



**POSITIVE MESSENGERS**

**Report**

# Mapping Out the National Context of Online Hate Speech

**in  
Croatia**

Compiled under the Coalition of Positive Messengers to Counter Online  
Hate Speech project

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## Acronyms

|        |  |
|--------|--|
| CPS    | Centre for Peace Studies   |
| CSO    | Civil Society Organization   |
| CWWPP  | Coalition for Work with Psychotrauma and Peace   |
| DORH   | State Attorney's Office of the Republic of Croatia   |
| ECRI   | European Commission against Racism and Intolerance   |
| ECtHR  | the European Court of Human Rights   |
| EU     | European Union   |
| HDZ    | Croatian Democratic Union  |
| HND    | Croatian Journalists' Association  |
| LGBTI  | Lesbian, gay, bisexual, transgender, and intersex persons  |
| MI     | Ministry of Interior   |
| MJ     | Ministry of Justice  |
| NGO    | Non-governmental organization  |
| OHRRNM | Office for Human Rights and the Rights of National Minorities of the Government of the Republic of Croatia |
| OSCE   | Organization for Security and Co-operation in Europe   |
| SNC    | Serbian National Council   |
| UN     | United Nations   |
| UNHCR  | United Nations High Commissioner for Refugees  |

## **EXECUTIVE SUMMARY**

The subject of this report is situation on hate speech in Croatia. In order to provide thorough insight into the topic, firstly, the social, economic and political overview of the country throughout years 2014, 2015 and 2016 are presented. After that, main provisions of the national legislation regarding hate speech are described. Since there is no national statistics available with regard to hate speech, reports and articles from various international and national organisations were conducted to present context of hate speech in Croatian society and these are organised through a period of three years as well. In the chapter “Social responses”, recent and ongoing projects, campaigns and initiatives which tackle issue of hate speech in Croatia are presented in short. After that, three successful examples of good practices are given in more detail. In the last chapter, the conclusions of the research and recommendations are being made.

Methods used in the research for this report were qualitative. Legal literature, academic and non-academic articles, available statistics, reports, web pages of certain campaigns, international and national organisations, content produced by NGOs and relevant public bodies (such as Ministries and Ombudsman) were employed.

We found that the issue of hate speech remains constantly present in the Croatian society. The most important human rights problems with regard to hate speech are social discrimination and instances of violence directed against members of ethnic minorities, particularly ethnic Serbs, Roma, LGBTI persons and women. This rhetoric is especially visible on the social media platforms. Main problem remains the difficulty of prosecution, indifference of public officials towards hate speech in public discourse and the period of political instability which still occupies the majority of the space in the media.

## **1. INTRODUCTION**

### **1.1. Project background**

The project is implemented by a consortium of 8 organizations from 7 countries: Sofia Development Association (Bulgaria) – lead partner, Libera Università di Lingue e Comunicazione IULM - IUL (Italy), the Languages Company (United Kingdom), Center for Peace (Croatia), People in Need (Czech Republic), Asociația Divers (Romania), Associazione FORMA.Azione (Italy), and Municipality of Agii Anargiri-Kamatero (Greece).

This project tackles the issue of hate speech - online hate speech in particular, targeted against migrants, refugees and asylum seekers in the 7 EU countries. It addresses the need for more effective civil society response to online hate speech through sharing and disseminating best

practices. The main project objective is to strengthen the response of civil society at the national and EU level to online hate speech through active engagement of local communities in creating and sharing powerful counter-narratives against xenophobic discourse. The project focuses on 1) building multi-stakeholder coalitions for developing counter-narratives to denounce hate speech and negative representations of migrants and refugees, and 2) disseminating the positive messages through media literacy and a public awareness campaign.

The project also aims:

- to compile and share best practices for countering the spread of online hate speech against migrants, refugees and minorities through awareness-raising campaigns;
- to provide new data on the nature, scope and impact of online hate speech targeting migrants and refugees, in order to aid national and EU authorities to develop more effective integration and anti-discrimination policies;
- to foster shared understanding and communication between the communities most vulnerable to hate speech and mainstream society in Europe;
- to educate and train the target groups about hate speech, media literacy, creation and dissemination of web content.

## **1.2. Objectives**

The first part of the research focuses on the national normative frameworks developed to identify, limit and counter hate speech online, the mechanisms for monitoring and reporting hate speech instances, and legal and non-legal measures to counter hate speech.

Specific research objectives:

- To provide up-to-date picture of the national context as well as comparative assessments on countering hate speech
- To identify key stakeholders, supporters, multipliers, to be involved in subsequent project activities
- To assess key civil society initiatives for countering hate speech and other forms of discrimination
- To identify best strategies for civic actors to counter hate-based violence on the Internet
- To develop methodological and technical tools for media content analysis on hate speech

## **2. METHODOLOGY**

### **2.1. Research problem and aim of the research**

The research problem is defined by the main project objectives, namely, to strengthen the civil society response against the spread of online hate speech against migrants and refugees. Accordingly, the research has two main aims: 1) to describe and assess the effectiveness of the existing regulations against online hate speech in each partner country, and 2) to assess the societal responses against hate speech in each partner country in order to develop more effective strategies for civic actors to counter online hate speech against migrants and refugees.

### **2.2. Justification of the research**

While a number of studies on the regulatory framework on hate speech have been done in individual countries and across the EU, not enough has been done to establish the effectiveness of these regulations (or the need for new ones) in the case of online hate speech against migrants and refugees. The increasing migration flows to Europe in the past two years, coupled with the rising negative attitude to migrants and refugees create a new sense of urgency to look deeper into the issue and to generate the changes needed. In this regard, the research will provide the basis for developing powerful counter-narratives against xenophobia in an environment where migrants and refugees are becoming increasingly vulnerable not only to verbal assault but to physical violence as well. In addition, the study will allow for a critical assessment of social media's role in creating and spreading discriminative and xenophobic attitudes, and for a critical assessment of the most recent regulatory changes and cooperation agreements between national and EU public authorities and Internet intermediaries – organizations that mediate online communication such as Google, Facebook, to curb the spread and incidence of hate speech on the internet. Research findings will be followed with recommendations in the country reports and the integrated comparative report targeted at the relevant stakeholders.

In defining the scope of the research, the project team members have considered previous studies on hate speech done at national and EU level, as well as publications on discrimination, xenophobia, and racism. Given the tensions between hate speech and freedom of expression, as well as its intersection in issues of human rights, equality and dignity, and laws governing the media, the research will focus on various pieces of legislation that might be applicable to hate speech and online hate speech in particular.

### 2.3. Definitions used

The research does not aim to engage in theoretical debates on the definition of the term “hate speech” or debates on the tension between freedom of expression and hate speech. For the purposes of this study, and given the lack of a common international definition of hate speech, the project partners have agreed to use the definition proposed by the Council of Europe: „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.”<sup>1</sup> The research will also take into account article 2.1 of the Additional Protocol to the Convention on Cybercrime<sup>2</sup>, which states that "racist and xenophobic material" means any written material, any image or any other representation of ideas or theories, which advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, color, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors. Partners will also use as guidelines the definition of cyberhate and the forms and mechanisms used by those who spread or promote hate online proposed by the Anti-Defamation League (ADL) “ADL defines Cyber hate as any use of electronic communications technology to spread anti-Semitic, racist, bigoted, extremist or terrorist messages or information. These electronic communications technologies include the Internet (i.e., Web-sites, social networking sites, “Web 2.0” user-generated content, dating sites, blogs, on-line games, instant messages, and E-mail) as well as other computer- and cell phone-based information technologies (such as text messages and mobile phones).”<sup>3</sup>

### 2.4. Research methods

Given the main goal of the research, that is, mapping the national context (regulatory framework and societal responses to online hate speech), the methods selected for data gathering and analysis are qualitative. The qualitative focus of the research is justified in light of its primary aim, namely to get a deeper understanding and to support assessment of the social and non-regulatory mechanisms that can help to counter the production, dissemination and impact of hateful messages online. The methods to be employed for the research include literature review (including review of legal literature, academic and non-academic articles), and secondary data review (for example, content produced by NGOs, relevant public bodies, scholars, representative surveys, legal databases, national statistics reports).

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<sup>1</sup> Appendix to RECOMMENDATION No. R (97) 20 of the Committee of Ministers on “Hate Speech.” Adopted by the Committee of Ministers of the Council of Europe on 30 October 1997 at the 607th meeting of the Ministers' Deputies

<sup>2</sup> Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (Strasbourg, 28.I.2003).

<sup>3</sup> From Responding to Cyberhate, Toolkit for Action (ADL), [http://www.adl.org/internet/Binder\\_final.pdf](http://www.adl.org/internet/Binder_final.pdf)



### **3. NATIONAL CONTEXT FRAMEWORK**

#### **3.1. National context overview and data on current social, economic and political situation in the country**

The Republic of Croatia is a constitutional parliamentary democracy. Legislative authority is vested in the unicameral parliament (*Sabor*). The president serves as head of state and nominates the prime minister, who leads the government. President is directly elected to a five-year term and is limited by the Constitution to a maximum of two terms. The most recent presidential elections were held on 11 January 2015, when Kolinda Grabar-Kitarovic won. Since 19 October 2016, Croatian Prime Minister is Andrej Plenkovic. Croatia joined the EU on 1 July 2013.

