



CyberEast

Action on Cybercrime for Cyber Resilience in the Eastern Partnership region

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C-PROC WEBINAR on Introduction to Cyberviolence

Thu, 18 June 2020 – Q&A

Question: What acts would you consider included in cyberviolence?

C-PROC: The Council of Europe [T-CY Mapping Study on Cyberviolence](#) (2018) proposed the following working definition of cyberviolence: "Cyberviolence is the use of computer systems to cause, facilitate, or threaten violence against individuals that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual's circumstances, characteristics or vulnerabilities." In this sense, the study further describes acts of cyberviolence (see, for instance, page 6 of the Mapping Study).

Question: The outbreak of the COVID-19 pandemic forced societies to lockdowns. Children and other vulnerable groups of population stayed indoors (or similar) and have faced challenges related to how to survive with a violent perpetrator. In this regard, how can countries upgrade their reporting mechanisms? How can we improve all the existing mechanisms? What else can they do?

Katarzyna WOLSKA-WRONA: EIGE is currently working on several studies which will contribute to the better knowledge on how to improve the existing reporting and support mechanisms. The ongoing studies will include the development of a range of targeted and specific recommendations on how to further facilitate the reporting by witnesses of intimate partner violence. The results of the aforementioned studies will be published on EIGE's website in autumn 2020 [here](#).

Menno ETTEMA: The Council of Europe, through its engagement with partners, including national authorities and civil society organisation has followed closely the role-out of the lockdown and its impact on human rights democracy and rule of law, including of communities and individuals at risk. See the designated page on [Council of Europe efforts related to Covid-19](#).

The Steering Committee on Anti-discrimination, Diversity and Inclusion ([CDADI](#)) is conducting a study and recommendations for member states to uphold human rights and equality in time of crisis. The [introductory note](#) of the secretariat already provides insight of the issues to address.

Johanna NELLES: The Committee of the Parties to the Istanbul Convention issued a [declaration](#) on the implementation of this convention during the pandemic which offers helpful insights.

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Question: Would you consider domestic law to define an act as cyberviolence?

C-PROC: In the absence of an agreed statutory/binding definition of cyberviolence in international law and given the variety of topics that it currently covers, the domestic law at the moment is indeed the way to go forward to define cyberviolence. On the substantive law level, the [Mapping Study on Cyberviolence](#) could provide a good reference to addressing this, as, in addition to proposed definition of cyberviolence, it also lists specific types of relevant offences. As to procedural powers, there is presumably more coherence, at least in the criminal justice domain since the [Budapest Convention on Cybercrime](#) offers a set of procedural powers applicable to electronic evidence in any criminal case.

Question: In my experience in the violence related to harassment, the victims are mostly men. It is typically the women that are using more the social media for revenge against the men through the social media. Are there any studies related to this?

Katarzyna WOLSKA-WRONA: EIGE is not currently aware of any studies related to the topic of the use of social media by women for revenge purposes against men.

Question: Could the psycho-social effects of online violence against women and children be potentially used as a mechanism to address the mental disturbance and damages that it causes? Is there any law that addresses this?

Betty SHAVE: 1. The Lanzarote Convention, Istanbul Convention or perhaps other treaties may respond to this question. 2. As regards national laws rather than international law, the statutes collected from countries by the Council of Europe in the [Mapping Study on Cyberviolence](#) show that countries may be taking such damage into account when legislating. (The same is true as to the national policy initiatives collected from countries by the CoE) 3. Finally, in cases where there is a criminal conviction, countries may take the injury to the victim into account at sentencing.

Johanna NELLES: The Istanbul Convention contains a range of provisions that address the long-term recovery of victims who have experienced violence against women, and this would include its online forms or digital dimensions thereof. A central premise of the Istanbul Convention is to offer victim-centred support and the empowerment of women victims of such violence (see Chapters III and IV in particular).

Question: How can we effectively fight against cyber violence if the GAFA [Google, Amazon, Facebook, Apple] refuse to collaborate and give to the authorities the information about people harassing?

Betty SHAVE: This is a difficult question to answer in the abstract. However, assuming that the harassment rises to the level of criminal cyberviolence, some possibilities are the following: complaints by victims; complaints on behalf of victims by their governments; and informal and formal government-to-government requests for assistance, including under the Budapest Convention.

The ability to obtain such data may vary depending on whether the GAFA data is subject to US law or to the law of another country (this may depend on where the data is stored). If it is subject to US law, the US authorities can provide guidance and assistance about meeting the requirements of US law to obtain data.

