

**NETWORKING OF DIFFERENT ACTORS IN
COMBATING OF HATE SPEECH**

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Introduction

Hate speech is a complex communication and social phenomenon. Therefore, there is no generally accepted definition, but a whole series of definitions that point to different aspects of hate speech. The simplest and most general definition is the one of Samuel Walker, who explains hate speech as a speech that "encompasses every form of expression that is considered offensive to any racial, religious, ethnic or national group" (Walker, 1994, p.8). Other definitions emphasize the use of speech for assault, abusive, insulting, terrifying and disturbing expressions that, according to Sandra Coliver, "provokes violence, hatred and discrimination" (Coliver, 1992). Some of the definitions differ in recognizing racist speech, hate propaganda, a speech that humiliates, mocks or "puts a person or group in an accentuated negative light because of their identity."

The Recommendation of the Committee of Ministers of the Council of Europe no. R (97) 20 on Hate Speech, adopted on October 30, 1997 recalls the Vienna Declaration of 1993 and the Prague Declaration on the Media in a Democratic Society of 1994, condemning all forms of expression that incite racial hatred, xenophobia, anti-Semitism and all forms of intolerance. In the Annex to this Recommendation, the term "hate speech" encompasses all forms of expression that spread, disseminate, encourage or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and people of immigrant origin."¹

Hate speech can be defined as an expression that contains messages of hatred or intolerance towards a racial, national, ethnic or religious group or its members. More recently, hate speech also includes a speech that focuses on creating hatred and intolerance toward sex and sexual orientation, and this term increasingly involves intolerance towards different political and other opinions, as well as national and social origins.

Numerous definitions, legal regulations and case-law locate the orientation of hate speech to: race, sexual orientation, religious affiliation, negation of crimes, affirmation of totalitarian doctrines, political diversity

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¹See more in: Proceedings of legal instruments of the Council of Europe related to the media, Recommendation no. R (97) 20 of the Committee of Ministers of member states on hate speech“:

http://www.coe.org.rs/REPOSITORY/137_zbornik_pravnih_instrumenata_saveta_evrope_u_vezi_sa_medijima_1.pdf

and nationalism. But, hate speech, in the widest sense, can be gesture, graphite, password, symbol, insignia, caricature, illustration, manifestation, song, greeting, call ...

Hate speech in the countries of former Yugoslavia

Hate speech in the media of the former Yugoslavia is a constant in the last twenty years. It varied in different forms and intensity from media to media over time, from the disintegration of the former common state, through the glorification of large-scale nationalist projects, preparation of war, during war, but also after the war through national, religious, racial intolerance, sexual orientation, hatred towards minorities and hooting directed at individuals and groups.²

The disastrous consequences of hate speech in the media of former Yugoslavia in the wars of the 1990s were accurately detected by the university professor and activist of the movement for freedom of expression and human rights - Svetlana Slapšak: "My opinion can be very lonely, but I am still convinced that the war in Yugoslavia is a war of words, a propaganda war, a war of stereotypes, in which unfortunately people die. The words were invented and pronounced by intellectuals, and then "recycled" in political public discourse." (Slapšak, 1994).

Analyzing the role of media in the wars in former Yugoslavia, John C. Merrill came to the same knowledge, although his conclusion is much more mildly formulated: "Most journalists set the patriotic loyalty to their country more than their commitment to a balanced presentation of news." (Merrill, 1995 page 169).

Previous observations are in agreement with the general assessment about the effect of media in the wars of former Yugoslavia - the Special Rapporteur of the UN Human Rights Commission Tadeus Mazowiecki: "The media (means of public information) of the former Yugoslavia are one of the most important means of propagating a military conflict in that region." (Mazowiecki, 2007, p. 403). "Serbian media have a negative role in the wars in Bosnia and Herzegovina and Croatia. They provoke nationalist hatred. Among the topics that dominate this media channel, there is justification for military operations in neighboring countries, as well as the theory of "international conspiracy" against Serbs." (Mazowiecki, 2007, p. 427).