The Office for Human Rights and the Rights of National Minorities of the Government of the Republic of Croatia (OHRRNM) is the “central body” responsible for collecting data on hate crimes and also coordinates the working group for monitoring the implementation of anti-discrimination legislation; the group was created in 2010 to “strengthen the activities for investigating and prosecuting these crimes”. On 24 September 2013 statement made to the Organization for Security and Co-operation in Europe (OSCE), the Director of the Government office for Human Rights and Rights of National Minorities indicated that the government collects data on hate crimes, and has a protocol to track cases with hate crime characteristics “from the act committed until the final verdict in the Court”. According to the OSCE website for monitoring hate crime, hate crime data is collected by several government agencies and ministries; however, the OSCE observed that the data is not published, and the Croatian government “has not made public reliable data and statistics on hate crimes.” The European Commission against Racism and Intolerance’s (ECRI) 2012 report also states that “ECRI considered that officially reported figures concerning racially motivated violence seldom reflect the true picture and should be treated with caution,” explaining that often attacks against ethnic Serbs and Roma are not reported “due to basic lack of trust in police and the judicial system”.<sup>4</sup>

##### **3.1.1. Social, economic and political situation in 2014**

In 2014, the most important human rights problems in the country were social discrimination and instances of violence directed against members of ethnic minorities, particularly ethnic Serbs, Roma, and women. Sporadic violence directed at lesbian, gay, bisexual, and transgender (LGBTI) persons continued. Corruption, the constant issue, remained a problem. Other human rights problems included prison overcrowding; judicial delays; unresolved property restitution claims stemming from World War II, the communist era, and the 1991-1995 conflict; isolated public displays of pro-fascist sentiments and vandalism of Holocaust memorials; and human trafficking.

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<sup>4</sup> Canada: Immigration and Refugee Board of Canada, *Croatia: Treatment of minority groups, including Roma, Serbs, Bosnians, and Romanians; state protection available in cases of violence and discrimination, including legislation (2012-June 2015)*, 15 July 2015, HRV105202.E, available at: <http://www.refworld.org/docid/55bf4ac04.html>

The government took significant steps to prosecute and punish individuals who committed abuses of human rights.<sup>5</sup>

Croatia's constitution was amended in December 2013 to ban same-sex marriage following a referendum. In July, Croatia's parliament passed a law allowing civil partnership for same-sex couples.

In June, the European Court for Human Rights (ECtHR) ruled that Croatia failed to investigate adequately the death of a Serb civilian killed by the Croatian police during the 1991-1995 war. National courts have yet to address more than 200 war crimes cases.

Serbs continued to face discrimination, with those stripped of tenancy rights during the war facing ongoing difficulties benefitting from the 2010 government program that permits the purchase of property at below market rates.

Harassment and discrimination against Roma continue, with stateless Roma facing particular difficulties accessing basic state services such as health care, social assistance, or education.

The asylum and migration system remains inadequate. In the first half of 2014, there were 271 new applications, and 19 people granted protection. Asylum seekers continue to be detained. Unaccompanied children are placed in a residential home for children with behavioural problems in Zagreb without adequate guardianship.<sup>6</sup> In 2014 there were recorded 453 asylum seekers in total, of whom majority were from Algeria (77), Syria (53) and Pakistan (24). 26 people in total were granted asylum.<sup>7</sup>

### **3.1.2. Social, economic and political situation in 2015**

Croatia held a presidential runoff and parliamentary elections in January and November 2015, respectively. Kolinda Grabar-Kitarović won the runoff by an extremely slim margin to become the first female president of post-independence Croatia. Following the parliamentary vote, the conservative Croatian Democratic Union (HDZ), which won the most seats, agreed to form a ruling coalition with the centrist Bridge of Independent Lists (Most). After 76 days of negotiations, independent candidate Tihomir Orešković was named Prime Minister as a compromise.

This year was marked by migrant crisis, which occurred as a consequence of problems in the control of the Schengen border as well as EU's external borders, in particular Greece-Turkey border. In early 2015, Europe faced a mass influx of migrants travelling through the Western Balkan route. Migration wave reached its culmination at Hungary-Serbia border. In order to hold

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<sup>5</sup> United States Department of State, *2014 Country Reports on Human Rights Practices - Croatia*, 25 June 2015, available at: <http://www.refworld.org/docid/559bd57328.html>

<sup>6</sup> Human Rights Watch, *World Report 2015 - European Union*, 29 January 2015, available at: <http://www.refworld.org/docid/54cf83a81d.html>

<sup>7</sup> Ministry of Interior, <https://mup.hr/ministarstvo/dokumenti/statistika>

back unregulated surge of migrants at its border with the Republic of Serbia, Hungary built a fence at that part of its border, which caused the migration wave to be redirected towards Croatian-Serbian border. In 2015, Republic of Croatia faced a mass influx of migrants entering the country through its border with the Republic of Serbia, which started on 16 September 2015. Since that date until 31 December 2015, 559,761 migrants entered the Republic of Croatia. Majority of migrants entering Croatia arrived through the territory of Vukovar-Srijem Police Administration, whereas the rest entered through the territory of Osijek-Baranja Police Administration. Migrants are predominantly citizens of Middle Eastern countries: Syria (246,013), Afghanistan (151,748), Iraq (78,935) and Iran (13,804). Massive displacements of population originally resettled in Turkey and Lebanon, was caused by conflicts in Syria.<sup>8</sup> Along with its neighbours in the Balkans and other European countries, Croatia faced an unprecedented wave of migration, particularly of asylum seekers from the Middle East. Aside from temporarily closing its border with Serbia in September, Croatia generally complied with international standards and regulations for the treatment of refugees.<sup>9</sup> Fewer than 5,000 people have claimed asylum in Croatia since 2006, and as of July 2015, only 165 had been granted some form of protection, 32 of them in 2015. Long-term asylum seekers and refugees face difficulties in accessing housing, health services, and education. Unaccompanied migrant and asylum-seeking children continue to be placed in a residential home for children with behavioural problems and in reception centres for adults, without adequate guardianship or specific protection.

In 2015 the Decision on Relocation and Resettlement of third country nationals or stateless persons who meet the conditions for approval of international protection, as well as the Decision on the establishment of the Interdepartmental Working Group for its implementation, were adopted. With the decision on relocation and resettlement Croatia has pledged to accept in total 550 persons, 150 of whom would be accepted through resettlement and 400 persons would be accept through relocation. However, Croatia is required to relocate 1,617 asylum seekers from Greece and Italy until September 2017 to honour its commitments under the Relocation Decisions.<sup>10</sup>

In general, the most important human rights problems recorded in the country were social discrimination and instances of violence directed against members of ethnic minorities, including ethnic Serbs and Roma, and women. Sporadic violence directed at lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons continued. Government corruption remained a problem.

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<sup>8</sup> Ministry of the Interior, Activity Report for 2015

<https://mup.hr/public/documents/Planovi%20i%20izvje%C5%A1%C4%87a%20rada/Godi%C5%A1nje%20izvje%C5%A1%C4%87e%20o%20radu%20za%202015.%20godinu.pdf>

<sup>9</sup> Freedom House, *Freedom in the World 2016 - Croatia*, 29 June 2016, available at:

<http://www.refworld.org/docid/577a615115.html>

<sup>10</sup> Asylum in Europe, Relocation statistics: 2016 <http://www.asylumineurope.org/reports/country/croatia/relocation>

Other human rights problems included overcrowding in some prisons; judicial delays; unresolved property restitution claims; anti-Semitism and isolated public displays of profascist sentiments; and human trafficking.

The government took significant steps to prosecute and punish individuals who committed abuses of human rights.<sup>11</sup> However, the guardianship system continues to deny roughly 18,000 people with disabilities the right to make decisions about their lives. Implementation of a 2011 deinstitutionalization plan progressed slowly and excludes people with disabilities in psychiatric hospitals and foster homes for adults. More than 7,500 people remained institutionalized as of September. In April, the UN Committee on the Rights of Persons with Disabilities urged the Croatian government to ensure that its domestic laws protect the rights of people with disabilities.

More than 220 war crimes cases have yet to be addressed by national courts. In February, the European Court of Human Rights (ECtHR) ruled that Croatia violated the fair trial rights of a dual Croatian-Serbian national convicted in his absence of war crimes and unable to obtain a retrial.

In April, the UN Human Rights Committee adopted concluding observations on Croatia, including concerns about discrimination and violence against members of ethnic minority groups, particularly Roma and Serbs.

Serbs stripped of tenancy rights during the war faced ongoing difficulties in benefitting from the 2010 government program that permits the purchase of property at below-market rates.

