

Combating hate speech based on sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) in Europe



STEERING COMMITTEE
ON ANTI-DISCRIMINATION,
DIVERSITY AND INCLUSION (CDADI)

Committee of Experts on Sexual Orientation,
Gender Identity and Expression, and
Sex Characteristics (ADI-SOGIESC)

**Fourth thematic review
of the implementation of the Council
of Europe Committee of Ministers
Recommendation CM/Rec(2010)5
to member states on measures to
combat discrimination based on sexual
orientation or gender identity**

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2026 European Thematic Report

**STEERING COMMITTEE ON ANTI-DISCRIMINATION,
DIVERSITY AND INCLUSION (CDADI)**

**Prepared by the Committee of Experts on Sexual
Orientation, Gender Identity and Expression,
and Sex Characteristics (ADI-SOGIESC)**

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*La lutte contre le discours de haine fondé
sur l'orientation sexuelle, l'identité et
l'expression de genre,
et les caractéristiques sexuelles
(SOGIESC) en Europe*

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Executive Summary

This thematic report examines the measures taken by member States of the Council of Europe to prevent and combat hate speech on grounds of sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC), identifies good practices and remaining challenges, and formulates recommendations for further strengthening protection. The report focuses on paragraphs 6–8 of Recommendation CM/Rec(2010)5 of the Committee of Ministers, which gives guidance to member States to take appropriate measures to combat SOGIESC-based hate speech, calls on public authorities to refrain from such speech, and on public officials to promote tolerance and respect. This thematic report draws on binding and non-binding international standards, findings of monitoring bodies, national reports and multi-stakeholder roundtables for Malta and Norway, an exchange of best and promising practices conducted during the fourth meeting of the ADI-SOGIESC in October 2025, and desk research covering ECRI sixth cycle monitoring reports and relevant legislative and policy developments across member States.

The report should be viewed against the backdrop of increasing hostility towards LGBTI persons and a growing strategic opposition to LGBTI equality in Europe. Anti-human-rights narratives, frequently framed around opposition to so-called “gender ideology”, have contributed to an increasingly polarised public discourse and an escalation of demeaning and inflammatory speech targeting LGBTI persons, particularly transgender persons. Such developments undermine not only the health, safety, and dignity of the individuals affected but also their democratic participation and social cohesion more broadly. The report situates these dynamics within the broader international human rights framework of the Council of Europe, the European Union, and the United Nations, drawing on the calibrated three-tiered approach to hate speech introduced in CM/Rec(2022)16, the expanded grounds introduced in CM/Rec(2025)7, and the evolving jurisprudence of the European Court of Human Rights.

The report notes that SOGIESC-based hate speech causes serious and documented harm at three distinct levels. At the individual level, exposure is associated with heightened fear and hypervigilance, elevated rates of anxiety, depression, and suicidal ideation, and significant behavioural modification, including avoidance of public spaces, services, and civic life, that authorities may misread as low demand rather than as a consequence of hostility. At the institutional level, pervasive hate speech generates an administrative feedback loop in which underreporting weakens recorded data, reduced data weakens prioritisation, and diminished institutional trust further reinforces non-reporting: a cycle that persists even where formal legal protections are in place. At the political level, SOGIESC-based hate speech is increasingly deployed as an instrument of democratic erosion, restructuring the boundaries of political participation, providing justificatory language for restricting pluralism, and (particularly through mis- and disinformation ecosystems) saturating public discourse with manufactured threat narratives that shift institutional priorities away from prevention and protection duties.

The normative framework available to member States for preventing and combating hate speech is extensive but fragmented across multiple binding and non-binding instruments, without a single comprehensive codification. Section A of the report maps those interlocking standards of the Council of Europe, the European Union, and the United Nations, including binding instruments, non-binding recommendations, and emerging digital regulation. Key developments include CM/Rec(2022)16's comprehensive, but non-binding framework, for addressing hate speech, including in digital environments, the EU Digital Services Act's obligations to mitigate systemic risk for online platforms, and the 2024 Directive on combating violence against women, which sets a precedent for the expansion of protected characteristics in EU-level criminal law. The report identifies significant remaining gaps, notably the uneven transposition of relevant standards across member States.

The analysis of legislative and policy measures in Section B reveals a clear and persistent hierarchy of protection. Thirty-five member States prohibit hate speech on grounds of sexual orientation, while only eighteen extend protection to gender identity, and six to gender expression and sex characteristics. Where SOGIESC grounds are absent from explicitly enumerated bias motivation lists, enforcement is structurally weakened irrespective of whether general provisions cover such hostility. The absence of legislative protection on grounds of gender expression and sex characteristics in many jurisdictions creates conditions in which hate speech targeting trans, gender-non-conforming and intersex persons can flourish without legal sanction. Good practices in prosecution are identified covering legislative

design, evidentiary frameworks, and institutional infrastructure for consistent interpretation.

The report identifies structural challenges that are common across member States regardless of the strength of their legislative frameworks. Underreporting, often driven by distrust in institutions/the police and fear of secondary victimisation and the lack of awareness of available mechanisms, means that the prevalence of SOGIESC-based hate speech is systematically undercounted in official data. The absence of disaggregated, SOGIESC-specific recording in most member States makes the gap between community experience and institutional response invisible rather than measurable. Civil society organisations are carrying reporting, legal support, monitoring, and prevention functions that public institutions often do not assume, frequently on project-based funding that cannot sustain the continuity these functions require. Online hate speech presents its own set of enforcement challenges relating to platform accountability, trusted flagger access, minority language content moderation, and the emerging role of AI-generated content.

The report concludes with nineteen recommendations organised into four sections: general recommendations addressing data systems, the role of civil society, the conduct of public officials, and AI-generated hate speech; and topic-specific recommendations on prosecution, protection, and prevention. Across all four sections, the recommendations are directed at closing the gap between the formal strength of member States' legal commitments and the operational delivery of protection in practice, ensuring that legislative progress translates into tangible safety, the possibility to participate in public debate and life without fear, and the protection of dignity for LGBTI persons across Europe.

Introduction

Background to the thematic report

1. This thematic report stems from the Committee of Ministers' decision to complement the comprehensive review process¹ of the implementation of Recommendation CM/Rec(2010)5² of the Committee of Ministers to member States on measures to combat discrimination on grounds of sexual orientation or gender identity, with thematic reviews on the themes covered by the Recommendation.
2. Under the authority of the Committee of Ministers, and as a subordinate body to the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI),³ the Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (ADI-SO-GIESC)⁴ has been mandated under its terms of reference⁵ to review the thematic dimensions of CM/Rec(2010)5.
3. Three thematic reports have been produced so far: on legal gender recognition in Europe (2022),⁶ on hate crimes and other hate-motivated incidents based on sexual orientation, gender identity, gender expression, and sex characteristics in Europe (2023),⁷ and on the right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe (2024).⁸

1. To date, three comprehensive reviews have been undertaken: in 2013 (<https://search.coe.int/cm/?i=09000016805c859a>), 2020 (<https://search.coe.int/cm/?i=09000016809f9ba0>) and 2025 (<https://rm.coe.int/report-on-the-review-of-the-implementation-of-recommendation-cm-rec-20/48802904af>)

2. <https://search.coe.int/cm/?i=09000016805cf40a>

3. <https://www.coe.int/en/web/committee-antidiscrimination-diversity-inclusion>

4. <https://www.coe.int/en/web/sogi/committee-adi-sogiesc>

5. <https://rm.coe.int/cdadi-tor-2024-2027-revised-en-docx/488029d6c9>

6. <https://rm.coe.int/thematic-report-on-legal-gender-recognition-in-europe-2022/1680a729b3>

7. <https://rm.coe.int/gt-adi-sogi-2023-3-en-european-report-sogiesc-based-hate-crime-final-t/1680ac3c18>

8. <https://rm.coe.int/prems-124824-gbr-2575-right-to-the-highest-attainable-standard-of-heal/1680b1ba4d>

This thematic report

4. This thematic report focuses on paragraphs 6-8 under section IB “hate speech” of CM/Rec(2010)5.
5. In paragraph 6, CM/Rec(2010)5 establishes the grounds (sexual orientation or gender identity) and threshold (all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons) that member States should take appropriate measures to combat within the scope of their jurisdiction, including on the Internet. It also highlights that all measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the European Convention on Human Rights.⁹ In paragraph 7, CM/Rec(2010)5 calls on public authorities at all levels to refrain from using hate speech.¹⁰ In paragraph 8, CM/Rec(2010)5 encourages public officials to promote tolerance and respect in dialogue with key stakeholders.¹¹
6. While CM/Rec(2010)5 remains the foundational mandate, this thematic report interprets its requirements in accordance with subsequent standards. In particular, the report will consider the calibrated three-tiered approach to hate speech and framework for assessing the severity of speech introduced in CM/Rec(2022)16 on combating hate speech,¹² and the expansion of relevant grounds as introduced in Recommendation CM/Rec(2025)7¹³ on equal rights for intersex persons, to include sex characteristics.

9. The full text of the paragraph: “Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.”

10. The full text of the paragraph: “Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination.”

11. The full text of the paragraph: “Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organisations, political organisations and religious communities.”

12. <https://search.coe.int/cm?i=0900001680a67955>

13. <https://search.coe.int/cm?i=091259488028b934>

7. In addition, European Commission against Racism and Intolerance (ECRI) General Policy Recommendations (GPR) No.15 on combating hate speech¹⁴ and No.17 on preventing and combating intolerance and discrimination against LGBTI persons¹⁵ are considered, in particular regarding the duty of political actors to prevent the entrenchment of bias and to counter “anti-gender” and “anti-LGBTI” rhetoric that creates a “stifling climate” and a “climate of fear and insecurity” for LGBTI people, thereby curtailing their full participation in civic and social life.
8. Finally, the Secretary General’s 2025 Report “Towards a New Democratic Pact for Europe” highlights that “Democracy depends on equal rights and participation for all. Political actors exploiting divisions for electoral gain, such as by framing minority rights as a threat to the majority, weaken democratic foundations.”¹⁶

Methodology and report structure

9. The analysis in this report draws on multiple sources, including desk research, existing Council of Europe monitoring and reporting processes, and findings from the 2025 report on the comprehensive review on the implementation of Recommendation CM/Rec(2010)5. Insights were gathered through an exchange of promising practices held during the 4th meeting of the ADI-SOGIESC in October 2025. Two member States, Malta and Norway, also volunteered to participate in the thematic review as illustrative case studies. National reports were prepared for both countries and discussed at hybrid multi-stakeholder roundtables held in February 2026, which provided further insights and informed the development of the report’s recommendations.
10. Following this introduction, Section A of this thematic report will examine the State of Play as regards hate speech on grounds of SOGIESC, with Section A1 reviewing the applicable international human rights standards and Section A2 outlining the impact and intersectional nature of hate speech. Section B analyses legislative and policy measures undertaken by member States to combat hate speech against LGBTI persons and best practices, organised into prosecution, or

14. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.15>

15. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.-17>

16. <https://rm.coe.int/2025-report-of-the-secretary-general-of-the-council-of-europe-en-final/1680b5ad96>

legislative measures (B1), protection, or the implementation of legislative measures (B2), and prevention (B3), followed by a concluding section and recommendations.

A. State of Play

A1. International Human rights standards

11. Tackling hate speech, including that targeting LGBTI persons, is increasingly understood not only as a matter of protecting individual rights, but also as essential to safeguarding democratic integrity. In an era of heightened polarisation, online disinformation, and deliberate attempts to fracture the social fabric, anti-LGBTI narratives function as powerful vectors for broader societal division. Within this landscape, the digital sphere plays a dual role: as an enabler of visibility and participation, and as a site of vulnerability where marginalised communities are exposed to virulent and coordinated attacks. Responding to these challenges, member States have at their disposal a robust and evolving body of international standards. Instruments across the Council of Europe, the European Union, and the United Nations provide guidance on regulating hate speech, protecting victims, ensuring freedom of expression, and addressing systemic risks in digital environments. This chapter maps these interlocking normative frameworks and situates them within a strategic understanding of how countering anti-LGBTI hate speech contributes to democratic resilience.

Council of Europe

12. The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR)¹⁷ stands at the forefront of international legal instruments establishing legal recourse for individuals and other states to hold member States of the Council of Europe to account in respect to their obligations to prevent and counter hate speech, in particular through Article 8 (on respect for private and family life), Article 10 (on freedom of expression), and Article 14 (on non-discrimination).

17. <https://www.echr.coe.int/european-convention-on-human-rights>

13. Beyond the ECHR and other binding treaties, there are several instruments available to the Council of Europe which represent the collective opinion of its various bodies. The Committee of Ministers of the Council of Europe regularly develops non-binding Recommendations to member States on how to improve their laws, policies, and practices on a wide range of questions. The European Commission against Racism and Intolerance (ECRI) elaborates General Policy Recommendations (GPR) addressed to the governments of all member States providing detailed guidance which can be used when developing national strategies and policies. Similarly, Parliamentary Assembly (PACE) Resolutions are the reflection of the majority opinion of the members of PACE. Whilst these instruments are not legally binding, they can (and have) been used in judgments of the European Court of Human Rights (the Court) and are considered international standards.

European Court of Human Rights Case Law

14. On the 70th anniversary since the Convention's entry into force, then-President of the Court, Siofra O'Leary, stated that "by holding States to account the Court seeks to maintain and foster democratic stability and the effective functioning of the rule of law across the Council of Europe legal space".¹⁸
15. As described in a (non-binding) guidance document on Articles 8, 13 (Right to an effective remedy), and 14 of the ECHR, the Court considers statements that spread, incite, promote or justify violence, hatred or intolerance against a person or group are a threat to social cohesion and constitute a risk of violence. Its jurisprudence has largely revolved around extending protection to individuals via the application of Article 8 on its own or together with Article 14 and, exceptionally under Article 13. In the context of Article 8, the Court also considers that the negative stereotyping of a group can impact a group's sense of identity, as well as the individual members' self-worth, thereby affecting the private life of the members of that group.¹⁹
16. The Court's jurisprudence understands hate speech as falling in one of two categories: "the gravest forms of 'hate speech', which the Court has considered to fall under Article 17 (Prohibition of abuse of rights)

18. ECHR 241 (2023) <https://www.echr.coe.int/w/70-years-since-the-european-convention-on-human-rights-entered-into-force-on-3-september-1953>

19. ECHR-KS Key theme – Articles 8, 13 and 14 Protection against hate speech <https://ks.echr.coe.int/documents/d/echr-ks/protection-against-hate-speech>

and thus excluded entirely from the protection of Article 10” and “less grave forms of ‘hate speech’ which the Court has not considered to fall entirely outside the protection of Article 10, but which it has considered permissible for the Contracting States to restrict”.^{20,21}

17. *Beizaras and Levickas v. Lithuania* (2020)²² is a landmark case with regards to hate speech against LGBTI persons in that it finds a violation of positive obligations not only in regard to Article 14 taken in conjunction with Article 8, but also a separate violation of Article 13, whereby the lack of acknowledgment of the bias motivation of such crimes means that “prejudice-motivated crimes would unavoidably be treated on an equal footing with ordinary cases without such overtones, and the resultant indifference would be tantamount to official acquiescence or even connivance in hate crimes.” Importantly, it also agreed with a referenced judgment by the Lithuanian Constitutional Court which found that “the attitudes or stereotypes prevailing over a certain period of time among the majority of members of society may not serve as justifiable grounds for discriminating against persons solely on the basis of their sexual orientation, or for limiting the right to the protection of private life.”

Other relevant cases include:

On responsibilities arising from Articles 3, 8, 11, 14 of the ECHR

18. In *Association ACCEPT and Others v. Romania* (2021),²³ the Court found that authorities violated Article 14 in conjunction with Article 8 by not ensuring an LGBT event (a public screening of a movie portraying a same-sex family) proceeded peacefully by sufficiently containing counter protesters and effectively investigating the homophobic insults and threats directed at the participants of the event.
19. The *Genderdoc-M and M.D. v. Moldova* (2021)²⁴ judgment found a violation of Article 3 in conjunction with Article 14, solidifying the obligation of States to actively investigate violent acts against LGBTI individuals for underlying bias, as opposed to waiting for affected individuals to explicitly label them as hate crimes.

20. *Lilliendahl v. Iceland*, Application no. 29297/18, 12 May 2020

21. See also the Guide on Article 17 of the European Convention on Human Rights, in particular Section 3 on Homophobia https://ks.echr.coe.int/documents/d/echr-ks/guide_art_17_eng

22. *Beizaras and Levickas v Lithuania*, Applications no 41288/15, 14 January 2020

23. *Association ACCEPT and Others v. Romania*, Application no. 19237/16, 1 June 2021

24. *Genderdoc-M and M.D. v. Moldova*, Application no. 23914/15, 14 December 2021

20. *Budinova and Chaprazov v. Bulgaria* (2021)²⁵ established a violation of Article 8 in conjunction with Article 14, noting that the obligation to protect individuals from hate speech extends to discriminatory statements made by public figures in positions of political authority, and that the institutional authority of the speaker heightens rather than mitigates state responsibility to provide civil redress.
21. In the judgment on *Oganezova v. Armenia* (2022),²⁶ the Court established a failure on the side of the authorities to provide protection and properly investigate an aggressive homophobic campaign against an LBT woman and thus a violation of Article 3 (Prohibition of inhuman or degrading treatment) taken in conjunction with Article 14.
22. In *Nepomnyashchiy and Others v. Russia* (2023),²⁷ deliberating on LGBTI applicants bringing criminal and civil cases against homophobic statements by Russian politicians, the Court found that despite the authorities' argument of an absence of a specific protection of LGBTI persons as a social group in Russian law, European human rights law still obliges States to protect individuals affected by hate speech under the broader rights to private life (Article 8) and non-discrimination (Article 14).
23. In *Minyasan and Others v. Armenia* (2025),²⁸ the Court determined a violation of both Article 8 and Article 14 by the Armenian authorities in their failure to protect activists, journalists, and researchers from homophobic hate speech.

On the applicability of protections arising from Article 10 of the ECHR

24. In *Jersild v. Denmark* (1994),²⁹ the Court is notable in that it established the relevance of the reach of speech in determining the severity of the offence by acknowledging that "audiovisual media have often a much more immediate and powerful effect than the print media".
25. In *Pavel Ivanov v. Russia* (2007),³⁰ the Court declared inadmissible under Article 17 an application by a publisher convicted for antisemitic publications, holding that expression directed at the destruction of the rights of others falls entirely outside Convention protection and cannot invoke Article 10.

