

# CYBERHATE: AN ISSUE OF CONTINUED CONCERN FOR THE COUNCIL OF EUROPE'S ANTI-RACISM COMMISSION



**A report by Chara Bakalis**

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**Cyberhate:  
an issue of continued concern  
for the Council of Europe's  
Anti-Racism Commission**

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## 1. Introduction

Hate speech on the internet is a growing problem, as evidenced inter alia by the country reports of the Council of Europe's anti-racism commission.<sup>1</sup> The European Commission against Racism and Intolerance (ECRI) has been examining the situation in relation to cyberhate from as early as the 90s and over four monitoring cycles. In 2000, ECRI deemed it necessary to issue a General Policy Recommendation (GPR) No. 6 on Combating the dissemination of racist, xenophobic and antisemitic material via the Internet. Fifteen years have now passed and it is essential to revisit GPR No. 6 in light of ECRI's intervening practice to identify the general trends in the field, to assess the recommendations made to individual countries, to determine best practice which can be shared amongst member States and to evaluate the impact of GPR No. 6.

## 2. ECRI's GPR No. 6, adopted on 15 December 2000, provides the following:

The European Commission against Racism and Intolerance:

Recalling the Declaration adopted by the Heads of State and Government of the member States of the Council of Europe at their first Summit held in Vienna on 8-9 October 1993;

Recalling that the Plan of Action on combating racism, xenophobia, antisemitism and intolerance set out as part of this Declaration invited the Committee of Ministers to establish the European Commission against Racism and Intolerance with a mandate, inter alia, to formulate general policy recommendations to member States;

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<sup>1</sup> See section 3.3 below. It should be noted that whilst a number of reports have identified internet hate as a growing problem in a number of countries (see footnotes 20 and 21), a small number of reports suggest that internet hate is rare, for example in Monaco and "the former Yugoslav Republic of Macedonia".

Recalling also the Final Declaration and Action Plan adopted by the Heads of State and Government of the member States of the Council of Europe at their second Summit held in Strasbourg on 10-11 October 1997;

Recalling Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination;

Recalling Recommendation No R(92)19 of the Committee of Ministers to member States on video games with a racist content and Recommendation No R(97)20 of the Committee of Ministers to member States on “Hate Speech”;

Recalling that, in its general policy recommendation N° 1, ECRI called on the governments of Council of Europe member States to ensure that national criminal, civil and administrative law expressly and specifically counters racism, xenophobia, antisemitism and intolerance

Stressing that, in the same recommendation, ECRI asked for the aforementioned law to provide in particular that oral, written, audio-visual expressions and other forms of expression, including the electronic media, inciting to hatred, discrimination or violence against racial, ethnic, national or religious groups or against their members on the grounds that they belong to such a group are legally categorised as a criminal offence, which should also cover the production, the distribution and the storage for distribution of the material in question;

Taking full account of the General Conclusions of the European Conference against racism held in Strasbourg on 11-13 October 2000 as the European regional contribution to the World Conference against racism, racial discrimination, xenophobia and related intolerance, which will be held on 31 August – 7 September 2001 in Durban, South Africa;

Noting that the European Conference against racism urged participating States to make every effort to prosecute those responsible for incitement to racial hatred on the internet and their accomplices;

Welcoming the fact that, in the Political Declaration adopted on 13 October 2000 at the closing session of the European Conference, the member States of the Council of Europe committed themselves to combating all forms of expression which incite racial hatred as well as to take action against the dissemination of such material in the media in general and on the Internet in particular;

Aware of actions and initiatives taken in this field by the United Nations, the OECD, the Council of Europe and the European Union;

Welcoming the progress made by the Council of Europe in suppressing cyber-crime, notably the work on the draft Convention on cyber-crime, and hoping for a prompt finalisation of this first international instrument for suppressing cyber-crime;

Regretting nevertheless that, for the time being, the draft Convention does not include provisions on racist, xenophobic and antisemitic crimes committed via the Internet;

Aware of the positive contribution that the Internet can make to combating racism and intolerance on a world scale;

Recognising that the Internet offers unprecedented means of facilitating the cross-border communication of information on human rights issues related to anti-discrimination;

