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*Plenary sitting*

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**A9-0377/2023**

27.11.2023

# REPORT

on extending the list of EU crimes to hate speech and hate crime  
(2023/2068(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Maite Pagazaurtundúa

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on extending the list of EU crimes to hate speech and hate crime (2023/2068(INI))

*The European Parliament,*

- having regard to the Charter of Fundamental Rights of the European Union (the ‘Charter’), and in particular Articles 1, 7, 20, 21, 22, 23, 25 and 26 thereof,
- having regard to the Treaty on European Union (TEU), and in particular Articles 2, 3 and 6 thereof,
- having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Articles 19 and 83(1) thereof,
- having regard to the European Convention on Human Rights and the related case-law of the European Court of Human Rights,
- having regard to the Universal Declaration of Human Rights,
- having regard to the case-law of the Court of Justice of the European Union (CJEU),
- having regard to the Commission communication of 9 December 2021 entitled ‘A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime’ (COM(2021)0777) and the proposal for a Council decision annexed thereto,
- having regard to 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<sup>1</sup>,
- having regard to the Commission communication of 5 March 2020 entitled ‘A Union of Equality: Gender Equality Strategy 2020-2025’ (COM(2020)0152),
- having regard to the Commission communication of 18 September 2020 entitled ‘A Union of equality: EU anti-racism action plan 2020-2025’ (COM(2020)0565),
- having regard to the Commission communication of 12 November 2020 entitled ‘Union of Equality: LGBTIQ Equality Strategy 2020-2025’ (COM(2020)0698),
- having regard to the Commission communication of 3 March 2021 entitled ‘Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030’ (COM(2021)0101), and to the United Nations Convention on the Rights of Persons with Disabilities, ratified by the EU and all its Member States,
- having regard to the Commission communication of 24 June 2020 entitled ‘EU Strategy

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<sup>1</sup> OJ L 328, 6.12.2008, p. 55.

on victims' rights (2020-2025)' (COM(2020)0258),

- having regard to the Council of Europe recommendation of 20 May 2022 of the Committee of Ministers to member States on combating hate speech (CM/Rec(2022)16),
- having regard to the Council of Europe's Commission Against Racism and Intolerance (ECRI) General Policy Recommendation No 15 on combating hate speech, adopted on 8 December 2015,
- having regard to the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages,
- having regard to the recommendations, reports and resolutions of the ECRI, the Steering Committee on Anti-Discrimination, Diversity and Inclusion, the Parliamentary Assembly, the Venice Commission and other bodies of the Council of Europe,
- having regard to the guidelines on improving the collection and use of equality data drawn up by the Subgroup on Equality Data of the Commission High Level Group on Non-discrimination, Equality and Diversity and published in 2021,
- having regard to the UN Human Rights Treaties and the UN instruments on the protection of human rights and fundamental freedoms, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women, and to the recommendations of the annual UN Forum on Minority Issues,
- having regard to the annual hate crime data published by the OSCE Office for Democratic Institutions and Human Rights every year on 16 November,
- having regard to its resolution of 25 November 2020 on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms<sup>2</sup>,
- having regard to its resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU<sup>3</sup>,
- having regard to its resolution of 13 November 2018 on minimum standards for minorities in the EU<sup>4</sup>,
- having regard to Rule 105(5) of its Rules of Procedure,
- having regard to the opinion of the Committee on Women's Rights and Gender Equality
- having regard to the report of the Committee on Civil Liberties, Justice and Home

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<sup>2</sup> OJ C 425, 20.10.2021, p. 28.

<sup>3</sup> OJ C 117, 11.3.2022, p. 88.

<sup>4</sup> OJ C 363, 28.10.2020, p. 13.

