

COMBATING HATE SPEECH



Legal instruments

Recommendation CM/Rec(2022)16

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

COMBATING HATE SPEECH

Recommendation CM/Rec(2022)16

adopted by the Committee of Ministers

of the Council of Europe

on 20 May 2022

at the 132nd Session of the Committee of Ministers

French edition:

*La lutte contre
le discours de haine*

(Recommandation
CM/Rec(2022)16)

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows “© Council of Europe, year of the publication”.

All other requests concerning the reproduction/translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

Cover design and layout:
Documents and Publications Production
Department (SPDP), Council of Europe.

© Council of Europe, June 2022
Printed at the Council of Europe.

Contents

RECOMMENDATION CM/REC(2022)16	5
Preamble	5
Appendix to Recommendation CM/Rec(2022)16	9
Principles and guidelines on a comprehensive approach to combating hate speech	9

Recommendation CM/Rec(2022)16¹

of the Committee of Ministers to member States on combating hate speech

*(Adopted by the Committee of Ministers on 20 May 2022
at the 132nd Session of the Committee of Ministers)*

Preamble

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the member States of the Council of Europe have committed themselves to guaranteeing the rights and freedoms enshrined in the European Convention on Human Rights (ETS No. 5, “the Convention”) to everyone within their jurisdiction, and that human rights and freedoms are universal, indivisible, interdependent and interrelated, and apply both offline and online;

Underlining that the preparation and implementation of policies and legislation to prevent and combat hate speech require careful balancing of the right to respect for private and family life (Article 8 of the Convention), the right to freedom of expression (Article 10 of the Convention) and the right to be free

-
1. In accordance with Article 10.2c of the Rules of Procedure for the meetings of the Ministers’ Deputies, the Republic of Bulgaria reserves the right of its government to comply or not with Chapter I “Scope, definition and approach” of the Recommendation. Following Decision No. 13/2018 of the Constitutional Court, the term “gender identity” is incompatible with the legal order of the Republic of Bulgaria.

from discrimination in respect of protected Convention rights (Article 14 of the Convention);

Stressing that, in order to effectively prevent and combat hate speech, it is crucial to identify and understand its root causes and wider societal context, as well as its various expressions and different impacts on those targeted;

Noting that hate speech is a deep-rooted, complex and multidimensional phenomenon, which takes many dangerous forms and can be disseminated very quickly and widely through the internet, and that the persistent availability of hate speech online exacerbates its impact, including offline;

Realising that hate speech negatively affects individuals, groups and societies in a variety of ways and with different degrees of severity, including by instilling fear in and causing humiliation to those it targets and by having a chilling effect on participation in public debate, which is detrimental to democracy;

Being aware that individuals and groups can be targeted by hate speech on different grounds, or combinations of grounds, and acknowledging that those persons and groups need special protection, without detriment to the rights of other persons or groups;

Taking into account that hate speech interferes with and often violates the right to respect for private life and the right to non-discrimination, which are essential for safeguarding the human dignity of those targeted by hate speech and for ensuring that they are not excluded from public debate;

Reaffirming its profound commitment to the protection of the right to freedom of expression, which is one of the essential foundations of a democratic and pluralistic society, as guaranteed by Article 10 of the Convention, which protects the freedom to hold opinions and to receive and impart information and ideas, without interference by public authority and regardless of frontiers;

Underlining that freedom of expression is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population;

Recalling that the exercise of the right to freedom of expression carries with it duties and responsibilities and that any restriction of this right must be in strict accordance with Article 10, paragraph 2, of the Convention and thus narrowly construed and comply with the requirements of lawfulness, necessity and proportionality to the legitimate aims;

Acknowledging that expressions aimed at the destruction of any of the rights and freedoms set forth in the Convention do not enjoy protection under it, in accordance with its Article 17 on the prohibition of abuse of rights;

Being aware that hate speech is defined and understood in differing ways at the national, European and international levels and that it is crucial to develop a common understanding of the concept, nature and implications of this phenomenon and to devise more effective policies and strategies to tackle it;