Stressing that the use of the Internet to set up educational and awareness-raising networks in the field of combating racism and intolerance is a good practice which should be supported and further developed;

Deeply concerned by the fact that the Internet is also used for disseminating racist, xenophobic and antisemitic material, by individuals and groups aiming to incite to intolerance or racial and ethnic hatred;

Convinced of the determination of the member States of the Council of Europe to combat the phenomena of racism, xenophobia, antisemitism and intolerance which destroy

democracy, and thus to act efficiently against the use of the Internet for racist, xenophobic and antisemitic aims;

Aware that the very nature of the Internet calls for solutions at international level, and thus a willingness on the part of all States to combat incitement to racial hatred, enabling the fundamental principle of respect for human dignity to prevail;

Recommends that the Governments of the member States:

- include the issue of combating racism, xenophobia and antisemitism in all current and future work at international level aimed at the suppression of illegal content on the Internet;
- reflect in this context on the preparation of a specific protocol to the future Convention on cyber-crime to combat racist, xenophobic and antisemitic offences committed via the Internet;
- take the necessary measures for strengthening international co-operation and mutual assistance between law enforcement authorities across the world, so as to take more efficient action against the dissemination of racist, xenophobic and antisemitic material via the Internet;
- ensure that relevant national legislation applies also to racist, xenophobic and antisemitic offences committed via the Internet and prosecute those responsible for this kind of offences;
- undertake sustained efforts for the training of law enforcement authorities in relation to the problem of dissemination of racist, xenophobic and antisemitic material via the Internet;
- reflect, in this context, on the setting up of a national consultation body which might act as a permanent



monitoring centre, mediating body and partner in the preparation of codes of conduct;

- support existing anti-racist initiatives on the Internet as well as the development of new sites devoted to the fight against racism, xenophobia, antisemitism and intolerance;
- clarify, on the basis of their respective technical functions, the responsibility of content host and content provider and site publishers as a result of the dissemination of racist, xenophobic and antisemitic messages;
- support the self-regulatory measures taken by the Internet industry to combat racism, xenophobia and antisemitism on the net, such as anti-racist hotlines, codes of conduct and filtering software, and encourage further research in this area;
- increase public awareness of the problem of the dissemination of racist, xenophobic and antisemitic material via the Internet while paying special attention to awareness-raising among young Internet-users – particularly children –as to the possibility of coming upon racist, xenophobic and antisemitic sites and the potential risk of such sites.

### **3. What are the general trends?**

#### **3.1 *Victims of cyberhate***

The reports make reference to the groups targeted by cyberhate in each member State. These groups tend to reflect the particular cultural mix in individual countries. For example, immigrants in France,<sup>2</sup> Black people in France and the Netherlands,<sup>3</sup> Turks and

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<sup>2</sup> 4<sup>th</sup> round report on France § 80

<sup>3</sup> 4<sup>th</sup> round reports on France § 80 and the Netherlands § 24

Moroccans in the Netherlands,<sup>4</sup> Russians in Latvia,<sup>5</sup> Roma and Romanians in Italy,<sup>6</sup> Russians and Germans in Poland,<sup>7</sup> Sinti in Germany,<sup>8</sup> and travellers in France.<sup>9</sup> Three groups stand out as being targeted across a number of European countries. The first is Jews, with antisemitism being prevalent across the whole continent.<sup>10</sup> Secondly, Islamophobia appears to be on the increase with cyberhate against Muslims appearing mainly in Central and Northern Europe,<sup>11</sup> but also in parts of Southern Europe.<sup>12</sup> Online hate against the Roma is also rife, mostly in Central and Eastern Europe and parts of Southern Europe.<sup>13</sup>

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<sup>4</sup> 4<sup>th</sup> round report on the Netherlands § 24

