

Targeted consultation: European Commission's initiative to include hate speech and hate crime in the list of EU crimes provided for in Article 83(1) TFEU

Fields marked with * are mandatory.

Introduction

[Article 83\(1\) of the Treaty on the Functioning of the European Union](#) (TFEU) lays down a list of areas of crimes ('EU crimes') in which the harmonisation of the definition of criminal offences and sanctions by the EU is possible under the ordinary legislative procedure. EU crimes refer to areas of particularly serious crimes with a cross-border dimension, resulting from the nature or impact of such offences or from a special need to combat them on a common basis. Article 83(1) TFEU also provides for the possibility for the Council to adopt - unanimously, after obtaining the consent of the European Parliament - a decision to identify further areas of crime that meet these criteria, based on "developments in crime".

As a result of the transposition of 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, all EU Member States have national laws in place criminalising hate speech and hate crime on the grounds of race, colour, religion, descent or national or ethnic origin.

In the perspective of strengthening the fight against hate speech and hate crime in Europe, President Von der Leyen announced^[1] the Commission's intention to propose the extension of the list of EU crimes to hate speech and hate crime – whether because of race, religion, gender or sexuality. This commitment is reflected in the Commission President's [letter of intent](#), and the [2021 Commission Work Programme](#).

This key initiative, to be delivered in 2021, will also give effect to the EU Gender Equality Strategy 2020-2025^[2] and the LGBTIQ Equality Strategy 2020-2025^[3], which referred to the **extension of the list of EU crimes to cover hate speech and hate crime on grounds of sex and sexual orientation, respectively**.

The present questionnaire is targeted at national and international public authorities, key civil society organisations and networks, European networks of experts and research institutions, which have expertise on the national legal frameworks criminalising hate speech and hate crime and/or collect relevant data. The questions asked are meant to collect information and views on the current national legal frameworks and the landscape of hate speech and hate crime across Europe. In particular, the information to be collected on the scale, nature and impact of hate speech and hate crime will enable the Commission to assess whether these types of crime meet the criteria referred to in Article 83(1) TFEU, i.e. whether they are particularly serious crimes which have a cross-border dimension, and whether there are "developments in

crime” that justify their inclusion in the list of EU crimes.

The replies to the present **questionnaire will gather evidence, facts and information for this initiative** without either prejudging any action by the European Union or affecting the remit of its competences.

The European Commission will analyse the results of the consultation and will publish a summary of the contributions received in response to this survey.

For further information on this initiative, please see:

European Commission Roadmap: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12872-Hate-speech-hate-crime-inclusion-on-list-of-EU-crimes>

[1] [State of the Union Address by President von der Leyen, 16 September 2020](#)

[2] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

[3] https://ec.europa.eu/info/sites/info/files/lgbtiq_strategy_2020-2025_en.pdf

Instructions

The consultation will be open from **24rd February** to **10th April** at 00:00.

The consultation aims to gather information and data pertaining to individual Member States or aggregated at European level.

To provide information on several Member States, **separate replies to this questionnaire should be submitted for each Member State.**

Organisations operating or gathering information at European level, can submit such information in an aggregated manner, indicating which countries the data submitted relates to.

The consultation questionnaire should be completed only in English.

We encourage you to answer as many questions as possible, but even incomplete questionnaires will be taken into account. To finish the survey please click the “submit” button. If, in addition to completing this questionnaire, you wish to submit any relevant information, data or policy paper, please send it to JUST-NO-HATE@ec.europa.eu

Please refer to the privacy statement provided in the link in the right side of this page for information on data protection regarding this consultation.

We would like to thank you in advance for your time and input.

For any further questions, please contact JUST-NO-HATE@ec.europa.eu

Identification

* **What is the nature of your organisation?**

- EU Agency or body
- International organisation
- National public authority/administration
- National independent authority (e.g. independent body dealing with anti-discrimination policies, such as equality body, ombudsperson etc.)
- Judicial authority
- Public prosecution body
- Police
- Other law enforcement structure
- EU experts' network
- Civil society organisation
- Civil society network or umbrella organisation
- Research institution
- Other

*** Is your organisation included in the EU Transparency Register?**

NB: It is not compulsory to register to reply to this consultation. We would however encourage you to register here as the Transparency Register provides citizens with direct and single access to information about who is engaged in activities aiming at influencing the EU decision-making process, which interests are being pursued and what level of resources are invested in these activities.