25. *Budinova and Chaprazov v. Bulgaria*, Application no. [12567/13](#), 16 February 2021

26. *Oganezova v. Armenia*, Applications nos. [71367/12](#) and [72961/12](#), 17 May 2022

27. *Nepomnyashchiy and Others v. Russia*, Applications nos. [39954/09](#) and [3465/17](#), 30 May 2023

28. *Minyasan and Others v. Armenia*, Application no. [59180/15](#), 07 January 2025

29. *Jersild v. Denmark*, Application no. [15890/89](#), 23 September 1994

30. *Pavel Ivanov v. Russia*, Application no. [35222/04](#), 20 February 2007

26. In *Vejdeland and Others v. Sweden* (2012),³¹ the Court highlighted that hate speech against sexual minorities is not protected under Article 10 if it constitutes serious and prejudicial attacks on dignity. In examining whether Swedish courts had violated Article 10, the Court affirmed that “although [the statements on the leaflets distributed by the applicant in a public school in Sweden] did not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations”, that “hatred does not necessarily entail a call for an act of violence”, and that “interference with the applicants’ exercise of their right to freedom of expression could therefore reasonably be regarded by the national authorities as necessary in a democratic society for the protection of the reputation and rights of others”, considering schools to be particularly sensitive contexts as the leaflets were distributed “in the lockers of young people who were at an impressionable and sensitive age and who had no possibility to decline to accept them”.
27. In *Delfi AS v. Estonia* (2015),³² the first case where the Court examined the liability of platforms for user-generated content, it found that the Estonian courts had not violated Article 10 in fining the largest news portal in Estonia for the content of user comments under one of its news articles, holding both that the risk of harm posed by content and communications on the Internet is higher than the risk of such speech in printed press and that the economic interest in the publication of comments entails responsibility on the part of the news portal akin to those of editor and publisher even when the comments are entirely user-generated.
28. In *Sanchez v. France* (2023),³³ the Grand Chamber extended this liability framework beyond professional news portals to individual account holders, finding that the French courts had not violated Article 10 in convicting a political candidate for failing to promptly remove hate speech posted by third parties on his public Facebook wall. The Court held that by making his account publicly accessible, the applicant had assumed responsibility for its content, and that his status as a political figure imposed a heightened duty of vigilance over content circulating on his platform.

31. *Vejdeland and others v. Sweden*, Application no. [1813/07](#), 9 February 2012

32. *Delfi AS v. Estonia*, Application no. [64569/09](#), 16 June 2015

33. *Sanchez v. France*, Application no. [45581/15](#), 15 May 2023

29. In *Lenis v. Greece* (2023),³⁴ the Court deliberated on whether the prosecution and sentencing of a Greek Orthodox Church Official over a homophobic article on his blog constituted a violation of his freedom of expression under Article 10, finding that remarks denying the human nature of LGBTI persons and inciting violence fall under Article 17, ruling in favour of the authorities.

Legal documents of the Committee of Ministers of the Council of Europe

30. Recommendation CM/Rec(2010)5³⁵ on measures to combat discrimination on grounds of sexual orientation or gender identity is the most comprehensive pan-European instrument explicitly addressing the rights of LGBT persons. Adopted unanimously by the Committee of Ministers in March 2010,³⁶ it sets out concrete measures for member States including measures to protect LGBT persons from hate speech and hate crime (see Section 1), becoming a key European reference framework for LGBT rights in Europe.
31. Recommendation CM/Rec(2025)7³⁷ on equal rights for intersex persons recognises the unique experiences, challenges, and vulnerabilities of intersex persons and calls on member States to incorporate sex characteristics as a protected ground in hate crime and hate speech legislation, underpinning it by systematic data collection and monitoring.
32. Recommendation CM/Rec(2022)16³⁸ on combating hate speech marks a significant evolution in the Council of Europe's approach to hate speech regulation. Unlike its predecessor CM/Rec(97)20³⁹ which focused largely on racist and xenophobic speech in traditional media, the 2022 instrument offers a comprehensive and updated framework for addressing hate speech in the context of digital amplification, democratic disruption, and intersectional harms. It explicitly recognises that hate speech can target people "by reason of their real or attributed personal characteristics" and refers to a non-exhaustive list of protected characteristics, broadening its scope of application.

34. *Lenis v. Greece*, Application no. 47833/20, 27 June 2023

35. <https://www.coe.int/en/web/sogi/rec-2010-5>

36. <https://www.ilga-europe.org/report/second-review-of-the-committee-of-ministers-of-the-council-of-europe-recommendation-on-lgbt-rights-2018/>

37. <https://search.coe.int/cm?i=091259488028b934>

38. <https://search.coe.int/cm?i=0900001680a67955>

39. <https://search.coe.int/cm?i=0900001680505d5b>

33. Recommendation CM/Rec(2018)2⁴⁰ on the roles and responsibilities of internet intermediaries clarifies that internet intermediaries should operate in accordance with respecting human rights, remove illegal hate content, cooperate with authorities, and ensure due process, and transparency.
34. Recommendation CM/Rec(2026)1⁴¹ on equality and artificial intelligence addresses AI systems across their full lifecycle. Explicitly including sexual orientation, gender identity and expression, and sex characteristics among the personal characteristics in respect of which equality obligations apply, it calls upon member States to encourage initiatives which explore how AI systems can identify, prevent, and combat hate speech and to ensure that legislative and regulatory frameworks create conditions for such initiatives and consider adequate funding. The Recommendation thus positions AI both as a source of risk for the amplification of hate speech and as a potential instrument of protection, encouraging member States to actively create conditions for the latter.
35. Recommendation CM/Rec(2026)2⁴² on accountability for technology-facilitated violence against women and girls situates such violence within the broader continuum of gender-based violence, explicitly recognises the role of intersecting forms of discrimination in compounding exposure to harm, and calls on member States to apply the Recommendation to all victims of technology-facilitated violence.

Other documents relating to hate speech online

36. The Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189)⁴³ extends the Budapest Convention framework to online racist and xenophobic expression, providing the criminal law basis for the categories of online hate speech insults referenced in CM/Rec(2022)16. However, it does not cover the grounds of sexual orientation, gender identity, gender expression and sex characteristics.
37. The 2023 Guidance Note on countering the spread of online mis- and disinformation through fact-checking and platform design solutions⁴⁴ developed by the Steering Committee for Media and Information Society

40. <https://search.coe.int/cm?i=0900001680790e14>

41. <https://search.coe.int/cm?i=09125948802acd7f>

42. <https://search.coe.int/cm?i=09125948802acd83>

43. <https://rm.coe.int/168008160f>

44. <https://search.coe.int/cm?i=091259488025e041>

(CDMSI), addresses the intersection of disinformation, digital platforms, and human rights obligations, recognising the threat such content poses to the functioning of a democratic society and civic participation, encouraging member States and platforms to act responsibly against disinformation by emphasising the importance of promoting accurate, reliable information, and enhancing visibility of trusted sources.

ECRI General Policy Recommendations (GPR)

38. In 2015's GPR No. 15⁴⁵ ECRI provided a definition of hate speech to include negative stereotyping, insults, or threats targeted at persons based on personal characteristics including sexual orientation and gender identity (SOGI) and urged a coordinated response and proportionate criminalisation of the most extreme forms of such speech. In so doing, GPR No. 15 establishes hate speech that targets persons on the grounds of their sexual orientation and gender identity as a legitimate object of legal concern, offering a framework for societal response.
39. ECRI GPR No. 17 (2023)⁴⁶ speaks to the rights of LGBTI people across the full spectrum of SOGIESC grounds, for the first time, and calls for comprehensive action across the domains of prevention, protection, investigation, prosecution and structural policy coordination. Complementing GPR No. 15, GPR No. 17 offers tailored guidance to combat anti-LGBTI harassment, particularly in digital environments and through intersectional, institutional reforms.

Resolutions of the Parliamentary Assembly and the Congress of local and regional authorities of the Council of Europe

40. PACE Resolution 1728 (2010)⁴⁷ affirmed the incompatibility of hate speech on the grounds of sexual orientation and gender identity with human rights law, calling on member States to condemn such speech and protect LGBT persons while upholding Article 10 of the ECHR. PACE Resolution 2048 (2015)⁴⁸ specifically, and for the first time, highlighted transgender persons as a group in need of specific protections and calls for the systematic collection and analysis of data including tracking transphobic hate speech as a distinct category.

45. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.15>

46. <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.-17>

47. <https://pace.coe.int/en/files/17853/html>

48. <https://pace.coe.int/en/files/21736/html>

41. PACE Resolution 2417 (2022)⁴⁹ further demonstrated the evolving thinking around anti-LGBTI hate as a growing and systemic problem across Europe, recognising anti-LGBTI hate speech as a direct threat to democracy and fundamental rights as well as by recommending that all SOGIESC grounds are included in legislation, including criminal law.
42. The Council of Europe Congress of Local and Regional Authorities Resolution 470 (2021)⁵⁰ on the role of local and regional authorities in protecting LGBTI people in the context of rising anti-LGBTI hate speech and discrimination establishes the critical need to protect the rights and equality of LGBTI persons in order to safeguard democracy, while calling on local and regional authorities to develop clear codes of conduct that forbid hate speech on the basis of SOGIESC.

Other relevant Council of Europe documents

43. In 2023, the Heads of State and Government of the Council of Europe member States adopted at their 4th Summit the so-called Reykjavik Declaration, where they committed to the 10 Reykjavik Principles for Democracy. According to Principle 10, they will ensure full, equal and meaningful participation in political and public life for all, in particular for women and girls, free from violence, fear, harassment, hate speech and hate crime, as well as discrimination based on any ground.⁵¹
44. In 2024, the Secretary General of the Council of Europe launched a consultative process culminating in the 2025 report 'Towards a New Democratic Pact for Europe',⁵² which, notably, states that in a context of rising disinformation, polarisation, and digital threats to democracy, 'hate speech remains one of the most corrosive forces undermining social cohesion and democratic values'.

Relevant EU standards

Primary legislation

45. The EU Charter of Fundamental Rights⁵³ does not explicitly name or define hate speech, but it does prohibit discrimination based on various

49. <https://pace.coe.int/en/files/29712/html>

50. <https://rm.coe.int/resolution-470-2021-en-protection-of-lgbti-people-current-affairs-comm/1680a2dfe6>

51. <https://rm.coe.int/4th-summit-of-heads-of-state-and-government-of-the-council-of-europe/1680ab40c1>

52. <https://www.coe.int/en/web/secretary-general/report-2025>

53. Charter of Fundamental Rights of the European Union (2000/C 364/01) https://www.europarl.europa.eu/charter/pdf/text_en.pdf

grounds, including sexual orientation, in Article 21, Article 1 (on human dignity) and Article 7 (on the respect for private and family life). The Charter was the first international human rights charter to prohibit discrimination on grounds of 'sexual orientation' in Article 21(1).⁵⁴ However, the Charter applies to EU institutions and to Member States only when they are implementing EU law, and it does not extend EU competences or constitute an independent legal basis for EU action in this area.

46. The Treaty on the Functioning of the European Union (TFEU) names sexual orientation among the protected grounds in Article 19 (on non-discrimination).⁵⁵ However, hate speech and hate crime are not among the types of crimes with a degree of seriousness and a cross-border dimension for which the European Parliament and Council may establish minimum rules concerning the definition of offences and sanctions in Article 83(1).⁵⁶
47. The European Commission has stated that all forms of hatred, including hate speech, are incompatible with the EU's common values and fundamental rights.⁵⁷ In December 2021, the European Commission adopted a Communication⁵⁸ proposing to extend the list of EU crimes under Article 83(1) of the TFEU⁵⁹ to include hate speech and hate crime with a view to triggering a European Council decision which would allow the Commission to strengthen secondary legislation to tackle hate speech and hate crime around the EU. As of writing, this proposal has received support from the European Parliament in January 2024, while reaching consensus in the Council has proven challenging.⁶⁰ The Communication is framed around threats to the EU's common values, rule of law, and democracy. The rationale for expanding EU competences includes

54. De Groot and Immenkamp 2025: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/767219/EPRS_BRI\(2025\)767219_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/767219/EPRS_BRI(2025)767219_EN.pdf)

55. The current list of crimes includes: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime: https://eur-lex.europa.eu/eli/treaty/tfeu_2008/art_19/oj/eng

56. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E083>

57. Immenkamp 2024a. <https://epthinktank.eu/2024/11/04/criminalisation-of-hate-speech-and-hate-crime-in-selected-eu-countries/>; European Commission https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-hate-speech-and-hate-crime_en

58. European Commission COM(2021)777 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52021DC0777>

59. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

60. European Parliament 2025. <https://www.europarl.europa.eu/legislative-train/theme-protecting-our-democracy-upholding-our-values/file-hate-crimes-and-hate-speech>

the fragmentation of national approaches, which weakens the Union's ability to respond to cross-border hate speech campaigns that exploit digital platforms to polarise societies.

Secondary legislation

48. EU law, through EU Framework Decision 2008/913/JHA criminalises hate speech and hate crime,⁶¹ though only in relation to a limited set of characteristics⁶² which does not, currently, include sexual orientation, gender identity and expression, and sex characteristics.⁶³ While SOGIESC grounds are not covered, the approach of obliging states to legislate hate speech under defined grounds sets a critical template for the codification of protected grounds into law via harmonisation instruments. It is feasible that such a model could be expanded in future revisions to include SOGIESC grounds.
49. The 2012 Victims, Rights Directive⁶⁴ is applicable to all victims of all crimes. The Directive does not itself define or criminalise any conduct. Its scope is contingent upon the classification of the relevant acts as criminal offences under the national law of the Member State in question. Through a needs-based logic, the Directive mandates individual assessments to identify the specific protection needs of victims of crime and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. In this regard, victims of gender-based violence, victims of sexual violence, victims of hate crime, including LGBTI persons, shall be duly considered. Over time, the European Union Agency for Fundamental Rights' (FRA) has stated in its Opinion that "when implementing the Victims' Directive and having regard to the rights of victims of crimes committed with a discriminatory motive, EU member States should interpret 'discrimination' as relating to all characteristics

61. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law https://eur-lex.europa.eu/eli/dec_framw/2008/913/oj/eng

62. race, colour, religion, descent, or national or ethnic origin

63. Immenkamp 2024b. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762389/EPRS_BRI\(2024\)762389_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762389/EPRS_BRI(2024)762389_EN.pdf)

64. <https://eur-lex.europa.eu/eli/dir/2012/29/oj/eng>

protected under Article 21 of the Charter”,⁶⁵ including sexual orientation. The provisionally agreed revision of the Victims’ Rights Directive will further strengthen the rights to all victims of crime. In particular, LGBTIQ+ persons who are victims of crime will benefit from an improved individual assessment that explicitly includes sexual orientation as a ground for intersectional discrimination to be considered among the personal characteristics of the victim concerned. The revised Directive is undergoing formal adoption by the European co-legislators. Upon adoption, Member States shall transpose its provisions into national law within two years, except for those relating to the use of information and communication technologies, for which the transposition period shall be four years.

50. The 2024 Directive on combating violence against women and domestic violence⁶⁶ addresses the prevention and combating of violence against women. It is a breakthrough in the body of EU law on hate speech as it criminalises hate speech on the basis of gender. In a departure from the narrow list of protected grounds in the 2008 Framework Decision, it sets a precedent for the expansion of protected characteristics in EU-level criminal law and makes future inclusion of SOGIESC grounds in the criminal law architecture more legally actionable, in particular by recognising the relevance of intersectional discrimination and explicitly naming LGBTI persons in this context. While not defining “gender”, the decision to refer to “gender” rather than “sex” allows interpretive space for member States to extend protections to trans, non-binary, and intersex persons. It further recognises hate speech as more than isolated expressions of hate but as a critical component of gender-based violence, especially in its online form.
51. The EU Digital Services Act (DSA)⁶⁷ sets out procedural obligations for platforms to manage systemic risks, in particular the dissemination of illegal content and threats to fundamental rights meaning that any hate speech made illegal under EU or national law compels platforms

65. Opinion of the European Union Agency for Fundamental Rights on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime. <https://fra.europa.eu/en/publication/2013/fra-opinion-framework-decision-racism-andxenophobia-special-attention-rights>

66. <https://eur-lex.europa.eu/eli/dir/2024/1385/oj/eng>

67. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en

to put in place specific mechanisms to address it. It was preceded by the Code of Conduct on Countering Illegal Hate Speech Online⁶⁸ adopted in 2016 and signed by major social media platforms which committed to annual monitoring exercises. The 2018 revisions to the Audiovisual Media Services Directive⁶⁹ expand EU content regulation to include video-sharing platforms (as opposed to the very large online platforms covered by the DSA). It requires platforms to protect users from hate speech based on any of the grounds referred to in Article 21 of the Charter, regardless of the grounds of victimisation, i.e. to address hate speech holistically. It also opens alternative intervention spaces beyond criminal law, where standards can be influenced through co-regulation and public accountability mechanisms.

52. In 2025, the revised Code of conduct on Countering Illegal Hate Speech Online⁷⁰ was integrated into the regulatory framework of the DSA, strengthening the impact of the Code of Conduct+, by establishing consequences for non-compliance and requiring national-level data to be disaggregated by grounds such as “race”,⁷¹ ethnicity, religion, gender identity, or sexual orientation.⁷²
53. The European Commission’s 2026 Action Plan against Cyberbullying, *Safer online, stronger together*,⁷³ defines cyberbullying as behaviour carried out through digital technologies with the primary intention or effect of repeatedly or continuously humiliating, socially excluding, abusing, harassing or harming, in particular children or young people. Importantly, it recognises that cyberbullying and hate offences may overlap when cyberbullying is motivated by hatred, incites violence or hatred, or targets individuals by reference to protected characteristics.

EU Parliament Resolutions

68. European Commission https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en
69. <https://eur-lex.europa.eu/eli/dir/2018/1808/oj/eng>
70. European Commission 2025 <https://digital-strategy.ec.europa.eu/en/library/code-conduct-countering-illegal-hate-speech-online>
71. Since all human beings belong to the same species, the Committee of Ministers rejects, as does the European Commission against Racism and Intolerance (ECRI), theories based on the existence of different “races”. However, in this document, the term “race” is used in order to ensure that those persons who are generally and erroneously perceived as “belonging to another race” are included in the protection from non-discrimination on the basis of “race”.
72. DNS.PT 2025 <https://www.pt.pt/en/blog/code-of-conduct-plus-hate-speech/>
73. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52026DC0071>

54. In 2019, the European Parliament adopted a resolution on public discrimination and hate speech against LGBTI people, including LGBTI free zones⁷⁴ condemning hate speech offline and online on all SOGIESC grounds and calling on member States to develop mechanisms for reporting hate speech and ensure that cases are effectively investigated, prosecuted, and tried.