Stateless Roma faced particular difficulties accessing basic state services, such as health care, social assistance, and adequate housing. Roma children are de facto segregated in the education sector.<sup>12</sup>

### ***3.1.3. Social, economic and political situation in 2016***

A new government was formed in January, two months after general elections which failed to produce an outright winner. The volatile coalition collapsed in June, triggering a vote of no confidence in the government led by Tihomir Orešković, and the dissolution of the Parliament in July. Following elections in September, the centre-right HDZ party, that won 61 out of 151 seats, entered into a coalition with small centre-right parties and formed a new cabinet led by Andrej Plenković.<sup>13</sup>

Domestic and international observers stated presidential and parliamentary elections held on September 11 were free and fair.

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<sup>11</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Croatia*, 13 April 2016, available at: <http://www.refworld.org/docid/5716127f15.html>

<sup>12</sup> Human Rights Watch, *World Report 2016 - European Union*, 27 January 2016, available at: <http://www.refworld.org/docid/56bd9941c.html>

<sup>13</sup> Amnesty International, *Amnesty International Report 2016/17 - Croatia*, 22 February 2017, available at: <http://www.refworld.org/docid/58b0340a2d.html>

Civilian authorities maintained effective control over the security forces.

Fewer than 500 people claimed asylum in Croatia in the first nine months of 2016. 34 were granted some form of protection during the same period. Restrictions on the Western Balkan migration route reduced the number of arrivals. Croatia continues to push back asylum seekers and migrants who attempt to enter via Serbia. Reception conditions for asylum-seekers were generally adequate; but there was no coherent long-term social integration policy.

The Republic of Croatia has accepted on Tuesday, 23 August 2016, under the EU Resettlement Scheme, 10 refugees from Greece in accordance with the decisions of the Council of the EU, which are related to the relocation of migrants from Italy or Greece to other Member States of the EU. Upon their arrival to Croatia, 10 Syrian nationals have been placed in the Reception Centre for asylum seekers in Zagreb, after which the Croatian Ministry of the Interior will start the procedure for granting international protection. Herewith, Republic of Croatia continued with relocation of refugees eligible for international protection, following the acceptance of four citizens of Eritrea from Italy in July.<sup>14</sup>

While the government made some progress in providing housing to the small number of people from outside the Western Balkans who were granted protection, asylum seekers and refugees from outside the region continue to face difficulties in accessing education and employment. Unaccompanied migrant and asylum-seeking children continue to be placed in residential institutions, including homes for children with behaviour problems, without adequate guardianship or access to education.

People with disabilities continue to face exclusion and discrimination, including barriers that prevent them from participating in society on an equal basis with others. The guardianship system denies around 18,000 people with disabilities the right to make a range of decisions about their lives.

In February, the European Court of Human Rights (ECtHR) ruled that Croatia discriminated on grounds of sexual orientation against a woman from Bosnia and Herzegovina, by denying her the right to a residence permit in Croatia to join her female partner.

In April, Council of Europe Commissioner for Human Rights Muižnieks raised concerns at the reported rise in discrimination, ethnic intolerance, and hate speech targeting members of minorities, in particular Jews, Roma, and Serbs. The commissioner also warned against the inadequate state response to physical attacks, death threats, and intimidation against journalists.

Heightened nationalist rhetoric and hate speech contributed to growing ethnic intolerance and insecurity.

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<sup>14</sup> Ministry of Foreign Affairs, News on relocation <http://www.mvep.hr/en/news/relocation-of-the-first-group-of-refugees-from-greece-to-croatia,36971.html>

As of August 2016, more than 2,800 persons, most of them Roma, remain stateless or at risk of statelessness. They face particular difficulties accessing basic state services, such as health care, social assistance, and adequate housing. Roma children remain subject to de facto segregation in the education sector.<sup>15</sup>

As well as for previous years, *US Department of State Report* recognized that the most important human rights problems in the country were social discrimination and instances of violence directed against members of ethnic minorities, including ethnic Serbs and Roma, women, and children. Corruption remained a problem.<sup>16</sup>

### 3.2. Literature review

Literature conducted for this report includes reports from various international organisations, namely of Amnesty International, Human Rights Watch, UNHCR, Freedom House and the Council of Europe. Regarding national bodies, reports of United States State Department and Immigration Refugee Board of Canada are employed. From publications available in Croatia, data of Ministry of Interior (MI), Ministry of Foreign Affairs as well as of Centre for Peace Studies (CPS), an NGO in Zagreb, are analysed. Additionally, yearly reports from the Ombudswoman of the Republic of Croatia are included in the text, as well as one academic article.

In beforementioned literature it is stated that there is a constant presence of hate speech directed towards minorities in Croatia, especially towards ethnic Serbs, Roma, LGBTI persons and from the end of 2015 towards refugees and migrants as well, but this is all overshadowed by political problems in the country. Although the national legislation is keeping up with the legal framework of the EU, its implementation is being problematic; one problem being difficulty of persecution of perpetrators of hate speech and second being political indifference in public discourse towards hate speech and occupation with other matters of political concern.

### 3.3. General overview of legislation and regulations on hate speech

Council of Europe, which in 1997 issued its **Recommendation on Hate Speech (No. R 97/20)**, made a significant contribution to the drafting of national legislation on criminalization and prohibition of hate speech in certain countries, among which is the Republic of Croatia. The mentioned Recommendation specifies the criteria that all Member States should incorporate into their national legislation regulating this delicate issue. The Recommendation puts a special

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<sup>15</sup> Human Rights Watch, *World Report 2017 - European Union*, 12 January 2017, available at: <http://www.refworld.org/docid/587b584613.html>

<sup>16</sup> United States Department of State, *2016 Country Reports on Human Rights Practices - Croatia*, 3 March 2017, available at: <http://www.refworld.org/docid/58ec8a4c13.html>

emphasis on the main features of hate speech – intolerance and discrimination on different bases, which are the consequence of prejudices and stereotypes. The Council of Europe thus condemned hate speech, at the same time stressing that its harmfulness is even more pronounced when hate speech is fuelled by the media. As a signatory of this international document, Republic of Croatia is required to respect and implement all fundamental principles arising from the Recommendation. Hate speech entails 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 (Recommendation on Hate Speech No.R 97/20).

When it comes to hate speech as one of the forms of incitement to hatred and discrimination, Constitution of the Republic of Croatia has zero tolerance for such forms of expression and in Article 39 it prohibits any call for or incitement to war or use of violence, to national, racial or religious hatred, or any form of intolerance. Article 14, on the other hand, prohibits discrimination in general and provides an open list of bases for discrimination. When it comes to Croatian anti-discrimination legislation, which also pertains to the question of hate speech criminalization, Anti-Discrimination Act is yet another document of significant importance. Article 325 on criminal offence of public incitement to violence and hatred, criminalizes incitement to violence and hatred targeted against specific groups of people. The Act also prescribes different forms of punishment for leaders of groups engaged in incitement to violence and hatred as well as for people actively involved in such groups. Even though adoption of the new Criminal Code marked a big step forward in the context of sanctioning hate crime and criminalizing hate speech, a more detailed explanation of the concept of hate crime is provided in the legislation pertaining to the media, i.e. in the Media Act, Electronic Media Act and Croatian Radiotelevision Act.

If the existing legal regulations were observed and if sanctions were imposed consistently, the number of instances of hate speech and intolerance in public communication would certainly be reduced.

Most important legal sources

**Constitution of the Republic of Croatia** (Official Gazette 85/2010)

**Criminal Code** (Official Gazette 125/11, 144/12)

**Minor Offences against Public Order and Peace Act** (Official Gazette 5/90, 30/90, 47/90, 29/94)

**Anti-Discrimination Act** (Official Gazette 85/08, 112/12)

**Media Act** (Official Gazette 59/04)

**Electronic Media Act** (Official Gazette 122/03, 79/07, 32/08, 65/09, 153/09, 84/11, 94/13, 136/13)

**Croatian Radiotelevision Act** (Official Gazette 17/01, 25/03, 137/10, 76/12)

Constitution of the Republic of Croatia, Article 38 (Official Gazette 85/2010 of 9 July 2010) guarantees the freedom of thought and expression, and in particular guarantees the freedom of the press and other media, and the freedom of speech and public communication.

Article 16 of the Croatian Constitution states that freedoms and rights may only be curtailed by law in order to protect the freedoms and rights of others, the legal order, and public morals and health, and that the restriction must be proportionate to the nature of the need for the restriction in each individual case.

Article 39 of the Croatian Constitution prohibits any call for or incitement to war or use of violence, to national, racial or religious hatred, or to any form of intolerance.