- Not applicable
- No
- Yes

If yes, please indicate your Register ID-number:

826153742169-36

Please specify the name of your organisation

* Name:

Háttér Society

* Name of the contact person:

Tamás Dombos

* Email address:

tdombos@hatter.hu

*** Please indicate the place of establishment of your organisation (main headquarters in case of multinational organisations):**

- Austria

- Belgium
- Bulgaria
- Czech Republic
- Denmark
- Germany
- Estonia
- Ireland
- Greece
- Spain
- France
- Croatia
- Italy
- Cyprus
- Latvia
- Lithuania
- Luxembourg
- Hungary
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovenia
- Slovakia
- Finland
- Sweden
- Other

What is the nature of your work in the area of hate speech and hate crime?

[Multiple choice is possible]

- Developing policies on combating hate speech, including online, and/or hate crime;
- Receiving and handling reports on incidents of hate speech and hate crime;
- Investigation or prosecution;
- Providing support, advice and/or legal assistance to victims;
- Conducting research;
- Collecting data;
- Carrying out advocacy and/or public awareness work;
- Carrying out training activities;
- Other

Do you consent that parts of your reply to this questionnaire or of other written contributions you may provide be cited in documents related to this initiative (such as in the external study or Commission documents), including the express quotation of your organisation's identity? Please note that your full reply/contribution will not be published (only parts of your reply/contribution

might be cited).

[Multiple choice is possible]

- Yes
- No
- I consent partially

*** Please indicate what national legal context you have expertise on/are familiar with/you are providing data about.**

NB: If you would like to describe more than one national legal framework you will have to submit another reply to this questionnaire. If you represent an organisation working at European level, you may select the option below "EU level" indicating for which countries you are submitting data. In this case, the section on the "national legal framework" may not be applicable for your organisation.

- Austria
- Belgium
- Bulgaria
- Czech Republic
- Denmark
- Germany
- Estonia
- Ireland
- Greece
- Spain
- France
- Croatia
- Italy
- Cyprus
- Latvia
- Lithuania
- Luxembourg
- Hungary
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovenia
- Slovakia
- Finland
- Sweden
- European level

Section I - National legal frameworks on hate speech and hate crime

As a result of the transposition of [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, all EU Member States have national laws in place criminalising hate speech and hate crime on the grounds of race, colour, religion, descent or national or ethnic origin.

Some Member States also criminalise hate speech and hate crime on other grounds, including sex/gender, sexual orientation, gender identity/sex characteristics, disability and age. This section of the questionnaire intends to collect information on the criminalisation, at national level, of hate speech and hate crime on these grounds.

To your knowledge, does the national legal framework of the Member State(s) you are familiar with contain a specific provision criminalising hate speech on grounds of:

[Multiple choice is possible]

- Sex/gender
- Sexual orientation
- Gender identity/sex characteristics
- Disability
- Age
- None of the above
- I don't know
- I do not have any expertise on the legal framework

Please indicate the legal provision in question and mention any further information you consider relevant:

Criminal Code, Art. 332.

Please provide more information on the definition/scope of the ground(s) marked in the previous question

NB: For example, the criminal offence of hate speech based on sex may also cover hate speech on the basis of gender identity.

the provision contains open ended list, sex/gender and age might be also covered via interpretation

To your knowledge, is online hate speech criminalised in a specific, distinct, manner?

- No
- Yes
- I don't know

To your knowledge, does the national legal framework of the Member State(s) you are familiar with contain a specific provision criminalising hate crime on grounds of:

[Multiple choice is possible]

- Sex/gender
- Sexual orientation

- Gender identity/sex characteristics
- Disability
- Age
- All of the above
- None of the above
- I don't know

Please indicate the legal provision in question and mention any further information you consider relevant:

Criminal Code, Art. 332.

Please provide more information on the definition/scope of the ground(s) selected in your reply to the previous question.

NB: For example, the criminal offence of hate crime based on gender may cover both hate speech against women as well as hate speech against transgender people.

the provision contains open ended list, sex/gender and age might be also covered via interpretation

To your knowledge, does the offence of hate crime on the ground(s) selected in your reply to the previous questions cover:

- All crimes committed with a bias motivation, which are criminalised under national law with a higher penalty;
- Only certain types of crimes or only crimes of particular seriousness (for example, hate crimes constitute a self-standing crime for only certain type of serious offenses)
- I don't know

Please provide more information:

only disorderly conduct (threatening behavior), assault and coercion are covered by this provision; crimes against property might be also considered disorderly conduct; other hate crimes shall be prosecuted as crimes with a malicious motive (without explicit reference to bias); some crimes (e.g. homicide) include malicious motive specifically as a qualifying circumstance, for other crimes the malicious motive can be taken into consideration as an aggravating circumstance during sentencing

