



Spanish legislation and best practices against hate speech and hate crime



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Hate Crime under Spanish Criminal Code



Open-ended definition:



- A criminal offence against the person which requires 3 elements:
 - Rights protected : the dignity of the person and the principle of equality of all human beings
 - The victim: may be one person or a group that are define by some protected characteristic
 - Specific motivation: Intolerance, discrimination because of such special protected characteristics
- They can be committed in both physical and virtual environments.



Hate Crime under Spanish Criminal Code



The unlawful conducts are described on the basis of two parameters:

-A) Generic;

Aggravating circumstance for the offence on grounds set out in 22.4 CC

- racist, Anti-Gypsyism, anti-Semitic
- on the basis of ideology, religion or beliefs
- the ethnicity, race or nation to which he/she belongs
- sex, age, sexual or gender orientation or identity,
- aporophobia or social exclusion
- the disease or the disability

-B) Specific offences :

- Threats , art 170-1^o CC
- Offence of discrimination in employment, art. 314.CC
- Denial of benefits , arts. 511 and 512 CC
- Hate speech, art 510 CC
- Offences against freedom of conscience and religious feelings,arts.524 , 525 CC



Implementation First Additional Protocol



| First Additional Protocol | Spanish Criminal Code |
|--|---|
| <ul style="list-style-type: none">▪ Article 3 -Dissemination of racist and xenophobic material through computer systems▪ Article 4 -Racist and xenophobic motivated threat▪ Article 5 - Racist and xenophobic motivated insult▪ Article 6 -Denial, gross minimisation, approval or justification of genocide or crimes against humanity▪ Article 7 - Aiding and abetting | <ul style="list-style-type: none">▪ Art. 510 CC, paragraphs 1a) and b)▪ Art. 170.1 CC and Art. 171 +22,4 CC▪ Art. 510.2 paragraph a) CC▪ Art. 510 paragraph 1 c) CC▪ Art 28 y 29 CC |



Online Hate Speech in Spanish Criminal Code



- **The aggravated form of dissemination of hate speech via social media ,via Internet or by using the information technologies : Art 510.3 CC**

“The penalties outlines in the previous sections shall be imposed in the upper half if the deeds are committed via social media ,via Internet or by using the information technologies in a manner that makes them accessible to a high number of persons.”



- **Specific measures to ensure content not remain accessible online : Art 510.6 CC**
 - removal of the content
 - blocking of access
 - interruption of the provision



THE NATIONAL RESPONSE TO HATE SPEECH



The SPANISH PROSECUTION SERVICE

- Prosecutors specialised in hate crimes.
 - A Chamber Prosecutor of Supreme Court  Coordinates 70 prosecutors across the country.
- Prosecutors specialised in Cybercrime
 - A Chamber Prosecutor of Supreme Court  coordinates 150 prosecutors across the country.
 - Provide support to specialised hate crime prosecutors when the activity is planned and executed through IT system

Goals:

- Defining common criteria on interpretation and enforcement of domestic regulations according to the international guidelines criteria.
- Coordinate an efficient action of the Prosecution Service against hate crime.
- Coordinate the response of the service in international investigations and facilitate collaboration with authorities in other states through the internal cooperation service.
- Participate and promote protocols/agreements with agencies and institutions involve in prevention, investigation and prosecution of Cybercrime and online hate speech.
- Compile annual statistics



THE NATIONAL RESPONSE TO HATE SPEECH



- Ministry of the Interior; Law enforcements
 - Law enforcements specialized in the investigation of hate crimes and discrimination, both in the physical and virtual environment .
 - Protocol of the Law enforcements to combat hate crimes
 - National Office for the Fight against Hate Crimes
- Other state public institutions:
 - Observatory against Racism and Xenophobia (OBERAXE)
 - Office for the Attention of Victims of Crime (Ministry of Justicia)
 - Inter-institutional agreement to collaborate in the fight against racism, xenophobia, LGBTIphobia and other forms of intolerance

Protocol to Combat Illegal Hate Speech Online, 18-III-2021

➤ The SPANISH PROSECUTION SERVICE. CONTACT POINT.

Obligation borne by the Cybercrime Unit : to forward court decisions to the service provider platforms as NATIONAL CONTACT POINT.

- Facebook
- Instagram
- YouTube
- GOOGLE
- Twitter
- Microsoft
- TikTok





THANK YOU FOR YOUR ATTENTION.



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