- A. whereas any form of discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation as laid down in Article 21 of the Charter is prohibited; whereas, within the scope of the Treaties and without prejudice to any of their specific provisions, any discrimination on the grounds of nationality is also prohibited; whereas following the broad interpretation by the CJEU, the grounds of 'sex' should be understood broadly to encompass all forms of discrimination related to gender identity, gender expression and sex characteristics<sup>5</sup>;
- B. whereas all forms and manifestations of hatred and intolerance, including hate speech and hate crimes, are incompatible with the Union values of human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, as enshrined in Article 2 TEU; whereas the promotion and protection of those Union founding values depends on the EU institutions, Member States and any other relevant actor countering bias, prejudice and intolerance, as well as on the elimination of hatred;
- C. whereas hate speech and hate crimes are complex and multidimensional phenomena with far-reaching consequences for human rights and the rule of law in democratic societies; whereas tackling xenophobia, racism, misogyny, homophobia, transphobia and other forms of prejudice, intolerance, discrimination, including those based on political or other opinions, and hatred against certain individuals or societal groups requires the EU and its Member States to develop a holistic response in close collaboration with relevant stakeholders, including civil society; whereas criminalisation is one tool to combat hate speech and hate crimes;
- D. whereas fighting hate speech and hate crimes, both online and offline, requires a multidimensional approach and, where appropriate, different means to combat them, including criminal law, civil and administrative proceedings and other significant policies or social measures; whereas the Member States have already committed to adopting legislation and measures that penalise hate crimes, address under-reporting and introduce or further develop capacity-building activities for law enforcement and judicial officials<sup>6</sup>; whereas in order to effectively combat hate speech and hate crimes, it is essential to tackle their root causes, in particular stereotypes; whereas preventive measures, education, including digital education, literacy and skills to promote safe digital spaces, training, and awareness raising are key in this regard; whereas the EU and the Member States should promote a better understanding of the need for diversity and dialogue within a context of democracy, human rights and the rule of law, raise public awareness of the importance of respecting pluralism and combat negative

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<sup>5</sup> Judgment of the Court of Justice of 30 April 1996, *P v S and Cornwall County Council*, C-13/94, ECLI:EU:C:1996:170; judgment of the Court of Justice of 7 January 2004, *K.B. v National Health Service Pensions Agency and Secretary of State for Health*, C-117/01, ECLI:EU:C:2004:7; judgment of the Court of Justice of 27 April 2006, *Sarah Margaret Richards v Secretary of State for Work and Pensions*, C-423/04, ECLI:EU:C:2006:256; and judgment of the Court of Justice of 26 June 2018, *M.B. v Secretary of State for Work and Pensions*, C-451/16, ECLI:EU:C:2018:492.

<sup>6</sup> Annual OSCE Office for Democratic Institutions and Human Rights hate crime data.

stereotyping and stigmatisation;

- E. whereas hate speech and hate crimes can constitute particularly serious crimes and affect not only the individual victims and their communities, by causing them suffering and limiting their fundamental rights and freedoms, but also society as a whole, by undermining the foundations of the EU;
- F. whereas not all hate speech constitutes a crime, but it still contributes to normalising manifestations of hatred, violence and intolerance in society;
- G. whereas in the last few decades, there has been a sharp rise in discrimination, hate crimes and hate speech across the EU<sup>7</sup>, an increase in various forms of racism, antisemitism, islamophobia, xenophobia, homophobia, transphobia and other forms of intolerance and an alarming spike in online and offline hate speech and incitement; whereas persons belonging to vulnerable groups, such as LGBTIQ+ people, racialised people, ethnic, religious or linguistic minorities, indigenous communities<sup>8,9</sup>, people with disabilities, people with socioeconomic disadvantaged backgrounds, asylum seekers, refugees and migrants, are recurring targets of hate speech and hate crimes; whereas there has been a significant increase in anti-LGBTIQ hate crimes and hate speech in Europe<sup>10</sup>, as well as a rise in discrimination and hatred against women; whereas multiple and intersectional discrimination is fertile ground for hate speech and crimes to occur; whereas targets of hate speech become increasingly excluded from society;
- H. whereas the rise in discrimination and hatred is being exacerbated in many Member States by extremist and populist movements and the multiplier effect of the online environment and social media, which facilitate revictimisation; whereas this rise is leading to dangerous divisions in society as a whole and threatens democracy;
- I. whereas there is evidence that hate speech and hate-motivated incidents continue to be underreported in the EU<sup>11</sup>, which makes it difficult to quantify the extent of the problem;
- J. whereas media and journalists play a fundamental role in informing society and contributing to democratic processes;
- K. whereas political discourse is increasingly characterised by hate speech; whereas election campaigns provide particularly fertile ground for hate speech and incitement to hatred, which affects not only the political sphere, but the functioning of society at large

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<sup>7</sup> See, for instance, the annual report on the ECRI's activities covering the period from 1 January to 31 December 2019, the annual report on the ECRI's activities covering the period from 1 January to 31 December 2020, and the study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs entitled 'Hate speech and hate crime in the EU and the evaluation of online content regulation approaches', published in July 2020.

<sup>8</sup> Lingaas, C., '[Hate Speech and Racialised Discrimination of the Norwegian Sámi: Legal Responses and Responsibility](#)', *Oslo Law Review*, Vol. 8, No 2, 2021, pp. 88-107.