<sup>5</sup> 4<sup>th</sup> round report on Latvia § 89

<sup>6</sup> 4<sup>th</sup> round report on Italy § 59

<sup>7</sup> 5<sup>th</sup> round report on Poland § 33

<sup>8</sup> 4<sup>th</sup> round report on Germany § 73

<sup>9</sup> 4<sup>th</sup> round report on France § 80

<sup>10</sup> See 4<sup>th</sup> round reports on Belgium § 97, Estonia § 103, France § 80, Germany § 73, Latvia § 89, Lithuania § 81, the Netherlands § 24, the Russian Federation § 106, Sweden § 78, Ukraine § 60 and the United Kingdom § 142; and 5<sup>th</sup> round reports on Hungary § 34 and Poland § 33

<sup>11</sup> See 4<sup>th</sup> round reports on Belgium § 97, France § 80, Iceland § 69, the Netherlands § 24, Slovenia § 71, Sweden § 78 and § 121 and the United Kingdom § 146; see also 5<sup>th</sup> round reports on Poland § 33 and Norway § 27

<sup>12</sup> 5<sup>th</sup> round report on Greece § 51

<sup>13</sup> See 4<sup>th</sup> round reports on the Czech Republic § 56, Estonia § 103, Germany § 73, Italy § 59, Portugal § 74, Romania § 101, Slovenia § 71 and Ukraine § 60; and 5<sup>th</sup> round reports on Hungary § 33-34, Greece § 50, Slovakia § 49 and Norway § 22

## 3.2 *Who are the perpetrators?*

3.2.1 The perpetrators of cyberhate are not always identified, but racism by right wing and neo-nazi groups is mentioned in a number of reports.<sup>14</sup> Nationalists are another group who often appear in the reports.<sup>15</sup>

3.2.2 Equally worrying are the number of reports which identify the media itself as the source of cyberhate. In a number of instances, unfair and antagonistic media reports which appear on online newspapers, and which target certain vulnerable groups, are singled out as being of concern.<sup>16</sup> These articles are seen as contributing to a hostile environment. In addition to this, the comments sections on newspapers often contain racist and xenophobic remarks, even when these boards purport to be moderated.<sup>17</sup>

## 3.3 *Growing problem*

3.3.1 Equally worrying are the large number of reports which mention the fact that cyberhate is a persistent issue or a growing concern in certain countries.<sup>18</sup> It is unclear whether this is a result of an actual increase in the amount of hateful content on the internet, or whether the problem is more noticeable owing to improvements in the monitoring and reporting mechanisms that are now in place (see sections 4.3 and 4.4 below). However, it is interesting to note

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<sup>14</sup> 4<sup>th</sup> round reports on the Czech Republic § 56, Germany § 73, Poland § 101, the Russian Federation § 106 and Spain § 100; and 5<sup>th</sup> round report on Greece § 49

<sup>15</sup> 4<sup>th</sup> round reports on the Russian Federation § 106, Belgium § 98 and Cyprus § 124

<sup>16</sup> 4<sup>th</sup> round report on Estonia § 103; and 5<sup>th</sup> round reports on Hungary § 33, Greece § 49 and § 50 and Norway § 22 and § 26

<sup>17</sup> 4<sup>th</sup> round reports on France § 78 and Belgium § 98

<sup>18</sup> 4<sup>th</sup> round reports on Belgium § 97, France § 80, Germany § 73, Italy § 59, Lithuania § 29, the Netherlands § 24, Norway § 14, Poland § 101, Portugal § 74, the Russian Federation § 106, Slovenia § 71, Spain § 100 and Sweden § 78; and 5<sup>th</sup> round reports on Poland § 33, Greece § 49, Norway § 22 and § 27 and Belgium § 58

that in spite of putting in place a number of mechanisms to combat cyberhate, an increase in online hate has been observed in some countries.<sup>19</sup>

- 3.3.2 There is a small number of countries which do not consider cyberhate to be a problem. For example, “the former Yugoslav Republic of Macedonia”<sup>20</sup> reported that there were no racist websites hosted in its own country, and the authorities in Monaco<sup>21</sup> believe that racist attacks are rare.