Legal regulations about hate speech in the countries of former Yugoslavia and EU

In all countries of the European Union and the surrounding, except for Ireland, hate speech have been regulated through their criminal laws that explain the definitions of hate speech, procedures and sanctions

² See more in:

Thompson Mark, Forging War, Media in Serbia, Croatia, Bosnia and Herzegovina, HHO, Zagreb 1995.

Merrill C. John, Global Journalism, Survey of International Communication, Longman Publishers, New York, 1995.

Svetlana Slapšak and a group of authors, The War has started in Maksimir, Medija centar, Beograd, 1997.

Group of authors, Discussion on hate speech, Center for Research of Transition and Civil Society, HHO, Zagreb, 2001.

in more detail. In addition to the Criminal Code, some of the countries have adopted some other legal acts dealing with hate speech issues.

Since December 2009, Croatia has incorporated into its Electronic Media Law an EU Directive on Audiovisual Media Services, under which member states commit themselves, through their means, to ensure that audiovisual media services under their jurisdiction do not contain hate based based on race, gender, religion or nationality.³ In Serbia, hate speech is also regulated through a provision in the Law on Public Information defining hate speech and the conditions under which a lawsuit can be filed for violation of hate speech.⁴ Montenegro has explicitly introduced hate speech as a special form of discrimination in its Law on prevention of discrimination. Hate speech is punishable by the Law with a fine of 500 to 20,000 euros.⁵

The Austrian Law on the Prohibition of National Socialism prohibits any activity associated with the Nazi party, which is not surprising in light of developments during the Second World War. Also, this law considers as a criminal offense any denial, disparage, disapproval or attempt to justify Nazi genocide or other Nazi crimes against humanity⁶. This is a good act that could be useful in Bosnia and Herzegovina and surrounding countries in a similar way.

Several laws are in place to combat discrimination on all grounds, racism, sexism and xenophobia in Belgium.⁷

The French Freedom of the Media Act also included hate speech through several of its provisions, including banning the denial or trivialization of crimes against humanity, and defamation of others because of their origin, nationality, race, gender, sexual orientation, gender identity or disability.⁸

In 2017, Germany adopted the Network Execution Act (Netzwerkdurchsetzungsgesetz, known as NetzDG), which aims to quickly remove online hate speech and reduce hate speech on social networks.⁹ However, it is considered that this law has contributed, inter alia, to the censoring of freedom of speech, such as satire, and that its provisions are vague and overly extensive.

The Irish Law on the Prohibition of Incentives for Hatred prescribes fines for all acts (written, pronounced or portrayed) that incite hatred towards a group of people due to their race, color, nationality, religion, ethnic or national affiliation or sexual orientation.¹⁰

³ Agency of Electronic Media, Legal framework and a regulation context, Zagreb, 2016

⁴ <http://www.yucom.org.rs/rest.php?tip=vestgalerija&idSek=24&idSubSek=70&id=1&status=drugi>

⁵ <http://espona.me/index.php/kolumna/3843-fatima-mededovic-begovic-mobing-i-govor-mrznje>

⁶ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

⁷ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

⁸ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

⁹ Article 19, Germany: Responding to 'hate speech', London: Free Word Centre, 2018

¹⁰ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

In Italy, many laws deal with the issue of hate speech. Thus, the Consolidated Act prohibits audiovisual programs that encourage intolerant behavior based on differences in race, sex, religion or nationality. The Law no. 654 (the so-called "Mancino Law") refers to penalties for racial, ethnic and religious discrimination, and Law no. 85 refers to crimes of thought. The Italian Law on the Prevention and Repression of Genocide imposes a prison sentence of three to 12 years for those who publicly promote or defend the crimes of genocide described in the law.¹¹

The Law on Equal Treatment in Poland, inter alia, deals with the issue of harassment, and could be used by victims of hate speech in lawsuits and seeking protection, but it is one of the least effective and poorly implemented laws in this country.¹²

In the United Kingdom, the Public Order Act considers as criminal acts all written and spoken words and behaviors aimed at spreading racial hatred based on the color of skin, race, nationality, and ethnic or national affiliation.¹³