Action plans and strategies

55. In 2020, for the first time, the European Commission adopted an LGBTIQ Equality Strategy 2020-2025.⁷⁵ Under the motto of a “Union of Equality” and grounded in the fundamental rights of equality and non-discrimination, the Strategy was structured along four pillars - one of them being ensuring the safety of LGBTIQ persons and thus protecting them from hate speech and hate crime.⁷⁶ In 2025, the second LGBTIQ+ Equality Strategy 2026-2030⁷⁷ was adopted. Its first pillar is on protection from discrimination, harassment, and violence. It notes that “LGBTIQ+ people and women are increasingly targeted by anti-gender narratives online, often as part of foreign information manipulation and interference (FIMI) and disinformation campaigns”, highlights that foreign actors are increasingly well funded and use FIMI to manipulate public opinion, fuel polarisation, and interfere with democratic processes within the EU and worldwide and that this is “a direct challenge to the EU’s core values of equality, respect for human dignity and non-discrimination.” The EU Anti-Racism Strategy 2026-2030, adopted in January 2026, similarly addresses hate speech and hate crime as central enforcement priorities and explicitly adopts an intersectional approach to discrimination, complementing the LGBTI-specific strategies.⁷⁸
56. The EU Democracy Action Plan (2020)⁷⁹ frames hate speech and disinformation as intertwined vectors which can undermine democratic participation as it can deter people from expressing their views and participating in online discussions. In doing so, it repositions action against SOGIESC-based hate speech as a democratic imperative rather than a niche set of identity-based protections. The European Demo-

74. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019IP0101>

75. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0698>

76. Molter 2022. <https://beobachtungsstelle-gesellschaftspolitik.de/f/58c1a1e9f7.pdf>

77. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025DC0725>

78. https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/anti-racism-strategy_en

79. https://commission.europa.eu/publications/documents-european-democracy-action-plan_en

cracy Shield (2025) is the EU's new strategic approach to safeguard and promote democracy in the EU, which also aims for Europeans to participate in the democratic life of the EU actively and safely.

UN standards

57. Binding UN treaties remain relatively limited in the explicit recognition of anti-LGBTI hate speech, although the UN human rights system has gradually expanded a normative framework that recognises hate speech as both a violation of human dignity and a threat to democratic participation.
58. The prohibition of incitement in international law originates in Article III(c) of the Convention on the Prevention and Punishment of the Crime of Genocide (1948),⁸⁰ which criminalises direct and public incitement to commit genocide as a discrete wrong, independent of whether genocide itself occurs.
59. This principle was extended in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁸¹ whose Article 4 requires states parties to criminalise the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and acts of violence against any race or group. While ICERD's scope does not explicitly cover SOGIESC characteristics, it provides the foundational precedent for the principle that states bear a positive obligation to prohibit and prosecute the most severe expressions of hatred.
60. The International Covenant on Civil and Political Rights (ICCPR)⁸² establishes the initial tension in international law between freedom of expression (Article 19) and the prohibition of incitement to discrimination, hostility, or violence (Article 20(2)). The UN Human Rights Committee's General Comment No.34⁸³ clarifies the relationship between these two articles, asserting that restrictions on freedom of expression are permissible when it comes to advocating hatred and providing the triple test of necessity, legality, and proportionality.

80. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide>

81. <https://www.ohchr.org/sites/default/files/cerd.pdf>

82. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

83. <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

61. The 2012 Rabat Plan of Action⁸⁴ further defines how member States should interpret Article 20(2) ICCPR and in so doing has developed the international standard for assessing hate speech through a six-part threshold test which critically includes the likelihood of harm. It opens the door to regulating digital spaces by highlighting that there is a potential for the rapid dissemination of harmful speech through online platforms.
62. The UN Independent Expert on SOGI (IE SOGI) has consistently identified hate speech, especially online, as a structural driver of violence, exclusion, and democratic marginalisation.
63. The 2021 “Law of Inclusion” report (A/HRC/47/27)⁸⁵ frames gender as a social construct and highlights how inciting speech, in particular online, links directly to rising rates of hate crime against LGBTI persons, explicitly referencing the Rabat Plan of Action and the UN Strategy and Plan of Action on Hate Speech as guiding tools in the development of regulatory frameworks. The 2022 IE SOGI Report A/77/235⁸⁶ connects discrimination based on SOGI to structural barriers and institutional exclusion. Similarly, the Special Rapporteur on Freedom of Expression’s report (A/HRC/47/25)⁸⁷ examines the threats of disinformation to democracy, and the way it spreads rapidly in online settings. The report also highlights the chilling effect of disinformation by noting how campaigns targeting identity, reframed as “ideology” have fuelled discrimination, hostility, and violence against minorities and marginalised groups, while silencing civil society actors and human rights defenders through coordinated abuse.
64. The 2019 UN Strategy and Plan of Action on Hate Speech⁸⁸ seeks to address the root causes of hate speech as a threat to social unity, while upholding freedom of speech, clearly outlining how such a response is not a threat to freedom of speech. It also makes an explicit reference to identity-based hate speech with the UN Secretary General clearly linking it to the need for protections for LGBTI persons in his 2019

84. <https://www.ohchr.org/en/documents/outcome-documents/rabat-plan-action>

85. <https://www.ohchr.org/en/documents/thematic-reports/ahrc4727-law-inclusion-report-independent-expert-sexual-orientation-and>

86. <https://docs.un.org/en/A/77/235>

87. <https://www.ohchr.org/en/documents/thematic-reports/ahrc4725-disinformation-and-freedom-opinion-and-expression-report>

88. <https://www.un.org/en/hate-speech/un-strategy-and-plan-of-action-on-hate-speech>

address to the UN Core Group Meeting and delineating the difference between freedom of expression and a licence to hate.⁸⁹

65. The 2023 UNESCO Guidelines for the Governance of Digital Platforms⁹⁰ stress transparency, risk mitigation, and democratic accountability in how platforms govern hate speech and disinformation. The document explicitly calls attention to the disproportionate impact of online hate speech on marginalised communities.

Other standards

66. Whilst not legally binding in and of themselves, the Yogyakarta Principles (2006) and the Yogyakarta Principles plus 10 (2017)⁹¹ are a guide for states, courts, and civil society to applying existing human rights law to SOGIESC grounds. Principle 36 in particular reflects the growing understanding of violations on grounds of gender expression and sex characteristics, as well as the rise of online hate speech, outlining state obligations to take all necessary measures to prevent, remedy and eliminate online hate speech on SOGIESC grounds.⁹²

A2. Impact and intersectionality of hate speech

67. Hate speech targeting LGBTI persons on the basis of their sexual orientation, gender identity and expression, and sex characteristics is frequently disseminated through disinformation. Where such narratives frame the human rights of LGBTI persons as a threat to public order or traditional values, they contribute to the normalisation of their exclusion from public and civic life. This in turn undermines state compliance with protection obligations, as under-reporting and under-enforcement reflect and reinforce diminished institutional recognition of LGBTI persons as rights-holders.⁹³

89. <https://www.un.org/sg/en/content/sg/statement/2019-09-24/secretary-generals-message-the-un-core-group-meeting-ending-hate-speech-against-lgbt-people-social-and-traditional-media-freedom-of-speech-vs-license-hate>

90. <https://www.unesco.org/en/internet-trust/guidelines>

91. <https://yogyakartaprinciples.org/>

92. The Yogyakarta principles are also referenced in §57 of the explanatory memorandum of CM/Rec(2022)16 on combating hate speech in reference to the list of grounds and standards on criminalised hate speech.

93. <https://rm.coe.int/ecri-2021-annual-report-24052021-en/1680a6a6d3>; <https://www.coe.int/tr/web/commissioner/-/pride-vs-indignity-political-manipulation-of-homophobia-and-transphobia-in-europe>; FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf

68. It is important to not characterise the current state of SOGIESC-based hate as backlash which is a term that implies a temporary, reactive swing of a political pendulum. This framing rests on a teleological understanding of human rights progress as linear and self-correcting. SOGIESC based hate speech (and anti-trans hate speech in particular) is being actively deployed as an instrument of democratic erosion.⁹⁴
69. The scale and frequency of exposure to hateful narratives compounds these effects. The third FRA LGBTIQ survey⁹⁵ documents widespread and routine exposure to disinformation frames depicting “LGBTIQ propaganda” or “gender ideology” and portraying LGBTI persons as a threat to traditional values, with 76% and 75% of respondents respectively reporting encountering such statements always or often. Large proportions additionally report regular exposure to claims characterising LGBTI persons as unnatural or mentally ill (64%), as a sexual threat (52%), or in other derogatory terms (63%). Particularly concerning, 38% of respondents report encountering calls for violence always or often. In an information environment where reach and repetition determine visibility, the cumulative effect of such exposure is to condition public perception of what constitutes legitimate speech, legitimate presence, and legitimate claims to rights.

Victim impact

70. SOGIESC-based hate speech produces documented psychological harm. Exposure is associated with heightened fear and hypervigilance, and with elevated rates of anxiety, depression, and suicidal ideation. Victimisation is not evenly distributed. Contemporary organised opposition to LGBTI rights disproportionately targets trans and non-binary persons, as well as young people, who face heightened exposure to discrimination, violence, poverty, homelessness, and precarious employment.⁹⁶ FRA’s 2024 LGBTIQ survey found that 12% of all LGBTIQ respondents reported thinking of suicide often or always in the past year, rising to 31% among young respondents aged 15-17, 24% among

94. <https://equalrightscoalition.org/wp-content/uploads/2026/02/Anti-Gender-Background-Paper-ERC-Conference-Material-EN.pdf>

95. FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf

96. <https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541>

trans women, 28% among trans men, and 22% among non-binary and gender-diverse respondents.⁹⁷

71. The individual psychological and behavioural harms produced by SOGIESC-based hate speech are extensively documented in Council of Europe standard-setting instruments, including CM/Rec(2022)16, and the second thematic report on the implementation of CM/Rec(2010)5 as well as in the findings and policy documents of its monitoring bodies, such as ECRI GPR Nos. 15 and 17 and country reports.⁹⁸

Societal impact: social cohesion and access to the public sphere

72. The low rate of reporting of hate speech incidents reflects the institutional dimension of this harm. FRA survey data indicate that 60% of respondents are familiar with relevant equality bodies and complaint mechanisms, yet reporting rates remain low (18%).⁹⁹ Hate speech itself also produces behavioural modification that authorities may misread as low demand. Where low reporting rates render a problem statistically invisible, authorities may incorrectly infer that needs are being met. Survey data consistently show that LGBTI persons alter behaviour in response to perceived threat such as modifying dress, speech, and attendance, and avoiding public services, not because needs are absent but because the cost of visibility has been calculated as too high. This chilling effect is a direct consequence of hate speech, and it conditions the exercise of rights on prior self-censorship. The same dynamic applies to engagement with healthcare, education support, and other protection mechanisms, where perceived hostility or prior discriminatory experience produces avoidance that is similarly liable to be misread as low need.¹⁰⁰
73. At the societal level, SOGIESC-based hate speech damages social cohesion by restricting the equal participation of LGBTI persons in public

97. FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtqi-equality_en.pdf

98. Council of Europe, 2024, Right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe. The Committee of Ministers has recognised analogous dynamics in adjacent work: CM/Rec(2026)2 on technology-facilitated violence against women and girls identifies the silencing, exclusion, and intimidation of targeted persons as threats not only to individual dignity but to democratic processes.

99. FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtqi-equality_en.pdf

100. CM(2023)126 Section IV.

life.¹⁰¹ A principal effect of such speech is delegitimisation: it frames the presence and rights of LGBTI persons as matters of controversy or public debate, rather than as established basic human rights available to everyone under international and European human rights standards by virtue of being human.¹⁰² This undermines the ability of individuals to express themselves freely in civic, educational, and cultural settings, and reduces participation in public life through the operation of fear rather than formal legal restriction.

74. Where hate speech is widespread and persistent, withdrawal from public spaces becomes a documented social response.¹⁰³ Affected persons reduce attendance at public events, avoid community spaces, disengage from civic organisations, and exit public-facing roles. The third FRA LGBTIQ survey reinforces the scale of this dynamic: more than half of respondents (59%) reported that violence has increased in the country where they live, and 53% noted an increase in prejudice or intolerance – figures that rise to 70% among trans women and 65% among non-binary and gender-diverse respondents.¹⁰⁴ The cumulative effect is a contraction of the public sphere: one that is less representative, less pluralistic, and more susceptible to the consolidation of exclusionary norms.
75. The speed and unpredictability with which online hate speech can escalate compounds these effects. Hateful content spreads rapidly across social media platforms and messaging applications, generating new forms of coordinated harassment. The consequences can be severe and are often triggered by content that is neither sophisticated nor explicitly violent. In 2022, three teenagers died by suicide following hate-motivated harassment prompted by a TikTok trend encouraging users to bark at LGBTI persons. The banality of the trigger – a viral gesture requiring no organisation, no ideology, no explicit threat – illustrates both the unpredictability of online harm and the inadequacy of responses calibrated to detect coordinated or explicitly violent content.

101. <https://www.coe.int/tr/web/commissioner/-/pride-vs-indignity-political-manipulation-of-homophobia-and-transphobia-in-europe>

102. United Nations General Assembly, *Protection against violence and discrimination based on sexual orientation and gender identity* (2021) <https://docs.un.org/en/A/76/152>

103. FRA. 2024. LGBTIQ equality at a crossroads: Progress and challenges. Survey data indicate that significant proportions of LGBTIQ respondents across EU member states avoid certain locations always or often for fear of assault, and that most avoid public displays of affection for the same reason despite increased openness about identity overall.

104. FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtqi-equality_en.pdf

Hate speech that falls below conventional thresholds of severity can still be lethal.¹⁰⁵

76. This exclusion is not evenly distributed. Evidence consistently indicates that trans and non-binary persons experience disproportionately high levels of harassment and threat: while overall harassment rates stand at 55%, they rise to 77% for trans women and 72% for trans men.¹⁰⁶ The political significance of this asymmetry lies in its norm-setting function: where the existence of trans persons is treated as a matter of public controversy, broader forms of gender nonconformity and non-normative family life become correspondingly easier to stigmatise. Hate speech thus operates as a mechanism for shifting the boundaries of social permissibility, with consequences that extend beyond the groups most directly targeted.

Institutional impact: manufactured futility and distortion of protection duties

77. Between social harm and democratic erosion sits a critical intermediate layer: institutional distortion. Organised opposition to LGBTI rights does not need to prevail in every legislative contest to reshape the operational environment for rights protection. Its effects can instead accumulate through a pattern in which individuals and communities come to regard protection duties as unreliable, discretionary, or politically contingent. That most Council of Europe member States have now criminalised hate speech on at least some SOGIESC grounds in their national legislation¹⁰⁷ makes this dynamic all the more important to understand: formal legal protection does not necessarily translate to safety in lived experience.
78. This pattern operates as an administrative feedback loop observable across member States. Where pervasive hate speech normalises trivialisation and non-response, affected persons report less frequently or redirect reports to informal channels. Recorded data consequently weakens and becomes less actionable. Authorities may in turn cite low reporting or limited evidence to justify reduced prioritisation, while uneven enforcement and diminished institutional trust further reinforce non-reporting. This cycle generates adverse institutional

105. ECRI. 2023. ECRI Report on Iceland (sixth monitoring cycle). <https://rm.coe.int/sixth-ecri-report-on-iceland/1680ac8c43>

106. FRA. 2024. LGBTIQ equality at a crossroads: Progress and challenges

107. See §91 of the present report for a full breakdown by ground.

outcomes even where formal protections remain in place and helps account for the coexistence of improvements in legal frameworks with deterioration in the safety and participation of LGBTI persons.

79. Institutional distortion is compounded when public officials or elected representatives are themselves the source of hateful rhetoric. Such rhetoric signals social permissibility and reshapes the operational environment for frontline actors, who take political cues when determining priorities. Where hate speech is normalised by authority figures, the distinction between protection and tolerance becomes difficult to maintain in practice. The effect is not only social but administrative: certain categories of harm come to be treated as unlikely to trigger meaningful institutional response.
80. This dynamic also undermines counter-speech efforts.¹⁰⁸ Where the same political actor condemns one form of hate speech while engaging in or tolerating SOGIESC-based hostility, or conversely, addresses SOGIESC-based hate speech while being complicit in racism or antisemitism, the State's human rights message becomes selective and internally incoherent. This erodes the universality of protection in practice and damages trust among civil society partners whose cooperation is necessary for early warning, victim support, and prevention. The result is reduced institutional capacity: fewer credible reporting pathways, even less likelihood that victims will seek formal redress, weakened inter-institutional cooperation, and diminished ability to identify and interrupt escalation.
81. Institutions can also become vectors of harm through omission. Failures to protect lawful assemblies, reluctance to treat online harassment as actionable, and security responses framed in neutral public-order terms that effectively displace protection duties can each operate as permissive signals. Under such conditions, hate speech produces exclusionary outcomes without recourse to explicit legal prohibition: fear and hostility accomplish what formal restriction cannot.