Considering that measures to combat hate speech should be appropriate and proportionate to the level of severity of its expression; some expressions of hate speech warrant a criminal law response, while others call for a civil or administrative law response, or should be dealt with through measures of a non-legal nature, such as education and awareness raising, or a combination of different approaches and measures;

Underlining that, in light of their positive obligation to secure the effective exercise of fundamental freedoms and prevent human rights violations, member States must address hate speech and ensure a safe and enabling environment for public debate and communication, including when these take place on platforms or through other services run by private actors;

Acknowledging that offensive or harmful types of expression which are not severe enough to be legitimately restricted under the Convention should be addressed through measures of a non-legal nature;

Underscoring the crucial role that the media, journalists and other types of public watchdog play in democratic societies and the fact that they can make an important contribution to combating hate speech by exposing, reporting on, criticising and condemning hate speech, as well as by providing channels and forums for counter-speech and contributing more broadly to pluralism and societal cohesion;

Being aware that internet intermediaries can facilitate public debate, in particular through the digital tools and services they make available, while at the same time highlighting that those tools and services can be used to disseminate, quickly and widely, worrying volumes of hate speech, and underlining that internet intermediaries should ensure that their activities do not have or facilitate an adverse impact on human rights online and address such impacts when they occur;

Recognising that legislative and policy measures to prevent and combat online hate speech should be kept under regular review in order to take into account the fast evolution of technology and online services and, more widely, digital

technologies and their influence on information and communication flows in contemporary democratic societies; and acknowledging that those reviews should take into account the dominance of certain internet intermediaries, the power asymmetry between some digital platforms and their users, and the influence of these dynamics on democracies;

Concluding, in the light of the foregoing considerations, that a comprehensive approach is needed to prevent and combat hate speech effectively offline and online, comprising a coherent strategy and a wide-ranging set of legal and non-legal measures that take due account of specific situations and broader contexts;

Acknowledging the importance of multistakeholder co-operation and the key roles that public institutions and private and non-governmental stakeholders can play in identifying and implementing measures to prevent and combat hate speech, to promote a culture of inclusiveness and to help those targeted by hate speech to assert their rights;

Building on existing Council of Europe treaties and other relevant standard-setting instruments, drawing on the relevant case law of the European Court of Human Rights and the findings and recommendations of the Council of Europe's monitoring bodies, in particular Recommendation Rec(97)20 of the Committee of Ministers to member States on "hate speech", Recommendation Rec(97)21 of the Committee of Ministers to member States on the media and the promotion of a culture of tolerance and General Policy Recommendation No. 15 on combating hate speech of the European Commission against Racism and Intolerance, and being cognisant of the broader international and European human rights standards;

Aiming to provide guidance to all those who are faced with the complex task of preventing and combating hate speech, including in the online environment,

Recommends that the governments of member States:

1. take all necessary measures to ensure prompt and full implementation of the principles and guidelines appended to this recommendation;
2. take appropriate measures to give encouragement and support to national human rights institutions, equality bodies, civil society organisations, the media, internet intermediaries and other stakeholders to adopt the measures that are outlined for them in the principles and guidelines appended to this recommendation;
3. protect human rights and fundamental freedoms in the digital environment, including by co-operating with internet intermediaries, in line with

Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries, and other applicable Council of Europe standards;

4. promote the goals of this recommendation at national, European and international levels and engage in dialogue and co-operation with all stakeholders to achieve those goals;
5. ensure that this recommendation is translated into national, regional and minority languages, and disseminated as widely as possible and through all accessible means among competent authorities and stakeholders;
6. review regularly the status of implementation of this recommendation with a view to enhancing its impact and inform the Committee of Ministers about the measures taken by member States and other stakeholders, the progress achieved and any remaining shortcomings.

