



Conference on xenophobia and racism committed through computer systems

30 - 31 January 2023

Strasbourg, 31 January 2023

Key messages

Some 110 experts on cybercrime and hate speech from over 45 countries – including from public and private sectors, academia and civil society organisations – participated in person or online in the Conference on xenophobia and racism committed through computer systems at the Council of Europe in Strasbourg, France, and online from 30 to 31 January 2023. The conference was held on the occasion of the 20th Anniversary of the first “Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, ETS 189”, that was opened for signature on 28 January 2003. The event was organised in cooperation with the Icelandic Presidency of the Committee of Ministers of the Council of Europe. It was opened by Ambassador Ragnhildur Arnljótsdóttir (Permanent Representative of Iceland to the Council of Europe, and Patrick Penninckx (Head of the Information Society Department, Council of Europe). During the conference, Iceland deposited the instrument of ratification of the First Additional Protocol to become the 34th Party to this treaty.

Key messages of the conference include:

- The First Protocol has never been more relevant than today:
 - With the increasing use of digital technologies, online xenophobia and racism have been spreading considerably. Online hate is more prevalent and may be more harmful than hate offline, as perpetrators often act more spontaneously and anonymously, with a wider reach and lasting impact on victims.
 - The Russian aggression against Ukraine is accompanied by hate speech and propaganda celebrating strikes and justifying attacks, including on civilian infrastructure.
 - Increased flows of refugees and migrants resulting from armed conflict provide a further fertile ground for online hate.
- A broad range of measures by multiple stakeholders is needed to counter online xenophobia and racism. Criminal law measures – including those under the First Protocol – are an important part of the response but should be used as the last resort. Non-criminal means and alternative measures should be pursued, including through regulations requirement social media platforms to promptly remove illegal content upon a complaint. Council of Europe Recommendation [CM/Rec\(2022\)16 on combating hate speech](#) (May 2022) provides a catalogue of measures.
- The First Protocol, mindful of the need to ensure a proper balance between the freedom of expression and an effective fight against acts of a racist and xenophobic nature, requires its Parties to criminalise online xenophobia and racism by taking into consideration established principles relating to the freedom of expression under domestic law, giving flexibility to Parties to address certain types of conduct, as they deem appropriate, either through criminal law or other means.

- The [Convention on Cybercrime and its First and Second Protocols](#) complement each other. While the First Protocol focuses on substantive criminal law by requirement Parties to criminalise a number of acts of xenophobic and racist nature, the tools of the Budapest Convention on Cybercrime, in particular the procedural powers to investigate cybercrime and collect electronic evidence in relation to any crime and the provisions on international cooperation, are available to enforce the provisions on xenophobia and racism of the First Protocol. The same is true for the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence that was opened for signature in May 2022. States are therefore encouraged to become parties to all three instruments.
- While 68 States are currently Parties to the Convention on Cybercrime, 34 States are also Parties to the First Protocol. More action is needed to increase the number of Parties to the Protocol on xenophobia and racism
- Good practices regarding the implementation of the First Protocol are available. The Council of Europe – through the Octopus Project – is preparing a study to document such practices. This study should be followed by further capacity building to support reforms of legislation, training and specialisation and other measures helping States address the challenges of online xenophobia and racism.
- Cooperation at all levels and across sectors and organisations is crucial in order to address online xenophobia and racism.
- Next steps:
 - States are encouraged to join the Budapest Convention (if they have not yet done so) and to join the First Protocol.
 - States are also encouraged to join the Second Protocol that provides a basis for enhanced cooperation between its Parties in relation to any type of criminal offence involving electronic evidence, including online xenophobia and racism.
 - Completion of the good practice study followed by capacity building by the [Cybercrime Programme Office of the Council of Europe](#) (C-PROC).
 - Within the Council of Europe further synergies should be sought between the Budapest Convention and its Protocols, the [Lanzarote](#) Convention, the [Istanbul](#) Convention, the Convention on the [Prevention of Terrorism](#), as well as the [European Commission on Racism and Intolerance](#) (ECRI). Soft-law recommendations, resolutions and guidelines of the Committee of Ministers and other bodies should be made use of.
 - Additional information on xenophobia and racism should be made available on the [online resource on cyberviolence](#).

www.coe.int/cybercrime