Question: Should we measure the success of a Convention by the values and ideas it bears, or by the frequency of the implementation? On this ground, is there any statistical study showing that in how many countries and to what extent the Conventions are implemented?

Menno ETTEMA: The answer to this question should be both. A convention or treaty that is meaningless, but everyone is happy to sign... well, it is meaningless. It is true that some conventions are slower to be implemented by states than others. This can be due to its technical complicity to transpose into national law, and/or the need to build the capacity of relevant bodies responsible for the implementation. Others are under public/ political debate which must be informed with clear and precise explanation on the merits of the relevant treaty of convention for a society and its members.

The Council of Europe engages in cooperation activities and political dialogue to support member states with the implementation of its commitments and follows up on decisions of the European Court of Human Rights and recommendations of other monitoring bodies that monitor the implementation of the treaties and conventions.

See the [overview of treaties and ratifications](#), Department on [execution of Judgments](#), Steering Committee on Human Rights ([CDDH](#)), Group of Experts on Action against Violence against Women and Domestic Violence ([GREVIO](#)), European Commission Against Racism and Intolerance ([ECRI](#)).

Question: Would like to know what measures are in place by the Council of Europe to address hate speech in the form of social media trolls against women in governments in Africa.

Betty SHAVE: So far, nine African countries are Parties to the Budapest Convention, including Ghana. The Budapest Convention mandates that countries implement certain provisions in their national law. Thus, national law as it was before the country became a Party to Budapest, or national law as amended afterward, may be usable if the trolling is of a type that constitutes a crime.

The international cooperation mechanisms in Budapest and the associated capacity-building programs have created very strong networks for pursuing criminal cases that have international elements. They have also helped to develop informal networks for complaints that may not rise to the level of criminality.

The [Mapping Study](#) found the following [report on sexism, harassment and violence against women in parliaments in Europe](#), which covers only Europe, but it may still be of interest to the questioner.

Menno ETTEMA: Similarly, some of the other Council of Europe conventions and treaties can ascend to and/or be of inspiration to non-member states in other parts of

the world. The Council of Europe [North-South Centre](#) can facilitate engagement between African nations and their societies with Council of Europe member states. Among their priority target groups are women and youth.

Question: If a person defames another person through social media, how can the victim prosecute such offender under International Law? Is there any special provision incorporated in International Law regarding this?

Betty SHAVE: Defamation is a very country-specific crime (or it may not be a crime and may be addressed through civil actions). I am not aware that there is any special international law provision on defamation. However, there are complaint and redress methods for different social media companies. In addition, there are international cooperation mechanisms (multilateral and between individual governments) for the cases that governments agree to pursue.

Question: The situation of being afraid to report the crime or potential crime cases implies the idea that the post-report threats are not going to be prevented and may result in even worse conditions. What are the liabilities of the legal authorities here?

Katarzyna WOLSKA-WRONA: Victim safety is a central concern of intimate partner violence intervention at the EU level. The protection of the victims from secondary victimisation, including subsequent threats, is a principle enshrined within the [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#) (Victims Rights Directive). Risk assessment and risk management have therefore been integrated in the EU legislative and policy framework on violence against women.

At the moment, police in 23 Member States conduct some form of risk assessment, but only in 15 of them regulated or standardised tools are used. Approaches differ and most of the tools have not been developed or tested for predictive validity. EIGE developed a Risk assessment and risk management guide to help police assess and manage the risk of intimate partner violence to protect women from violence. It is an example of a measure which can help establish more effective processes in Member States. EIGE's guide focusses on intimate partner violence, as it is the most widespread form of violence against women. It targets police, as it is the agency that has the lead role in formal risk assessment processes and is quite often tasked with frontline management of intimate partner violence. More information on this subject is available on EIGE's website [here](#).

Johanna NELLES: The Istanbul Convention imposes a clear obligation on the authorities to respond and investigate into all acts of violence against women (Articles 49 and 50). Article 51 requires a risk assessment to be carried out. The independent group of experts mandated to monitor the implementation of this convention ([GREVIO](#)) has, in its [baseline evaluation reports](#) has repeatedly looked into factors that prevent women from reporting incidents of violence, in particular domestic violence. The reports frequently address the issue of threats, in particular death threats made by an abusive partner/husband and the need to ensure that law enforcement agencies and other professionals are trained to recognize the serious nature of such threats.

Question: Is there a convention/treaty we can use as reference to advocate specific legislation in our countries?