Please indicate which penalties are laid down in the national legal framework for hate speech:

[Multiple choice is possible]

- A custodial sentence
- A financial penalty
- Other
- I don't know

Please indicate the minimum and maximum thresholds (e.g. 12 months):

3 years

Please indicate which penalties are laid down in the national legal framework for hate crime:

[Multiple choice is possible]

- A custodial sentence
- A financial penalty
- Other
- I don't know

Please indicate the minimum and maximum thresholds (e.g. 12 months):

3 years for disorderly conduct, 5 years for assault and coercion, 8 years for qualified cases such as those committed in groups (3+ person) or with a weapon

To your knowledge, even if in the national legal framework there is no specific provision criminalising hate crime on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age, is there another criminal law provision of general application based on which national courts may nevertheless take into consideration the bias motivation of the perpetrator on such grounds when determining the criminal penalties?

NB: For example, the national criminal code may contain a provision of general application on the sentencing powers of the courts that allows them to take into account the motivation of the perpetrator when determining the criminal penalty.

- Yes
- No
- I don't know

To your knowledge, are there other, alternative means of justice for victims of hate crimes on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age?

not applicable, there is explicit provision

Please provide the reference of the national law(s) criminalising hate speech and hate crime on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age selected in reply to the previous questions, including the criminal law provisions of general application, where relevant.

Act C of 2012 on the Criminal Code, Art. 216, 332.

To your knowledge, are there any plans at national level to amend the existing legislation in order to criminalise hate speech and/or hate crime on any of the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age?

- No
- Yes
- I don't know

Section II - Information and data on the scale of hate speech and hate crime, related trends and developments

This section of the questionnaire is intended to collect information and views on the scale of hate speech and hate crime and related trends, including by collecting data on incidents of hate speech and hate crime during the period of 2015-2020, if possible disaggregated by ground and by year.

*** Does your authority, body or organisation record hate speech, including online, and/or hate crime incidents or collect other relevant data?**

- Yes
- No
- I don't know

*** Please specify which type of information is recorded or collected:**

[Multiple choice is possible]

- Data on hate speech online reported to social networks and other platforms;
- Data on incidents reported to police, independent bodies or civil society organisations;
- Data on investigations of incidents;
- Data on prosecutions;
- Data on convictions;
- Other

*** Is the information publicly available?**

- No
- Yes
- I don't know

*** Is the data disaggregated by grounds (i.e. race, religion, sexual orientation, etc.)?**

- No
- Yes

Please fill in the table on the number of incidents of hate speech, if possible indicating the number of cases in the period 2015-2020. Please indicate which period the data relates to and, if possible, disaggregate per year.

	Number of cases reported	Number of cases investigated	Number of convictions	Other relevant information (e.g. whether the data on cases related to the ground selected may include cases related to other grounds i. e. the ground of race may overlap with the ground of ethnicity)
* Race	-	-	-	we do not collect information on this ground
* Colour	-	-	-	we do not collect information on this ground
* Descent	-	-	-	we do not collect information on this ground
* National origin	-	-	-	we do not collect information on this ground
* Ethnicity/ethnic origin	-	-	-	we do not collect information on this ground
* Religion	-	-	-	we do not collect information on this ground
* Sex/gender	-	-	-	we do not collect information on this ground
* Sexual orientation	2	0	0	92 more cases recorded internally, but not reported to police due to consistent failure to prosecute
* Gender identity/sex characteristics	1	0	0	homophobic and transphobic language difficult to disaggregate, same words often used for both LGB and TI people, 92 cases above also include transphobic cases

* Disability	-	-	-	we do not collect information on this ground
* Age	-	-	-	we do not collect information on this ground

* Please indicate the period to which the data in the above table relates.

incidents that took place between 2015-2020, earlier incidents that were prosecuted between 2015-2020 are not included

Please fill in the table on the number of incidents of hate crime, if possible indicating the number of cases in the period 2015-2020. Please indicate which period the data relates to and, if possible, disaggregate per year.

