

POLICY BRIEF

Strengthening the Capacities of Judicial Authorities to Address Hate Speech

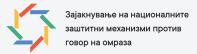
Helsinki Committee for Human Rights

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POLICY BRIEF SUMMARY

Within the framework of the project "Strengthening National Protection Mechanisms against Hate Speech," funded by the European Union, two twoday training sessions for judges and public prosecutors were held in September and October 2024. The main focus was on improving knowledge and practical skills for handling hate speech cases, collecting and analyzing electronic evidence, and applying international legal standards. Participants requested continuous education and the development of practical tools, including manuals and procedural guidelines.

KEY FINDINGS:

- The trainings were successfully conducted with the participation of judges, prosecutors, and candidates from the Academy.
- Participants were trained in the collection and analysis of electronic evidence, including international legal assistance.
- Practical skills were developed for the identification, investigation, and prosecution of hate speech.
- Cases from the case law of the European Court of Human Rights were presented.
- Participants highlighted the lack of standards and protocols for handling electronic evidence.
- The need for cooperation with social media platforms and the development of national guidelines and strategies was identified.

Training Modules

The training covered both theoretical and practical aspects of dealing with hate speech. It first covered the concepts and basic elements of hate speech, as well as a critical analysis of the national legal framework through prism of European legal standards and the case law of the European Court of Human Rights. section helped participants to develop a solid and deep understanding of the essence and scope of hate speech, to acquire skills for its see recognition and to the importance fundamental of values – democratic dignity, equality, respect for human rights and social peace – as the basis for the correct application of the law.

Furthermore, practical issues and challenges from the field were considered: collecting securing evidence, especially electronic, its proper processing and preparation of professional reports, as well as mechanisms for communication and coordination between institutions. Guidelines were provided for the of procedures use for international legal assistance and for the exchange of information and evidence, with a special emphasis on the application of Cybercrime Convention. Participants indicated that there is need for additional specialized training in the field of cybercrime and investigations of hate speech on the Internet, with methodologies strengthening inter-institutional cooperation. This knowledge and recommendations are key effective prevention, timely action and the creation of an inclusive and just society.

Findings from the training

- The role of the judiciary is crucial in the fight against hate speech, but it is not sufficiently used. There is a lack of established case law, and racist and homo/transphobic speech often remains unsanctioned, especially in nationalist discourse targeting minorities.
- There are conceptual ambiguities among judges and prosecutors, most often in the of absence а difference between hate speech and insult/defamation and reduction of hate speech to political insult.
- There is a noticeable tendency to treat public officials as a targeted group, which is problematic. Although the possibility that they may be victims is not excluded, the usurpation of the concept can lead to restrictions on political speech and the violation of democratic standards.
- The judiciary has shown interest in training and improving capacities to deal with hate speech, which is a positive signal for future work.
- The legal framework contributes to these ambiguities, as it does not clearly define the protected identity characteristics, while allowing for broad discretion that can be abused. It lacks explicit protection of sexual orientation and gender identity.

CONCLUSIONS

- 1. Regular trainings on hate speech are needed for judicial authorities.
- 2. Electronic
 evidence plays a
 key role in
 investigations and
 must be handled
 appropriately.
- 3.Inter-institutional and international cooperation is essential for obtaining electronic evidence.
- 4. Guidelines and practical tools for judges and prosecutors in handling hate speech cases are lacking.

RECOMMENDATIONS

- Develop and publish a practical manual for handling hate speech cases and electronic evidence.
- Establish national standards and protocols for analyzing and prosecuting electronic evidence.
- Provide continuous education and training in cooperation with the Academy for Judges and Public Prosecutors.
- Advocate for increased institutional capacity and technical resources.
- Formalize cooperation with social media platforms to facilitate evidence collection.
- Harmonize national legislation with European and international standards.
- Develop a national strategy for combating hate speech.