Betty SHAVE: It depends what topic you are alluding to. The Philippines is a Party to Budapest Convention, so it could consider becoming a Party to the Budapest Convention's [Additional Protocol on racism and xenophobia](#) in cyberspace. Then there are the Lanzarote and Istanbul conventions, as well as the different national statutes collected in the mapping study and the separate collection of such statutes that is kept updated on the website.

Question: Is it thought the creation of a common taxonomy for cyberviolence in order to help further investigations and international cooperation? Like [this one](#) from Europol for law enforcement and CSIRTs.

Betty SHAVE: An interesting idea. One of the strengths of the Budapest Convention (this is also pointed out in the [Mapping Study](#)) is that its investigative tools and international cooperation mechanisms are available with regard to *any* crime, whether it is electronic or a physical-world crime that involves electronic evidence.

Question: In the Republic of Moldova, the media is one of the main sources that contributes to the spread of sexist discourse and hate speech against women. How could the media institutions be involved in the prevention of cyberviolence?

Katarzyna WOLSKA-WRONA: In 2019 EIGE has published a toolkit which provides guidelines for the use of gender-sensitive language in writing. The use of gender-sensitive communication ensures that women and men (as well as those who do not confirm to the binary gender system) are treated as persons of equal importance and dignity. More information on the subject as well as the toolkit itself can be found on EIGE's website [here](#).

Menno ETTEMA: Similarly, the Council of Europe has supported the media council of the Republic of Moldova to draft an ethical code and self-regulatory mechanisms. But many challenges remain with its implementation and address hate speech more in general.

The Anti-Discrimination Department therefore is conducting this autumn a systemic analysis of the national approach to hate speech in Moldova which will map how members of society are impacted by hate speech and the redress available to them. The analysis maps the interaction individuals have with institutions, public bodies, NGO's and private sector throughout the process of addressing the hate speech. Based on the mapping a comprehensive and multi-stakeholder approach to address hate speech should be set-up in line with ECRI General Policy Recommendation no. 15 on combating hate speech. See more [information on the mapping and the ECRI recommendation](#).

Question: Does your Commission (ECRI) cooperate with the Facebook, Twitter and other platforms addressing hate speech?

Menno ETTEMA: ECRI ([European Commission Against Racism and Intolerance](#)) is a monitoring body of the Council of Europe and therefore not directly engages in cooperation 'activities' with social media platforms. However, within the framework of its country monitoring visits it can decide to meet with all relevant stakeholders, including platforms. A recent example is the visit to Germany in 2019.

More in general the Council of Europe has set up a framework, through an exchange of letters with Internet business, that facilitates cooperation or dialogue on issues of concern, including for example on hate speech and other elements or expressions sustaining discrimination and intolerance.

Question: How we can enforce member states of the Council of Europe to accept and implement the Budapest Convention and the Istanbul Convention? Also, in Ukraine there are still no restrictions in law about hate speech and hate crime or strong restrictions for youth/kids to use Internet.

Menno ETTEMA: The implementation of the conventions are monitored by the European Court of Human Rights; the Steering Committee on Human Rights ([CDDH](#)); and the Group of Experts on Action against Violence against Women and Domestic Violence ([GREVIO](#)). Its recommendations and decisions form the basis for a political dialogue between the member states and cooperation activities of the Council of Europe.

ECRI, in its 6th country monitoring cycle (2019-2024), will particularly focus on that national approach to address hate speech. Its country monitoring recommendations give guidance to member states and CSO to take action. (see also [ECRI's 5th country monitoring report on Ukraine](#) that addressed hate speech)

The Anti-Discrimination Department will initiate a systemic analysis of the national approach to hate speech in Ukraine which will map how members of society are impacted by hate speech and the redress available to them. The mapping study will start in winter 2020. See for more information on [the format of the study](#).

Johanna NELLES: The Istanbul Convention is monitored by an independent group of experts called [GREVIO](#). It reviews the level of implementation of the Istanbul Convention in each of the state parties to the convention and issues country-specific reports. These contain a set of suggestions and proposals to improve the implementation of the convention where necessary. These reports are then transmitted to the [Committee of the Parties](#) which is composed of representatives of all state parties. It issues recommendations to take measures on the basis of GREVIO's reports and state parties are asked to report back within 3 years.

Question: As I understand, cyberviolence is a non-physical act of violence and has a dynamic jurisdiction. Could a nation approach and apply international conventions to prosecute the cyber-violence perpetrator based in other country?