<i>Type of legal regulations</i>	<i>Countries</i>
Criminal codes	All member countries of EU and the surrounding countries (Croatia, Serbia, Montenegro, Macedonia)
Laws on media freedom and information	Croatia, Serbia, Montenegro, France
Law on equality and non-discrimination	Austria, Belgium, Italy, Poland
Laws on prevention of hate speech	Germany, Ireland

Table 1. Classification of similar legal regulations by countries

Fight against hate speech in the EU countries

It is considered that EU member states both have the best legislation and also its implementation in the practice. Nevertheless, these countries also face many problems in implementing legal solutions. One of them is hate speech, which is a growing problem of the contemporary society. Fighting this phenomena

¹¹ Article 19, Italy: Responding to 'hate speech', London: Free Word Centre, 2018

¹² Article 19, Poland: Responding to 'hate speech', London: Free Word Centre, 2018

¹³ Article 19, United Kingdom (England and Wales): Responding to 'hate speech', London: Free Word Centre, 2018

has been going on for decades in countries around the world, regardless of their state regulation and economic stability.

Austria through the discourse of hate speech

In recent years, the issue of hate speech has become of extreme importance in Austria, especially in the face of a migrant crisis that has greatly affected this country. Although Austria has historically been an example of a country that has accepted and integrated a large number of migrants and refugees into the society, this has changed significantly lately. This category is now mainly labeled through the media as a threat to their economic and social system.

This discourse was especially prominent in the 2017 national elections, where the Freedom Party of Austria (FPÖ), a right-wing national conservative party that openly advocated hostility towards migrants, refugees and other ethnic, religious and religious minorities, won 26% votes and entered the state government.¹⁴ Austria is firmly in favor of the right to freedom of speech, but prejudice, especially towards foreigners, becomes increasingly present in the society. The Austrian Criminal Law prohibits hate speech and other acts committed by racist, xenophobic or other motives towards one group or its members. Austrians are also trying to tackle hate speech on online social networks, and suggest the creation of a special institution only for this purpose.

According to the Report on the Protection of the Constitution of 2016 of the Ministry of the Interior of Austria, it is evident that politically motivated crimes (racist, anti-Semitic, Islamophobic and right-wing extremist crimes) is increasing from year to year (during the monitoring period from 2006 to 2016). In spite of the laws regulating this area, Austria continues to fight hate speech both in the media and in individual cases.¹⁵

The „network“ in Germany

Similar to Austria, Germany has been particularly concerned with hate speech issues in the last years under the migration crisis. Even though, thanks to German Chancellor Angela Merkel, there was an initial hospitality to migrants and asylum seekers, populist rhetoric has strengthened the relationship to this category of society in the opposite direction since 2015. Thus, many politicians openly demonstrated antimilitary attitudes in public political debates trying to gain some political point, so the German media abounded with hatred and contempt not only towards migrants, but also almost all other minorities in Germany. Because of the emerging situation, "traditional" media were forced to exclude comments on their online platforms.¹⁶

German legislation has a large number of tools to combat "hate speech", among which the Criminal Code that penalizes all offenses incited by hatred towards a national, racial, ethnic or religious group and

¹⁴ <https://www.theguardian.com/commentisfree/2017/oct/16/the-guardian-view-on-the-austrian-elections-an-old-threat-in-a-new-guise>

¹⁵ 1. European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

¹⁶ 3. Article 19, Germany: Responding to 'hate speech', London: Free Word Centre, 2018

individuals. In addition, in 2017, the Germans adopted the Network Enforcement Act (Netzwerkdurchsetzungsgesetz, known as NetzDG), which places large social media companies as indirectly responsible for content on their platforms, and through heavy administrative penalties it encourages removal and blocking of certain content in 24 hours. This content includes various forms of "hate speech". However, this law is often seen as a form of censorship.¹⁷

According to a research by the European Union Agency for Fundamental Rights, hate crimes in Germany have been rising steadily since 2015 (crimes of racism and xenophobia, anti-religious and anti-Semitic crimes, and crimes against persons of other sexual orientation and crimes against asylum accommodation).¹⁸

(Non)freedom of speech in France

France, as another member state of the European Union, has regulated its laws on hate speech. The French Criminal Code establishes aggravating circumstances that may lead to an increased punishment for criminal offenses motivated by racial, ethnic, nationalist or religious prejudices. These increased sentences apply when a misdemeanor is accompanied by written or spoken words, pictures, objects or actions damaging the honor or reputation of a victim or group of persons.¹⁹

According to the French Ministry of Internal Affairs and their Annual Report on the fight against racism in all forms, in the period from 2007 to 2017, the number of violations of racist, anti-Semitic or anti-Muslim character has increased. For example, the number of offenses with anti-Muslim character in 2007, 2008 and 2009 was zero, and in 2013 this number increased to 226.²⁰

Where does freedom of speech end, and hate speech begins in Britain?