108. The explanatory memorandum to CM/Rec(2022)16 understands counter-speech as "a short and direct reaction to hateful messages": <https://edoc.coe.int/en/racism/11119-combating-hate-speech-recommendation-cmrec202216-and-explanatory-memorandum.html>

Political impact: hate speech, disinformation, and democratic erosion

82. SOGIESC-based hate speech constitutes a democratic threat when it is deployed, through mis- and disinformation, to restructure the boundaries of who counts as a political subject and legitimise exclusion. Organised opposition to LGBTI rights frequently constructs “gender ideology” as a composite threat capable of consolidating diverse social anxieties into a single, emotionally resonant frame invoking nature, national identity, social norms, and child protection. Beyond stigmatising a group of people, such a framing reorganises political attention, provides a justificatory language for restricting pluralism under the cover of neutrality, security, or the protection of public morality, and enables the concentration of political power through the managed exclusion of those it targets.¹⁰⁹
83. Reported patterns in the timing of hostile rhetoric reinforce this assessment. ECRI has noted¹¹⁰ that spikes in anti-LGBTI disinformation and hate speech are repeatedly observed around electoral periods, Pride events, and moments when legislative measures advancing the rights of LGBTI people are proposed. In these contexts, the targeting of LGBTI persons serves several simultaneous political functions: the mobilisation of specific voter constituencies, the displacement of attention from governance performance and socioeconomic inequality, and the de-legitimisation of political opponents through association with “foreign agendas” or “threats to children”.¹¹¹ The effect is to shift political competition from questions of material governance to those of cultural identity, and to convert rights protection into a polarising political marker.
84. Mis- and disinformation ecosystems amplify these dynamics. Social media platforms and messaging applications accelerate the spread of sensational frames, extend their reach, and generate an appearance of social consensus through repetition and virality. The mechanism extends beyond persuasion to the saturation of public discourse: where manufactured threat narratives dominate the information

109. United Nations General Assembly, *Protection against violence and discrimination based on sexual orientation and gender identity* (2021) <https://docs.un.org/en/A/76/152>

110. <https://rm.coe.int/annual-report-on-ecri-s-activities-covering-the-period-from-1-january-/1680b5bcd9>

111. See, for instance, ECRI, *Sixth Report on Hungary* (2023) <https://rm.coe.int/ecri-6th-report-on-hungary-translation-in-hungarian-/1680aa687b> paras. 28-30.

environment, institutions come under pressure to respond as if managing a security risk rather than fulfilling protection duties. Over time, this enables a progressive reordering of institutional priorities and a narrowing of the legitimate public sphere.

85. Restrictions on Pride events provide a concrete indicator of this broader dynamic. In its 2026 Annual Review,¹¹² ILGA-Europe uses the treatment of Pride events as a proxy indicator of governmental approaches to public space, pluralism, and political dissent, on the basis that it reveals how far interference with assembly rights can proceed under regulatory cover before institutional or judicial correction occurs. Measures framed in neutral terms (public order, security, the protection of public morality, or child protection) can reduce the political cost of interference with freedom of assembly while limiting the visibility and public presence of LGBTI persons. Where such restrictions become routinised, they risk embedding a compliance gap that persists despite binding obligations and established jurisprudence requiring both the protection of peaceful assemblies and the prevention of violence against participants.
86. The cumulative political harm is structural. As hate speech normalises withdrawal from public life, political participation declines. As participation declines, representation weakens. As representation weakens, protection duties become easier to deprioritise. This constitutes a pathway to de-democratisation through managed exclusion which is socially enforced, institutionally tolerated, and politically instrumentalised.

Intersectionality: compounded vulnerability and perception-based targeting

87. SOGIESC-based hate speech intersects with other grounds of hostility such as sex, gender, “race”, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, age, state of health, disability, marital status, migrant or refugee status, or other status, producing concentrations of risk at the intersections of stigma and structural vulnerability. Individuals

112. <https://www.ilga-europe.org/report/annual-review-2026/>

perceived as migrants, including asylum seekers and refugees, face disproportionately high exposure.¹¹³

88. Notably, heightened victimisation does not appear to be strongly correlated with openness about LGBTI identity.¹¹⁴ This suggests that targeting is frequently perception-based and situational rather than contingent on visible self-expression. Policy approaches that implicitly treat discretion or reduced visibility as harm-reduction strategies are therefore neither adequate nor equitable: they transfer responsibility onto those targeted while leaving the hostile environment unaddressed.
89. Intersectionality is accordingly not a supplementary consideration but a design requirement for effective protection, which offers a holistic and context-sensitive approach more likely to be effective. Where data systems do not capture compounded vulnerabilities, public authorities risk under-detecting high-risk groups, misallocating resources, and failing to develop reporting and support pathways accessible to those most exposed. Needs-based approaches that recognise intersecting risk factors strengthen prevention, improve victim support, and enhance the credibility of enforcement, thus strengthening rather than fragmenting the universality of protection in practice.

113. The third FRA LGBTIQ Survey shows that 66% of LGBTIQ respondents who are asylum seekers or refugees experienced hate-motivated harassment, compared to 54% overall. It also shows elevated rates for those with minority ethnic or migrant background (61%) and minority religious background (63%). FRA. 2024. LGBTIQ equality at a crossroads: progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtqi-equality_en.pdf

114. FRA. 2024. LGBTIQ equality at a crossroads progress and challenges https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtqi-equality_en.pdf

B. Analysis of legislative and policy measures undertaken by member States to combat hate speech against LGBTI persons and best practices

6. “Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.”

CM/Rec(2010)5

B1. Prosecution (Legislative measures)

90. The binding international standards for the prevention and prosecution of hate speech are scattered among different instruments, as noted in Section A1 above. Through CM/Rec(2022)16 on combating hate speech and CM/Rec(2024)4 on combating hate crime, the Committee of Ministers has created a comprehensive framework of non-binding standards for preventing and combating hate speech and hate crime. A comprehensive binding codification of this framework could further strengthen the framework for the investigation, prosecution and sentencing of hate speech including on the grounds of SOGIESC.

91. The 2025 report on the third comprehensive review on the implementation of CM/Rec(2010)5¹¹⁵ noted a continuing positive trend building on the 2019 review; with 35 member States of the Council of Europe now prohibit incitement to hatred, discrimination and violence related hate speech on the ground of sexual orientation.¹¹⁶ Of these, 18 also include gender identity,¹¹⁷ and only six extend protection to gender expression¹¹⁸ and sex characteristics.¹¹⁹ Only three member States¹²⁰ legislate comprehensively across the full SOGIESC spectrum. While this represents a positive trend since the 2019 comprehensive review of CM/Rec(2010)5,¹²¹ the data demonstrates a clear and persistent hierarchy of protection that corresponds directly to the hierarchy of vulnerability documented in the previous section. The near-absence of legislative protection on the grounds of gender expression and sex characteristics creates conditions in which hate speech targeting trans and inter-sex persons can flourish without legal sanction. While some member States may address aspects of hate speech through legal mechanisms other than criminal hate speech provisions, the data presented here concern the explicit inclusion of SOGIESC characteristics in hate speech criminal provisions, given its particular relevance for the investigation, prosecution and sanctioning of hate speech offences.

115. <https://rm.coe.int/report-on-the-review-of-the-implementation-of-recommendation-cm-rec-20/48802904af>

116. Albania, Austria, Belgium, Bulgaria, Croatia, Czechia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.

117. Belgium, Croatia, Cyprus, Denmark, France, Greece, Hungary, Iceland, Luxembourg, Malta, Montenegro, Norway, Portugal, Republic of Moldova, San Marino, Serbia, Spain, Sweden.

118. Belgium, Denmark, Malta, Norway, Spain, Sweden

119. Belgium, Denmark, Greece, Iceland, Malta, Serbia. NB: Since the third comprehensive review does not explicitly enumerate hate speech legislation as concerns sex characteristics apart from noting progress in both Serbia and Greece, this list was compiled based on data from the ILGA Europe Rainbow Map. <https://rainbowmap.ilga-europe.org/categories/hate-crime-hate-speech/>

120. Belgium, Denmark, Malta

121. <https://rm.coe.int/comite-directeur-pour-les-droits-de-l-homme-cddh-rapport-du-cddh-sur-l/168099685e>

Table 1: Protected characteristics included in hate speech criminal provisions in Council of Europe member States

Sexual Orientation	35 member States Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Norway, Portugal, Republic of Moldova, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom
Gender Identity	18 member States¹²² Belgium, Croatia, Cyprus, Denmark, France, Greece, Hungary, Iceland, Luxembourg, Malta, Montenegro, Norway, Portugal, Republic of Moldova, San Marino, Serbia, Spain, Sweden
Gender Expression	6 member States Belgium, Denmark, Malta, Norway, Spain, Sweden
Sex Characteristics	6 member States¹²³ Belgium, Denmark, Greece, Iceland, Malta, Serbia
All SOGIESC grounds	3 member States Belgium, Denmark, Malta

92. These developments also indicate that, in response to such gaps and the resulting hierarchy of protection, several member States have considered general criminal law provisions insufficient in practice and have introduced targeted amendments to clarify protected grounds, broaden the scope of offences, and remove restrictive thresholds in order to ensure more effective enforcement. Germany amended Section 46 of the Criminal Code in 2023¹²⁴ to explicitly include homophobic and transphobic motivations as aggravating circumstances, providing clearer and more specific protection than the previous reliance on general

122. In the UK, Scotland has included “transgender identity” in its list of protected characteristics under the Hate Crime and Public Order (Scotland) Act 2021

123. In the UK, Scotland has included “variations in sex characteristics” in its list of protected characteristics under the Hate Crime and Public Order (Scotland) Act 2021

124. https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html

human dignity provisions, a distinction relevant for prosecutorial guidance and judicial interpretation. Austria expanded Article 283(1)¹²⁵ of the Criminal Code to cover incitement to hatred and violence against a specific individual, not only a group. Portugal amended Article 240 of the Criminal Code¹²⁶ to eliminate a previous requirement of organised propaganda, focusing instead on activities that encourage hateful acts.

Criminal law protection

93. CM/Rec(2022)16 recommends (§3) that criminal law prohibit the most severe forms of hate speech. The most significant forms of criminalised hate speech are listed in § 11 of the same Recommendation and range from public incitement to genocide, crimes against humanity or war crimes, through incitement to hatred, violence or discrimination, threats and public insults on discriminatory grounds, and denial or trivialisation of genocide, to the intentional dissemination of such material. CM/Rec(2024)4 on combating hate crime directs member states to criminalise these expressions in accordance with the legislative models it establishes for hate crime more broadly.¹²⁷
94. In §21 of GPR No. 7, ECRI insists that states introduce a general provision making hate motivation an aggravating circumstance. It extends this requirement to SOGIESC grounds, the advantage being that such provisions reduce the risk of loopholes in comprehensive coverage. The symbolic and recording advantages of substantive and hybrid approaches (their explicit social condemnation of SOGIESC-based offending, their precision, and their positive effect on consistent recording of the hate element) were highlighted in discussions on SOGIESC-based hate crime at the Dublin Roundtable convened as part of the second thematic review of CM/Rec(2010)5 process; the hybrid model has the additional advantage of avoiding the complexity of a dual sentencing system.¹²⁸
95. ECRI's monitoring work across the sixth cycle documents a consistent pattern: where sexual orientation, gender identity, gender expression and sex characteristics are absent from the enumerated grounds of

125. <https://www.jusline.at/gesetz/stgb/paragraf/283>

126. Law no. 4/2024

127. For most expressions listed in CM/Rec(2022)16 §11, standalone offences incorporating the hate element as a constituent part are the appropriate vehicle, with aggravating circumstance provisions having added value primarily for threats, insults and defamation where a neutral base offence exists independently of the hate element.

128. CM(2023)126 <https://search.coe.int/cm/?i=0900001680ac3af4>

criminal hate speech provisions, enforcement is structurally weakened irrespective of whether general provisions nominally extend to such hostility. The value of explicit enumeration is illustrated by the German experience: prior to the 2023 amendment to Section 46 of the Criminal Code, homophobic and transphobic motivations were subsumed under the general “human dignity” umbrella, but ECRI had consistently recommended explicit inclusion on the basis that general formulations provide insufficient legal and operational clarity.¹²⁹ The amendment, which explicitly named homophobic and transphobic motives as aggravating circumstances alongside racist and xenophobic ones provides materially clearer protection.¹³⁰

96. Explicit enumeration thus serves not only a symbolic function but an operational one: it determines whether the bias element of an offence is identified, recorded, and prosecuted as such. CM/Rec(2022)16 paragraph 2 sets out the grounds to which the framework applies, noting that the list is open-ended to allow adaptation to evolving societal developments. That flexibility does not reduce the need for explicit enumeration but rather accommodates the addition of new grounds as standards develop. CM/Rec(2026)1’s explicit inclusion of sex characteristics and gender expression is an example of such evolution.

Civil and administrative law protection

97. Civil and administrative law frameworks serve a distinct and complementary function to criminal law: they are meant to prohibit less severe forms of hate speech and provide accessible, lower-threshold remedies for hate speech that causes harm without necessarily meeting the threshold of criminal liability. Their effectiveness depends on the scope of protected grounds, the accessibility of enforcement mechanisms, and whether decisions are legally binding and enforceable.
98. Anti-discrimination legislation across member States prohibits harassment on protected grounds, which has the potential to capture forms of hate speech below the criminal threshold, in particular expression that creates a hostile or degrading environment for a targeted group.

129. ECRI. *Monitoring Report on Germany*. <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle-/16809ce4be>

130. Deutscher Juristinnenbund 2023. *djb befürwortet die Änderung des § 46 StGB als einen von mehreren Schritten zur Bekämpfung geschlechtsspezifischer Gewalt*. <https://www.djb.de/presse/pressemitteilungen/detail/pm23-29#:~:text=Erforderlich%20sind%20neben%20einem%20breiteren,zu%20verhindern%20und%20zu%20bek%C3%A4mpfen>

The scope of this protection depends, however, on how harassment is defined and interpreted in national law, and it remains unsettled whether group-directed expression falls within it.

99. Denmark provides a model of structural coherence below the criminal threshold. The 2022 reform of the Gender Equality Act and Anti-Discrimination Act¹³¹ reinforced legal certainty and explicitly prohibited discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics both inside and outside the labour market. The Danish Board of Equal Treatment is empowered to adjudicate SOGIESC-based discrimination claims, including hate speech, in access to education, housing, services, or public life that does not meet the criminal threshold. Its decisions are legally binding and may include financial compensation, and courts may be engaged if compensation is not paid. The Danish Institute for Human Rights, as the national equality body, holds a parallel mandate to monitor SOGIESC-based discrimination and promote equality, including in relation to hate speech.
100. Spain's Law 15/2022 on Equal Treatment and Non-Discrimination¹³² establishes a comprehensive administrative framework prohibiting discriminatory conduct, including hate speech, across sectors including education, employment, healthcare, and access to services. The law covers all four SOGIESC grounds, with gender expression and sex characteristics captured under personal or social characteristics and health condition. It provides for civil remedies, administrative fines ranging from EUR 300 to EUR 500,000, and requires structural corrective measures. Where discrimination is successfully alleged, the burden of proof is reversed and moral damages are presumed. A new Independent Authority for Equal Treatment is tasked with enforcement, including the power to investigate and litigate hate speech cases. Although not yet fully operational, this authority complements the work of dedicated hate crime prosecutors and public bodies, providing enforceability across both criminal and administrative pathways. In addition, Law 4/2023 for the real and effective equality of trans people and for the guarantee of the rights of LGBTI persons establishes specific measures aimed at preventing, addressing and remedying discrimination and violence against LGBTI people, including awareness raising actions,

131. Fredriksen. 2022. *New protection for gender identity and expression in Denmark*. <https://iuslaboris.com/insights/new-protection-for-gender-identity-and-expression-in-denmark/>

132. Official Gazette of Spain. 2022. *Ley 15/2022*. <https://www.boe.es/eli/es/l/2022/07/12/15/con>

victim support mechanisms and obligations for public authorities to promote equality and combat hate speech and hate crimes.

101. Serbia's Law on the Prohibition of Discrimination (2009, amended 2021)¹³³ establishes a comprehensive civil and administrative framework prohibiting discrimination and hate speech across public life. Article 11 explicitly prohibits hate speech, defined as expression inciting discrimination, hatred or violence based on personal characteristics, in public media, publications, gatherings, and public spaces. The law provides for dual track enforcement: the Commissioner for Protection of Equality can receive complaints, issue recommendations and impose formal warnings and refer cases for misdemeanour proceedings; and civil courts, before which victims may seek declaratory relief, injunctions, and damages. Where discrimination is made probable by the claimant, the burden of proof shifts to the respondent. The law designates incitement to hatred on SOGIESC grounds as a serious form of discrimination under Article 13, attracting higher penalties.
102. Bosnia and Herzegovina offers an early illustration of civil law remedies being used in a SOGIESC-specific online context: in April 2022, a Municipal Court in Sarajevo issued a first-instance judgment recognising, for the first time, a violation of the anti-discrimination law against LGBTI persons in a case concerning online hate speech by an elected cantonal representative. Further, in March 2026, following an anti-discrimination lawsuit filed by the Sarajevo Open Centre, the Basic Court in Banjaluka ruled that the then President of the Republika Srpska, Milorad Dodik's public rhetoric directly violated the BiH Law on the Prohibition of Discrimination based on sexual orientation, gender identity, and sex characteristics. While a single case, this judgment demonstrates the potential of civil anti-discrimination law as a vehicle for addressing hate speech by public officials where criminal thresholds are not met.¹³⁴
103. Finland has extended administrative protection below the criminal threshold through Section 14 of the Non-Discrimination Act, as amended in 2022, which defines harassment to include behaviour that intentionally or effectively undermines the dignity of an individual or a group based on protected grounds, including sexual orientation and other personal characteristics. The 2022 amendment extended

133. Official Gazette of the Republic of Serbia 22/2009 and 52/2022 *Law on the Prohibition of Discrimination* https://www.paragraf.rs/propisi/zakon_o_zabrani_diskriminacije.html

134. ECRI. 2024. ECRI Monitoring Report on Bosnia and Herzegovina (sixth monitoring cycle). <https://rm.coe.int/fourth-ecri-report-on-bosnia-and-herzegovina/1680b0661f>

the definition of harassment to cover groups as well as individuals, broadening the scope of administrative protection available to LGBTI communities.¹³⁵

104. Assessing whether penalties for SOGIESC-based hate speech are proportionate to offence severity and function as effective deterrents is not possible based on currently available monitoring data, for reasons that are themselves instructive. In several member States, criminal provisions do not explicitly enumerate SOGIESC characteristics as protected grounds, which removes both the legislative basis and the operational incentive to record the bias motive at the point of intake, meaning disaggregated data on SOGIESC-specific hate speech prosecutions and outcomes is structurally unavailable. Even where explicit grounds exist, aggregate hate crime statistics do not consistently distinguish hate speech as a distinct category, do not detail the number of hate speech cases based on grounds or victim groups, do not systematically separate online and offline incidents, and frequently exclude hate speech cases that constitute administrative offences from law enforcement registries. These gaps are compounded by uneven operationalisation across the enforcement chain and by chronic underreporting driven by distrust in institutions and fear of secondary victimisation. The data systems dimension of this problem is addressed in section B2.