<sup>9</sup> Civil Rights Defenders, '[Joint submission to the UN Universal Periodic Review of Sweden – 35th Session of the UPR Working Group of the Human Rights Council – January 2020](#)', 2019.

<sup>10</sup> ILGA Europe, '2023 Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia', February 2023.

<sup>11</sup> European Union Agency for Fundamental Rights, '[Encouraging hate crime reporting – The role of law enforcement and other authorities](#)', 2021.

and deepens political polarisation; whereas hate speech towards women in public roles has reached an alarming level; whereas political leaders have a significant role and responsibility in the fight against hate speech and intolerance; whereas they should lead by example and publicly denounce instances of hate;

- L. whereas minors are particularly vulnerable victims of hate speech and hate crimes, including at schools or online, via cyberbullying; whereas such attacks endanger their physical and mental integrity and affect their development and physical and mental health; whereas particular attention must be paid to them;
- M. whereas the Member States do not address hate speech and hate crime in an equal way in their respective criminal laws, which leaves certain groups with insufficient protection in some parts of the Union; whereas this makes it difficult to define a common European approach to combat hate speech and hate crime; whereas the lack of legal protection can have devastating consequences for victims;
- N. whereas the current EU framework only covers hate speech and hate crimes on the grounds of race, colour, religion, descent and national or ethnic origin; whereas there is currently no comprehensive common legal definition of hate speech and hate crime at the EU level; whereas there is a clear need to effectively address hate speech and hate crimes based on other grounds, such as sex, sexual orientation, gender, gender identity, gender expression, sex characteristics, age, disability and any other fundamental characteristic, in particular those protected under Article 21 of the Charter, and any combination of these characteristics; whereas the EU must protect the most vulnerable in society; whereas particular attention should be given to identifying the persons, groups or communities most vulnerable to hate speech and hate crimes in order to avoid a negative impact on the protection of victims;
- O. whereas Article 83(1) TFEU establishes clear requirements for the inclusion of new areas of crime in the list of cross-border EU crimes; whereas the particular cross-border dimension of online hate speech is clear; whereas the digital transformation highlights the need to address this phenomenon at a European level; whereas there is a need to combat hate speech and hate crimes on a common basis and at the EU level; whereas the EU has the responsibility to act;
- P. whereas the response of EU criminal law to hate speech and hate crimes should be strong, proportionate and tailored to its purpose in order to duly protect the victim and give due weight to freedom of expression and freedom of information, which are cornerstones of democracy; whereas the EU should guarantee that any restrictions on freedom of expression to prevent and counter hate speech should not be misused by the competent authorities in the Member States to silence minorities or suppress criticism; whereas the European Court of Human Rights' judgments on freedom of expression must be respected when establishing protections against hate speech;
- Q. whereas the fundamental rights that are protected in the fight against hate speech and hate crimes are, foremost, human dignity and the principle of non-discrimination; whereas such protection should be universal; whereas protection against intolerance, be it racial or based on national origin, sexual orientation, religion, ideology, age, opinion or any other personal, physical or social condition or circumstance, whatever its form of

expression, must not be limited only to certain grounds or motivations;

- R. whereas changes in social dynamics can generate new motivations for hate speech and hate crimes that have to be addressed by a common EU framework, which requires that Article 83(1) TFEU, which sets the list of EU crimes, be expanded;
  - S. whereas in 2021, the Commission presented a communication entitled ‘A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime’ with a view to adding hate crime and hate speech to the list of areas of crime where Parliament and the Council may establish minimum rules concerning the definition of criminal offences and sanctions applicable in all EU Member States as provided for in Article 83(1) TFEU; whereas the Council must adopt a decision in this regard;
  - T. whereas this Council decision would be a first step in creating the necessary legal basis to adopt, as a second step, a common legal framework to combat hate speech and hate crimes across the EU; whereas such a common legal framework is urgently needed to establish minimum standards concerning the definition of criminal offences and sanctions and thereby to combat hate speech and hate crimes on a common European basis in order to ensure consistent protection of the potential victims of such acts across the Union;
  - U. whereas the Council has yet to adopt a decision; whereas some Member States have been blocking concrete progress on this specific file in the Council;
  - V. whereas Article 83(1) TFEU requires unanimity in the Council to identify ‘other areas of crime’; whereas this requirement has proved detrimental to achieving necessary common progress in combating hate speech and hate crimes across the Union;
1. Urges the Council to adopt a decision to include hate speech and hate crime among the criminal offences within the list under Article 83(1) TFEU, so that the Commission can initiate the second stage of the procedure;
  2. Recalls that Member States’ criminal laws deal with hate speech and hate crime in different ways and that minimum harmonised rules at EU level exist only when such crimes are committed against a group or individual based on their race, skin colour, religion, descent or national or ethnic origin, which makes it difficult to implement a successful common strategy to effectively combat hatred;
  3. Strongly regrets that almost two years have passed since the publication of the Commission communication and that the Council has made no progress on it, even though it was able to swiftly expand the list of EU crimes for other purposes; regrets such inaction in the light of the increase in hate speech and hate crimes;
  4. Calls on the Member States to work together responsibly and constructively to resume negotiations within the Council in order to adopt a Council decision before the end of the current parliamentary term;
  5. Urges the Member States to support or at least refrain from opposing the adoption of the draft decision;