	Number of cases reported	Number of cases investigated	Number of convictions	Other relevant information (e.g. whether the data on cases related to the ground selected may include cases related to other grounds i. e. the ground of race may overlap with the ground of ethnicity)
* Race	-	-	-	we do not collect information on this ground
* Colour	-	-	-	we do not collect information on this ground
* Descent	-	-	-	we do not collect information on this ground
* National origin	-	-	-	we do not collect information on this ground
* Ethnicity/ethnic origin	-	-	-	we do not collect information on this ground
* Religion	-	-	-	we do not collect information on this ground
* Sex/gender	-	-	-	we do not collect information on this ground
* Sexual orientation	14	12	1	several cases currently being prosecuted; in most cases closed the perpetrator was not identified; in several cases the police only found a minor crime or misdemeanour (disorderly conduct, criminal damage)
* Gender identity/sex characteristics	1	0	0	-
* Disability	-	-	-	we do not collect information on this ground

*Age	-	-	-	we do not collect information on this ground
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* Please indicate the period to which the data in the above table relates.

incidents that took place between 2015-2020, earlier incidents that were prosecuted / sentenced between 2015-2020 are not included

* **In your view, do official statistics on incidents reported to and/or recorded by law enforcement (or other authorities) reflect the real number of incidents on hate speech and/or hate crime occurring in the Member State(s) you are familiar with?**

- Yes
- No
- I don't know

* If no, please explain further:

victims are afraid to report; if they try report, police often tries to discourage them from making an official report; even if report properly recorded, the bias motive is often disregarded; even if bias motive taken into consideration, the statistics are often not in line with the casefiles

Would you have an estimate of the extent of under-reporting of incidents of hate speech and/or hate crime?

- No
- Yes

If yes, please specify in quantitative terms:

only 5% of last incident of physical or sexual attacks due to being LGBTI reported to the police (source: FRA LGBTI Survey 2020)

In your view, what would be the main reasons for under-reporting?

[Multiple choice is possible]

- Lack of trust in police
- Burden of proof
- Loss of evidence
- Fear of secondary victimisation
- Fear of stigmatisation
- Other
- All of the above
- None of the above
- I don't know

If other, please specify:

fear of being outed by the police

In your view, has there been an increase of the phenomenon of hate speech and/or hate crime at national or European level in the last years?

NB: Please reply to this question, if possible, comparing the period 2018-2020 with the period 2015-2017.

- No
- Yes
- I don't know

On which grounds?

[Multiple choice is possible]

- Race
- Colour
- Descent
- National origin
- Ethnicity/ethnic origin
- Religion
- Sex/gender
- Sexual orientation
- Gender identity/sex characteristics
- Disability
- Age

Please explain further, if possible disaggregating by hate speech and hate crime incidents and providing data. Please indicate, whether an increase has been particularly significant as regards one ground or a combination of several grounds. Please add links to any report/source of data mentioned.

the government has been running hate campaign targeting migrants and asylum seekers, and most recently LGBTQI people

Section III - Nature and impacts of the phenomena of hate speech and hate crime

This section of the questionnaire is intended to gather information and views on the interlinkages between hate speech and hate crime, the cross-border nature of these phenomena and their harmful impacts on individual victims and on society as a whole.

In your view, can hate speech perpetrated offline (e.g. orally or through symbols, in public places, in sport events or in political speech) have a spillover impact across national borders? (i.e. even if it occurs in one Member State, it can encourage/lead to instances of hate speech in (an) other Member State(s))

- Yes
- No
- I don't know

*** In your view, can hate speech perpetrated online (e.g. through social media or online audiovisual services) have a spillover impact across national borders? (i.e. even if it occurs in one Member State, it can encourage/lead to instances of hate speech in (an)other Member State(s))**

- Yes
- No
- I don't know

In your view, in what ways can hate speech committed in one Member State lead to instances of hate speech in (an)other Member State(s)?

[Multiple choice is possible]

- Hateful messages in public, e.g. expressed in sport events, broadcast on television or contained in political speech, are reproduced and become easily available throughout the EU;
- Through the increasing use of social media, people across the EU are exposed to similar online content, including the same hateful rhetoric;
- Hate speech may create a climate of fear or social conflicts, which may spill over from one Member State to the other;
- The ideologies behind hate speech messages are developed internationally and are cross-border phenomena;
- Hateful ideologies even when rooted in one location and related to the local context, can spread across borders through online platforms and the media;
- Hateful messages are developed and propagated by networks with members from several countries (within or outside the EU) that inspire, organise or plan verbal attacks against specific groups that share a protected characteristic;
- Other
- All of the above
- I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- No
- Yes

In your view, can hate speech, perpetrated online and/or offline in one Member State, have a spillover impact across national borders and induce people to commit hate crimes against (members of) groups that share a protected characteristic in (an)other Member State(s)?

- Yes
- No
- I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- No
- Yes

In your view, can hate crime have a spillover impact across national borders? (i.e. even if it occurs in one Member State it can encourage/lead to instances of hate crimes in (an)other Member State(s))?

- Yes
- No
- I don't know

In your view, in what ways can hate crimes committed in one Member State lead to instances of hate crimes in (an)other Member State(s)?