Appendix to Recommendation CM/Rec(2022)16

Principles and guidelines on a comprehensive approach to combating hate speech

1. Scope, definition and approach

1. The aim of the following principles and guidelines is to assist member States and other relevant stakeholders in preventing and combating hate speech in a comprehensive way, including in the online environment, in order to ensure effective protection against hate speech within the framework of human rights, democracy and the rule of law.
2. For the purposes of this recommendation, hate speech is understood as all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as “race”;² colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation.

2. 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 not excluded from the protection provided for by the legislation and the implementation of policies to prevent and combat hate speech.

3. As hate speech covers a range of hateful expressions which vary in their severity, the harm they cause and their impact on members of particular groups in different contexts, member States should ensure that a range of properly calibrated measures is in place to effectively prevent and combat hate speech. Such a comprehensive approach should be fully aligned with the European Convention on Human Rights and the relevant case law of the European Court of Human Rights (the Court) and should differentiate between:

- a.
 - i. hate speech that is prohibited under criminal law; and
 - ii. hate speech that does not attain the level of severity required for criminal liability, but is nevertheless subject to civil or administrative law; and
- b. offensive or harmful types of expression which are not sufficiently severe to be legitimately restricted under the European Convention on Human Rights, but nevertheless call for alternative responses, as set out below, such as: counter-speech and other countermeasures; measures fostering intercultural dialogue and understanding, including via the media and social media; and relevant educational, information-sharing and awareness-raising activities.

4. In assessing the severity of hate speech and determining which type of liability, if any, should be attributed to any specific expression, member States' authorities and other stakeholders should, following the guidance provided by the relevant case law of the Court, take into account the following factors and the interplay between them: the content of the expression; the political and social context at the time of the expression; the intent of the speaker; the speaker's role and status in society; how the expression is disseminated or amplified; the capacity of the expression to lead to harmful consequences, including the imminence of such consequences; the nature and size of the audience, and the characteristics of the targeted group.

5. To prevent and combat hate speech, member States should pursue a comprehensive approach, prepare and implement broad policies, legislation, strategies or action plans, allocate appropriate resources for their implementation, and engage the various stakeholders specified in section 3 of this appendix.

6. When preparing and implementing such policies, legislation, strategies or action plans against hate speech, member States should pay due attention to the importance of:

- a. clarifying which types of expression fall outside of the protection provided by freedom of expression;
- b. pursuing a principled, human rights-based approach that takes account of the specific features of different media and digital technologies and the potential impact of hate speech that is disseminated through them on the targeted persons and groups;
- c. taking a concerted and collaborative multistakeholder approach due to the multidimensional nature of hate speech;
- d. ensuring that all relevant stakeholders are aware of and sensitive to the cumulative effects of hate speech that is based on multiple grounds, including the need for an age- and gender-sensitive approach; and
- e. actively reaching out to those targeted by hate speech and incorporating their perspectives into laws, policies and other responses to hate speech.

2. Legal framework

7. To prevent and combat hate speech in the offline and online environments, member States should ensure that a comprehensive and effective legal framework is in place, consisting of appropriately calibrated provisions of civil, administrative and criminal law. Criminal law should only be applied as a last resort and for the most serious expressions of hatred.

8. To the extent that this legal framework allows for restrictions to be placed on the exercise of the right to freedom of expression, member States should ensure that the legislation fully meets the requirements of Article 10, paragraph 2, of the European Convention on Human Rights and the relevant case law of the Court and that it allows judicial and other authorities to apply it in accordance with those requirements, including those of accessibility, foreseeability and precision of the law, and to take into account the factors for the assessment of the severity of hate speech mentioned in paragraph 4 above.

9. Member States should establish effective legal and practical safeguards against any misuse or abuse of hate speech legislation, in particular for the purpose of inhibiting public debate and silencing critical voices, political opponents or persons belonging to minorities.

10. Member States should empower equality bodies, national human rights institutions and civil society organisations that have a legitimate interest in combating hate speech to assist and represent those targeted by hate speech

in legal proceedings and to bring legal actions in respect of hate speech, including, where applicable, in their own name.