#### **4. General impact of GPR No. 6**

- 4.1 Various implementation measures have been taken in different member States. A number of different approaches have been adopted with varying levels of success. However, implementation generally takes the following forms:

##### *4.2 Enacting legislation*

The first step is enacting relevant legislation as per GPR No. 6. In some countries, existing legislation can be applied to cyberhate.<sup>22</sup> Other member States have created (or were in the process of creating at the time of the report) new legal provisions, or have extended existing measures, using GPR No. 6 as a framework.<sup>23</sup> However, some member States, such as Hungary,<sup>24</sup> Romania<sup>25</sup> and the United Kingdom,<sup>26</sup> are finding even this initial step difficult owing to domestic legal provisions on free speech or underlying

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<sup>19</sup> See 4<sup>th</sup> round report on Belgium § 97

<sup>20</sup> 4<sup>th</sup> round report on “the former Yugoslav Republic of Macedonia” § 75

<sup>21</sup> 4<sup>th</sup> round report on Monaco § 42

<sup>22</sup> For example, see 4<sup>th</sup> round report on Germany § 6

<sup>23</sup> For example, 4<sup>th</sup> round report on Luxembourg § 2

<sup>24</sup> 4<sup>th</sup> round report on Hungary § 5

<sup>25</sup> 4<sup>th</sup> round report on Romania § 3

<sup>26</sup> 4<sup>th</sup> round report on the United Kingdom § 6

criminal law concepts which do not allow for the creation of such extensive legislation.

#### 4.3 *Reporting mechanisms*

A number of countries have in place a reporting mechanism which enables individuals and public interest groups to inform the authorities of any cyberhate material they come across on the internet. These reporting mechanisms function in a number of different ways. Some are operated by the police<sup>27</sup> or through the prosecution service.<sup>28</sup> In other cases, reporting is managed by non-governmental bodies<sup>29</sup> or through an association of Internet Service Providers (ISPs).<sup>30</sup> Where the reporting mechanism is not operated by a law enforcement agency, complaints are forwarded to the police or prosecution service,<sup>31</sup> although in some countries the reporting body itself has some enforcement powers of its own, such as the ability to request websites to take down offending material.<sup>32</sup> These reporting mechanisms often appear in online form,<sup>33</sup> thus making the process more accessible to the public. How successful these reporting mechanisms are is not known, but underreporting does appear to be a problem.<sup>34</sup>

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<sup>27</sup> 4<sup>th</sup> round report on Finland § 100

<sup>28</sup> 4<sup>th</sup> round report on France § 81

<sup>29</sup> 4<sup>th</sup> round report on the Netherlands § 24

<sup>30</sup> 4<sup>th</sup> round report on Austria § 86

<sup>31</sup> For example, see 4<sup>th</sup> round reports on Italy § 60 and France § 81

<sup>32</sup> 4<sup>th</sup> round report on the Netherlands § 24

<sup>33</sup> 4<sup>th</sup> round reports on Belgium § 96, Italy § 60, France § 81 and Slovenia § 70; and 5<sup>th</sup> round report on Slovakia § 50

<sup>34</sup> For example, see 5<sup>th</sup> round report on Norway § 28

#### 4.4 *Monitoring*

Reporting mechanisms are important as they enable the public to bring to the authorities' attention material that might be deemed illegal. However, the authorities of some member States take the additional step of monitoring the internet themselves for any concerning content. This is normally done by law enforcement agencies. In Austria the Federal Agency for State Protection and Counter-Terrorism co-operates with the Federal Criminal Police Office to monitor the internet.<sup>35</sup> They believe that this has been successful in decreasing the instances of cyberhate, although NGOs consulted during the reporting process did not think the problem had gone away. In other member States, such as Italy<sup>36</sup> and Norway,<sup>37</sup> it is the police that monitor the World Wide Web, whilst Finland uses virtual community "police officers" to trawl the internet.<sup>38</sup> In Sweden, the police have gone further and have mapped racist websites in order to improve the effectiveness of surveillance.<sup>39</sup> However, occasionally monitoring is carried out by non-police bodies, such as in Romania where it is done by the National Council for Combatting Discrimination (NCCD)<sup>40</sup>, which has the power to sanction both the author and website administrator for discriminatory comments. However, in all these cases, it is not clear how systematic the monitoring is. For example, the NCCD in Romania<sup>41</sup> has admitted that systematic monitoring is

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<sup>35</sup> 4<sup>th</sup> report on Austria § 86

<sup>36</sup> 4<sup>th</sup> round report on Italy § 60

<sup>37</sup> 4<sup>th</sup> round report on Norway § 14

<sup>38</sup> 4<sup>th</sup> report on Finland § 100

<sup>39</sup> 4<sup>th</sup> round report on Sweden § 80

<sup>40</sup> 4<sup>th</sup> round report on Romania § 101; see also 4<sup>th</sup> round report on the Russian Federation § 107

<sup>41</sup> 4<sup>th</sup> round report on Romania § 101

not possible; other member States such as Lithuania and Norway<sup>42</sup> have also acknowledged this.