Measures to condemn and sanction hate speech by public officials

105. The legislative landscape across member States contains limited accountability mechanisms for hate speech by politicians and high-level officials. As documented in section A2 of this report, hate speech by authority figures normalises hostility, reduces reporting, and erodes the willingness of frontline institutions to enforce protections. General criminal hate speech provisions apply to politicians as to any other person,¹³⁶ yet formal mechanisms to address this are limited in scope and uneven in implementation.
106. Only five member States explicitly include sexual orientation as a protected ground in their constitutions: Malta (Article 45(3)),¹³⁷

135. Non-Discrimination Ombudsman. 2022. *The Non-Discrimination Act is changing on 1 June 2023 – amendments improve the legal protection of discrimination victims* <https://yhdenvertaisuusvaltuutettu.fi/en/-/the-non-discrimination-act-is-changing-on-1-june-2023-amendments-improve-the-legal-protection-of-discrimination-victims>

136. See A1 on ECtHR Case Law, in particular the *Sanchez v. France* and *Budinova and Chaprazov v. Bulgaria* judgments.

137. <https://legislation.mt/eli/const/eng>

Netherlands (Article 1),¹³⁸ Portugal (Article 13(2)),¹³⁹ San Marino (Article 4)¹⁴⁰ and Sweden (Chapter 2, Article 12 of the Regeringsformen).¹⁴¹ Among these, only Malta additionally includes gender identity. No member State constitution explicitly protects gender expression or sex characteristics.

107. At the legislative level, Spain's Law 15/2022¹⁴² creates a legal pathway for withdrawing public funding from entities engaged in discrimination on SOGIESC grounds, applicable to any publicly funded entity. In cases of very severe infractions, including harassment, multiple discrimination, or repeated offences, the law permits accessory sanctions including the suspension of public aid and subsidies. While not specific to political parties, this mechanism meets and exceeds paragraphs 16 and 17 of ECRI's GPR No. 7, which call on states to withdraw public support, including financial subsidies, from political parties and other organisations that promote or tolerate racism, thus covering racist hate speech.
108. The Netherlands provides a further instructive example: Article 16 of the Law on Subsidies to Political Parties¹⁴³ stipulates that public funding must be suspended where a party is sentenced to an unconditional fine under Article 137 of the Dutch Penal Code, which prohibits incitement to hatred, discriminatory expression, and support for discriminatory activities including on the grounds of sexual orientation. While gender identity, gender expression, and sex characteristics are not explicitly included, the law establishes a precedent for conditioning public funding on compliance with anti-discrimination norms.
109. Parliamentary codes of conduct represent the most widely adopted formal mechanism for addressing hate speech by elected officials, though their coverage, specificity, and enforcement powers vary considerably. Albania's 2018 Code of Conduct prohibits MPs from using racist and

138. Government of the Netherlands. 2023. *Grondwet voor het Koninkrijk der Nederlanden*. <https://wetten.overheid.nl/BWBR0001840/2023-02-22>

139. <https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf>

140. ECRI. 2024. *ECRI Monitoring Report on San Marino (sixth monitoring cycle)*. <https://rm.coe.int/sixth-ecri-report-on-san-marino/1680b06621>

141. <https://www.riksdagen.se/globalassets/05.-sa-fungerar-riksdagen/demokrati/the-instrument-of-government-2023-eng.pdf>

142. Equinet. 2022. *New Spanish Comprehensive Anti-Discrimination Law*. <https://equineteurope.org/wp-content/uploads/2022/09/New-Spanish-Comprehensive-Anti-Discrimination-Law-summary.pdf>

143. Kingdom of the Netherlands. 2013. *Wet subsidiëring politieke partijen*. <https://wetten.overheid.nl/BWBR0010465/2013-01-01>

homophobic or transphobic hate speech in both parliamentary and non-parliamentary activities, with provision for disciplinary measures in cases of violation.¹⁴⁴ Greece's 2016 Code of Ethics includes provisions to prevent hate speech on the grounds of sexual orientation.¹⁴⁵ Coverage, specificity, and enforcement powers vary considerably across member States, and the activation record of existing codes is thin. The most direct documented instance of accountability occurred in Lithuania in November 2023, when the Seimas voted to lift an MP's immunity to allow formal charges for publicly ridiculing LGBTI activists and expressing contempt for a group on grounds of sexual orientation.¹⁴⁶

B2. Protection (Implementation)

Legal remedies

110. Effective protection requires a multi-layered infrastructure beyond the criminal justice system. The most robust frameworks across member States increasingly treat hate speech based on § 3 of CM/Rec(2022)16, through a graduated ladder of sanctions (administrative, civil, and criminal) matched to the severity of the conduct and calibrated to reduce the participation barriers that might prevent LGBTI victims from engaging with formal mechanisms in the first place.

Reporting mechanisms

111. The primary obstacle to effective legal recourse is not, in most member States, the absence of formal reporting channels but rather the conditions under which victims decide whether to use them. ECRI monitoring demonstrates consistent patterns: of LGBTI persons who experienced hate speech or hate crime, significant majorities did not report to anyone, smaller proportions reported to social media platforms, and only negligible proportions reported to police, with reluctance to disclose sexual orientation or gender identity cited as the principal reason.¹⁴⁷ Among those who did approach police, substantial proportions

144. ECRI. 2020. ECRI Report on Albania (sixth monitoring cycle). <https://rm.coe.int/report-on-albania-6th-monitoring-cycle-/16809e8241>

145. hellenicparliament.gr/KodikasDeontologias

146. Andrukaityte. 2023. *Lithuanian MP Gražulis stripped of immunity over homophobic statements*. https://www.lrt.lt/en/news-in-english/19/2126335/lithuanian-mp-grazulisstripped-of-immunity-over-homophobic-statements?srltid=AfmBOool08KjjM0awftfEiz_wKgr27HDEviRDlyK0_PX0BHtSoRsG8mP

147. ECRI. 2022. ECRI Report on Bulgaria (sixth monitoring cycle). <https://rm.coe.int/ecri-sixth-report-on-bulgaria/1680a83581>

described encountering negative attitudes.¹⁴⁸ These figures are consistent with the FRA survey data cited in earlier sections of this report and indicate that underreporting is driven primarily by institutional distrust and the fear of secondary victimisation rather than by a lack of awareness of or familiarity with available mechanisms.

112. Against this background, several member States have developed alternative and complementary pathways designed to lower the threshold for engagement. Portugal's approach offers the most integrated model in this regard. The Portuguese Association for Victim Support (APAV) operates a Safer Internet Helpline providing support to victims of cybercrime and online violence, a hotline for reporting illegal content including incitement to discrimination and violence, and direct assistance to victims in requesting removal of content from digital platforms. Where necessary, reports are forwarded to the Portuguese Criminal Investigation Police.¹⁴⁹ This model which bridges victim support, platform reporting, and referral to criminal investigation in a single civil society-anchored structure, is designated a good practice by ECRI and addresses the participation barriers identified above by removing the requirement for victims to navigate multiple institutional channels independently.¹⁵⁰
113. Ireland's iReport platform,¹⁵¹ operated by civil society, similarly provides a community-anchored reporting mechanism that synthesises lived experience into an evidence base accessible to authorities and policy-makers. By enabling third-party reporting and disaggregating incidents by bias motivation, the platform generates data on patterns of hostility¹⁵² that do not reach official crime statistics.
114. Austria's BanHate mobile application,¹⁵³ developed by the Antidiscrimination Office of Styria, provides a further accessible reporting tool for online hate speech, designated a promising practice by ECRI.¹⁵⁴ Austria

148. ECRI. 2020. ECRI Report on Slovakia (sixth monitoring cycle). <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>

149. Victim Support Europe. 2026. *Info Victims III Portugal*. <https://victim-support.eu/infovictims-portugal/>

150. ECRI. 2025. ECRI Report on Portugal (sixth monitoring cycle). <https://rm.coe.int/sixth-report-on-portugal/1680b6668d>

151. <https://ireport.ie/>

152. https://ireport.ie/live_data_reports/

153. <https://www.banhate.com/mission/>

154. ECRI. 2020. ECRI Report on Austria (sixth monitoring cycle). <https://rm.coe.int/report-on-austria-6th-monitoring-cycle-/16809e826f>

also operates the #GegenHassimNetz (Against Online Hate)¹⁵⁵ counselling centre within the NGO ZARA,¹⁵⁶ which provides victims and witnesses of online hate with strategies for responding to hate messages and information on available legal remedies against perpetrators and website operators. It also engages in counter-speech.

115. The establishment of dedicated police liaison units with a specific mandate to build trust with LGBTI communities represents a meaningful structural investment. Available evidence suggests, however, that where these units depend on individual personnel or non-institutionalised management arrangements rather than formal mandates and dedicated funding lines, they are vulnerable to collapse when staffing or management priorities change. In at least one member State, a unit of this kind ceased to function within three years of its establishment following internal reorganisation. Although it was later nominally reinstated, civil society reported to monitoring bodies that it remained inactive, during which period, death threats against LGBTI activists frequently went unreported, with victims citing lack of trust in law enforcement.¹⁵⁷

Legal aid and psychological support

116. Access to legal aid is a prerequisite for victim-centred legal recourse, particularly for those facing compounded barriers, such as those in financial hardship, irregularly present migrants, those in rural areas without access to specialist services, and those whose participation in proceedings requires disclosure of sexual orientation or gender identity. There is no consistent standard of LGBTI-specific legal aid provision across member States, and the evidence reviewed points to a significant gap between the formal availability of victim support structures and their practical reach. General victim support services that are not specifically designed or resourced to address the needs of LGBTI victims of hate speech frequently fail to provide meaningful assistance in practice, even where they formally exist.
117. Member States that have invested in dedicated, LGBTI-specific support infrastructure demonstrate that integration of psychological assistance

155. Government of Austria. 2025. *Beratungsstelle gegen Hass im Netz*. https://www.oesterreich.gv.at/de/themen/onlinesicherheit_internet_und_neue_medien/internet_und_handy_sicher_durch_die_digitale_welt/3/3/Seite.1720230

156. <https://zara.or.at/beratung/#melden>

157. ECRI. 2025. ECRI report on Montenegro (sixth monitoring cycle). <https://rm.coe.int/third-report-on-montenegro/488029120c>

alongside legal support is both achievable and consequential. On July 5, 2023, Spain launched the 028 public service, a free, confidential and 24/7 helpline for victims of LGBTIphobia, providing psychological and legal support, information on rights, and guidance in cases involving discrimination, hate crimes and hate speech.¹⁵⁸ Poland's national telephone helpline,¹⁵⁹ established in October 2022 and staffed with professional psychologists, offers a low-threshold first point of contact specifically for LGBTI persons. Both are promising practices. The provision of psychological assistance alongside legal support, integrated rather than sequential, is identified across multiple monitoring reports as a key factor in enabling victims to sustain engagement with formal proceedings and should be treated as a design requirement rather than an optional supplement.

Trusted flagger services

118. Trusted flagger status, a formal designation that enables civil society organisations to submit content removal reports to platforms through prioritised channels, with higher removal rates and faster processing, represents a structurally important tool for addressing online hate speech at scale. However, access to this status is in practice highly uneven, and the organisations best placed to identify and contextualise SOGIESC-based online hate speech are frequently those least able to meet the administrative and resourcing requirements for designation.¹⁶⁰
119. The Digital Services Act establishes a formal framework for trusted flagger designation by Digital Services Coordinators.¹⁶¹ For LGBTI civil society organisations, the practical accessibility of this framework depends on whether national coordinators actively support the designation of organisations with relevant thematic expertise, and whether those organisations have sufficient capacity (funding) to maintain the operational standards required. Anecdotal evidence indicates that across member States where hate speech monitoring infrastructure is dominated by ad hoc, project-funded civil society work, the trusted flagger mechanism is likely to remain accessible only to larger and better-resourced organisations, leaving the monitoring of SOGIESC-specific online content structurally under-resourced.

158. <https://cogam.es/stop-lgtbfobia/>

159. <https://www.lambdawarszawa.org/>

160. As highlighted during the ADI-SOGIESC roundtable, October 2025.

161. European Commission. 2026. *Trusted flaggers under the Digital Services Act*. <https://digital-strategy.ec.europa.eu/en/policies/trusted-flaggers-under-dsa>

120. Austria provides an instructive example. The NGO ZARA holds formal trusted flagger status on behalf of the Federal Chancellery, operating in the field of online hate speech.¹⁶² ECRI notes that this designation has had a positive impact on the removal rate of illegal content. The model is notable for anchoring trusted flagger capacity within a civil society organisation with LGBTI monitoring expertise, backed by state-level institutional authority. This combination of civil society competence, state authorisation and funding, and platform-level priority access is the structural design that the trusted flagger mechanism is intended to produce.

Reporting of online hate speech to public authorities and internet intermediaries

121. The processing of online hate speech reports submitted both to public authorities and to internet intermediaries presents a distinct set of challenges from those governing in-person or media-based hate speech. The volume of content, the speed of dissemination, the transnational character of most platforms, and the opacity of platform moderation processes collectively produce an environment in which the victim's experience of reporting is often one of procedural inaccessibility and uncertain outcome.
122. Several member States have taken measures to address the interface between victim reporting and platform moderation. Spain's 2021 Protocol to Combat Illegal Hate Speech Online,¹⁶³ designated a good practice by ECRI, establishes a framework for collaboration between public authorities, internet platforms, and civil society to ensure the rapid detection, reporting, and removal of hateful content. The protocol is notable for formalising the role of civil society as an operational partner in the detection and flagging process, rather than treating platform regulation as a matter exclusively between state actors and platforms. Ireland's Online Safety Code,¹⁶⁴ published in October 2024 by Coimisiún na Meán, sets binding standards for video-sharing platforms

162. ECRI. 2020. *ECRI Report on Austria (sixth monitoring cycle)*. <https://rm.coe.int/report-on-austria-6th-monitoring-cycle-/16809e826f>

163. Ministry of Inclusion, Social Security and Migrations. 2021. *Protocol to Combat Illegal Hate Speech Online*. <https://inclusion.gob.es/documents/6602794/6869025/Protocol+to+combat+illegal+hate+speech.pdf/053b098f-f467-d1ee-cf55-0aef4b976379?t=1752213416357>

164. Coimisiun na Meán. 2024. *Online Safety Code*. <https://www.cnam.ie/app/uploads/2024/11/Coimisiun-na-Mean-Online-Safety-Code.pdf>

with European headquarters in Ireland, including Facebook, Instagram, YouTube, TikTok, LinkedIn and X, and explicitly bans content inciting violence or hatred. As the headquarters of many major platforms fall within Irish jurisdiction, this regulation effectively has European reach for the content categories it covers.

123. Portugal's amended Article 240 of the Criminal Code¹⁶⁵ includes a provision that where incitement to hatred is committed through a computer system, the court may order deletion of the data concerned. This provision creates a statutory basis for judicial content removal orders, grounding platform removal obligations in criminal law rather than relying exclusively on platform terms of service or voluntary cooperation. It represents a meaningful step toward closing the gap between the legal prohibition of online hate speech and its operational removal from public circulation.
124. The establishment of dedicated law enforcement capacity to monitor online hate speech represents a meaningful step that several member states have taken during the monitoring period. Lithuania's virtual police patrol unit, established in 2021 to monitor social media for illegal hate speech,¹⁶⁶ has been recognised as a useful initiative and has already led to several investigations.
125. The challenge is compounded for smaller member States and those with less widely spoken languages, and those with substantial minority language populations. Platform operators frequently lack sufficient staff with the relevant language capacity to enforce their own content policies in those linguistic environments, meaning that hate speech prohibited under platform terms of service nonetheless remains accessible because no one with the authority and the language competence to act on it is reviewing it.¹⁶⁷ This is not a failure of legal framework – the obligations exist – but a structural mismatch between the geographic scope of platform operations and the linguistic specificity required to enforce standards consistently across all of the communities those platforms serve.

165. Law no. 4/2024

166. BNS. 2021. *Lithuanian police to patrol social media, send Facebook messages to 'obvious' offenders*. <https://www.lrt.lt/en/news-in-english/19/1381641/lithuanian-police-to-patrol-social-media-send-facebook-messages-to-obvious-offenders?srltid=AfmBOoqBcCyJcF1iuLmmCaquGVrdAKZKXqp28hJ8f2k2EwGPs7mlp2J>

167. See, for instance ECRI's sixth cycle report on Slovakia. <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>

Alternative dispute resolution

126. Below the criminal threshold, alternative dispute resolution mechanisms provide a route to acknowledgement and redress that does not require victims to sustain engagement with the criminal justice system. These mechanisms are particularly relevant for hate speech that causes significant harm without meeting the evidential or severity requirements for criminal prosecution, and for victims for whom criminal proceedings present disproportionate participation barriers.
127. Luxembourg's 'Dialogue instead of hate' programme, operated by the association Respect.lu¹⁶⁸ under an agreement with the national authorities, offers a structured alternative to criminal sanctions for persons who have published hate speech online. The programme is offered as an alternative to prosecution or as support within the context of criminal proceedings. Since its launch, the programme has accompanied over 120 cases through the Dialogue instead of Hate framework, with annual caseload growing consistently over the period – reaching 95 situations in 2023.¹⁶⁹ Austria's 'Dialog statt Hass' (Dialogue instead of Hatred) programme, operated by the probation service Neustart¹⁷⁰ in cooperation with the public prosecutor's office since 2018, pursues a comparable objective: developing a constructive response to hate speech by creating a sense of wrongdoing and reflection among offenders, with the aim of producing behavioural change. These models complement criminal enforcement by addressing cases that fall below prosecution thresholds and by engaging perpetrators in a process designed to reduce recidivism rather than simply impose sanction.

Monitoring the effectiveness of complaint investigation and prosecution

128. The monitoring of effectiveness, tracking what proportion of reported hate speech incidents result in investigation, prosecution, and conviction, and where in the process cases are lost, is a prerequisite for evaluating whether existing frameworks deliver protection in practice rather

168. <https://respect.lu/de/>

169. Respect.lu. 2024. Jahresbericht. respect.lu/wp-content/uploads/2025/04/Jahresbericht_2024.pdf

170. <https://www.neustart.at/was-wir-tun/bewaehrungshilfe/dialog-statt-hass/dialog-statt-hass-fuer-auftraggeberinnen-und-auftraggeber-fuer-zuweiserinnen-und-zuweiser/>

than in form. ECRI's monitoring work across the sixth monitoring cycle consistently identifies this as an area of significant weakness across member States.¹⁷¹

129. Where systematic case-tracking mechanisms are absent, the gap between formal provision and operational outcomes becomes visible only through qualitative monitoring and is often not at all in official statistics. ECRI's sixth monitoring cycle documents this in several member States: a comprehensive legal framework and inter-agency cooperation agreement may coexist with near-zero prosecution outcomes over a decade, with cases lost at multiple points in the chain and no formal mechanism through which authorities can identify where or why. In several instances documented by ECRI, complainants in hate speech cases ended up facing counter-charges. A related variant occurs where non-criminalised forms of hate speech are not recorded at all – leaving civil society organisations to attempt gap-filling work for which they lack the sustained capacity and resources.