Criminal law

11. Member States should specify and clearly define in their national criminal law which expressions of hate speech are subject to criminal liability, *such as*:

- a. public incitement to commit genocide, crimes against humanity or war crimes;
- b. public incitement to hatred, violence or discrimination;
- c. racist, xenophobic, sexist and LGBTI-phobic threats;
- d. racist, xenophobic, sexist and LGBTI-phobic public insults under conditions such as those set out specifically for online insults in 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);
- e. public denial, trivialisation and condoning of genocide, crimes against humanity or war crimes; and
- f. intentional dissemination of material that contains such expressions of hate speech (listed in a-e above) including ideas based on racial superiority or hatred.

12. Member States should ensure that effective investigations are conducted in cases where there is reasonable suspicion that an act of hate speech punishable by criminal law has occurred.

Civil and administrative law

13. Member States should ensure that effective legal protection against hate speech is provided under their civil law and administrative law, in particular general tort law, anti-discrimination law and administrative offences law.

14. Member States should ensure that their anti-discrimination legislation applies to all expressions of hate speech prohibited under criminal, civil or administrative law.

15. Member States should ensure that public authorities or institutions are required by law to actively prevent and combat hate speech and its dissemination and to promote the use of tolerant and inclusive speech.

Legislation regarding online hate speech

16. Member States should ensure that their legislation addressing hate speech covers offline as well as online hate speech and contains clear and foreseeable provisions for the swift and effective removal of online hate speech that is prohibited under criminal, civil or administrative law.

17. Member States should define and delineate, in line with Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries, the duties and responsibilities of State and non-State actors in addressing online hate speech. Member States should furthermore create clear rules and procedures for effective co-operation with and between those actors regarding the assessment and investigation of online hate speech that is prohibited under criminal, civil or administrative law.

18. Member States should require internet intermediaries operating within their jurisdiction to respect human rights, including the legislation on hate speech, to apply the principles of human rights due diligence throughout their operations and policies, and to take measures in line with existing frameworks and procedures to combat hate speech.

19. Member States should ensure that mechanisms are in place for the reporting of cases of online hate speech to public authorities and private actors, including internet intermediaries, and clear rules for the processing of such reports.

20. Removal procedures and conditions as well as related responsibilities and liability rules imposed on internet intermediaries should be transparent, clear and predictable and those procedures should be subject to due process. They should guarantee users the right to an effective remedy delivered through transparent oversight and timely, accessible and fair appeal mechanisms, which are ultimately subject to independent judicial review.

21. Member States should take into account the substantial differences in the size, nature, function and organisational structure of internet intermediaries when devising, interpreting and applying the legislative framework governing the liability of internet intermediaries, as provided by Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries, in order to prevent a possible disproportionate impact on smaller internet intermediaries.

22. Member States should establish by law that internet intermediaries must take effective measures to fulfil their duties and responsibilities not to make accessible or disseminate hate speech that is prohibited under criminal, civil or administrative law. Important elements for the fulfilment of this duty include: rapid processing of reports of such hate speech; removing such hate speech without delay; respecting privacy and data-protection requirements; securing evidence relating to hate speech prohibited under criminal law; reporting cases of such criminal hate speech to the authorities; transmitting to the law-enforcement services, on the basis of an order issued by the competent authority, evidence relating to criminal hate speech; referring unclear and complex cases requiring further assessment to competent self-regulatory or co-regulatory institutions or authorities; and foreseeing the possibility of implementing, in unclear and complex cases, provisional measures such as deprioritisation or contextualisation.

23. Member States should establish by law that internet intermediaries and authorities must provide the individuals and institutions concerned with a short and precise explanation of the reasons for their decision to block, take down or deprioritise hate speech or not to block, take down or deprioritise reported items.

24. Member States should have a system in place for the disclosure of subscriber information in cases where competent authorities have assessed that online hate speech is in breach of the law and authors and disseminators are unknown to the competent authorities. Member States should ensure that any disclosure of available information on their identity is in line with European and international human rights law.