Great Britain also has a long tradition of combating hate speech. Nevertheless, in the past few years, this problem has had a greater significance for the United Kingdom as well. The hate speech against migrants and refugees became the main weapon in the Brexit campaign before the referendum on EU membership in 2016, and this trend continued afterwards. The campaigns for the 2017 general elections were followed by political debates that contained hate speech. A particularly aggravating circumstance for Muslim communities in the UK were the terrorist attacks that they faced with a new wave of discrimination and hate speech²¹.

Hate speech in the UK is dealt with in the Criminal Code, which requires from courts to increase the sentence for any committed criminal offense involving hatred directed at the victim based on race, ethnicity, ethnic origin and religious belief. Also, the British Public Order Act deals with hate speech so

¹⁷ Ibid

¹⁸ 1. European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

¹⁹ <https://theintercept.com/2017/08/29/in-europe-hate-speech-laws-are-often-used-to-suppress-and-punish-left-wing-viewpoints/>, (pristupano 13.01.2019. u 22:00)

²⁰ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

²¹ Article 19, United Kingdom (England and Wales): Responding to 'hate speech', London: Free Word Centre, 2018

that a person who uses threatening or offensive words or behaviors, or displays any written material that threatens or insults, is guilty of it if he/she intends to cause racial hatred in this way.²²

According to a report by the UK's Internal Office in 2016, and the Office of Crime and Hate of England and Wales of 2016/17 an annual increase in the number of acts of hate crimes in the period from 2011 to 2016 is recorded on the basis of race, religion, sexual orientation, disability and transgender.²³

For or against hate speech in Poland

Until recently, Poland was known as a homogeneous and monoreligious state with a low proportion of minorities. In that period there were almost no registered cases of hate speech. After the fall of communism, the authorities in Poland began to deal more specifically with the protection of human rights, and suppressing of hate speech sparked by racism, sexism and homophobia. As much as it was (not) successful, 2015 has changed a lot in Poland.²⁴

Namely, the Polish party Law and Justice won the parliamentary elections held that same year. Their victory continued with a stronger censorship of the media and control of court institutions. The government contributed to its expansion and even to the promotion of hate speech and intolerance. This is best seen by the emergence of a migrant crisis that included Poland. The inadequate and hunchbacked reactions of several leading Polish politicians to what they called the European migrant crisis have contributed to strengthening hate speech in public discourse. Even government-funded media (public television and radio stations) and private government-friendly media have promoted anti-immigrant rhetoric by extending prejudices about migrants as a threat to national security and peace.²⁵

The fact that the ground for such public opinion was already prepared is confirmed with the results of a study conducted in 2014 by the Center for the Research of Prejudice of the University of Warsaw and the Foundation of Stefan Batory, according to which surprisingly high percentage of Poles accept hate speech, especially against Jews, Roma and LGBT population, and do not see anything insulting in it.²⁶ Hate speech in Poland is treated in the Criminal Code, but also in the Law on Equal Treatment adopted in 2010. Nevertheless, the Law as such failed to provide protection of victims of discrimination on various grounds and was therefore criticized by European and international institutions for the protection of human rights.