Victim-centred design: accessibility, geography, and age

130. The questions posed by CM/Rec(2022)16 regarding the victim-centredness of legal remedies encompass not only the formal availability of mechanisms but their practical accessibility to those facing compounded barriers: children and young people, persons with disabilities, those outside urban centres, and those for whom engagement with formal systems requires unwanted disclosure of SOGIESC identity.
131. Finland's gaming police (pelipoliisi)¹⁷² initiative provides one of the most innovative responses to child-accessible reporting. By establishing a regular police presence within an online gaming platform, the initiative creates a low-threshold, age-appropriate environment in which children and young people can raise concerns about hate speech or online abuse with law enforcement without needing to initiate a formal complaint process. The platform also connects users

171. For instance, ECRI notes that in Estonia between 2016 and 2020, no case that was handled under the incitement to hatred article in the Penal Code went on to prosecution, ECRI 2018 *ECRI Monitoring Report on Estonia (sixth monitoring cycle)* <https://rm.coe.int/6th-ecri-report-on-estonia/1680a6d5e6>, whereas in Portugal it notes no data was collected ECRI. 2025. *ECRI Monitoring Report on Portugal (sixth monitoring cycle)*. <https://rm.coe.int/sixth-report-on-portugal/1680b6668d>

172. Police of Finland. 2026. Pelipoliisi. <https://polamk.fi/en/pelipoliisi-en>

with professional support staff. ECRI designates this a good practice,¹⁷³ noting its particular relevance given that younger respondents are disproportionately exposed to hate-motivated harassment.

132. The urban/rural access gap is identified in ECRI's monitoring as a recurring structural problem that is particularly acute for LGBTI victims of hate speech, for whom accessing specialist services in person may itself require unwanted disclosure of identity in smaller or more closed communities. This dynamic is especially pronounced in island or geographically isolated contexts: ECRI's monitoring of Malta highlights the situation of Gozo, where physical remoteness compounds social visibility, creating what has been described as a double insularity for LGBTI residents seeking support, who are isolated both from mainland services and from the anonymity that urban environments can provide.¹⁷⁴ National helplines, where they exist and are resourced, partially address this gap by providing remote access to legal and psychological support without requiring physical attendance at a service location.¹⁷⁵

Judicial interpretation and evidentiary thresholds

133. The translation of hate speech legislation into enforceable protection depends not only on the quality of the legislative standard but on how courts and prosecutors interpret and apply it. Across member States, three conditions are necessary for effective adjudication of SOGIESC-based hate speech. First, an evidentiary model that does not require proof of what was in the perpetrator's mind but instead assesses what the expression objectively communicated and what harm it was capable of producing. Second, a contextual framework that treats the meaning and severity of an expression as determined by its social environment, target group, platform, and reach – not by the words alone in isolation. Third, an institutional infrastructure that converts legislative standards into consistent prosecutorial and judicial practice, rather than leaving interpretation to individual discretion case by case. Where these conditions are absent, hate speech legislation functions as a formal standard without operational reach.

173. ECRI.2025. ECRI Report on Finland (sixth monitoring cycle). <https://rm.coe.int/sixth-report-on-finland/48802911ec>

174. ECRI. 2024. ECRI Report on Malta (sixth monitoring cycle). <https://rm.coe.int/sixth-ecri-report-on-malta/1680b063ef>

175. See references to the Spanish and Polish helplines above in § 117.

Shifting the evidentiary model: from perpetrator intent to objective harm

134. One of the most persistent barriers to prosecution of SOGIESC-based hate speech is the evidentiary requirement of proving discriminatory intent, establishing what the perpetrator subjectively intended rather than what their expression objectively conveyed and what harm it was objectively capable of causing. Where intent is the primary legal threshold, prosecutors face structural disadvantages: perpetrators routinely deny bias motivation, coded or contextually specific language obscures explicit hostility, and the burden of proof falls on establishing an internal state of mind that cannot be directly observed.
135. CM/Rec(2024)4 on combating hate crime¹⁷⁶ addresses this barrier directly through the concept of hate element, a term designed to cover a range of objective indicators from which bias can be inferred, without requiring proof of the offender's internal state of mind. The definition is explicitly intended to be compatible with both animus (state of mind)-based and discriminatory selection models, allowing member States to prosecute based on external indicators such as the nature, timing, and context of the act, associated language, and patterns of conduct.
136. The United Kingdom's Crown Prosecution Service (CPS) is one practical application of this approach.¹⁷⁷ CPS guidance¹⁷⁸ on sexual orientation and transgender identity hate crime instructs prosecutors to apply a perception-based threshold as the entry point for case management and victim support: it is sufficient that the victim, or any other person, perceived the offence as motivated by hostility based on sexual orientation or transgender identity. This perception-based threshold does not in itself establish the legal elements for aggravated sentencing, which requires objective evidence that hostility served as a motivating factor, but it ensures that cases are not filtered out at the recording stage based on a preliminary assessment of perpetrator intent.
137. This approach reflects the principle established in ECRI's GPR No. 11,¹⁷⁹ which defines a racist incident as any incident perceived to be racist by

176. <https://rm.coe.int/combating-hate-crime/1680b08c6b>

177. Crown Prosecution Service. n.d. *Hate Crime*. <https://www.cps.gov.uk/crime-info/hate-crime>

178. Crown Prosecution Service. n.d. *Homophobic, Biphobic and Transphobic Hate Crime Prosecution Guidance*. <https://www.cps.gov.uk/legal-guidance/homophobic-biphobic-and-transphobic-hate-crime-prosecution-guidance>

179. <https://rm.coe.int/ecri-general-policy-recommendation-no-11-on-combating-racism-and-racia/16808b5adf>

the victim or any other person. Extending this principle to SOGIESC-based hate speech, prosecutors are instructed to build cases using objective indicators: the use of homophobic, lesbophobic, biphobic, or transphobic language; the proximity of the incident to LGBTI-affiliated spaces such as Pride events; affiliations with hostile groups; and contextual behavioural patterns that establish a course of conduct rather than an isolated act. This redistribution of the evidentiary burden ensures that the recording stage does not replicate the evidentiary barriers that characterise prosecution, and that the data system captures the full scope of hostility experienced rather than only those incidents where bias motivation is immediately apparent.

138. Norway's approach to the evidentiary threshold operates through a different but complementary mechanism. Section 185 of the Penal Code criminalises discriminatory or hateful statements made either intentionally or with gross negligence, a formulation unique among member States that removes the requirement to prove deliberate intent entirely for the most serious expressions. The inclusion of gross negligence as a sufficient basis for liability reflects a legislative judgement that the harm caused by hate speech does not depend on whether the perpetrator consciously chose to produce it, and that a standard requiring intentional incitement systematically under protects those targeted by expressions whose hateful character the perpetrator could and should have recognised. This lowered evidentiary burden facilitates earlier intervention and supports recording and prosecution in cases where coded or contextually specific language makes proof of intent structurally difficult.
139. The meaning and severity of an expression of hate speech are not inherent in its words alone but are constituted by context: the social climate in which it is made, the platform and audience through which it circulates, the specific vulnerability of the targeted group at that moment, and the capacity of the expression to isolate, dehumanise, or incite hostility. Judicial frameworks that treat context as peripheral – assessing expressions against an abstract standard of offensiveness – consistently fail to capture the harm that SOGIESC-based hate speech produces in practice.
140. The Spanish Supreme Court has developed a structured body of interpretation under Article 510 of the Penal Code that places contextual analysis at the centre of the legal test for criminal liability. To determine whether an expression crosses the threshold from protected opinion to

criminal incitement, courts are required to assess whether it targets a protected group with the intent to promote hostility, dehumanisation, or exclusion, and to evaluate a range of contextual factors: the social tension prevailing at the time, the medium through which the expression was made, its reach and audience, and the extent to which it degrades dignity or creates conditions of exclusion rather than merely causing offence. The Supreme Court draws a sharp distinction between political criticism, however provocative it may be, and group-directed expression that dehumanises or systematically subordinates. This distinction, consistently upheld in national jurisprudence, channels judicial discretion through a rights-aware framework and prevents the criminal standard from collapsing into a broad prohibition on offensive speech. This approach is aligned with the severity test as provided by CM/Rec(2022)16, which itself builds on the Court's case law and the Rabat Action Plan.

141. The Spanish Supreme Court has also addressed the treatment of online hate speech directly. Digital platforms are not treated as exempt spaces in which different standards apply; rather, the visibility, virality, and audience reach of online content are explicitly weighed as factors in determining severity. Content designed to isolate, humiliate, or incite hostility against protected groups (including LGBTI persons) is prosecutable under Article 510 where its digital dissemination amplifies its capacity to harm beyond what an equivalent offline expression would produce. This integration of digital harm into the substantive legal test ensures that the expansion of hate speech into online environments does not produce a corresponding contraction of legal accountability.¹⁸⁰
142. To establish bias motivation without requiring direct admission of discriminatory intent, Spanish courts rely on circumstantial indicators that permit judicial inference: the use of slurs, documented online activity, affiliations with extremist groups, and recurring patterns of conduct targeting the same group. Victim testimony is accepted as a primary evidentiary source, consistent with broader European standards on hate crime prosecution. This approach allows courts to build cases from the objective features of the expression and its context rather than from the perpetrator's statements about their own motivation.

180. Justice and Consumers. 2024. *Country Report Non-Discrimination Spain*. <https://op.europa.eu/en/publication-detail/-/publication/b3b512fd-6bf6-11ef-a8ba-01aa75ed71a1/language-en>

Institutional infrastructure for consistent interpretation

143. Legislative standards and judicial frameworks produce consistent outcomes only when they are supported by institutional infrastructure that embeds expertise, coordinates enforcement, and prevents bias motivation from being edited out at the case management stage. Without designated prosecutorial capacity, coordinated training, and structured referral pathways, the application of hate speech law depends on individual knowledge and prioritisation rather than systemic competence.
144. The OSCE/ODIHR's Training Against Hate Crime for Law Enforcement (TAHCLE) and Prosecutors and Hate Crimes Training (PAHCT) programmes provide established multilateral frameworks for building precisely this institutional capacity and are often referenced by ECRI as tools available to member States for developing consistent expertise across law enforcement and prosecutorial functions.¹⁸¹
145. Spain's institutional model illustrates what coordinated infrastructure looks like in practice. The National Office to Combat Hate Crimes (ONDOD), based in the Ministry of the Interior, facilitates inter-agency cooperation between law enforcement, civil society, and international partners, supports police training, and convenes working groups under the national agreement against racism, xenophobia, and LGBTI-phobia. The Public Prosecutor's Office has established Hate Crime and Discrimination Units with designated prosecutors assigned to SOGIESC-based hate speech cases, ensuring consistent application of bias motivation as an aggravating factor and systematically collecting and publishing disaggregated data across reported hate crimes. Prosecutors coordinate directly with cybercrime units to ensure that online hate cases are handled with equal procedural rigour to offline cases, including the development of prosecution protocols for digital hate speech that address platform reach, user engagement, and dissemination mechanisms. This architecture prevents the bias motive from disappearing at the transition between reporting and prosecution – the point at which,

181. OSCE/ODIHR. 2026. Prosecutors and Hate Crimes Training (PAHCT). https://odihr.osce.org/sites/default/files/documents/publications/2026/03/%28WEB%29PAHCT%28A4%29final_0.pdf; OSCE/ODIHR. Training Against Hate Crime for Law Enforcement (TAHCLE). <https://odihr.osce.org/odihr/tahcle>

in the absence of designated expertise, SOGIESC-based hostility is most frequently downgraded to a general offence.¹⁸²

146. Germany's model addresses a related gap: the capacity of victims and civil society organisations to document digital evidence to legally admissible standards before cases reach prosecutors. A number of organisations formally accredited under a national protocol for structured referral provide victims of online SOGIESC-based hate speech with legal and psychological support, and document digital evidence according to admissibility standards.¹⁸³ Where evidence meets the threshold for criminal prosecution, the protocol enables direct, secure transmission to public prosecutors, bypassing platform-based reporting bottlenecks. Civil society organisations sensitise police and prosecutors to SOGIESC-specific harms; prosecutorial offices provide guidance on evidentiary requirements and emerging legal standards. The reciprocal training dynamic embedded in this model reflects an understanding that institutional knowledge of the specific character of SOGIESC-based hate speech cannot be produced by law enforcement alone but requires structured engagement with those who experience and monitor it.
147. The role of artificial intelligence in the generation and amplification of SOGIESC-based hate speech represents an emerging challenge for which the judicial and evidentiary frameworks reviewed in this section were not designed. AI-generated content (including synthetic imagery, voice cloning, and large-scale automated text production) complicates attribution of authorship, makes contextual interpretation of bias motivation harder to anchor to a specific actor, and enables the production and dissemination of hate speech at volumes that exceed the capacity of both human moderation and existing reporting mechanisms. The EU AI Act,¹⁸⁴ which entered into force in August 2024, establishes a risk-based regulatory framework with obligations relevant to content generation and algorithmic transparency. CM/Rec(2026)1 on equality and artificial intelligence similarly calls on member states to encourage initiatives to identify, prevent and combat AI-facilitated LGBTI-phobic hate speech. The evidentiary and prosecutorial questions

182. Spanish Ministry of Interior. 2023. *Informe sobre la evolucion de los delitos de odio en España 2023*. https://www.interior.gob.es/opencms/export/sites/default/galleries/galeria-de-prensa/documentos-y-multimedia/balances-e-informes/2023/Informe_evolucion_delitos_odio_Espana_2023.pdf

183. Bundeskriminalamt. n.d. *Meldestelle*. https://www.bka.de/DE/KontaktAufnehmen/KontaktBesondereThemen/MeldestelleHetzelInternet/meldestelle_node.html

184. Regulation (EU) 2024/1689 <https://artificialintelligenceact.eu/>

that AI-generated hate speech raises in practice remain, however, to be addressed in member state guidance and monitoring.

Institutional cooperation and procedural coordination, including on national, regional and local levels:

148. Effective responses to SOGIESC-based hate speech depend not only on the adequacy of individual institutional actors but on the quality of coordination between them. Legislation that is well-drafted and judicial standards that are well-developed produce inconsistent outcomes when police, prosecutors, equality bodies, civil society organisations and trusted flaggers operate in institutional silos: when referral pathways are informal, training is not standardised, and the knowledge generated by civil society engagement does not circulate back into institutional practice. This section examines the extent to which member States have established the structural conditions for consistent, coordinated, and accountable institutional responses.
149. The Netherlands' Roze in Blauw (Pink in Blue) network represents a distinct model for embedding civil society knowledge within law enforcement structures. The network is structurally embedded within the Dutch National Police, with liaison officers present in each regional unit and dedicated coordination roles for anti-LGBTI violence prevention.¹⁸⁵ Roze in Blauw plays concrete roles in supporting victim reporting, advising colleagues, and participating in policy discussions; in some regions it maintains accessible reporting channels and tracks incident trends. The Police Academy includes LGBTI-focused training modules, drawing in some instances on input from Roze in Blauw and civil society partners such as COC Nederland.¹⁸⁶ Monitoring data from community surveys including the Netherlands Institute for Social Research's *LHBT Monitor* provides a partial feedback mechanism linking victim experience to policing practice. It should be noted that the network's strength and visibility vary across regional units, and the best practices documentation indicates that it is not uniformly robust throughout the country – the model's structural embedding does not

185. Politie NL. n.d. *Roze in Blauw*. <https://www.politie.nl/onderwerpen/roze-in-blauw.html>

186. COC Nederland. n.d. *COC Nederland*. <https://www.coc.nl/>

guarantee consistent implementation.^{187,188,189} Germany's referral protocol, discussed above in paragraph 146, also illustrates the structural embedding of civil society within enforcement coordination.

150. Where these coordination structures are absent or informal, the consequences are visible in case outcomes. The capacity of individual police officers or prosecutors to identify SOGIESC-based bias motivation may vary considerably in the absence of shared protocols and referral mechanisms, with the result that hate speech incidents may be absorbed under general offences at the recording stage.

Cross-sectoral training and judicial exchange

151. Croatia's cross-sectoral training model addresses the problem of inconsistent interpretation across professional roles. Targeted trainings were delivered through five regional centres, convening judges, prosecutors, police officers, lawyers, and civil society actors around the application of Article 87(21) of the Criminal Code on hate crimes and Article 325 on incitement to hatred and violence. The curriculum covered national legislation, relevant international standards, and jurisprudence of the European Court of Human Rights, alongside victim rights under the EU Victims' Rights Directive. Each session included case-based workshop exercises, enabling participants to apply legal definitions and procedural safeguards to realistic scenarios rather than abstracting them from practice. The significance of this model is the deliberate assembly of all professional roles in the same training space: it builds a shared operational understanding of the legal framework rather than delivering profession-specific training in isolation, and creates relational connections between actors who will subsequently need to cooperate on live cases.¹⁹⁰
152. At the multilateral level, the Council of Europe's HELP (Human Rights Education for Legal Professionals) Programme provides a standardised framework for judicial and legal training across all 46 member States.

187. Movisie. 2024. *Aanpak politie van anti-LHBTIQA Geweld*. <https://www.movisie.nl/sites/movisie.nl/files/2024-10/Aanpak-politie-van-anti-lhbtiqua%2B-geweld.pdf>

188. Social en Cultureel Planbureau. 2022. *LHBT-monitor 2022*. <https://www.scp.nl/publicaties-scp/2022/07/lhbt-monitor-2022>

189. Tweede Kamer. 2024. 30 420, nr. 393. <https://www.tweedekamer.nl/downloads/document?id=2024D10906&>

190. Centar Mirovnih Studija. 2019. *Guidebook of good practices in combating hate crimes and hate speech*. https://www.cms.hr/wp-content/uploads/Against_Hate_-_Guidebook_of_goog_practices_in_combating_hatecrimes_and_hate_speech.pdf

The HELP course on combating hate speech¹⁹¹ enables legal professionals to recognise bias motivation, distinguish protected from illegal expression, and align national rulings with the Court's case law. Course development draws on expert input including from civil society partners such as ILGA-Europe, and delivery is channelled through national judicial institutions to ensure contextual legal relevance. The Council of Europe's SOGIESC Unit has developed a dedicated training manual, *Policing Hate Crime against LGBTI Persons: Training for a Professional Police Response* (updated 2025), for police trainers, investigators and frontline officers across member states.¹⁹² The manual builds on the Court's standards and incorporates civil society input. These multilateral instruments do not substitute for the structural coordination described above but provide a common normative baseline from which nationally specific training can develop.