Article 14 of the Croatian Constitution prohibits discrimination, specifying an open list of grounds for discrimination:

*“All persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other conviction, national or social background, property, birth, education, social status or other characteristics.”*



| Type of regulation | Document title   | Scope of application   | Coverage of hate speech  | Main provisions   | Applicable sanctions  |
|--------------------|--|--|--|---|---|
| Criminal law rules | Criminal Code (OG 125/11, 144/12, 56/15, 61/15)<br><a href="https://www.zakon.hr/z/98/Kazneni-zakon">https://www.zakon.hr/z/98/Kazneni-zakon</a> | This Act applies to everyone who commits a criminal offence in the territory of the Republic of Croatia. | Hate crime is defined as a criminal offence motivated by race, colour, religion, nationality or ethnicity, or sexual orientation of the other individual. Such actions are considered an aggravating circumstance if a more severe penalty is not expressly proscribed by the Code. This definition contained in the Criminal Code is aligned with the Framework Decision of the Council of Europe on combating certain forms and expressions of racism and xenophobia by means of criminal law. | Public incitement to violence and hatred (Article 325) criminalises public incitement to violence and hatred directed towards certain groups; provides a sentence for persons who use the press, radio, television, computer system or network, public gathering or other means to publicly incite or publicly make available flyers, images, or other materials that incite to violence or hatred directed against a group of persons or a member of the group because of their race, religion, nationality or ethnicity, origin, colour, gender, sexual orientation, gender identity, disability or any other characteristic; it provides a sentence for the organiser of the group inciting to violence or hatred and for persons participating in such a group; Article 125 Violation of equality; Article 324 Inciting riots | Article 324 provides a sentence to imprisonment of up to three years (6 months - 5 years for the organiser of the group); 325 provides a sentence to imprisonment of up to 3 years (6 months - 5 years for the organiser of the group; up to 1 year for participant in the group); Article 125 provides a sentence of imprisonment of up to 3 years |

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|                 | <p><b>Offences against Public Order and Peace Act (OG 5/90, 30/90, 47/90, 29/94)</b><br/> <a href="https://www.zakon.hr/z/279/Zakon-o-prekr%C5%A1ajima-protiv-javnog-reda-i-mira">https://www.zakon.hr/z/279/Zakon-o-prekr%C5%A1ajima-protiv-javnog-reda-i-mira</a></p> | <p>This Act applies to everyone who commits an offence that disturbs the peace, work or normal way of life of the citizens in an unpermitted manner, incites unrest, indisposition, or disturbance or disrupts free movement of citizens in the streets and other public areas, or disrupts the exercising of their rights and duties, insults moral, obstructs public authorities and officials in executing legal actions, endangers the general safety of people and property, insults public authorities, or otherwise disturbs public order and peace of the citizens</p> | <p>The Offences against Public Order and Peace Act prohibits disturbance of public order and peace by reproducing songs, compositions and texts, or wearing or displaying symbols, texts, images and drawings</p>                         | <p>Article 5, Paragraph 1 of the Act</p>  | <p>Provides a fine in excess of 1,000 HRK or a sentence of imprisonment for up to 30 days.</p>  |
| Civil law rules | <p><b>Anti-discrimination Act (OG 85/08, 112/12)</b><br/> <a href="https://www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije">https://www.zakon.hr/z/490/Zakon-o-suzbijanju-diskriminacije</a></p>   | <p>This Act applies to the actions of all national authorities, local and regional government authorities, legal entities with public authority, and to the actions of all legal and physical persons, in</p>  | <p>The Act includes a total of 17 grounds for discrimination (prohibits discrimination on the grounds of race, ethnicity, colour, gender, language, religion, political or other conviction, national or social background, financial</p> | <p>Liability for administrative offences and civil liability are provided; Chapter V of the Anti-Discrimination Act “Conduct Before Court” provides civil protection, and Chapter III of the Act, Article 11, provides the right of the victim of</p> | <p>The Anti-Discrimination Act provides liability for administrative offences for only two forms of discriminatory actions (forms of discrimination): for harassment (Article 25 of the Act) and for sexual</p> |

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|  |  | <p>particular in the following areas:</p> <ol style="list-style-type: none"> <li>1) Labour and employment conditions</li> <li>2) Education, science and sport</li> <li>3) Social security, including social welfare, pension and health insurance, and unemployment insurance</li> <li>4) Health care</li> <li>5) Judiciary and administration</li> <li>6) Housing</li> <li>7) Public information and the media</li> <li>8) Access to goods and services and provision of goods and services</li> <li>9) Membership and activity in trade unions, civil society organisations, political parties or any other organisation</li> <li>10) Participation in cultural and artistic creation</li> </ol> | <p>situation, trade union membership, education, social status, marital or family status, age, health, disability, genetic heritage, gender identity, expression or sexual orientation), whereas European legislation recognises only six grounds (race or ethnic origin, religion or belief, disability, age, gender or sexual orientation); since hate speech incites discrimination, it is punishable under this Act.</p> | <p>discrimination to compensation), while Chapter VI of the Act regulates sanctions for administrative offences.</p> | <p>harassment (Article 26 of the Act); both articles provide only fines, without the introduction of protective measures.</p> |
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**Gender Equality Act** (OG 82/08) and the **Same-Sex Life Partnership Act** (OG 92/14) prohibit any discrimination, direct or indirect, on the grounds of gender, family or marriage status, or sexual orientation.

**Act of the Prevention of Riots at Sporting Events** (OG 117/03, 43/09, 34/11) regulates the obligation of sports clubs and the visitors of the sporting events. In particular, it prohibits bringing in and displaying placards, banners or other objects containing text, images, symbols or other insignia expressing or inciting to hatred or violence on account of racial, national, religious or any other affiliation or other kind of specificity (Article 4, Paragraph 3) and also singing songs or shouting messages whose content expresses or incites to hatred or violence based on racial, national, religious or any other kind of affiliation or specificity (Article 4, Paragraph 4) Fines or sentences to imprisonment (fines of up to 25,000 HRK or sentences to imprisonment of up to 60 days) are provided in the event of violation of these regulations of the Act.

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| Media self-regulation | <p><b>Media Act</b> (OG 59/04, 84/11, 81/13)<br/> <a href="https://www.zakon.hr/z/38/Zakon-o-medijima">https://www.zakon.hr/z/38/Zakon-o-medijima</a></p>   | <p>This Act regulates the preconditions for the exercise of principles of the freedom of the media, rights of journalists and other participants in public informing to the freedom of reporting and accessibility to public information, rights and obligations of publishers, publicity of property, exercise of the right to a correction and response, the manner of distribution of the press, the manner of protection of market competition, and the rights and obligations of other legal and natural persons acting in the sphere of public informing. Under the Act, its provisions shall be interpreted in line with the European Convention on the Protection of Human Rights and Fundamental Freedoms.</p> | <p>Article 3, Paragraph 4 expressly prohibits transmission of programme contents in the media which incite or glorify ethnic, racial, religious, gender or other inequality or inequality on the basis of sexual orientation, as well as ideological and state creations on the basis of such foundations, provoke ethnic, racial, religious, gender or other animosity or intolerance, animosity or intolerance on the basis of sexual orientation, incite to violence and war.</p>                           | Article 3, Paragraph 4  | None  |
| Specific media law    | <p><b>Electronic Media Act</b> (OG 153/09, 84/11, 94/13, 136/13)<br/> <a href="https://www.zakon.hr/z/196/Zakon-o-elektronikom-medijima">https://www.zakon.hr/z/196/Zakon-o-elektronikom-medijima</a></p> | <p>This Act regulates the rights, obligations and responsibilities of legal and physical persons that provide audio and audiovisual media services and services of electronic publications by electronic communication networks, and the interest of the Republic of Croatia in the field of electronic media.</p>  | <p>Under this Act, it is prohibited in audio and/or audiovisual media services to promote, favour the promotion of and spread hatred or discrimination based on race or ethnicity or colour, gender, language, religion, political or other belief, national or social background, financial situation, trade union membership, education, social status, marital or family status, age, health, disability, genetic heritage, gender identity, expression or sexual orientation, as well as anti-Semitism</p> | Article 12, Paragraph 2 | Article 76 provides temporary or permanent termination of concession, but the Council does not have the right to temporarily or permanently terminate the concession of HRT, the only sanction provided by the Act for this type of offence for other television and radio stations. It is up to the legislator to amend this illogical situation in the next |

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|       |   |   | and xenophobia, and ideas of fascist, nationalist, communist and other totalitarian regimes.   |           | amendments to the legal framework by means of adequate parliamentary procedure. |
|       | <b>Croatian Radiotelevision Act (OG 137/10, 76/12, 78/16, 46/17)</b><br><a href="https://www.zakon.hr/z/392/Zakon-o-Hrvatskoj-radioteleviziji">https://www.zakon.hr/z/392/Zakon-o-Hrvatskoj-radioteleviziji</a> | This Act regulates the rights and obligations of the Croatian Radiotelevision as a public institution.  | In its programme contents, HRT is obliged to contribute to exercising of human rights, equality and political rights of the citizens, and advancement of the rule of law, social state and civil society, as well as to report objectively and draw attention to the violation of human rights of vulnerable groups. | Article 6 | None  |
| Other | <b>Protocol on Procedures in Hate Crime Cases (April 2011)</b>  | The purpose of this Protocol is to ensure the conditions for efficient and integral action of the relevant authorities participating in discovering, processing and monitoring the results of procedures carried out for hate crimes in order to advance the hate crime monitoring system ; The Protocol defines the obligations of the relevant authorities participating in discovering, processing and monitoring the results of processes carried out in hate crime cases (Ministry of the Interior, Ministry of Justice, judiciary authorities, Human Rights Office of the Government of |  |           |   |