#### 4.5 *Enforcement and prosecution*

4.5.1 There are a variety of different enforcement mechanisms in place across the different member States. In some instances, the police or other authorities have the power to close down websites<sup>43</sup> or request that certain webpages or specific content are removed.<sup>44</sup> In some countries, ISPs or website operators are themselves held responsible for the content on their websites<sup>45</sup> and in France, ISPs can be required to block access from French territories' websites which supply racist material.<sup>46</sup>

4.5.2 However, prosecuting individuals themselves for uploading racist or xenophobic material has proved to be more difficult, and successful prosecutions appear to be patchy. Successful criminal proceedings have been brought in Belgium and the Czech Republic<sup>47</sup> against individuals, but prosecutions are still seen as exceptional.<sup>48</sup> One of the main stumbling blocks in this connection is the fact that the offending websites are often operated from abroad (such as from the United States of America); thus bringing individuals to justice can be problematic.<sup>49</sup>

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<sup>42</sup> 4<sup>th</sup> round report on Lithuania § 29; and 5<sup>th</sup> round report on Norway § 29

<sup>43</sup> 4<sup>th</sup> round reports on Portugal § 74 and the Russian Federation § 107

<sup>44</sup> 4<sup>th</sup> round report on the Netherlands § 24

<sup>45</sup> 4<sup>th</sup> round report on Finland § 100

<sup>46</sup> 4<sup>th</sup> round report on France § 82

<sup>47</sup> 5<sup>th</sup> round report on Belgium § 61; and 4<sup>th</sup> round report on the Czech Republic § 56

<sup>48</sup> For example, see 5<sup>th</sup> round report on Austria § 50

<sup>49</sup> See for instance see 4<sup>th</sup> round reports on Germany § 73, Poland § 101, Portugal § 74, France § 80 and Belgium § 97; and 5<sup>th</sup> round report on Hungary § 34

4.5.3 However, prosecutions can also be difficult even when the website operates within a member State's jurisdiction if the existing legislation is not wide enough in scope. This has occurred even in countries such as Norway,<sup>50</sup> where amendments have been made to legislation following recommendations by ECRI. As such, lack of prosecutions continues to be a problem.

## **5. What solutions has ECRI recommended to particular countries?**

5.1 Member States face a variety of issues. The solutions recommended by ECRI are tailored to the particular problems a member State is facing, and are sensitive to the particular cultural needs of a country and the existing framework available to combat cyberhate.

5.2 In situations where there is a fundamental lack of legislation, ECRI has recommended ratifying the Convention on Cybercrime and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.<sup>51</sup> Where needed, ECRI has directed the member State to GPR No. 6 which can be used as a framework for the creation of legislation.<sup>52</sup>

5.3 Where regulation does exist, ECRI recommends implementation of the relevant legislation<sup>53</sup> and rigorous prosecution.<sup>54</sup> This is particularly appropriate in countries where although the legislation

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<sup>50</sup> 4<sup>th</sup> round report on Norway § 12-13

<sup>51</sup> See for example, 4<sup>th</sup> round report on Hungary § 8

<sup>52</sup> For example, 4<sup>th</sup> round report on Italy § 61

<sup>53</sup> 4<sup>th</sup> round reports on Finland § 101 and Cyprus § 124

<sup>54</sup> For example, 4<sup>th</sup> round reports on the Czech Republic § 60, Estonia § 105 and Portugal § 77



exists, it is underused.<sup>55</sup> ECRI also recommends public awareness campaigns in order to increase the knowledge and understanding of the general public with regard to the applicable legislation<sup>56</sup> or reporting and monitoring mechanisms.<sup>57</sup>