153. The United Kingdom's Hate Crime Scrutiny Panels represent the most developed example of a mechanism that converts training into an accountability loop. The Crown Prosecution Service incorporates community leaders and civil society into institutional oversight by having panels review anonymised case files to assess procedural integrity. Panel members are drawn from the community with expertise or lived experience in the relevant thematic area. The panels feed their findings directly back into training cycles, which in turn, informs the development of prosecution policies, legal guidance, and professional development programs. This creates a continuous circuit between lived experience, prosecutorial guidance, and institutional learning: civil society expertise does not only inform initial training design but actively audits outcomes and identifies where procedural failures, including failures to identify bias motivation, have occurred. The mechanism is institutionally embedded within the Crown Prosecution Service rather than constituted as an external audit, which gives its findings operational rather than merely advisory status.¹⁹³
154. Norway's approach embeds accountability at the level of national planning rather than case review. Under Measure 38 of the 2023–2026

191. Council of Europe HELP. 2024. *Updated course on Combating Hate Speech now available on the HELP e-learning platform*. <https://www.coe.int/en/web/help/-/updated-course-on-combating-hate-speech-now-available-on-the-help-e-learning-platform>

192. Council of Europe. N.d. Inclusive policing and hate crime. <https://www.coe.int/en/web/inclusion-and-antidiscrimination/inclusive-policing-and-hate-crime>

193. Crown Prosecution Service. n.d. *No room for hate: how we engage with our communities on hate crime*. https://content.govdelivery.com/landing_pages/37088/e2d15c4f0baabf3913405ccfd7e0cde1

Action Plan on Gender and Sexual Diversity, the Ministry of Justice and Public Security is mandated to ensure that police receive dedicated training on hate crimes related to SOGIESC. This training is embedded within formal professional development structures and delivered in cooperation with civil society organisations.¹⁹⁴ By anchoring the training obligation within a national action plan with time-bound measures, Norway ensures that capacity-building is not left to institutional initiative but is subject to reporting and monitoring requirements within the plan's evaluation framework. The model demonstrates that the question of institutional accountability for training is not separable from the question of how national equality planning is structured: where civil society co-develops training and monitors plan implementation, accountability for follow-up is distributed and visible.

155. Notable is the absence of systematic evaluation of whether training changes practice. Most documented models are able to report on inputs: numbers trained, curricula delivered, or sessions held, but have not established mechanisms to track whether training leads to measurable changes in case recording, referral rates, or prosecutorial outcomes. The UK scrutiny panel model partially addresses this through case review, but it is not designed as a systematic evaluation instrument.

Long-term partnerships and structural funding for civil society

156. The preceding examples illustrate models where civil society expertise is embedded in institutional structures through protocols, accreditation, and permanent consultative bodies. What sustains these models across political cycles is not goodwill or informal relationship but structural recognition of civil society's role, supported by adequate and predictable funding. ECRI's GPR No. 11¹⁹⁵ calls on member States to establish frameworks for dialogue and co-operation between the police and members of minority groups – a standard that is specific to policing but reflects the broader principle that coordination with affected communities must be institutionally structured rather than dependent on individual initiative.

194. Norwegian Ministry of Culture and Equality. 2023. *The Norwegian Government's Action Plan on Gender and Sexual Diversity (2023–2026)*. <https://www.regjeringen.no/contentassets/cae838ecc4204787857a0499fd8b7c11/en-gb/pdfs/action-plan-on-gender-and-sexual-diversity.pdf>

195. <https://hudoc.ecri.coe.int/eng?i=REC-11-2007-039-ENG>

157. Finland's Advisory Board for Non-Discrimination, established under the Ministry of Justice, operationalises this principle at national policy level.¹⁹⁶ The Board is composed of representatives from key ministries, local authorities, and a broad range of civil society organisations, formally appointed by government for a three-year term and convening regularly as a channel for dialogue and information exchange. The national LGBTI human rights organisation Seta¹⁹⁷ holds a seat in the current composition, ensuring sustained policy access for LGBTI civil society expertise. The model provides civil society with a permanent, institutionalised consultative role in equality policy not dependent on project funding or ministerial discretion, but embedded in the Board's mandate and composition.
158. Ireland's National LGBTI+ Inclusion Strategy 2024–2028 provides a comparable accountability structure at the level of strategy execution. The strategy's implementation is overseen by a Steering Committee co-chaired by the Minister for Children, Disability and Equality and composed of senior civil servants and civil society representatives.¹⁹⁸ This arrangement places civil society in a formal oversight role for government commitments, ensuring that monitoring is not conducted solely by the institutions responsible for delivery. The model does not resolve the question of core funding for civil society organisations, which remains a prerequisite for their sustained participation, but it provides the governance architecture within which funded partnerships can operate with genuine accountability.
159. The structural vulnerability across member states is that even well-designed coordination models are undermined when the civil society organisations on which they depend lack secure, multi-year core funding. Project-based funding produces episodic rather than sustained capacity; organisations cannot maintain the expertise, relationships, and institutional presence that effective coordination requires if their funding is contingent on individual project cycles.

196. Non-Discrimination Ombudsman. 2023. *Advisory Board for Non-Discrimination*. <https://yhdenvertaisuusvaltuutettu.fi/en/advisory-board-for-non-discrimination>

197. Seta. n.d. *LGBTI Rights in Finland*. <https://en.seta.fi/lgbti-rights-in-finland-seta/>

198. Department of Children, Disability and Equality. 2024. *Steering Committee - National LGBTIQ Inclusion Strategy 2024-2028*. <https://www.gov.ie/en/department-of-children-disability-and-equality/campaigns/national-lgbtiq-inclusion-strategy-ii-2024-2028/#:~:text=The%20NLIS%20II%20Steering%20Committee%20comprises%20representatives%20from%20relevant%20Government,once%20agreed%20with%20its%20members.>

National data collection systems

160. The capacity of member States to respond effectively to SOGIESC-based hate speech depends not only on the quality of their legislative frameworks but on whether they can see the problem at all. ECRI's monitoring work consistently recommends that member states establish comprehensive data collection systems offering an integrated view of hate speech and hate crime cases, with data disaggregated by category of offence, type of hate motivation, target group, and judicial follow-up and outcome, and that such data be made publicly available. The most pervasive structural gap is not procedural but epistemic: most member States have no official data on the LGBTI population and no disaggregated recording of hate speech incidents by SOGIESC ground or hate element. Where SOGIESC grounds are absent from mandatory recording categories, hate speech incidents are absorbed into aggregate statistics, the ground or hate element disappears, and the data system produces not a picture of the problem but a systematic undercount that obscures it. This section examines how member States capture SOGIESC-based hate speech in official data, the role of civil society in generating the evidence that official systems do not, and the conditions under which civil society data produces accountable outcomes rather than remaining in parallel. Embedding SOGIESC grounds as mandatory recording categories requires a prior institutional decision to recognise SOGIESC-based harm as a category of public concern worth measuring – and in the majority of member States, that decision has not been made.
161. The United Kingdom's data architecture, specifically the approach in England and Wales, provides the clearest model within the monitoring period for what disaggregated official recording looks like in practice. The Home Office's annual statistical release, "Hate Crime, England and Wales",¹⁹⁹ disaggregates police-recorded hate crimes by five monitored strands, with separate categories for sexual orientation and transgender identity. This creates a public, consistent baseline against which trends can be tracked and institutional performance evaluated, although trends can be affected by changes in recording practices and the propensity of people to report these crimes. Alongside official police recording, the Crime Survey for England and Wales²⁰⁰ produces

199. UK Government. n.d. *Hate Crime Statistics*. <https://www.gov.uk/government/collections/hate-crime-statistics>

200. Crime Survey for England and Wales. 2025. *Survey Results*. <https://www.crimesurvey.co.uk/en/SurveyResults.html>

population-level estimates of victimisation including unreported cases, providing official recognition of the gap between community experience and recorded data. The combination of administrative and survey data enables a dual accountability function: police recording measures the institutional response; the victimisation survey measures what the institutional response can struggle to capture, such as offences that do not come to the attention of the police. Neither instrument alone produces a complete picture, but their combination is structurally designed to make the reporting gap visible rather than invisible.

162. Spain's ONDOD, discussed above in the context of prosecutorial infrastructure, also publishes disaggregated hate crime data by bias ground including sexual orientation and gender identity, and reports annually to the OSCE Office for Democratic Institutions and Human Rights (ODIHR), one of the few member States with a systematic official data pipeline from law enforcement through to international monitoring. The Facing Facts analysis of the Spanish system notes, however, that a shared definition of hate crime does not yet exist across the criminal justice system, meaning cases cannot currently be tracked consistently from initial investigation through prosecution to sentencing, a gap that affects the depth of what even a well-resourced data system can reveal.²⁰¹
163. Where official data systems are absent or inadequate, civil society organisations produce the only consistent evidence base on SOGIESC-based hate speech. This evidence performs two distinct functions: it makes incidents visible that official recording ignores, and it creates an accountability mechanism by which civil society can demonstrate where protection gaps persist over time.
164. The Eurocentralasian Lesbian* Community (EL*C) Observatory on Lesbophobia,²⁰² launched in February 2022 and covering cases from 2019, illustrates what structured civil society monitoring can produce at the pan-European level. Drawing on 50 collaborating organisations, national observatories, NGOs, and grassroots initiatives, the Observatory compiles individual cases reported by media outlets and EL*C members alongside aggregated data from national partners. Its annual

201. Perry. 2019 Connecting on Hate Crime Data in Spain. <https://www.facingfacts.eu/final-spain-country-report/>

202. <https://lesbiangenius.org/observatory-lesbophobia-2019-2020/>

reporting, most recently for 2024,²⁰³ documents recurring patterns of lesbophobic violence and hate speech across Europe and Central Asia, identifies legislative gaps in the recognition of lesbophobic motive as an aggravating circumstance across member States, and makes findings available for evidence-based advocacy with national authorities and the Council of Europe. The Observatory is significant not only for what it documents but for what its existence reveals: the patterns it captures – violence in public spaces, online hate speech, underreporting driven by fear of secondary victimisation, and the erasure of lesbophobic motive in law enforcement responses – are structurally absent from official data in most of the countries it covers. The Observatory also illustrates a limitation that persists even in member States with functional SOGIESC disaggregation. Where recording systems treat sexual orientation and gender as parallel discrete grounds, they cannot capture lesbophobic harm, which sits at their intersection. The Observatory's data on lesbophobic violence, which according to the EL*C report frequently involves gendered dynamics of coercion and male entitlement alongside hostility to same-sex orientation, documents a form of harm that would be invisible in either a sexual orientation strand or a gender-based violence category taken alone. This is a recording gap that disaggregation by single grounds, however well implemented, cannot close.

B3. Prevention

7. "Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination."

8. "Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organisations, political organisations and religious communities."

CM/Rec(2010)5

203. EL*C. 2024. 2024 Observatory on lesbophobic violence and discrimination against lesbians. <https://lesbiangenius.org/observatory-on-lesbophobia-2024-key-findings-and-trends/>

165. Prevention is most effective when it is embedded within public institutions as integrated responsibilities, supported by structural mechanisms, political leadership, and durable cooperation with civil society actors who hold context and community expertise. Three distinct but interdependent elements are required: institutional infrastructure that embeds prevention obligations beyond individual political cycles; communication standards that shape the information environment through which hate speech operates; and narrative interventions through which authorities contest the normative ground on which hate speech depends. Where one of these elements is absent, the others lose traction. Regulatory frameworks without narrative leadership produce compliance without norm change; official counter-speech without institutional backing is episodic and vulnerable to political turnover; and communication standards without enforcement remain statements of preference.

Institutional infrastructure as prevention

166. The advisory councils, inter-ministerial working groups, and consultative frameworks documented in section B2 are prevention infrastructure. Finland's Advisory Board for Non-Discrimination, Ireland's LGBTI+ Inclusion Strategy Steering Group, and Norway's interministerial coordination group with structured civil society dialogue all function preventively by embedding inclusive norms into public administration before harm occurs rather than responding to it after. Spain's Red de Municipios Orgullosos adds a dimension specific to prevention: for elected officials in politically sensitive regions, network membership reduces the perceived political risk of advocating against discrimination, functioning as a structural shield against the chilling effect that anti-LGBTI political environments produce on local officials.
167. The distinction matters analytically. A training programme delivered once does not constitute prevention infrastructure. A permanent consultative council with civil society seats, a ministerial-level steering group with time-bound implementation obligations, and a peer network providing model ordinances and political cover for local officials create conditions in which prevention is institutionally self-sustaining.

Online content removal

168. The regulation of online hate speech has increasingly shifted from reactive content removal to proactive platform accountability, with two distinct legal architectures emerging at national and supranational levels. These frameworks are analytically important not simply because they produce obligations but because they determine who bears the burden of identifying risk, who defines the relevant harm categories, and what role civil society plays in enforcement.
169. The DSA's systemic risk framework and the integrated Code of Conduct+ (discussed in §51-52) establish the regulatory environment within which member State platform accountability mechanisms operate. At national level, several member States have developed institutional structures that translate these obligations into practice and, in some cases, go beyond them.
170. CM/Rec(2026)2 on accountability for technology-facilitated violence against women and girls establishes the CoE standard in this area, recommending that member States ensure swift, accessible and effective content removal orders available under criminal, civil or administrative law and not dependent on criminal proceedings.
171. France's model, based on the 2018 Law on the Fight Against the Manipulation of Information, provides a co-regulatory framework in which online platforms are not directly regulated for content but are required to self-regulate in structured and reportable ways. The High Audiovisual Council's Recommendation 2019-03²⁰⁴ outlines operational standards (reporting tools, content labelling, promotion of verified media, platform accountability) and requires annual compliance reports. While directed at disinformation broadly, its relevance for hate speech lies in its mechanisms for algorithmic transparency and cooperation with civil society.
172. Ireland's Online Safety Commissioner holds a binding mandate to develop Online Safety Codes covering hate speech on SOGIESC grounds through a multi-stakeholder process; one of the few national

204. Arcom. 2019. *Recommandation n° 2019-03 du 15 mai 2019*. <https://www.arcom.fr/se-documenter/espace-juridique/textes-juridiques/recommandation-ndeg-2019-03-du-15-mai-2019-du-conseil-superieur-de-laudiovisuel-aux-operateurs-de-plateforme-en-ligne-dans-le-cadre-du-devoir-de-cooperation-en-matiere-de-lutte-contre-la-diffusion-de-NB> : The High Audiovisual Council (CSA) was merged with the High Authority for the Distribution of Works and Protection of Rights on the Internet (Hadopi) in 2022 to form the Regulatory Authority for Audiovisual and Digital Communication (Arcom).

authorities with explicit statutory competence over platform obligations in this area.

173. Online safety frameworks that define harm primarily through a child protection lens carry a structural risk of reproducing anti-gender frames in regulatory form. Where “harmful to children” is defined broadly and enforced through AI-driven moderation under threat of significant financial penalty, platforms face stronger compliance incentives to over-remove than to under-remove content flagged as sensitive. LGBTI educational and health resources (coming-out content, gender identity information, community spaces that function as lifelines for isolated LGBTI youth) are then disproportionately vulnerable to automated systems that treat visibility itself as a safety risk.²⁰⁵
174. The Explanatory Memorandum to CM/Rec(2026)¹²⁰⁶ identifies this dynamic, noting that AI-driven moderation tools that rely on word-level offensiveness indicators produce systematically skewed outcomes across languages and identity categories, with terms including ‘gay’ and ‘lesbian’ generating disproportionately high offensiveness predictions. The practical consequence is shadow-bans, restricted account names, and reduced reach for LGBTI organisations and events, functioning as a structural suppression of the counter-speech and community content that such systems are not designed to block.

Public media standards and incentivised self-regulation

175. Regulatory standards and resource allocation can be linked in ways that create affirmative incentives for inclusive content rather than merely prohibiting harmful content. In Ireland, *Coimisiún na Meán* enforces the Code of Programme Standards (November 2024),²⁰⁷ which prohibits content likely to incite hatred or violence on discriminatory grounds, including those related to SOGIESC. This is complemented by the “Sound and Vision” Scheme, which uses public television licence revenue to co-finance television and radio programming. Under the Sound & Vision 4 Guidelines²⁰⁸ applicants must demonstrate a commitment to

205. Fiennes and Matlach. 2025. *Five-year overview of the online and offline anti-LGBTQ+ landscape* <https://www.isdglobal.org/digital-dispatch/investigation-five-year-overview-of-the-online-and-offline-anti-lgbtq-landscape/>

206. <https://search.coe.int/cm/eng?i=09125948802ad155>

207. Coimisiún na Meán. 2024. *Code of Programme Standards*. <https://www.cnam.ie/app/uploads/2024/11/Code-of-Programme-Standards-November-2024.pdf>

208. Coimisiún na Meán. 2023. *Scheme Sound and Vision 4*. <https://www.cnam.ie/app/uploads/2023/11/SchemeSoundVision4.pdf>

equality, diversity, and inclusion as a condition for funding approval. The model links regulatory standards to resource allocation, creating structural incentives for media organisations to embed inclusive messaging as part of their editorial strategy rather than treating it as an optional or reputational consideration.

176. Peer-led professional organisations can function as internal accountability mechanisms within the media sector. In France, the *Association des journalistes LGBTI* (AJL)²⁰⁹ operates as a journalist-run body monitoring national media coverage of LGBTI-related topics, maintaining glossaries and thematic guides for ethical reporting, and conducting public media monitoring. Its annual “Out d’Or” awards recognise best practices in inclusive journalism and call public attention to discriminatory reporting. The AJL model is significant because accountability for media norms comes from within the profession rather than from external regulation: journalists hold other journalists to standards developed by affected communities.