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|  |   | the Republic of Croatia). Also, the Protocol defines special forms for statistical collection of data on hate crime cases, specifically criminal offences and administrative offences specially labelled as hate-motivated. This data is statistically amalgamated by the Office for Human Rights and National Minority Rights on a six-month basis. |   |   |   |
|  | <b>Standing Orders of the Croatian Parliament (OG 81/13, 113/16)</b><br><a href="http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_81_1709.html">http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_81_1709.html</a> | 151 Members  | Article 240, Paragraph 2 of the Standing Orders | Members of the Parliament are not allowed to incite to violence and hatred, insult the Croatian people, religious, national and other communities, sexual, gender and other minorities, foreign countries and international organisations and their representatives in their speeches during parliamentary discussions. | Members who violate the provisions of Article 240, Paragraph 2 will be called to order. |

### **3.4. Statistics and tendencies related to online hate speech**

#### **3.4.1. Hate speech in 2014**

Young people are very interested in the Internet and it is precisely they who usually fall victim to hate speech. According to data provided by Regional Youth Info Centre Rijeka - UMKI, young people aged 15 to 30, have poor knowledge of human rights, which accounts for a great lack of awareness about human rights violations and possibilities of protection as well as for a high percentage of failures to report cases of hate speech on the Internet. One particular problem is identifying and locating offenders. Even though a growing number of stakeholders are joining the “movement” for a safer and hate-free Internet through different projects, one can unfortunately still regularly hear comments such as: “What are we supposed to do with them – should we sterilize them?” or “That was only the beginning, had we gotten rid of those bastards, this would not be happening now”.<sup>17</sup>

Sources report instances of hate speech by public figures in Croatia directed towards Serbs in 2013. Sources also indicate that hate speech takes place at sporting events. Country Reports 2013 stated that hate speech directed at Roma and other minorities occurred at several soccer matches during the year. Hate speech toward minorities has also been present in public media and social media. In correspondence with the Research Directorate, the Head of Mission for the Coalition for Work with Psychotrauma and Peace (CWWPP), a Vukovar-based organization that works in eastern Croatia on non-violent conflict resolution and reconciliation, stated that “an extreme ideology” can be found in the media and that there are [web] portals, magazines and television shows “whose leaders consciously violate laws” and whose behaviour “not only has elements of hate speech, but serious crimes”. Country Reports 2014 states that there was a “decline” in hate speech cases reported by police compared to previous years, and that during the year police reported 13 cases of hate speech, of which 8 were by unknown perpetrators, while 6 additional cases were referred for investigation into whether a hate crime had occurred.

According to Country Reports 2014, the criminal code sanctions individuals who act “with the goal of spreading racial, religious, sex, national, ethnic hatred or hatred based on the colour of skin or sexual orientation or other characteristics.” The law provides for no less than six months' and no more than five years' imprisonment for hate speech. Hate speech committed over the internet is punishable by six months' to three years' imprisonment.<sup>18</sup>

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without

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<sup>17</sup> Ombudsman Report for 2014, p. 108 <http://ombudsman.hr/hr/component/jdownloads/send/29-2014/562-izvjesce-pucke-pravobraniteljice-za-2014-godinu>

<sup>18</sup> Canada: Immigration and Refugee Board of Canada, *Croatia: Treatment of minority groups, including Roma, Serbs, Bosnians, and Romanians; state protection available in cases of violence and discrimination, including legislation (2012-June 2015)*, 15 July 2015, HRV105202.E, available at: <http://www.refworld.org/docid/55bf4ac04.html>



appropriate legal authority. According to 2012 statistics from Internet World Stats, approximately 3.2 million persons, representing 71 percent of the population, used the internet.

During the year police reported 13 cases involving hate speech, of which unknown perpetrators committed 8. This represented a decline in comparison with previous years. Six additional cases were referred for additional investigation to determine if a hate crime had occurred.

Regarding press freedoms, restrictions on material deemed to constitute hate speech applied to print media as well. While many private newspapers and magazines were published without government interference, observers cited lack of transparency in media ownership as a challenge to media and government accountability. Publicly available information frequently did not clearly indicate who actually owned several local media outlets.<sup>19</sup>

### **3.4.2. Hate speech in 2015**

In 2015, Ministry of the Interior (MI) recorded 24 criminal offences related to hate crime, among which there were 15 cases of threat, 6 cases of malicious mischief, one aggravated bodily injury and one case of disturbance of the peace of the deceased. 22 cases were successfully resolved.

When it comes to motive for committing the offence, hatred towards members of Serbian nationality is the most dominant. Ministry of Justice (MJ) claims that in 2015, 10 new cases related to hate crime were heard before Croatian courts, whereas trials in 19 previously-initiated cases were resumed. In 2015, courts returned 7 guilty verdicts, one case was resolved by settlement as the so-called “alternative dispute resolution”, whereas 21 cases are still pending. As for misdemeanour courts, MJ is still waiting for data to be delivered. In 2015, State Attorney’s Office of the Republic of Croatia (DORH) participated in 47 cases in connection with hate crime and hate speech. Of these, 27 cases (57.45%) pertains to events that occurred in 2015, not including cases that were discontinued on the grounds of dismissed criminal charges. State Attorney’s Office specifies that analysis of the structure of recorded criminal offences shows that a large part pertains to criminal offence of threat (41%), criminal offence of public incitement to violence and hatred or hate speech (24%) and criminal offence of malicious mischief (20%), whereas the remaining incidents pertain to bodily injury, aggravated bodily injury and disturbance of the peace of the deceased. Hostility against members of Serbian nationality was a dominant motive for committing hate crimes and hate speech-related offences (59%). Apart from members of Serbian nationality, 3 cases involving victims who are members of Roma and Macedonian nationality, were recorded. Two instances of persons of Muslim religion falling victim to threat and aggravated bodily injury, were recorded. The number of criminal offences committed on the grounds of sexual orientation is in decline compared to the year 2014, when six such cases were recorded, as opposed to 2015, with four cases having been recorded.

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<sup>19</sup> United States Department of State, *2014 Country Reports on Human Rights Practices - Croatia*, 25 -June 2015, available at: <http://www.refworld.org/docid/559bd57328.html>

When considering the structure of recorded criminal offences committed on the grounds of hostility against Serbian nationality, the majority of offences (87%) involves threat, malicious mischief as well as public incitement to violence and hatred. By analysing the theoretical aspect of recorded criminal offences of hate crimes and hate speech, committed against members of Serbian nationality, as the most vulnerable group, it may be concluded that most of them occurred on the territory of Eastern Croatia (11 cases, which accounts for 68% of the total number of hate crimes and hate speech offences committed on the grounds of hostility against persons belonging to Serbian nationality). When comparing data on cases of hate crimes and hate speech recorded in 2015 with those recorded in the preceding year, it can be concluded that the number of recorded cases of hate crime and hate speech has declined by 30.8%. Analysis of criminal offence structure points to a significant decrease in the number of hate speech incidents, which dropped from 20-odd incidents recorded in 2014 to seven incidents in 2015, which constitutes a decrease by 65%. Described analysis shows that the number of recorded criminal offences in connection with hate crime is in decline. However, given that majority of criminal offences in connection with hate crime, committed in 2015, pertain to threat, malicious mischief and public incitement to violence and hatred, and that they were motivated by hostility against persons of Serbian nationality as well as committed on the territory of Eastern Croatia, we have been provided with a framework within which we should plan large portion of future activities aimed at prevention and suppression of hate crime, which covers most of the said crimes that have been recorded.<sup>20</sup>

UNHCR has received information from various sources that intolerance towards members of the Serb national minority is on the rise, as reflected in threats, hate speech and destruction of property. Amongst others, the Serbian National Council (SNC), a UNHCR implementing partner, in its annual report on hate speech and violence against Serbs, highlighted a number of ethnically motivated incidents, predominantly hate speech and a few security incidents that took place in 2015. The Ombudsman Report for 2015 (which the Croatian Parliament considered in May 2016 but refused to accept) noted that 47 cases of hate incidents were in various stages of criminal proceedings, of which 31 related to events in 2015. Of 22 offences examined, 17 (or 77 per cent) included incidents of animosity towards Croatian Serbs. The Ombudsman also highlighted the discrepancy between official data provided by the Office for the Protection of Human Rights and the Rights of National Minorities and the Ministry of Justice, in comparison to data provided by the SNC. An increase in the number of incidents was noted especially in the aftermath of the November 2015 parliamentary elections in Croatia, and this worrying trend continued in the first half of 2016.<sup>21</sup>

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<sup>20</sup> Report on Racism, Xenophobia and Ethnic Exclusionism of the Centre for Peace Studies for 2015  
[http://cms.hr/system/publication/pdf/82/CMS\\_lzvjestaj\\_2015\\_web.pdf](http://cms.hr/system/publication/pdf/82/CMS_lzvjestaj_2015_web.pdf)

<sup>21</sup> UN High Commissioner for Refugees (UNHCR), *Third Progress Report on the Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status*, 25 August 2016, available at: <http://www.refworld.org/docid/57c409fd4.html>