- 5.4 In member States where particular groups are seen as vulnerable and requiring special attention, ECRI has drawn the member States attention to this.<sup>58</sup> In countries where prejudice and xenophobia are seen as endemic in society, ECRI has recommended large-scale public campaigns to address tolerance at a societal level.<sup>59</sup> Conversely, in countries where the authorities do not believe cyberhate is an issue, ECRI has recommended the undertaking of a poll to ascertain whether minorities within the population feel side-lined in a segmented country.<sup>60</sup>
- 5.5 A number of reports have identified the media as a source of cyberhate (see section 3.2.2. above). ECRI has made a number of different recommendations to overcome this problem: for example training for the media,<sup>61</sup> encouraging self-regulation of the media,<sup>62</sup> and regulations to ensure that the media moderates the content on discussion boards.<sup>63</sup>

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<sup>55</sup> 4<sup>th</sup> round reports on Lithuania § 18 and Slovenia § 72

<sup>56</sup> 4<sup>th</sup> round report on Finland § 101

<sup>57</sup> 4<sup>th</sup> round report on the Netherlands § 121-122

<sup>58</sup> For example, 4<sup>th</sup> round reports on the Czech Republic § 58 (Roma) or Sweden § 122 (Islamophobia)

<sup>59</sup> 5<sup>th</sup> round report on Poland § 44; and 4<sup>th</sup> round report on Slovenia § 72

<sup>60</sup> 4<sup>th</sup> round report on Monaco § 86 and § 90 (the report notes that the population of Monaco is segmented into Monegasque and non-Monegasque, and into the sub-categories “children of the country” and “foreigners”).

<sup>61</sup> 4<sup>th</sup> round report on Estonia § 104

<sup>62</sup> 4<sup>th</sup> round reports on the Czech Republic § 59 and Latvia § 90; and 5<sup>th</sup> round report on Greece § 52

<sup>63</sup> 4<sup>th</sup> round report on France § 79

- 5.6 Another problem identified in countries where measures are already in place to combat cyberhate is that, in many cases, the authorities do not have the appropriate resources and powers to combat cyberhate. In a large number of instances, ECRI recommendations revolve around the need to improve the capabilities and tools given to authorities. Recommendations vary from the need to provide adequate training for law enforcement agents<sup>64</sup> and the judiciary,<sup>65</sup> endowing the authorities with more resources,<sup>66</sup> designating specialist police units for cyberhate<sup>67</sup> and extending the mandate and powers of whichever body has been tasked with the responsibility of combatting cybercrime.<sup>68</sup> In the case of Poland,<sup>69</sup> ECRI has also recommended the setting up of a system for collecting and producing statistics in order to assess the impact of cyberhate legislation.
- 5.7 Setting up or improving monitoring facilities was also recommended to a number of member States,<sup>70</sup> to ensure proper law enforcement leading to prosecutions.<sup>71</sup> In Norway, ECRI has recommended that the police start having “empowerment” conversations with extremists in a bid to talk them out of their radical views.<sup>72</sup>

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<sup>64</sup> 4<sup>th</sup> round report on Moldova § 49; and 5<sup>th</sup> round report on Poland § 44

<sup>65</sup> 4<sup>th</sup> round report on Norway § 15-16

<sup>66</sup> 4<sup>th</sup> round report on Finland § 101, the Netherlands § 25 and Poland § 103

<sup>67</sup> 5<sup>th</sup> round report on Norway § 30 and § 32

<sup>68</sup> 4<sup>th</sup> round report on Lithuania § 81-83 and § 85; and 5<sup>th</sup> round reports on Belgium § 62 and Switzerland § 36

<sup>69</sup> 5<sup>th</sup> round report on Poland § 44

<sup>70</sup> 4<sup>th</sup> round reports on Latvia § 89-90, Iceland § 71, Lithuania § 29 and § 30, Portugal § 77, Romania § 103, the Netherlands § 122 and “the former Yugoslav Republic of Macedonia” § 76; and 5<sup>th</sup> round report on Norway § 30.