25. Member States should regularly publish reports containing comprehensive information and statistics on online hate speech, including content restrictions, and on State authorities' requests to platforms to take down content on the grounds that it is hate speech, subject to the protection of personal data in accordance with European and international standards. They should furthermore establish by law that relevant internet intermediaries are under an obligation to regularly produce and publish transparency reports showing disaggregated and comprehensive data on hate speech cases and content restrictions.

26. Member States should ensure that independent authorities, in cooperation with internet intermediaries, civil society organisations and other stakeholders, regularly assess and improve the content moderation systems

in place in order to improve the detection, reporting and processing of online hate speech, while eliminating the causes of unjustified content restriction and over-compliance.

27. Member States should ensure that their legislative framework sets out a legal duty for media operating online not to disseminate hate speech that is prohibited under criminal, civil or administrative law, that it makes appropriate provision for the restriction or disabling of access to such hate speech posted by third parties in their comments sections or collaborative spaces on their platforms and that it subjects such restrictions ultimately to independent judicial review.

3. Recommendations addressed to key actors

Public officials, elected bodies and political parties

28. Public officials, particularly those in leadership positions, should, given their position of influence, avoid engaging in, endorsing or disseminating hate speech. They should be encouraged to publicly promote a culture of human rights and to condemn hate speech firmly and promptly, while respecting freedom of expression and information, including criticism and information that may offend, shock or disturb the State or any sector of the population.

29. Parliaments, other elected bodies and political parties should be encouraged to put in place specific policies to address and combat hate speech, in particular in the context of electoral campaigns and in the debates of representative assemblies. To this end, they should adopt a code of conduct which provides for an internal complaint and sanction procedure. They should also avoid any expression that is likely to foster intolerance and should openly condemn hate speech.

Internet intermediaries

30. Within their duty to comply with all applicable laws and to respect human rights, internet intermediaries should identify expressions of hate speech that are disseminated through their systems and act upon them in the framework of their corporate responsibility, in line with Recommendation CM/Rec(2016)3 on human rights and business and Recommendation CM/Rec(2018)2 on the roles and responsibilities of internet intermediaries.

31. Internet intermediaries should ensure that human rights law and standards guide their content moderation policies and practices with regard

to hate speech, explicitly state that in their terms of service and ensure the greatest possible transparency with regard to those policies, including the mechanisms and criteria for content moderation.

32. Internet intermediaries should carefully calibrate their responses to content identified as hate speech on the basis of its severity, as outlined in paragraph 4 above, and elaborate and apply alternatives to the removal of content in less severe cases of hate speech.

33. Internet intermediaries should make all necessary efforts to ensure that the use of automation or artificial intelligence tools is overseen by human moderation and that content moderation takes into account the specificities of relevant legal, local, cultural, socio-political and historical contexts. In their efforts to take specificities into account, they should consider decentralising content moderation.

34. Internet intermediaries should appoint a sufficient number of content moderators and ensure that they are impartial, have adequate expertise, are regularly trained and receive appropriate psychological support. Internet intermediaries should furthermore ensure that trusted flaggers and fact-checkers are trained in human rights standards that apply to hate speech.

35. Internet intermediaries should establish effective co-operation with civil society organisations that work on hate speech, including on the collection and analysis of data, and support their efforts to improve policies, practices and campaigns to address hate speech.

36. Internet intermediaries, including social media, should review their online advertising systems and the use of micro-targeting, content amplification and recommendation systems and the underlying data-collection strategies to ensure that they do not, directly or indirectly, promote or incentivise the dissemination of hate speech.

37. Internet intermediaries should develop internal processes that enable them to detect and prevent risks to human rights with regard to the assessment and treatment of hate speech and should subject themselves to regular independent, comprehensive and effective human rights impact assessments and audits.

Media

38. The media, journalists and other actors should fulfil their public watchdog role in a democratic society and contribute to public debate; they should enjoy the freedom to report on hatred and intolerance and to choose their reporting techniques, styles and mediums, subject to the proviso that they strive to provide the public with accurate and reliable information.

39. The media and journalists should be encouraged to promote a culture of tolerance and understanding, in accordance with Recommendation Rec(97)21 on the media and the promotion of a culture of tolerance.