In 2015 there were nine unresolved cases of hate crime from previous years and eight new cases. There were seven criminal convictions for hate crime, while one case was dismissed. As regards hate speech, in 2015 three new cases were registered. Seven perpetrators of this crime were convicted and were given suspended sentences. These convictions also concerned online hate speech against LGBTI persons. Most of the aforementioned cases concerned hate crimes linked to the victims' ethnic, national or religious background.<sup>22</sup>

### **3.4.3. Hate speech in 2016**

The period of political instability around the turn of the year was accompanied by a surge in nationalist rhetoric and hate speech targeting specific groups, in particular ethnic Serbs, refugees and migrants. Civil society groups recorded increased instances of the media and public officials “evoking fascist ideology” from the past by promoting the use of inflammatory iconography and generally fuelling an anti-minority sentiment. Although instances of incitement to discrimination and even violence against minorities were rarely investigated, courts regularly prosecuted cases of defamation and insult to the honour and reputation of persons. These offences were classified as serious criminal offences under the Criminal Code. Journalists remained vulnerable to prosecution in these cases.<sup>23</sup>

An insight into local media and social networks reveals that in 2016, Croatia witnessed instances of intolerance directed against political opponents, national and sexual minorities, whereas several public figures, journalists, actors, politicians, human rights activists and CSOs were threatened or suffered hate speech. Some of these cases are even being investigated by law enforcement authorities.<sup>24</sup>

According to data provided by MJ, in the period from 2013 to 2016, 35 procedures were conducted on the grounds of criminal offence of public incitement to violence and hatred, as referred to in Article 325 of the Criminal Code; of these, 23 procedures have been resolved, 20 by returning a verdict of guilty and three of not guilty. According to data provided by State Attorney's Office, revision of actions of the State Attorney's Office in connection with this criminal offence for the period spanning 1 January 2013 and 1 September 2015, has been completed, whereby it was established that two decisions on dismissal of criminal charges, had been reached prematurely. State Attorney's Office is currently amending its Instructions on Prosecuting Hate Crimes in connection with the Internet and Public Incitement to Violence and Hate, which should facilitate the work and decision-making processes when it comes to these usually complex legal matters. Both CSOs and international organizations have emphasized that last year was marked by a wave

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22 Council of Europe: Commissioner for Human Rights, *Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following His Visit to Croatia From 25 to 29 April 2016*, 5 October 2016, CommDH(2016)31, available at:

<http://www.refworld.org/docid/58120c974.html>

23 Amnesty International, *Amnesty International Report 2016/17 - Croatia*, 22 February 2017, available at:

<http://www.refworld.org/docid/58b0340a2d.html>

24 Ombudsman Report for 2016, pp. 143- 153, <http://ombudsman.hr/hr/component/jdownloads/send/76-izvjesca-2016/849-izvjesce-pucke-pravobraniteljice-za-2016-godinu#page=42>

of nationalist rhetoric and hate speech targeted at national minorities, especially Serbs, which is also confirmed by Amnesty International Report 2016/2017. In 2016, based on reports submitted by individual citizens and information provided by the media, Serb National Council collected data on instances of inappropriate choice of words when referring to Serbs, which they went on to compare with data collected in 2014 and 2015 and thus revealed a continuous growth in the number of such instances. Data regarding instances of inappropriate choice of words when referring to Serbs, as collected by the Serb National Council, are the following: 2014 – 5 cases, 2015 – 10 cases, 2016 – 28 cases. The slogan of the Ustaša Movement and the Independent State of Croatia “For Homeland Ready”, is encountered across social networks.<sup>25</sup> In a Non-Paper on Ethnically Motivated Incidents and Hate Messages against Serbs and Serbian People in the Republic of Croatia, from 1 January to 6 June 2016, shared with UNHCR by the Government of Serbia, 20 ethnically motivated incidents were reported, out of which 13 were alleged to be incidents of hate speech. Such incidents have been widely reported in Serb media, and thus have a strong impact on potential returnees’ sense of security.<sup>26</sup>

According to ECRI, the most appropriate and the most efficient approach when it comes to fighting hate speech is usually self-regulation by adopting the prescribed code of conduct as well as sanctions. As a self-regulatory body, in the past year, Journalists’ Council of Honour of the Croatian Journalists’ Association (HND), continued dealing with violations of the Statute and Code of Ethics, especially with respect to failures by journalists to adequately react either to tendentious and discriminatory commentaries made by a television show guest or audience, or to the spread of hate speech and hostility.<sup>27</sup> Yet another professional association – Croatian Journalists and Publicists (HNIP) – points to certain portals as well as commentaries posted by citizens, which insult those who belong to the country’s largest religious group; in addition, the Association expressed its dissatisfaction with Electronic Media Council and its actions, due to unequal criteria regarding the question of hate speech in the public sphere.<sup>28</sup>

In Croatia, the question of editors’ responsibility for commentaries that are published in electronic media and that fall under the category of hate speech, has not yet been clearly regulated. More precisely, pursuant to the Electronic Media Act, responsibility implies programme control, not necessarily direct legal responsibility regarding the content or provided services. Comparative European practice regarding editors’/publishers’ responsibility for hateful comments, points to several solutions for establishing a balance between the right to freedom of expression and prohibition of hate speech. This problem also represents the focus of the debate currently taking

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<sup>25</sup> Ibid., pp. 144-145

<sup>26</sup> UN High Commissioner for Refugees (UNHCR), *Third Progress Report on the Implementation of the Durable Solutions Process (Sarajevo Process) for refugees from Croatia displaced by the 91 – 95 conflict, including cessation of refugee status*, 25 August 2016, available at: <http://www.refworld.org/docid/57c409fd4.html>

<sup>27</sup> The most prominent examples are a letter of notice sent to an editor in chief who published a cartoon depicting the Roma as thieves as well as a warning issued to a television presenter who failed to caution or interrupt viewers using discriminatory speech or even hate speech on the grounds of nationality, in a show broadcast by a local television network.

<sup>28</sup> Ombudsman Report for 2016, p. 148

place in the context of revision of the Audiovisual Media Services Directive, which also constitutes an opportunity for Croatia to find a quality solution and introduce appropriate regulations. For the purpose of intensifying mutual fight against hate speech, European Commission reached an agreement and drafted a Code of Conduct with Facebook, Twitter, Google and Microsoft, pursuant to which all IT companies are obligated to participate in the fight against hate speech on the Internet, develop measures and train administrators so that they may recognize and remove instances of hate speech within 24 hours, and pursuant to which every IT company should strengthen its partnership with CSOs dealing with the said problems. Office for Human Rights and the Rights of National Minorities, within the framework of which is active Inter-Secretariat Working Group for Monitoring Hate Crimes, shall be the national contact point for implementation of this Code within the context of the Republic of Croatia.

Regarding the prosecution of the hate speech in the criminal proceedings, twenty-four persons committed the criminal offence in question – criminal offence of public incitement to violence and hatred, Article 325 – via Facebook. Apart from several suspended sentences that were pronounced, one person, who committed the offence via Facebook, was subject to forfeiture of a t-shirt bearing the slogan “Black Legion is back, better and stronger than you might expect” as well as a flag of the Republic of Croatia with the coat of arms displaying the symbol “U”. As for other cases, by applying the provisions of Article 79 of the Criminal Code, only two persons – with respect to sixteen other people who committed the criminal offence via Facebook –, were ordered forfeiture of their computers, which had been used in order to commit the said criminal offence and which were mentioned as such in the factual description of the criminal offence. Given that no explanation of the circumstances in question had been provided, we can only assume why, as for the other sixteen cases, the Court deemed that it was unlikely that defendants would use their computers once again in order to commit the same criminal offence. This is all the more difficult to understand if we consider that three cases were closed after the Court passed a judgement the dispositive part of which explicitly states that the defendants committed the offence using their personal computer or mobile phone. In spite of this, in the said cases, the Court refused to apply Article 79 of the Criminal Code and failed to confiscate the mentioned objects. What is more, despite the fact that Article 75 of the Criminal Code foresees the security measure of Internet access prohibition and that seventeen out of twenty-four convicted persons committed the criminal offence in question via the Internet (Facebook), the Court nevertheless failed to impose the above-mentioned security measure on any of the perpetrators, and all this on the grounds that, in order for this measure to be imposed or in order for an object to be confiscated, there is one additional condition that must be fulfilled – i.e. it is necessary to prove that there is a risk that the criminal offence of Internet abuse might be committed once again. Analysis of final judgements does not reveal the reason for such action by the Court – whether it acted in such a way because of its inability to impose the said measure in case the defendant accepts the criminal order, whether it is because the extent to which the mentioned security measure can be implemented is unclear even when the Court is able to close the ordinary procedure by imposing

such a measure, or whether it is because the Court estimated that none of the defendants were likely to repeat the criminal offence of Internet abuse. It is impossible to determine the exact reason because only one of all the analysed judgements contains the Court's explanation as to why it had failed to impose the security measure of Internet access prohibition, as referred to in Article 75 of the Criminal Code. In the mentioned justification, the Court states that its estimation was that the mere fact of court procedure being conducted had already exerted a considerable influence on the defendant, who as a result would never again commit any similar criminal offence, as well as that the defendant had realised the harmful nature of his or her behaviour and promised to Court that he or she would never again commit any similar criminal offence. Municipal Court in Slavonski Brod reached a verdict No. 3 K-361/14, whereby the perpetrator was found guilty of posting a comment "Kill the faggot" on the social media network Facebook, which is an offence that legal regulations classify as incitement to violence and hatred.<sup>29</sup>

## **4. SOCIETY RESPONSES**

### **4.1. Specific initiatives**

#### **4.1.1. Digital citizenship**

The Commissioner of the Council of Europe, Nils Muižnieks, welcomed the participation of Croatia in 2013 in the Council of Europe *No Hate Speech Movement*,<sup>30</sup> with a national campaign entitled "*NO to Internet Hate Speech*", which targeted in particular children and young people. In addition, Croatia participates in the Council of Europe on-line training course "Fight against racism, xenophobia and homophobia", which was developed in the context of the Council of Europe HELP programme, in co-operation with the Judicial Academy of Croatia.

#### **4.1.2. Media and the law**

Round table "*Hate speech and responsibility of the media - from freedom of expression to violations of the law*" (27.04.2016)<sup>31</sup> was organized by Electronic Media Agency with aim to exchange knowledge, practice and reflection of all significant stakeholders on this very important topic. Can you identify hate speech out of context? What are the legal penalties for hate speech and who imposed them? These questions were just part of a set of considerations that were

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<sup>29</sup> Munivrana Vajda, M., Šurina Marton, A. – Where does the right to freedom of expression end and hate speech begin? An analysis of Croatian legislation and jurisprudence in the light of European legal standards, Croatian Yearbook of criminal law and practice, vol. 23, no. 2, Zagreb, 2016, pp. 435-367

<sup>30</sup> A youth campaign of the Council of Europe for human rights online, to reduce the levels of acceptance of hate speech and to develop online youth participation and citizenship, including in Internet governance processes;

<https://www.nohatespeechmovement.org/>

<sup>31</sup> <http://www.e-mediji.hr>

discussed with representatives of media publishers, scientific community, journalists, lawyers and other stakeholders.

Croatian Journalists' Association is a partner in the project [Media Against Hate](#)<sup>32</sup>, within the framework of which a workshop was held in Zagreb, in May 2017. The workshop included a presentation of certain tools that journalists can use in order to identify hate speech (for example: Five Point Test Against Hate Speech, Ethical Journalism Network as well as research on hate speech in the Croatian media (Dražen Hoffmann, GONG). Croatian Journalists' Association does not have a unified approach to keeping records of its activity against hate speech.

In December 2009, the Republic of Croatia aligned its Electronic Media Act – Electronic Media Act (Official Gazette 153/09, 84/11, 93/13, 136/13) – with the EU Audiovisual Media Services Directive, through the adoption of which Member States undertake to ensure by appropriate means that audiovisual media services under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality (Article 12 paragraph 2 of the Electronic Media Act). The body competent for monitoring the implementation of Electronic Media Act is Electronic Media Council. Electronic Media Council is responsible exclusively for electronic publications (internet portals) and providers of audio and audiovisual media services. Given that only four articles of the Electronic Media Act pertain to electronic publications, it may be concluded that the existing types of media differ significantly according to the manner and the extent to which they are regulated. As a result, providers of electronic publication services may be punished by warning, formal notice, criminal order or motion for indictment, whereas in case a television or radio content provider breaches Article 12 paragraph 2 of the Act, the only legally foreseen sanction is temporary or permanent withdrawal of concession. However, from July 2013, Croatian Radiotelevision (HRT) enjoys a privileged status with respect to other media service providers, when it comes to the possibility of Electronic Media Council imposing punishments. Given that it was not Electronic Media Council that granted the concession to HRT, but that this was done by the Croatian Parliament through Croatian Radiotelevision Act, the Council is not entitled to either temporarily or permanently withdraw HRT's concession, which is the only sanction for this type of offence foreseen by the law when it comes to other television and radio content providers. It is the responsibility of the legislator to correct this inconsistency by introducing the following amendments to the legal framework through the prescribed parliamentary procedure.

#### **4.1.3. Education**

In order for citizens, especially young citizens, to be able to assess and critically observe the media and its different contents, it is necessary to offer educational opportunities and promote media literacy. Portal of the Agency for Electronic Media and UNICEF's web site <http://www.medijskapismenost.hr/>, which was launched in 2016, are examples of good practice,

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<sup>32</sup> <http://europeanjournalists.org/mediaagainsthate/>

which aim at revealing impact of the media on children and parents as well as answering questions such as: why certain subjects are granted more attention by the media, how to interpret advertisements, what is the difference between “reality” programmes, films and soap operas, how media content is created and alike.<sup>33</sup>

The national campaign <http://www.dislajkamrnju.hr/> run from September 2013 to December 2014, according to the Action Plan of Action. Targeted Campaign Groups in the Republic of Croatia are: children and young people who spread hate speech, children and young people affected by hate speech and wider public. The campaign will point to the negative consequences of hate speech on the Internet and the consequences of discriminatory and unacceptable expression, which can encourage discrimination and lead to the spread of stereotypes and prejudice in the public. Organiser of the campain is Ministry of Social Policy and Youth of the Republic of Croatia.

#### **4.1.4. Initiatives for monitoring and research**

Regarding civil society organisations, website <http://www.dostajemrznie.org> was created in cooperation of GONG and Human Rights House Zagreb as an attempt to respond to the frequent presence of unacceptable public speech devastatingly affecting social cohesion, values of pluralism, interculturality and tolerance towards others and others. The emergence of this site was made possible thanks to the financial support of the European Economic Space Fund and the Kingdom of Norway for civil society organizations, whose sponsor is the National Foundation for Civil Society Development for the Republic of Croatia.

In 2017, Centre for Peace Studies (CPS) participated in the second monitoring process on the implementation of the Code of Conduct on countering illegal hate speech online<sup>34</sup> together with organizations from 24 EU Member States. In this monitoring exercise, 2 575 notifications were submitted to the IT companies taking part in the Code of Conduct. Facebook received the largest amount of notifications (1273 cases), followed by YouTube (658 cases) and Twitter (644 cases). Microsoft did not receive any notification<sup>35</sup>. When it comes to Croatia, CPS submitted total of 128 notifications to three different social media platforms: Facebook – 51 notifications; YouTube – 40 notifications; Twitter – 37 notifications. Microsoft social network was not assessed due to its closing down prior to beginning of this monitoring cycle.

Main results concerning the reporting channels used are as follows:

In case of Facebook, 16 reports were made as normal user and other 35 reports were made through trusted flagger channel. Out of 51 reports made, on 25 reports action was taken and content was removed and this represents removal rate of 49%. In the case of 26 reports the

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<sup>33</sup> Ombudsman Report for 2016, pp. 149-150

<sup>34</sup> [http://ec.europa.eu/justice/fundamental-rights/files/hate\\_speech\\_code\\_of\\_conduct\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/hate_speech_code_of_conduct_en.pdf)

<sup>35</sup> [http://europa.eu/rapid/press-release\\_IP-17-1471\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1471_en.htm)



content was not removed and this represents the rate of 51%. Regarding the grounds, there were 11 cases where the ground for illegal hate speech was sexual orientation, 23 cases with dominantly Anti-Muslim hatred (mixed with xenophobia that included anti-migrant hatred), 9 cases of Anti-Semitism, 3 cases of ethnic origin (Serbs), one case of gender based violence and one case of illegal hate speech - incitement to hatred and violence against persons with different political background and beliefs.

In case of YouTube, 32 reports were made as normal user and other 8 reports were made through trusted flagger channel. Out of 40 reports made, on 29 reports action was taken and content was removed and this represents removal rate of 72.5%. In the case of 11 reports the content was not removed and this represents the rate of 27.5%. Regarding the grounds, there were 11 cases where the ground for illegal hate speech was Anti-Semitism, 8 cases with the ground of sexual orientation, 15 cases with national and ethnic origin, 3 cases with dominantly Anti-Muslim hatred but mixed with other grounds such as race, national/ethnic origin and even sexual orientation and 3 cases where the ground was race.

In the case of Twitter, all 37 reports were made as normal user. For all 37 reports there was no indication of an assessment by the end of the monitoring process. Regarding the grounds, there were 10 cases where the ground for illegal hate speech was sexual orientation, 13 cases of mixed national/ethnic origin, 4 cases of ethnic origin and 2 cases where the ground was national origin.

Overall rate of removal was 33.3% meaning that out of 128 reports sent, 54 cases of illegal hate speech were removed and the remaining 74 were not removed.

Quality of notifications was ensured in coordination with legal practitioners in the Centre for Peace Studies, meaning that every case in the grey-zone was firstly discussed within the legal team and then reported if agreement was reached that it constitutes illegal hate speech or discarded. Cases recorded will be discussed at the next meeting of the Working group on hate crimes – inter-sectoral body to the Government of the Republic of Croatia<sup>36</sup>. Third monitoring cycle will be organized for the period of six weeks in September and October and CPS will participate in it.