<sup>71</sup> 4<sup>th</sup> round report on Iceland § 71

<sup>72</sup> 5<sup>th</sup> round report on Norway § 31

5.8 Lack of international collaboration, particularly with the United States, was highlighted by a number of countries as hampering successful prosecutions.<sup>73</sup> In these instances, ECRI recommended that those member States seek a solution to this problem.<sup>74</sup> It is too soon to know whether the implementation of these recommendations has been successful.

## **6. Examples of good practice**

6.1 Below is a list of some of the examples of good practice found throughout the country reports.

6.2 In Austria, ISPs can be prosecuted for the content hosted on their servers through the use of criminal legislation against racist or Neo-nazi behaviour.<sup>75</sup>

6.3 The Belgian police appear to have secured a number of successful prosecutions.<sup>76</sup> This success appears to be down to a number of initiatives which together have combined to create a framework for effective prosecutions. In 2004 a Federal Action Plan to combat racism, antisemitism, xenophobia and related violence required special attention to be given to the dissemination of racism and antisemitism on the internet. This led to a symposium on “cyberhate: racism and discrimination on the Internet” which itself led to the creation of a website for the reporting of instances of racism on the internet and the publication of a guide for internet users. A steering group has also been set up to combat racism

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<sup>73</sup> See for instance, 4<sup>th</sup> round reports on the Czech Republic § 56, Germany § 73, Poland § 101, Portugal § 74, Spain § 100, France § 80 and Belgium § 100; and 5<sup>th</sup> round report on Hungary § 34

<sup>74</sup> 5<sup>th</sup> round report on Belgium § 63

<sup>75</sup> 4<sup>th</sup> round report on Austria § 86

<sup>76</sup> 4<sup>th</sup> round report on Belgium § 96

over the internet, and the prosecution service plans to distribute a circular on how to combat cybercrime.<sup>77</sup>

- 6.4 In France, a Joint Ministerial Committee for Combating Racism and Antisemitism has been set up to coordinate government policy through the lens of racism.<sup>78</sup> However, it should be noted that ECRI recommends that this body meets regularly in order to set a national agenda on racism, rather than the current model whereby the committee meets only during times of emergency.
- 6.5 Finland has produced a code of ethics for internet providers.<sup>79</sup> This was a collaborative project between the Ministry of Transport and Communication and the Finnish Federation for Communication and Teliformatics.
- 6.6 Germany and Poland appear to have experienced successful international cooperation concerning overseas servers.<sup>80</sup> In Germany, prosecuting or closing down sites hosted overseas has been achieved on occasion, partly through the initiatives of NGOs.<sup>81</sup> In Poland, a person whose name had appeared on a neo-Nazi website was the victim of a serious attack. The website was successfully closed down following criminal proceedings, but later began to operate from the US. However, the Polish authorities were able to gain assistance from their American counterparts, and the site was once again closed down.<sup>82</sup>
- 6.7 Lithuania has set up the Office of the Inspector of Journalist Ethics. This is a state institution accountable to the Parliament, and the Inspector is responsible for ensuring state laws are adhered to by

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<sup>77</sup> 4<sup>th</sup> round report on Belgium § 96

<sup>78</sup> 4<sup>th</sup> round report on France § 10 and § 11

<sup>79</sup> 4<sup>th</sup> round report on Finland § 100

<sup>80</sup> 4<sup>th</sup> round reports on Germany § 73 and Poland § 101

<sup>81</sup> 4<sup>th</sup> round report on Germany § 73

<sup>82</sup> 4<sup>th</sup> round report on Poland § 101

the media.<sup>83</sup> The Inspector has had some success in issuing warnings to editors of websites which contain racist material. For example, a leading internet portal published a string of antisemitic comments which the Inspector found to be discriminatory, and was thus able to issue the chief editor of the website with a warning.<sup>84</sup>