[Multiple choice is possible]

- The psychological impact or spillover effect of hate crimes on society may provoke follow-up hate crimes in other Member States, imitating or echoing the crime committed in the Member State where the first crime occurred;
- Hate crimes may create a climate of fear or social conflicts, which may spill over from one Member State to the other;
- The ideologies behind hate crimes are developed internationally and are cross-border phenomena because they can be rapidly shared through social media;
- Hate crimes offences may be committed by networks with members from several countries (within or outside the EU) that inspire organise or plan physical attacks against specific groups that share a protected characteristic;
- Other
- All of the above
- None of the above
- I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- No
- Yes

In your view, does hate speech/hate crime cause harm to:

[Multiple choice is possible]

- The individual victims;
- The group sharing protected characteristics of the victim;
- The perpetrators;
- Society as a whole;
- Other
- None of the above
- All of the above
- I don't know

In your view, what are the harmful impacts of hate speech/hate crime on the individual victims:

[Multiple choice is possible]

- It affects their identity;
- It provokes behavioural changes;
- It provokes fear that the victim might be attacked again because of their personal characteristics;
- It causes psychological distress;

- It may prompt secondary victimisation;
- Other
- All of the above
- None of the above
- I don't know

In your view, what are the harmful impacts of hate speech/hate crime on society as a whole:

[Multiple choice is possible]

- Polarisation of the society, creation of social conflicts;
- Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for persons belonging to groups sharing protected characteristics;
- Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for journalists and politicians;
- Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for the public in general;
- Chilling effect on the willingness of citizens to engage in politics and to exercise official functions (such as mayors, politicians);
- Other
- All of the above
- None of the above
- I don't know

Could you elaborate, including by providing examples or data on impacts, if possible:

Section IV - European Union action in the area of criminal law measures to combat hate speech and hate crime

This section of the questionnaire is intended to collect views on the added value of EU action as regards the criminalisation of hate speech and hate crime at EU level.

*** In your view, should the list of EU crimes in Article 83 TFEU be extended to include hate speech?**

- No
- Yes
- I don't know

In your view, should the list of EU crimes be extended to include hate speech on the ground(s) of:

[Multiple choice is possible]

- Sex/gender
- Sexual orientation
- Gender identity/sex characteristics
- Disability

- Age
- Other
- None of the above
- All of the above

If other, please specify:

homelessness

*** In your view, should the list of EU crimes be extended to include hate crime?**

- No
- Yes
- I don't know

In your view, should the list of EU crimes be extended to include hate crime on the ground(s) of:

[Multiple choice is possible]

- Sex/gender
- Sexual orientation
- Gender identity/sex characteristics
- Disability
- Age
- Other
- None of the above
- All of the above

If other, please specify:

homelessness

In your view, should the list of EU crimes be extended to include hate speech and hate crime on grounds of race, colour, religion, descent, national or ethnic origin?

NB: Please note that while [Council Framework Decision 2008/913/JHA](#), already criminalises hate speech and hate crime on the above grounds, since the entry into force of the Treaty of Lisbon, the EU has no longer a competence to adopt any additional legislative measures further to the existing EU framework.

- Yes
- No
- I don't know

In your view, what would be the main reason(s) to include in the list of EU crimes hate speech and hate crime on the grounds referred to in the previous question:

- To enable the EU to adopt further legislative measures in the future, if necessary;
- To enable the EU to adopt additional measures to the criminalisation of hate speech, such as giving a specific role to Europol to monitor hate speech online;
- All of the above

- None of the above
- Other
- I don't know

In your view, which is the most important reason(s) justifying the extension of the list of EU crimes to hate speech and/or hate crime?

[Multiple choice is possible]

- The particular seriousness of these types of crimes, such as the distress caused to the victim;
- Their cross-border dimension, since they may lead to the commission of crimes in (an) other Member State (s);
- The developments in these areas of crime, since trends show an increase of these phenomena;
- To address and effectively tackle the extremist ideologies behind hate speech and hate crime;
- To address existing gaps and shortcomings at national level as regards the prosecution of hate speech and /or hate crime and the protection of victims;
- Other
- All of the above
- I don't think the list of EU crimes should be extended

Section V - Sources of information and data

Are you aware of any exercises to collect data or gather information on the criminalisation of hate speech and/or hate crime that are underway, already planned for the future or envisaged (for example in the context of an EU or national funded project)?

- No
- Yes

Is there any other information or source of information related to the scale, impact or criminalisation of hate speech and hate crime or to relevant data that you would like to share with us?

- No
- Yes
- I don't know

Background Documents

[Privacy statement](#)

Contact

[Contact Form](#)