Education

177. Education systems are a primary site for norm formation, and their potential as a prevention mechanism depends on whether obligations are structural or merely advisory.^{210, 211} Under its national equality strategy, Portugal has implemented coordinated actions within the Safe School Programme²¹² to promote citizenship and non-discrimination, including targeted awareness-raising on sexual orientation, gender identity and expression, and sex characteristics. These initiatives include training programmes for teaching and non-teaching staff, students, family associations, and child protection professionals. Schools are encouraged to document and disseminate good practices

209. AJLGBT. n.d. *Home page*. <https://www.ajlgbt.info/>

210. UNESCO and The International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organisation (IGLYO). Don’t Look Away: No Place for Exclusion of LGBTI Students, Global Education Monitoring Report Policy Paper No. 45, 2021: <https://unesdoc.unesco.org/ark:/48223/pf0000377361>

211. IGLYO, Policy Guidelines on Hate Speech and Hate Crimes Against LGBTQI Young People, 2025: <https://www.iglyo.org/resources/hate-speech-hate-crime-policy-guidelines-2025>

212. Comissão para a Cidadania e a Igualdade de Género. n.d. *Plano de ação para o combate à discriminação em razão da orientação sexual, identidade e expressão de género, e características sexuais* (PAOIEC). <https://www.cig.gov.pt/planos-nacionais-de-acao/plano-de-acao-para-o-combate-a-discriminacao-em-razao-da-orientacao-sexual-identidade-e-expressao-de-genero-e-caracteristicas-sexuais-paoiec/>

in preventing SOGIESC-based bullying, with specific mechanisms developed for protecting children and young people in residential care.

178. Iceland's approach illustrates the value of embedding SOGIESC-specific education obligations within binding equality legislation rather than leaving them to programmatic discretion. The 2020 Act on Equal Status and Equal Rights Irrespective of Gender mandates instruction on equality and gender issues, including gender stereotypes and matters concerning LGBTI persons. The first LGBTI Action Plan (2022-2025) operationalises this through educational materials, professional guidelines on LGBTI children and young people, and research on LGBTI children's well-being. ECRI designates as promising practices Reykjavík Municipality's queer certification scheme for schools and the state-funded delivery of LGBTI equality training in primary and secondary schools by Samtökin '78.²¹³
179. The Combating Homophobic and Transphobic bullying in schools (HOMBAT) initiative, operating across Cyprus, Greece, and Lithuania, delivered targeted training to primary and secondary school teachers and school advisors on recognising, addressing, and preventing homophobic and transphobic bullying. Coordinated by a civil society consortium in cooperation with national educational institutions, the project combined train-the-trainer formats with national workshops and European-level coordination. Beyond classroom-level training, HOMBAT promoted multi-actor cooperation, facilitated data-driven research on SOGI-based bullying, and developed a counter-narrative campaign to shift public discourse on LGBTI inclusion in schools.²¹⁴
180. In Ireland, organisations including BeLonG To Youth Services and the Transgender Equality Network Ireland (TENI) have developed and delivered structured training programmes to public sector bodies across youth services, education, healthcare, and the civil service.²¹⁵ TENI's *Trans 101* training module has been implemented across health, education, and justice sectors. These examples represent civil society organisations functioning as specialist service providers within public institutions.²¹⁶

213. ECRI. 2023. ECRI Monitoring Report on Iceland (sixth monitoring cycle) <https://rm.coe.int/sixth-ecri-report-on-iceland/1680ac8c43>

214. Gale. n.d. *Hombat Project*. <https://www.gale.info/en/projects/hombat-project>

215. BeLonG To Youth Services. 2021. *LGBTI+ Training for Professionals*. <https://www.belongto.org/professionals/training/>

216. TENI. n.d.. *Trans 101 Training*. <https://www.teni.ie/training>

Whole-of-government frameworks

181. Prevention frameworks achieve the greatest coherence when they are embedded across multiple state institutions simultaneously, with civil society participation built into coordination and accountability structures rather than treated as input to individual initiatives. Norway's 2023–2026 Action Plan on Gender and Sexual Diversity provides a structured model. Multiple public authorities are formally mandated to develop and implement hate speech prevention measures in direct collaboration with civil society. The Directorate for Higher Education and Skills and the Directorate for Education are tasked with co-developing guidance materials on gender and sexuality diversity, explicitly addressing discrimination and hate speech, in partnership with academic and civil society actors. The Norwegian Media Authority (Medietilsynet) is responsible for delivering counter-hate initiatives targeting children and youth in cooperation with civil society. This is complemented by a review of grant schemes to promote diversity in media. An interministerial coordination group and structured regular dialogue with LGBTI stakeholders ensure that policies are informed by lived experience and implemented through coordinated, cross-institutional channels.²¹⁷
182. Sweden's 2025–2027 national action plan for equal rights and opportunities for LGBTIQ persons²¹⁸ aims to further strengthen efforts in this area. Thirteen state authorities, including the Swedish Police Authority, Swedish Arts Council and the Swedish National Agency for Education, have been appointed as LGBTIQ strategic authorities. These are tasked with promoting equal rights and opportunities for LGBTIQ people in their respective sphere of activity. This means, among others, that an LGBTIQ perspective must be integrated and made visible in the activities of the authority. The Public Health Agency has been tasked to coordinate, support and monitor progress in the work of the LGBTIQ strategic authorities. The Swedish Defence Research Agency has been tasked with mapping the prevalence of hostility towards LGBTIQ persons in digital environments, producing data that informs both educational

217. Barne- og likestillingsdepartementet. 2015. *Regjeringens strategi mot hatefulle ytringer 2016–2020*. <https://www.nhri.no/wp-content/uploads/imports/MjAuMTIuMTYuMTUuMDMuNTJSZWdQZXJpbmdlbnMgaGE=.pdf>; The Norwegian Government's Action Plan on Gender and Sexual Diversity (2023–2026), <https://www.regjeringen.no/en/documents/the-norwegian-governments-action-plan-on-gender-and-sexual-diversity-20232026/id2963172/?ch=1>

218. <https://www.government.se/information-material/2025/07/action-plan-for-equal-rights-and-opportunities-for-lgbtqi-persons/>

and regulatory responses. The National Strategy against Violent Extremism and Terrorism positions homo- and transphobic hate crimes within Sweden's democratic protection mandate.²¹⁹

183. France's *Observatoire de la haine en ligne*, established by Article 16 of the 2020 law on combating hateful content online, exemplifies structural embedding of civil society expertise into a national regulatory body. Operated under the authority of Arcom, the regulatory authority for audiovisual and digital communication, the Observatory brings together online platforms, public institutions, researchers, and civil society organisations – including InterLGBT, SOS Homophobie, and STOP Homophobie – in organised thematic working groups. The Observatory's explicit mandate includes fostering information exchange and jointly assessing the dynamics of online hate. By structurally embedding LGBTI civil society organisations into a national regulatory body with policy influence, the model enables shared standards development, improves institutional understanding of hate dynamics, and creates formalised dialogue between enforcement actors and rights-holders.²²⁰
184. In January 2026, Switzerland adopted its first national action plan to combat hate crimes against LGBTIQ persons. The 2026-30 national action plan aims to create a safer and more respectful environment for LGBTIQ people by improving their protection against hostile attitudes and violence. It has three areas of action: support and protection, prevention of hate crime and monitoring.

Narrative interventions and strategic public messaging

185. Counter-speech by public authorities is a core instrument of prevention, but its effectiveness is contingent on three conditions: timing relative to the hate speech it addresses, the institutional authority of the speaker, and the consistency of the message with institutional behaviour. Episodic or reactive statements by officials, however prominent, do not constitute a prevention strategy. They require structural

219. <https://www.government.se/contentassets/524b35ec9cdd4e30a501c6b7d9cbd694/national-strategy-against-violent-extremism-and-terrorism--prevent-avert-protect-and-manage-government-communication-20232456.pdf>

220. Arcom. N.d. Observatoire de la haine en ligne : analyser pour mieux lutter. <https://www.arcom.fr/nous-connaître-nos-missions/superviser-les-plateformes-en-ligne-et-les-reseaux-sociaux/observatoire-de-la-haine-en-ligne-analyser-pour-mieux-lutter>

embedding within action plans, communication budgets, and monitoring frameworks to produce sustained norm change.

186. Norway's 2023–2026 Action Plan explicitly integrates narrative interventions into its rights infrastructure through a dedicated pillar titled "Create greater acceptance of gender and sexual diversity." Corresponding actions include structural funding to civil society organisations FRI, Pink Competency, and Skeiv Ungdom to deliver inclusive education and media content, and commitments to integrate gender and sexual diversity into public sector training, education policy, and youth outreach. Communication efforts are budgeted, time-bound, and co-developed with civil society. By embedding these efforts within the action plan's implementation structure, Norway enables public authorities to assess the reach, resonance, and impact of narrative interventions as part of national accountability processes.²²¹
187. Malta demonstrates how LGBTI equality can be embedded into national identity through consistent senior-level messaging. The government regularly references its ILGA-Europe Rainbow Map ranking in official statements, tourism promotion, and international diplomacy, making LGBTI equality an index of national modernity and international credibility.²²²
188. In Spain, during parliamentary deliberations on the Ley Trans and the broader LGBTI equality framework, the Ministry of Equality launched the "Orgullo de País" campaign in June 2022, explicitly tying LGBTI dignity to democratic health and social cohesion. The campaign centred trans lives within the national imaginary, using dignity-based language to counter disinformation and present LGBTI inclusion as a democratic imperative.²²³
189. Belgium's Unia combines its legal mandate to process discrimination complaints with its role as a public research and education body. Drawing on complaint data and monitoring findings, Unia produces

221. Government of Norway. 2023. Action Plan on Gender and Sexual Diversity. <https://www.regjeringen.no/contentassets/cae838ecc4204787857a0499fd8b7c11/en-gb/pdfs/action-plan-on-gender-and-sexual-diversity.pdf>

222. Government of Malta. 2025. Press Release by the parliamentary secretariat for reforms and equality: Malta has been confirmed as the European leader in LGBTIQ+ rights in a historic 10th consecutive year. <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2025/05/14/pr250802en.aspx>

223. Spanish Ministry of Equality. 2022. Press Release: Irene Montero: "El Orgullo LGTBI hace de España un país mejor, más libre y democrático". https://www.igualdad.gob.es/wp-content/uploads/NdeP_IMCMin_20270622.pdf

authoritative reports and launches narrative interventions that directly counter harmful narratives. This model links counter-speech to evidential grounding: public messaging is anchored in documented patterns of harm rather than simply asserting values.²²⁴

190. Speaker credibility, institutional context, and the clarity of the distance between condemned speech and the values an institution formally represents are the conditions that give such interventions their normative weight. In one member State, a senior defence official publicly condemned a military officer following the publication of content containing homophobic, racist, and misogynistic material, stating that the officer had discredited the armed forces, the defence ministry, and the constitution.²²⁵ The example is significant because the condemnation originated from within the security establishment itself, a domain where such speech carries specific institutional authority.
191. The examples documented in this section represent the upper end of a wide spectrum. The majority of member States have not yet established the institutional infrastructure, communication standards, or narrative frameworks that the best practice examples illustrate. Where prevention obligations exist, they are more commonly project-based than structural, more commonly advisory than binding, and more commonly reactive than embedded. Civil society organisations are carrying prevention functions often on project funding that does not sustain the continuity those functions require. The recommendations that follow address these gaps directly.

224. Unia. n.d. *Unia*. <https://www.unia.be/en>

225. Matozzi. 2023. Italian general Roberto Vannacci fired after homophobic and racist remarks in book. <https://www.euronews.com/culture/2023/08/21/italian-general-roberto-vannacci-fired-after-homophobic-and-racist-remarks-in-book>

Recommendations

192. The analysis presented in this report identifies a persistent and consequential gap between the formal development of legal frameworks and their operational delivery. The existing binding framework in international law is focused on racist hate speech, but does not cover the grounds of sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC). Across member States, other significant protection failures are not primarily legislative in character: they arise from data collection systems that do not make SOGIESC-based harm visible, institutional infrastructures that are inadequately resourced or impermanently constituted, procedural architectures that function as barriers to the very victims they nominally protect, and prevention frameworks that rely on civil society to perform functions that public institutions often do not assume. The following recommendations are directed at closing these gaps.

I. General recommendations

1. Ensure the existence at national and international level of a solid binding framework for preventing and combating hate speech on the grounds of sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC).
2. Ensure that public hate speech and hate crime data collection systems record incidents on SOGIESC grounds as separate categories and that disaggregated data is made publicly available. Complement and compare administrative recording with population-level victimisation surveys that capture unreported incidents, so that the gap between community experience and institutional response is structurally visible.
3. Move toward core, multi-year public funding for civil society organisations that perform functional roles within hate speech protection systems, including victim reporting, legal and psychological support, trusted flagger operations, co-design of training, and monitoring. Recognise these organisations in formal partnership agreements and referral chain protocols and ensure that their participation in national equality monitoring structures is permanent and mandated rather than dependent on project cycles or executive discretion.

4. Establish codes of conduct for public officials and elected representatives, and ensure that existing ones explicitly cover SOGIESC grounds, provide for internal complaint mechanisms and proportionate and dissuasive sanctions for those who engage in SOGIESC-based hate speech, encourage public officials and elected representatives to publicly counter such speech when made by others in positions of institutional authority, and apply to conduct beyond the chamber.
5. Develop police and prosecutorial guidance on AI-generated hate speech, including questions of authorship attribution, bias motivation assessment, and severity determination as a priority in view of the pace at which such content is already being produced and the absence of established practice.

II. Prosecution

6. Ensure that sexual orientation, gender identity, gender expression, and sex characteristics are explicitly enumerated as protected grounds in international standards on hate speech and in national hate speech legislation, both in standalone criminal provisions and in sentence enhancement frameworks, rather than relying only on general civil, administrative and anti-discrimination legislative frameworks or equality provisions. Explicit enumeration can facilitate consistent recording, prosecution, and judicial interpretation of SOGIESC-based hate speech offences.
7. Ensure that intersex persons are protected under hate speech legislation in member States where sex characteristics are not yet explicitly enumerated as a protected ground, including through interpretation of existing provisions on the ground of sex, consistent with the expanded grounds introduced in CM/Rec(2025)7.
8. Review evidentiary frameworks for hate speech investigation and prosecution and, where subjective discriminatory intent is required, adopt prosecutorial guidance or legislative amendments which allow conviction on the basis of objective hate elements (such as the nature, timing, context, and associated language of the act, consistent with the hate element framework established in CM/Rec(2024)4. Adopt perception-based entry criteria for case recording as standard practice, ensuring that cases are not filtered out at the recording stage on the basis of a preliminary assessment of perpetrator intent.

9. Review hate speech frameworks for procedural barriers that prevent victims from accessing enforcement mechanisms in practice. Such barriers (including in the classification of written expression, evidentiary standards for digital content, or jurisdictional complexity) render frameworks inconsistent with the protection obligations the legislation nominally creates and should be prioritised for reform.
10. Establish specialised police and prosecution units for hate speech and hate crime, including assigned prosecutors, inter-agency coordination protocols connecting law enforcement with civil society monitoring organisations, and integrated case-tracking systems that enable cases to be followed from initial report through to sentencing outcome.

III. Protection

11. Ensure that victim reporting mechanisms include child- and youth-accessible options that are confidential and trauma-informed, do not force outing and can operate safely where parents, carers, peers or schools are implicated in the harm. Invest in civil society-anchored reporting pathways that provide victim support, platform reporting assistance, and referral to criminal investigation within a single accessible structure. Ensure that police and prosecutors specialised in hate speech and hate crime, as well as first responders, have specialist knowledge about LGBTI issues, have a formal mandate, sufficient funding and are subject to regular monitoring.
12. Actively support the designation of LGBTI civil society organisations as trusted flaggers within platform content moderation frameworks, including under the Digital Services Act for EU member States. Ensure that the designation process is accessible to organisations with relevant thematic expertise in SOGIESC-based online hate speech. Ensure that trusted flaggers have access to training in the human rights standards applicable to hate speech.
13. Require internet intermediaries operating within member state jurisdictions to employ a sufficient number of content moderators with demonstrable expertise in SOGIESC-based hate speech, and to ensure those moderators receive regular training in applicable human rights standards and adequate psychological support.
14. Establish shared monitoring capacity for online hate speech in smaller or less widely spoken languages, including coordinated mechanisms

for engaging online platforms on the implementation of their content moderation obligations.

15. Ensure that legal aid and psychological support for victims of hate speech are provided as an integrated package, within a coherent system covering all grounds, designed and resourced to accommodate the specific needs of different victim groups including LGBTI persons. Fund remote access mechanisms, including national helplines, to address the access gap for victims in smaller or geographically isolated communities for whom attending specialist services in person may require unwanted disclosure of identity.

IV. Prevention

16. Embed hate speech prevention obligations within whole-of-government frameworks, including national action plans with time-bound measures, designated agency responsibilities, and structured civil society participation in design and monitoring, rather than treating prevention as a matter of individual institutional initiative or project-based programming. Ensure that counter-speech commitments and narrative interventions are budgeted, time-bound, and subject to reporting requirements within national accountability processes.
17. Ensure that LGBTI civil society is involved in the implementation of online safety legislation when appropriate, in particular regarding the definition of harm categories and in the monitoring of content removal rates by ground. Protecting children from hate speech and protecting LGBTI young people's access to affirming information should be treated as complementary rather than competing objectives in regulatory design, and guidance should be developed on conditions under which automated moderation may produce disproportionate removal of LGBTI content.
18. Ensure that prevention frameworks directed at SOGIESC-based hate speech are designed and evaluated with explicit attention to the populations most exposed to harm, including children and young persons, trans and non-binary persons, intersex persons, lesbians and bisexual women, older LGBTI persons, LGBTI persons with disabilities, LGBTI persons with a migrant background, and racialised LGBTI persons. Monitoring frameworks should disaggregate data at the level of intersectional exposure, and prevention programmes should be assessed for differential impact across LGBTI subpopulations as a standard element of programme review.

19. Ensure that prevention in education is embedded in whole-school approaches. National and school-level anti-bullying and inclusion policies should explicitly cover sexual orientation, gender identity, gender expression and sex characteristics; define hate speech, hate incidents, cyberbullying and bias-motivated bullying; establish clear and confidential reporting procedures; and set out responsibilities for school leadership, teachers, non-teaching staff and child protection professionals. Digital and media literacy should also be integrated into curricula so that learners can recognise disinformation and misinformation, online hate speech and anti-LGBTI narratives, including those framed as “child protection”.

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