- 6.8 Lithuania's Safe Internet Plus Project seems a good model for reporting mechanisms.<sup>85</sup> This was launched by the Ministry of Education and Science and the Communications Regulatory Authority, and was implemented in part by the Inspector of Journalist Ethics and the Police Department. An online questionnaire can be filled in by members of the public if they come across racist comments on the internet. These questionnaires are then passed on to the relevant authorities, including those in other jurisdictions.<sup>86</sup>
- 6.9 Spain has appointed special prosecutors for cybercrime in every prosecution office in the country.<sup>87</sup>
- 6.10 Sweden has some good experience of screening comments on daily newspapers. Two different methods were used: comments were vetted before they appeared online to ensure that they did not contain racist material, or newspapers removed the right to anonymity and required posters to include their email address or their facebook page before publishing comments online. It appears that this exercise has successfully improved the tone of discussions.<sup>88</sup>

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<sup>83</sup> 4<sup>th</sup> round report on Lithuania § 81

<sup>84</sup> 4<sup>th</sup> round report on Lithuania § 81

<sup>85</sup> 4<sup>th</sup> round report on Lithuania § 29

<sup>86</sup> 4<sup>th</sup> round report on Lithuania § 29 and § 82

<sup>87</sup> 4<sup>th</sup> round report on Spain § 101

<sup>88</sup> 4<sup>th</sup> round report on Sweden § 79

6.11 In Switzerland, a number of online newspapers have adopted self-regulatory measures to combat cyberhate. These include systematic moderation of comments, abolition of anonymity for posters, and the automatic closure of accounts of persons who resort to racist discourse.<sup>89</sup>

## 7. Conclusions

7.1 It is clear that there has been a great deal of progress in combating racism and xenophobia online since the issuing of GPR No. 6 in 2000. It is also evident that GPR No. 6 provides a good focal point for countries wishing to make improvements to their legislative framework and police practice.

7.2 At the same time, however, it is also apparent that the problem of internet hate speech is not abating, and instead appears to be becoming progressively worse.<sup>90</sup> This is because of our increasing reliance on the internet, and its ever growing presence in our lives. Predictably, this has provided those who wish to peddle hatred with more outlets for their views, as well as access to a wider audience. As such, it is crucial for member States to continue their fight against racism and xenophobia on the internet.

7.3 Much can still be done by member States to further strengthen their reporting, monitoring and prosecution processes. Reporting mechanisms need to be clear, consistent and easy to use. Systematic monitoring of the internet needs to be comprehensive to ensure that the police are combating racism and xenophobia at its source rather than relying on complaints by the general public. There is still much work to be done to ensure that prosecutions of perpetrators are more frequent and more effective. This depends as much on ensuring a streamlining of criminal justice processes

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<sup>89</sup> 5<sup>th</sup> round report on Switzerland § 35

<sup>90</sup> See above section 3.3

and increased training of police as it does on clear and robust legislation which is effective at capturing the relevant wrongdoing.

- 7.4 More also needs to be done to ensure that the media is properly regulated. Countries may differ as to whether this should be achieved through self-regulation or through a government-imposed regulatory regime. Whichever mechanism is adopted, it needs to be effective at tackling the problem properly.
- 7.5 There is also an important role to be played by cross-national cooperation. This is vital in terms of sharing good practice, but also in initiating a coordinated response in areas where strength in numbers is vital. For example, a joint European response to the problem of websites hosted by American ISPs might be necessary given the stumbling block that differing views about freedom of speech is causing to effective prosecutions.
- 7.6 There is also an important role to be played by ECRI in setting minimum European-wide standards. Due to the differing cultural, political and legal norms of the different member States, there is a marked divergence in approaches between nations. Whilst some countries appear to be taking the problem seriously and are attempting to provide protection against racist and xenophobic hatred towards vulnerable groups, other countries are giving the issue less attention. This gap needs to be closed in order to ensure a more uniform approach, and to guarantee enjoyment of equal levels of protection for vulnerable groups across European countries.

Fifteen years after the European Commission against Racism and Intolerance (ECRI) issued its General Policy Recommendation (GPR) No. 6 on Combating the dissemination of racist, xenophobic and antisemitic material via the Internet, cyberhate is still a recurring issue in its reports. Through a thorough examination of ECRI's country reports over four monitoring cycles, Bakalis demonstrates that while GPR No. 6 has had a substantial impact on efforts to combat cyberhate, much remains to be done.

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