40. Public-service media should make a particularly substantial contribution to this, given their mandate to serve all sections of society and to enhance societal cohesion. They should not use or disseminate hate speech and, as part of their public mission, they should actively promote intergroup dialogue and understanding as well as the airing of content that portrays in a positive and supportive manner the diversity of voices and sources in the community they serve.

41. The media and journalists should, in their efforts to provide accurate and reliable information, avoid derogatory stereotypical depiction of individuals, groups and communities and give voice to diverse groups and communities in society, especially when reporting on matters of particular public interest and during election periods. They should avoid provoking prejudice and making any unnecessary references to personal characteristics or status.

42. Independent national regulatory authorities and media co-regulatory and/or self-regulatory bodies should play a positive role in addressing hate speech. They should be independent from the government, publicly accountable and transparent in their operations.

Civil society organisations

43. Civil society organisations should be encouraged to set up specific policies to prevent and combat hate speech and, where appropriate and feasible, provide training for their staff, members and volunteers. Civil society organisations should also be encouraged to co-operate and co-ordinate between themselves and with other stakeholders on hate speech issues.

4. Awareness raising, education, training and use of counter-speech and alternative speech

44. Member States should prepare and implement effective strategies to explore and address the root causes of hate speech, which include disinformation, negative stereotyping and stigmatisation of individuals and groups.

45. As part of their comprehensive approach to preventing and combating hate speech, member States should take a range of concrete measures to promote awareness raising, education, training, counter-speech, alternative speech and intercultural dialogue, in accordance with their experience and knowledge.

46. Member States should raise awareness of the extent of hate speech and the harm it causes to individuals, communities and democratic societies as a whole, the criteria used to assess it and ways to counter it, in particular through encouraging and supporting initiatives by relevant authorities, national human rights institutions, equality bodies and civil society organisations, including those representing individuals or groups that are likely to be targeted by hate speech.

47. Member States should ensure that human rights education, education for democratic citizenship and media and information literacy, all of which should address offline and online hate speech, are part of the general education curriculum.

48. Member States should set up and strengthen educational and awareness-raising initiatives, programmes and user tools for children and young people, parents and carers, educators, youth workers and volunteers working with children that enable them to understand and deal with hate speech. Member States should ensure that children and young people are able to participate effectively in the elaboration of such initiatives, programmes and tools.

49. Member States should take specific measures to support formal and non-formal educational activities and cultural programmes for the general public that enhance commitment to human rights as part of a pluralistic democratic society, encourage critical thinking, promote equality and intercultural and interfaith dialogue, and strengthen the competences needed to identify and counter hate speech.

50. Member States should make available effective and targeted training programmes for all those involved in preventing and combating hate speech, including the members and staff of law-enforcement services, security forces,

prosecution services, the judiciary and the personnel of medical services and other public bodies, with a view to enabling them to identify and avoid the use of hate speech, to be sensitive to the needs of persons targeted by hate speech and assist them in seeking redress, to address and report its use by others and to limit its impact on those affected.

51. Member States should support awareness-raising and training programmes that engage with perpetrators of hate speech in order to address their prejudices and discriminatory actions and expressions. In appropriate cases, a court or prosecution service could enforce participation in such programmes as an alternative sanction, with the aim of achieving restorative justice.

52. Member States should, without encroaching on the independence of the media, encourage and support training for media professionals and journalists, as part of their initial and ongoing education, on how to recognise, report on and react to hate speech, as well as on how to avoid using and disseminating it and, more generally, on the role of journalists and the media in promoting a culture of human rights and inclusive public debate.

53. Member States should encourage public figures, such as politicians, high-level officials and religious, economic and community leaders to firmly and promptly condemn the use of hate speech, use counter-speech and alternative speech and promote intergroup understanding, including by expressing solidarity with those targeted by hate speech.