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²² Ibid

²³ European Union Agency for Fundamental Rights, Hate crime recording and data collection practice across the EU, Luxembourg: Publications Office of the European Union, 2018

²⁴ Article 19, Poland: Responding to 'hate speech', London: Free Word Centre, 2018

²⁵ Ibid

²⁶ https://www.researchgate.net/publication/317313024_Hate_speech_in_Poland_-_summary_of_the_national_opinion_poll, (Pristupano 13.01.2019. u 22:15)

²⁷ Article 19, Poland: Responding to 'hate speech', London: Free Word Centre, 2018

Experiences in fighting hate speech in Bosnia and Herzegovina

Hate speech in Bosnia and Herzegovina is regulated by the Criminal Code of Bosnia and Herzegovina (Article 145.a), the Criminal Code of the Federation of Bosnia and Herzegovina (Article 163), the Criminal Code of the Republic of Srpska (Article 390) and the Criminal Code of the District of Brčko BiH (Article 160).

All these hate speech laws, depending on the consequences, prescribe prison sentences of up to five, eight, or even ten years in prison.

However, precise and strict legislation in practice is poorly implemented. Although hate speech is every day present in public communication and is mostly expressed as a denial of genocide and war crimes, hatred of political opponents and intolerance towards persons of different sexual orientation, since the war in 1992 until now, only a few cases of hate speech have been processed. The reason for this is the fact that the key protagonists of hate speech are politicians, and that Bosnia and Herzegovina's judiciary is still unprofessional and unprepared to prosecute the hate speech of politicians and party propagandists.

The most intense activity in the fight against hate speech was shown in the civil society sector, in particular in the field of self-regulation of the media. The Press Council of Bosnia and Herzegovina is a non-governmental body for self-regulation of print media whose mission is to protect citizens from unprofessional press writing, protect media freedom and protect journalists in the press from political and all other influences and pressures. The Press Council of Bosnia and Herzegovina is a full member of the Alliance of Independent Press Council of Europe - AIPCE.²⁸

The basis for work of the Press Council of Bosnia and Herzegovina, that is, for the adoption of the decisions of the Complaints Commission on newspaper complaints by the citizens is the Press Code of Bosnia and Herzegovina, which is derived from the existing European standards of journalistic practice. In the last ten years, the Press Council has conducted a series of activities against hate speech:

In order to prevent the spread of hate speech and defamation in anonymous comments by visitors to the internet portals, the Press Council in Bosnia and Herzegovina launched the action "You are not invisible". Anonymity does not mean that a person can not be identified and prosecuted if a spread of hate speech, hooting, threats and a call to a lynch is detected.

The action "You are not invisible" meant detecting IP and MAC addresses and prosecuting people who disturbed the public with their hacking comments and the spread of hate speech, inflicting damage on individuals and in particular damaging the reputation of professional internet portals.

It is important to note that web portal visitors who post comments with hate speech are subject to criminal liability, as they encourage intolerance and hatred.

It is also a same responsibility if the comments contain threatening messages: Criminal Code of BiH: XV - Chapter fifteenth, Criminal offenses against the freedom and rights of man and citizen. FBiH Criminal

²⁸ Izvor: www.aipce.net

Code and RS Criminal Code: XVII - Chapter Seventeenth, Criminal offenses against the freedom and rights of man and citizen.

The „Stop-Hate Speech“ action was based on the active role of the Press Council with its network of associates in print and online media editions to combat hate speech. The network of associates followed the contents of print and online media and warned of hate speech, not only in journalistic texts, but also in user comments. A hate speech warning in a specially designed banner was public and visible, in order to encourage web portal editorial boards to delete hateful comments.

The Coalition for the Fight against Hate Speech is active in Bosnia and Herzegovina, which, besides the Press Council, gathers 11 domestic and foreign organizations and non-governmental organizations. Coalition activities, in addition to warning of hazards and consequences of hate speech, put pressure on all actors of the Government and NGO sector for active fight against hate manifestations in the public communication sphere, also refer to changes in laws, prosecution of hate speech, public involvement in the fight against hate speech, revealing the identity of the huddler and the hatred.

The activities of the civil society sector in Bosnia and Herzegovina against hate speech are respectable, but sadly, insufficient to eliminate hate speech from public discourse. It is necessary to involve the judiciary, the police and the government agencies, so that the perpetrators of hate speech are prosecuted in accordance with positive laws. Also, it is necessary to adopt new legal solutions that will enable more efficient sanctioning of all forms of hate speech and their inspirators, promoters and pronouns.

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