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<sup>36</sup> Main tasks of the Working Group include analysis and monitoring of implementation of anti-discrimination legislation in relation to hate crime; needs analysis of legal framework in regards to hate crime, co-ordination of the process of data collection and co-ordination of inter-institutional cooperation in hate crime prevention. Working Group includes a wide range of key stakeholders such as: representatives of Ministry of Interior, Public Attorney's Office and Ministry of Justice. These are the key institutions in identification and prosecution of hate crime cases. Furthermore, the Working Group includes representatives of the Ombudsman Office, Ministry of International and European affairs, Higher Misdemeanour Court and Municipal Court, Faculty of Law and CSO. Office for Human Rights and the Rights of National Minorities coordinates and provides support to Working Group.

## 4.2. Good practices

### 4.2.1. Good practice 1

#### **Festival of Preventive and Educational Films on Security in Zagreb**

**Specific objective:**

E Highlighting harmfulness of hate speech for the whole community and culture as well as diversity welfare.

**Main organization involved:**

Police Directorate of the Ministry of the Interior of the Republic of Croatia in collaboration with Ministry of the Interior of the German Federal State Baden-Württemberg, with the support of the Embassy of the Federal Republic of Germany in the Republic of Croatia.

**Location:**

Zagreb

**Detailed information:**

Screening of the Croatian film “Life without Violence”, helps detect problems of peer violence. The film points to methods for peaceful resolving of potential conflicts, as well as for resolving situations that potentially reveal a problem; in addition, it offers tools for resolution of conflicts as well as prevention of conflicts, hate speech and exclusivity.

**Resources needed:**

We dispose of no information regarding resources spent.

**Timescale (start/end date):**

Activities displayed in this table took place from 22 to 25 May 2017

**Evidence of success:**

Screening of the film affects wider audience, who in turn transmit the message further on. Apart from this, the film also points to problems encountered by minorities, refugees, migrants, persons of different sexual orientations, who may be exposed to hate speech.

### **Difficulties encountered/ lessons learned:**

When dealing with hate speech, people should first be taught how to recognise hate speech as well as that everybody among us may easily become a victim of hate speech. What is more, sometimes banal things are not recognised as potentially dangerous. It is of particular importance to offer educational opportunities to young people, educate members of the media regarding reduction and elimination of hate speech, and to make an attempt at eliminating hate speech from social media networks.

### **Potential for transfer:**

The territory of the former Yugoslavia is similar in many respects. In all its parts, hate speech is directed at the same population groups (national minorities, refugees, Roma, migrants, people of different sexual orientations, disabled people...). For this reason, good practices may be used in the region as well as across Europe. When it comes to implementation of projects, it is useful to point to good practices present in the region. When collaborating with the judiciary, it is particularly beneficial to point to good practices and the manner of understanding hate speech harmfulness through the practice of the European Court of Human Rights.

### **Further information:**

[www.mup.hr](http://www.mup.hr)

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## **4.2.2. Good practice 2**

### **Together Against Hate Speech**

#### **Specific objective:**

Highlighting harmfulness of hate speech for the whole community and culture as well as diversity welfare

#### **Main organization involved:**

Police Administration of the Vukovar-Srijem County with the support of Police Directorate of the Ministry of the Interior of the Republic of Croatia and in cooperation with the City of Vukovar and Vukovar City Museum

**Location:**

Vukovar and Vukovar-Srijem County

**Detailed information:**

Implementation of the project “Together Against Hate Speech”, represents a joint effort aimed at fighting hate speech. The event has gathered public figures, representatives of local and regional administration, religious groups, musicians, artists and other prominent members of the society, including children and young people from the area of the City of Vukovar.

**Resources needed:**

We dispose of no information regarding resources spent.

**Timescale (start/end date):**

Activities displayed in this table took place from 2012 to 2017.

**Evidence of success:**

In an environment such as that of Vukovar and its surroundings, where consequences of war and destruction can still be felt today, it is very important to encourage hate speech prevention. This is important all the more because Vukovar, its entire surroundings and the whole Vukovar-Srijem County is rich in cultural, language, religious and national differences. Members of numerous national minorities live in Vukovar (Serbs, Rusyns, Ukrainians, Hungarians, Russians, Germans, Slovaks, Czechs ...).

**Difficulties encountered/ lessons learned:**

When dealing with hate speech, people should first be taught how to recognise hate speech as well as that everybody among us may easily become a victim of hate speech. What is more, sometimes banal things are not recognised as potentially dangerous. It is of particular importance to offer educational opportunities to young people, educate members of the media regarding reduction and elimination of hate speech, and to make an attempt at eliminating hate speech from social media networks.

**Potential for transfer:**

The territory of the former Yugoslavia is similar in many respects. In all its parts, hate speech is directed at the same population groups (national minorities, refugees, Roma, migrants, people of different sexual orientations, disabled people...). For this reason, good practices may be used in the region as well as across Europe. When it comes to implementation of projects, it is useful to point to good practices present in the region. When collaborating with the judiciary, it is particularly beneficial to point to good practices and the manner of understanding harmfulness of hate speech through the practice of the European Court of Human Rights.

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### 4.2.3. Good practice 3

#### **Training Course on Hate Crime and Hate Speech for Judicial Officials**

**Specific objective:**

Highlighting harmfulness of hate speech for the whole community and culture as well as diversity welfare.

**Main organization involved:**

Centre for Peace, Nonviolence and Human Rights – Osijek in collaboration with Judicial Academy of the Ministry of Justice of the Republic of Croatia, State Attorney's Office of the Republic of Croatia and lecturers from the Faculty of Security of the University of Sarajevo, Faculty of Law of the University of Zagreb, Faculty of Law of the Josip Juraj Strossmayer University of Osijek and London School of Law.

**Location:**

Osijek, Đurđevac, Vukovar

**Detailed information:**

Part of this project for educating judicial officials (judges and state attorneys) of the Osijek-Baranja and Vukovar-Srijem Counties, was dedicated to methods for recognising hate speech, encouragement of hate speech prevention and to the practice of the European Court of Human Rights regarding hate speech as well as that of local courts.

**Resources needed:**

EUR 15,000

**Timescale (start/end date):**

Activities took place in 2015 and 2016.

### **Evidence of success:**

It is particularly important to work with judicial officials and provide them with tools necessary for handling cases of hate speech and hate crime, which will enable recognition of certain behavioural patterns as well as enhance judicial practice and prevention. 30 judges and state attorneys were granted training directly and more than 70 indirectly (from Osijek and Vukovar).

### **Difficulties encountered/ lessons learned:**

When dealing with hate speech, people should first be taught how to recognise hate speech as well as that everybody among us may easily become a victim of hate speech. What is more, sometimes banal things are not recognised as potentially dangerous. It is of particular importance to offer educational opportunities to young people, educate members of the media regarding reduction and elimination of hate speech, and to make an attempt at eliminating hate speech from social media networks.

### **Potential for transfer:**

The territory of the former Yugoslavia is similar in many respects. In all its parts, hate speech is directed at the same population groups (national minorities, refugees, Roma, migrants, people of different sexual orientations, disabled people...). For this reason, good practices may be used in the region as well as across Europe. When it comes to implementation of projects, it is useful to point to good practices present in the region. When collaborating with the judiciary, it is particularly beneficial to point to good practices and the manner of understanding harmfulness of hate speech through the practice of the European Court of Human Rights.

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## 5. CONCLUSIONS AND RECOMMENDATIONS

We evaluated online hate speech on the basis of data provided by stakeholders involved in the system as well as by means of content analysis of legal decisions and other acts that are focused on this issue, all this pursuant to a strictly determined methodological approach. On the grounds of conclusions drawn from such analysis, we present the following recommendations to the competent institutions:

- ✓ We hereby take the view that it is necessary to build a legal framework that would clearly define electronic media violence and hate speech on the Internet and that would prescribe ways in which to approach the perpetrator and the victim in situations where people engage in electronic media violence and/or hate speech on the Internet.
- ✓ We hereby take the view that it is necessary to ensure financial and other forms of assistance for quality programmes organized by civil society organizations that focus on combating and preventing different forms of violence, especially hate speech on the Internet.
- ✓ It is necessary to endeavour to raise public and media awareness about the widespread presence and consequences of violence on the Internet, especially hate speech.
- ✓ It is necessary to strengthen and systematically provide support to institutions and bodies responsible for combating violence, especially the one occurring in electronic media and on the Internet.
- ✓ It is necessary to ensure and continue developing a support system for victims of violence on the Internet, with the aim of mitigating its consequences and enabling faster rehabilitation.
- ✓ Civil society organizations should actively participate in the processes of creating public policies, in order to ensure safer virtual environment; they should collaborate with other civil society organizations and educational institutions by sharing programmes and experiences, with the aim of developing informal programmes of combating violence on the Internet; they should ensure the quality of their own informal programmes, which should be based on the needs of both local and wider community, as well as continue developing systems of self-evaluation.

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