54. Member States should encourage and support national human rights institutions, equality bodies, internet intermediaries, the media and civil society organisations to create and promote counter-speech and alternative speech, and to involve those targeted by hate speech in this process, without encroaching on their independence. Member States should furthermore support capacity-building and training initiatives to facilitate access to the media for persons belonging to minorities or other groups, including through the establishment of community media, minority media organisations and other public forums where intergroup dialogue can take place.

5. Support for those targeted by hate speech

55. Member States should put in place effective support mechanisms that help those targeted by hate speech to cope with the harm they suffer. Such mechanisms should include psychological, medical and legal assistance and could involve civil society organisations. Regarding hate speech which is prohibited by criminal, civil or administrative law, member States should also

provide for free legal aid, where appropriate. Due attention should be given to persons belonging to minorities and other groups, and such mechanisms should adopt an age- and gender-sensitive approach.

56. Member States should, including in co-operation with civil society organisations, establish and implement awareness-raising and educational measures for persons and groups targeted by hate speech to make them aware of their rights, of the possibility to obtain redress through civil, administrative and criminal proceedings and of the support mechanisms in place. Such measures should be easily accessible and understandable, including in different languages, and generally tailored to the specific needs of relevant persons and groups.

57. Member States should encourage and facilitate the reporting of hate speech by creating effective mechanisms to identify and promptly remove any legal and non-legal obstacles to such reporting. Member States should also ensure that persons reporting hate speech are protected against any adverse treatment or consequences as a result of making a complaint and that sanctions are imposed on the perpetrators in the event of renewed victimisation.

6. Monitoring and analysis of hate speech

58. Member States should ensure that their policies, legislation, strategies and action plans against hate speech are based on evidence and duly reflect an age- and gender-sensitive approach. To this end, member States should identify, record, monitor and analyse trends and ensure the collection and dissemination, by criminal justice authorities, of disaggregated data on criminal hate speech, including reported and prosecuted cases and, as far as possible, the means of its dissemination, its reach and the different expressions of and grounds for hate speech and intersectional hate speech, in compliance with existing European human rights and data-protection standards. In this connection, member States should, as appropriate, collaborate with relevant key stakeholders.

59. In addition, member States should, as far as possible, seek to understand and collect data on victim perceptions and the perceived prevalence of non-criminal but harmful speech, in collaboration with relevant key stakeholders and in compliance with existing European human rights and data-protection standards.

60. Member States should take appropriate measures to ensure that law-enforcement services effectively record and monitor complaints concerning

hate speech and that they set up an anonymised archive of complaints in accordance with existing European human rights and data-protection standards.

61. Member States should make data, information and analysis of hate speech and ongoing trends publicly available in accordance with existing European human rights and data-protection standards.

7. National co-ordination and international co-operation

62. In order to ensure national co-ordination, member States should engage in regular, inclusive and transparent consultation, co-operation and dialogue with all relevant stakeholders.

63. Member States should co-operate with each other with a view to promoting consistency in legal standards and approaches to preventing and combating hate speech, in accordance with the provisions of this Recommendation. They should furthermore adhere to and effectively implement relevant European and international instruments, engage with intergovernmental organisations and exchange information and best practices.

The Recommendation starts from the premise that hate speech is a deep-rooted, complex and multi-dimensional phenomenon. It poses a direct threat to democracy and human rights. Increasingly present online and offline, it not only undermines individuals' essential rights and fundamental freedoms, but it also humiliates and marginalize targeted individuals and groups.

The recommendation provides a working definition of Hate Speech which distinguishes different levels in accordance to their gravity and calls for implementing adequately calibrated and proportionate measures. Member states are invited to adopt an effective legal and policy framework covering criminal, civil and administrative law, and to set up and implement alternative measures, including awareness-raising, education, the use of counter and alternative speech. States are also encouraged to set up support mechanisms to assist those targeted by hate speech, conduct monitoring and engage in international co-operation and national co-ordination.

Guidance is also provided to other relevant stakeholders playing a crucial role to deliver comprehensive strategies to prevent and combat hate speech, including public officials, elected bodies and political parties, internet intermediaries, media and civil society organisations.

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE