationality, skin colour, race, religion or sexual orientation, shall be fined or jailed ...”
- **Norway** “publicly making statements that threaten or ridicule someone or that incite hatred, persecution or contempt for someone due to their skin colour, ethnic origin, homosexual life style or orientation or, religion or philosophy of life”
- **Sweden** “publicly making statements that threaten or express disrespect for an ethnic group or similar group regarding their race, skin colour, national or ethnic origin, faith or sexual orientation”



17

Hate speech vs Freedom of speech

2.1.2. The boundaries of hate speech



Source: CoE (2012)

18

Position of the ECHR

“... tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle **it may be considered necessary** in certain democratic societies **to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance...**”

(source: ECHR, judgment *Erbakan v. Turkey* (no. 59405/00), 06.07.2006, § 56)



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Hate Speech vs Freedom of Speech (ctd.)

According to the CoE, factors considered by the ECHR when assessing when freedom of expression can be restricted are:

- The **objective** of the person whose freedom of speech was restricted;
- The **content** of the expression;
- The **context**, e.g. whether the person who made the statement is a journalist or politician;
- The profile of the people who are **target** of opinions and expressions;
- The **publicity and potential impact** of the expression, e.g. whether the statement was made in a widely distributed newspaper or in a poem;
- The **nature and gravity of the restriction**.



20



Special Rapporteurs on Freedom of Opinion and Expression Joint Statement

In 2001, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression released a [Joint Statement on Racism and the Media](#):

- ❖ **No one** should be **penalised** for statements which are **true**;
- ❖ No one should be penalised for the dissemination of hate speech unless it has been shown that they did so with the **intention of inciting** discrimination, hostility or violence;
- ❖ The **right** of journalists **to decide how best to communicate** information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;
- ❖ **No one** should be subject to **prior censorship**;
- ❖ Any imposition of sanctions by courts should be in strict conformity with the **principle of proportionality**.



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Special Rapporteurs Joint Declaration on Freedom of Expression and the Internet (2011)

« a. **Freedom of expression applies to the Internet**, as it does to all means of communication. Restrictions on freedom of expression on the Internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognized under international law [...]

b. When assessing the proportionality of a restriction on freedom of expression on the Internet, the **impact of that restriction** on the ability of the Internet to deliver positive freedom of expression outcomes must be **weighed against its benefits** in terms of protecting other interests»



22

Racist hate speech on the Internet

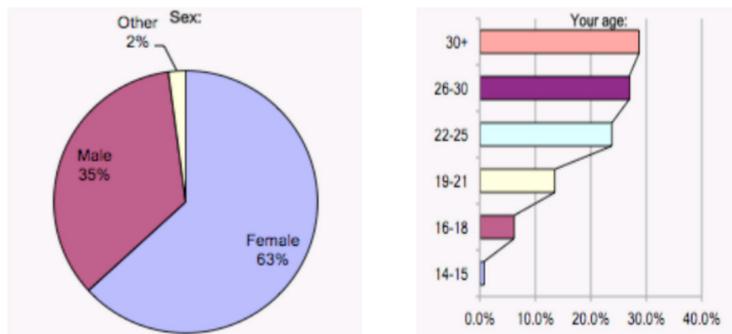
How is racist hate speech spread on the Internet?

- ❖ websites;
- ❖ blogs and online *fora*;
- ❖ e-mails and personal messages;
- ❖ social networking sites;
- ❖ gaming;
- ❖ videos and music
- ❖ automated content, astrosurfing and fictitious identities.



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Profile of young people participating in the survey on the experience of online hate speech



Source: CoE (2012), Survey on young people's attitudes and experience of online hate speech

24

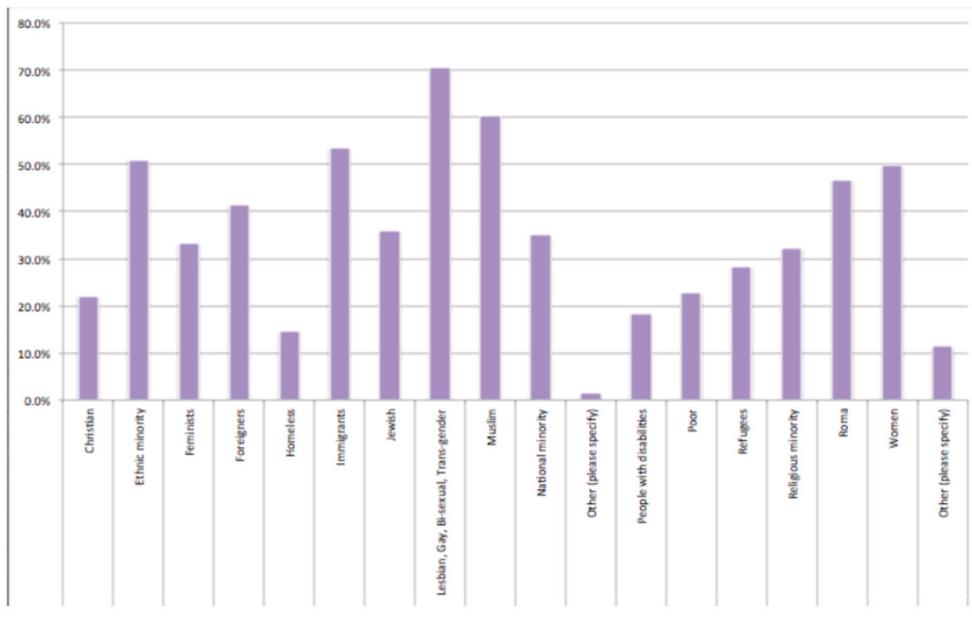
How frequent is hate speech online according to young people's experience?

78% of the participants in the survey have encountered hate speech online (CoE, 2012)

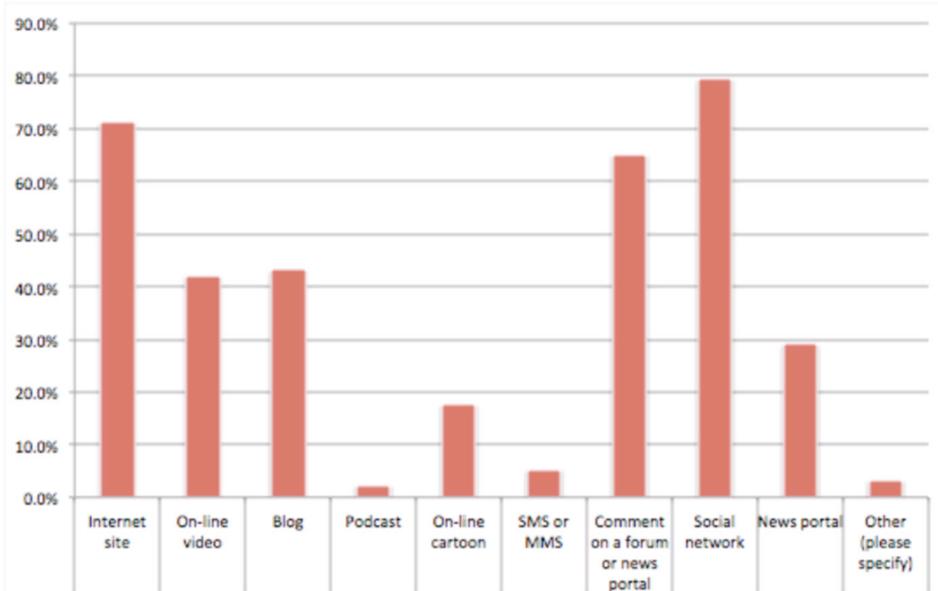


25

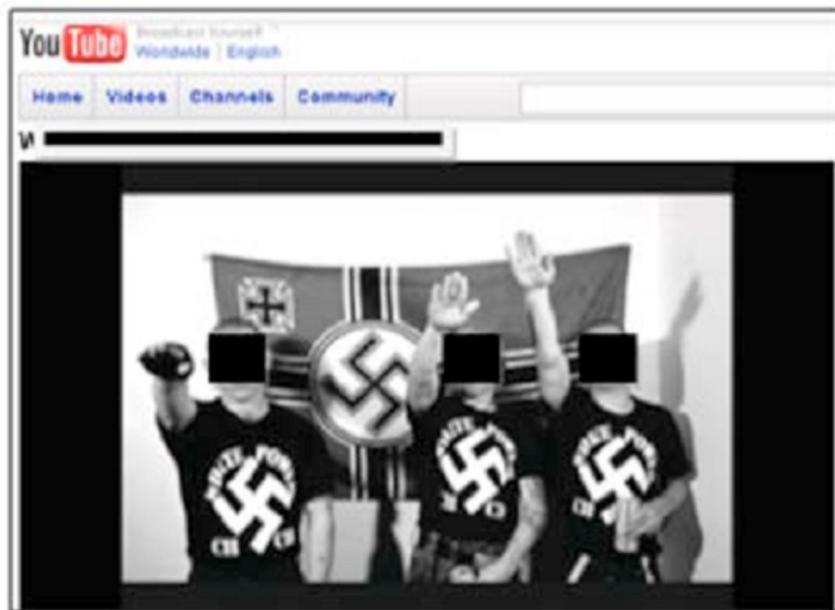
Discriminatory categories of hate speech online (CoE, 2012)



Where is online hate speech most common?



Example of racist video



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Example of “hate site”



The logo featuring the Celtic cross common to Neo-Nazi iconography surrounded by the motto 'White Pride World Wide'

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Examples of hate speech on social media



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Examples of hate speech on social media



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How violent can online hate speech be?



A man and a woman have been jailed for abusing the feminist campaigner Caroline Criado Perez over Twitter.

Abusive messages came from 86 separate Twitter accounts.

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Section 2

Identifying and reporting hate speech online



Who does (not) report ?

«Respondents who define themselves as belonging to a **minority** would be **less likely** than average to report their case to the police if they were victims of discrimination.

Equally, Europeans who have **experienced discrimination** on multiple grounds (25%) or on a single ground (27%) are **less likely** to turn to the police than those have not experienced discrimination (35%)»



34

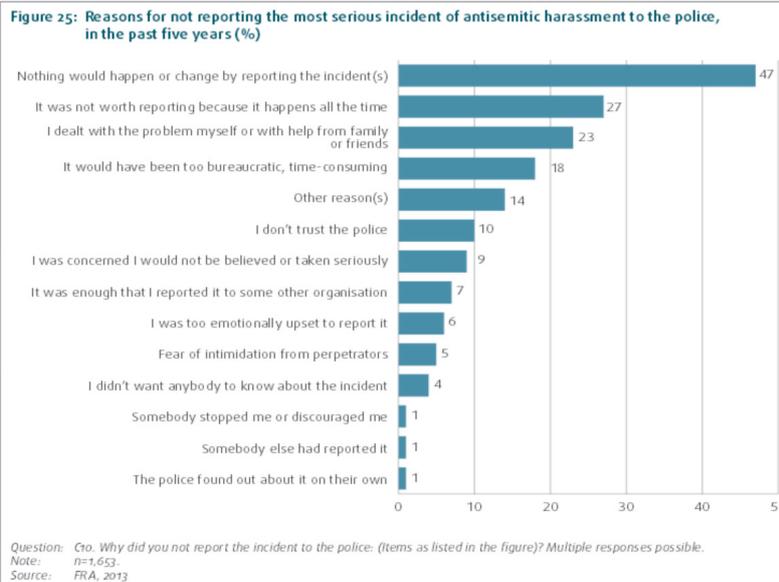
Main reasons for not reporting

- ✓ Lack of confidence in the police;
- ✓ Concern about revenge attacks or fear of retaliation;
- ✓ Acceptance of violence and abuse: *nothing will change anyway!*
- ✓ fear of re-victimization or retaliation;
- ✓ fear of having privacy compromised;
- ✓ fear of jeopardizing immigration status, being reported or deportation (if applicable);
- ✓ humiliation or shame about being victimized;
- ✓ lack of a support system;
- ✓ cultural and language barriers.



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Why victims did not report?



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Law enforcement response to hate crime: the victim-centred approach

Two are the areas of concern to be recognized by an officer responding to an alleged hate crime:

- 1) **Sensitivity to the needs of the victim**, and
- 2) the identification of **elements of a bias crime**.



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Law enforcement response to hate crime: the victim-centred approach (ctd)

A '**victim-centred approach**' means:

- ascribing a **positive value** to a person's complaint of harassment;
- **respecting** his or her **wishes** as to how matters should proceed;
- **agreeing a course of action** with the victim and delivering results;
- **keeping the victim informed** of progress on the action being taken.



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The role of Equality Bodies

✓ Article 13 of the EU Racial Equality Directive



established as minimum requirement that Member States should have one or more **specialized bodies** that provide independent assistance to victims of discrimination in pursuing their complaints

Main activities:

- Providing information about the existence of anti-discrimination laws and the possibility to take legal action to seek remedy or compensation for an act of discrimination;
- Directing people who experience discrimination to an organization/institution that could help them;
- Helping people who experience discrimination to come to an amicable settlement/mutual agreement (mediation) with the discriminators; and
- Giving legal advice and representation to people who have been discriminated

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The role of NGOs

- ❖ The EU Non-discrimination Directives made it incumbent on Member States to ensure that NGOs or other organizations/foundations/charities with a legitimate interest in guarantying the effectiveness of the directives may engage, either **on behalf** or **in support** of the victim, and granted his/her previous approval, in any judicial and/or administrative procedure in which equal treatment can be enforced.
- ❖ Moreover, in most European countries, interested third parties, including equality bodies and local NGOs, have **the right to intervene** in court proceedings to support the cause of one party.

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Legal Challenges: proving a case of online hate speech

Establishing the facts lies at the heart of any legal proceedings.

- I. **what facts** can support the claim;
- II. **how to access** these facts;
- III. **how to collect evidence** to substantiate these facts.



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Legal Challenges: proving a case of online hate speech (ctd)

The European Commission established a series of useful tips to overcome procedural barriers when presenting discrimination claims, which may be equally applicable to claims of hate speech online:

- ✓ Use civil or administrative procedures or complain to the equality body instead of initiating criminal proceedings.
- ✓ Tackle the complexity of domestic anti-discrimination law by using information available from equality bodies and specialist non-governmental organizations.
- ✓ Take advantage of the skills and experience of the equality bodies.
- ✓ Seek financial assistance to pursue a case and secure adequate representation. In many countries legal aid is available from equality bodies.



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Legal Challenges: proving a case of online hate speech (ctd)

- ❖ Seek a waiver from legal fees that may be payable in discrimination cases.
- ❖ Find the least expensive procedure: in general, proceedings before equality bodies and administrative authorities as well as criminal proceedings and mediation/conciliation are free of charge.
- ❖ If court proceedings are lengthy, then seek redress from equality bodies or inspectorates or through mediation.
- ❖ Request basic adjustments to court buildings to accommodate the needs of disabled victims in good time.



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Legal Challenges: determining legal liability

Several different actors may be involved in the creation and distribution of hateful content online by:

- creating or sourcing it;
- publishing it; developing it;
- hosting it;
- facilitating its dissemination, accessibility or retrievability



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Legal Challenges: determining legal liability

When assessing different levels of liability/responsibility it is useful to account for the different levels of editorial involvement/control. Therefore, it is useful to evaluate if the hateful UGC is:

- ❖ prepared by users and then incorporated into otherwise professionally-produced and editorially-controlled content;
- ❖ a **stand-alone episode**, i.e. UGC that exists alongside professionally-produced and editorially-controlled content;
- ❖ the product of **co-creation** by media professionals and users;
- ❖ created via and maintained on purpose-built fora and networks and is **not incorporated into professional media content**



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Legal Challenges: quantifying the harm

- ❑ **Forum-shopping** = the practice of strategically choosing favorable jurisdictions in which to host a site
- ❑ Policies and practices on hate speech of many ISP and Social Networking sites are evolving to meet national legal standards.

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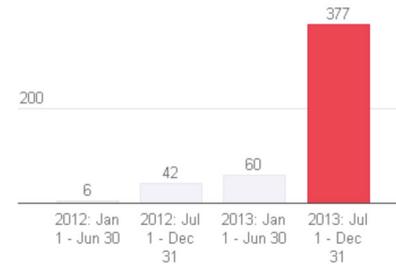
Legal Challenges: quantifying the harm

Removal requests include government requests (and other complaints of illegal content from authorized reporters) we've received to remove or withhold content on Twitter.

Governments generally make removal requests for content that may be illegal in their respective jurisdictions. For example, we may receive a court order requiring the removal of defamatory statements, or law enforcement may ask us to remove prohibited content.

Removal requests

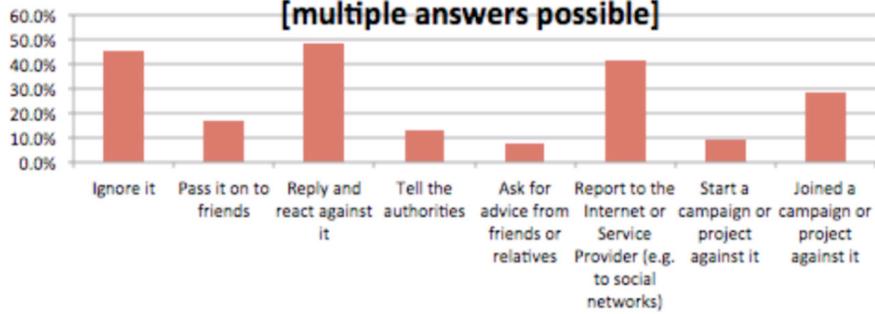
January 2012 to present



Source: [Twitter](#), [Get the data](#), [Embed this chart](#)

47

What do you do in response to hate speech on-line? [multiple answers possible]



Source: Council of Europe, (2012)

48

Always have a backup of the content of the hate speech!



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Strategies for reporting online hate speech

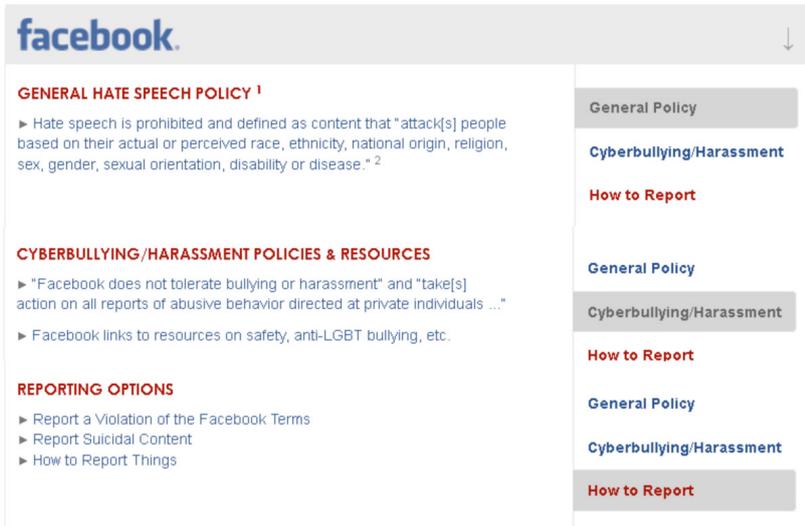
After evaluating the content of the speech, select one of the main strategies accordingly:

- ❖ **Criminal complaint;**
- ❖ **Request for removal of content** to the author;
- ❖ **Notification** of illegal/hateful **content to Administrator** of site;
- ❖ **Notification** of illegal/hateful content to **Internet service provider;**
- ❖ **Notification of complaints bureau** (e.g. INACH – INHOPE)



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FACEBOOK policy



facebook.

GENERAL HATE SPEECH POLICY ¹

- ▶ Hate speech is prohibited and defined as content that "attack[s] people based on their actual or perceived race, ethnicity, national origin, religion, sex, gender, sexual orientation, disability or disease."²

CYBERBULLYING/HARASSMENT POLICIES & RESOURCES

- ▶ "Facebook does not tolerate bullying or harassment" and "take[s] action on all reports of abusive behavior directed at private individuals ..."
- ▶ Facebook links to resources on safety, anti-LGBT bullying, etc.

REPORTING OPTIONS

- ▶ Report a Violation of the Facebook Terms
- ▶ Report Suicidal Content
- ▶ How to Report Things

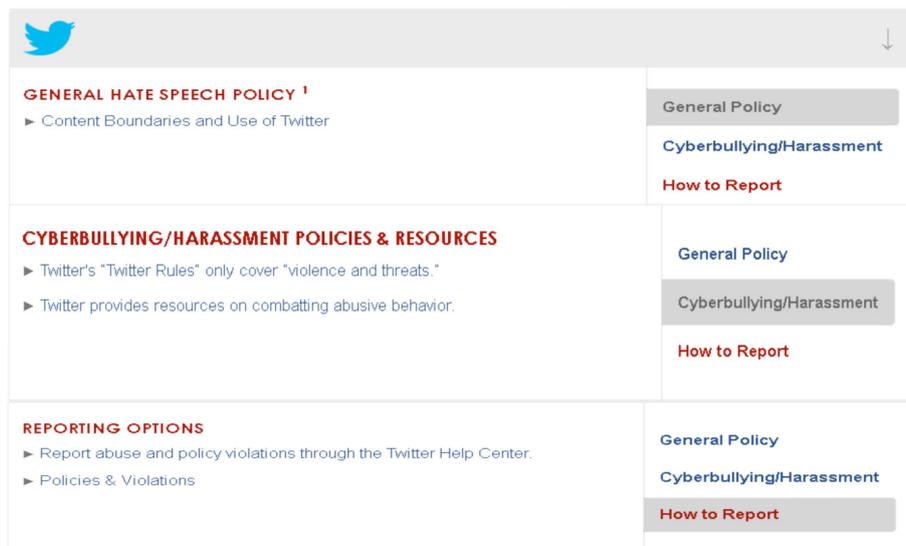
General Policy
Cyberbullying/Harassment
How to Report

General Policy
Cyberbullying/Harassment
How to Report

General Policy
Cyberbullying/Harassment
How to Report

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Twitter policy





GENERAL HATE SPEECH POLICY ¹

- ▶ Content Boundaries and Use of Twitter

CYBERBULLYING/HARASSMENT POLICIES & RESOURCES

- ▶ Twitter's "Twitter Rules" only cover "violence and threats."
- ▶ Twitter provides resources on combating abusive behavior.

REPORTING OPTIONS

- ▶ Report abuse and policy violations through the Twitter Help Center.
- ▶ Policies & Violations

General Policy
Cyberbullying/Harassment
How to Report

General Policy
Cyberbullying/Harassment
How to Report

General Policy
Cyberbullying/Harassment
How to Report

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YouTube policy

You 
↓

<p>GENERAL HATE SPEECH POLICY ¹</p> <p>▶ Hate speech is prohibited and defined as "content that promotes hatred against members of a protected group."⁵</p>	<p>General Policy</p> <p>Cyberbullying/Harassment</p> <p>How to Report</p>
<p>CYBERBULLYING/HARASSMENT POLICIES & RESOURCES</p> <p>▶ YouTube advises users to block people who are being rude or remove their comments, if possible. However, YouTube will investigate if "it has crossed the line from rude comments to truly harassing comments".</p> <p>▶ Tips for confronting hate speech on YouTube from the Anti-Defamation League.</p>	<p>General Policy</p> <p>Cyberbullying/Harassment</p> <p>How to Report</p>
<p>REPORTING OPTIONS</p> <p>▶ Flagging Mechanism</p> <p>▶ Safety Center Reporting</p> <p>▶ Safety and Abuse Reporting</p> <p>▶ Report Moderator Abuse</p>	<p>General Policy</p> <p>Cyberbullying/Harassment</p> <p>How to Report</p>

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TRAINING CURRICUM

REFERENCE TEXT

Wikipedia

Identifying incivility [\[edit\]](#)

It is sometimes difficult to make a hard-and-fast judgement of what is uncivil and what is not. Such a judgement may need to take into account such matters as (i) the intensity and context of the language/behaviour, (ii) whether the behaviour has occurred on a single occasion, or is occasional or regular, (iii) whether a request has already been made to stop the behaviour, and whether that request is recent; (iv) whether the behaviour has been provoked; and (v) the extent to which the behaviour of others need to be treated at the same time.

Shortcuts:
WP:IDENTIFYUNCIVIL
WP:IUC

The following behaviours can all contribute to an uncivil environment:

- Direct rudeness**
 - (a) rudeness, insults, name-calling, gross profanity or indecent suggestions
 - (b) **personal attacks, including racial, ethnic, sexual, gender-related and religious slurs, and derogatory references to groups such as social classes or nationalities**
 - (c) ill-considered accusations of impropriety
 - (d) belittling a fellow editor, including the use of judgmental edit summaries or talk-page posts (e.g. "that is the stupidest thing I have ever seen", "snipped crap")
- Other uncivil behaviours**
 - (a) **taunting or baiting**: deliberately pushing others to the point of breaching civility even if not seeming to commit such a breach themselves. All editors are responsible for their own actions in cases of baiting; a user who is baited is not excused by that if they attack in response, and a user who baits is not excused from their actions by the fact that the bait may be taken.
 - (b) **harassment, including Wikihounding**, bullying, personal or legal threats, posting of personal information, repeated email or user space postings
 - (c) **sexual harassment**
 - (d) lying
 - (e) quoting another editor **out of context** to give the impression they hold views they do not hold, or to malign them

In addition, lack of care when applying other policies can lead to conflict and stress. For instance, referring to a user's good-faith edits as **vandalism** may lead to their feeling unfairly attacked. Use your best judgement, and be ready to apologize if you turn out to be wrong.

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HANDOUTS

SLIDES

Thank you for your attention !

More information on
<http://www.lighton-project.eu/>



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Interregional Crime and Justice
Research Institute



LIGHT ON is a project co-financed by the Fundamental Rights and
Citizenship Programme of the European Union