C-PROC: The problem of determining jurisdiction for offences that involve and rely on information and communication technology (such as cyberviolence) are not new and thus responses of states could follow the set of rules as laid down in Chapter III of the

Budapest Convention of Cybercrime, as international cooperation provisions under that treaty apply to any criminal offence “for the purposes of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence” (Art. 23). Whilst success of cooperation in specific criminal cases would depend on multitude of factors, either legal or practical, the Convention at least lays down the general framework for cooperation through multitude of formal and informal means, which could be used by States Parties to the Convention.

Question: The traditional forms of violence are understood by people, but the same level of perception is not seen in cyber spaces; for example, one can observe that the percentage of insulting is far more in cyber sphere. How will people become aware that whether cyber or not... it is still a crime?

Menno ETTEMA: This is a very important issue. There is a common understanding that education and awareness raising play a key role in addressing this problem. This is the key principle of the [No Hate Speech Movement](#) Youth campaign launched by the Council of Europe in 2012 to mobilise young people for human rights online through human rights education.

The importance of education and awareness raising is also underlined in many Council of Europe standards and conventions, including the Istanbul convention for example. To give you two examples, the [ECRI General Policy Recommendation No 15](#) on combating hate speech calls on member states to: 1. identify the conditions conducive to the use of hate speech as a phenomenon ... and to discouraging and preventing its use and to reducing and remedying the harm caused, ...; 2. undertake a vigorous approach not only to raising public awareness of the importance of respecting pluralism and of the dangers posed by hate speech....

The Council of Europe [Committee of Ministers recommendation on roles and responsibilities of Internet Intermediaries](#) calls both on member states and Internet businesses to: support age- and gender-sensitive activities promoting media and information literacy to ensure that all users are effectively made aware of their rights and freedoms, in particular regarding their right to an effective remedy vis-à-vis both State authorities and internet intermediaries. The promotion of media and information literacy should encompass education about the rights of all stakeholders, including other users and affected parties.

Question: In Belgium, a far-reaching law on this phenomenon (non-consensual distribution of intimate images) will enter into force on 1 July. One of the questions I have on this issue is whether you consider there should be a different approach to juvenile.

C-PROC: Unfortunately, C-PROC currently does not work on this particular aspect. Our colleagues in Strasbourg from the [EndOCSEA@Europe project](#) (which aims to prevent and combat child sexual exploitation and abuse facilitated by ICTs) could be in the position to offer their view on this.

Question: To what extent is there capacity building to find on the Internet images of victims of NCII and have an automatic removal. I know of Facebook operations as good practice, but there it ends.

C-PROC: Unfortunately, C-PROC currently does not offer specific training programme or other capacity building activities in relation to non-consensual intimate images in general terms, with exception of specialized [EndOCSEA@Europe project](#) which aims to prevent and combat child sexual exploitation and abuse facilitated by ICTs. The project scope is currently limited to the member states of the Council of Europe.

Question: What measures are put in place to address cyber bullying against children in Africa, Ghana?

Menno ETTEMA: While I have no concrete examples addressed to children in African nations, I can recommend the resources on the children rights sector and education sector, and the [No Hate Speech Movement](#), among others: Children rights [resources page](#), Education Department [resources page](#), No Hate Speech Movement youth campaign [resources](#).

Question: Can the use of social media for raising awareness on institutional abuse against children and young people living in care settings be seen as "public shaming"? How can we use social media to report child abuse without being accused of public shaming?

Menno ETTEMA: In case of child abuse, due to the age of the child and the sensitive nature of the issue it is recommended as a first resort to contact the public authorities and safeguard the privacy of the child. I would recommend to consult the Council of Europe's [Children Rights](#) Department site on the protection of children's rights, which provides recommendations, good practices and contacts.

Question: How can one have access to the Comments from the Government, on a GREVIO report on the country? Portugal's comment on GREVIO report, for example.

Menno ETTEMA: Please see:
<https://www.coe.int/en/web/istanbul-convention/country-monitoring-work>

Question: Are Lanzarote Convention and Istanbul Convention also for countries which are not in Europe?

Menno ETTEMA: Yes, the two conventions are open for accession by non-member States.

Question: Are the developments for a new Protocol under the Budapest Convention relating to electronic evidence still ongoing? What are the hurdles in the negotiations?

Betty SHAVE: The negotiations are continuing and information is posted about them (and updated from time to time) on the Cybercrime Convention Committee [website](#). This link also solicits public comment. The negotiations per se are confidential.

Question: How do we contact you to enable us, Zambia Police Service, to benefit from this good content?

C-PROC: Please contact the Cybercrime Programme Office of the Council of Europe by filling in this [online form](#) for any specific enquiry.

www.coe.int/cybereast