6. Calls on the current and future Presidencies of the Council of the Union to consider the Commission's proposal as a priority when drawing up their agenda and defining objectives;
7. Recommends that Article 83 TFEU be amended to make it subject to reinforced qualified majority rather than the current required unanimity; calls for the 'passerelle clause' to be activated in this regard;
8. Emphasises that future EU legislation to establish minimum standards concerning the definition of criminal offences and sanctions for hate speech and hate crimes must protect human dignity, seek to prevent harm, ensure equality and combat hatred and intolerance, irrespective of the motivation;
9. Recalls that protection must be universal, with a special focus on targeted persons and vulnerable groups and communities;
10. Recalls that freedom of expression, is a foundational value of democratic societies and should not be unjustifiably restricted; further recalls that any legislation on hate speech and hate crime should be grounded in the principles of necessity and proportionality; underlines that freedom of expression must be exercised within the law and in line with Article 11 of the Charter and should not be exploited as a shield for hate speech and hate crimes;
11. Asks the Commission to consider an open-ended approach whereby the list of grounds of discrimination will not be limited to a closed list in order to effectively combat hate speech and hate crimes motivated by new and changing social dynamics;
12. Stresses that misuses of the internet and the business model of social media platforms, which is based on micro-targeted advertising, contribute to spreading and amplifying hate speech, inciting discrimination and violence and increasing the risk of revictimisation; calls on the Commission and the Member States to ensure the correct implementation of current legislation, such as Regulation (EU) 2022/2065<sup>12</sup>, and to make use of all means and instruments at their disposal to counter the dissemination of hate speech online;
13. Recalls public authorities' responsibility in preventing, investigating, prosecuting and reporting hate speech and hate crimes and that they must take into account facts that indicate hate when doing so; stresses that future EU legislation should support and promote strong cooperation with civil society, equality bodies and national human rights institutions;
14. Calls on the Commission and the Member States to give particular consideration to minors, including those belonging to vulnerable groups, so as to give them special protection from hate speech and hate crimes, to prevent these incidents, including bullying in schools and cyberbullying, from occurring and to minimise their impact on

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<sup>12</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).

minors' development and mental health;

15. Calls on the Commission to ensure that a robust EU legal protection framework is put in place so that victims are effectively protected, in particular those from all vulnerable groups across the EU; emphasises the need to apply an intersectional approach and the importance of adopting comprehensive measures, including providing training to professionals likely to come into contact with victims, as well as measures to ensure protection, safe access to independent justice, specialised support services and reparations for victims; stresses that victims should be able to report their experiences to the competent authorities and be protected; recalls that ensuring the legal protection of victims would create a safe environment that would contribute to enhanced reporting, which is necessary to document hate speech and hate crimes;
16. Calls on the Commission and the Member States, in cooperation with relevant Union bodies and agencies, to establish adequate data collection systems for obtaining solid, comparable, disaggregated and anonymous data on hate incidents, including hate crimes, in accordance with the relevant national legal frameworks and EU data protection legislation, as well as adequate monitoring mechanisms to improve the regular availability, comparability and quality of the data collected and to assess the impact that legislation and policies have on the fight against hate speech and hate crimes;
17. Instructs its President to forward this resolution to the Council and the Commission.

## **EXPLANATORY STATEMENT**

The Commission presented almost two years ago the Communication on ‘A more inclusive and protective Europe: extending the list of EU offences to include hate speech and hate crimes’. While fighting hate speech and hate crimes should be a clear priority for our Union, the Council still has not adopted its proposal for a Decision.

In order to be able to add hate speech and hate crimes to the list of Euro-crimes, and in the near future to establish minimum standards for defining criminal offences and sanctions applicable in all Member States of the Union, this first phase needs to be completed.

Unfortunately, insufficient progress has been made within the Council of the Union and the unanimity required to adopt this decision has not been reached.

The aim of this draft report is to make a strong political call to the Council to adopt this needed decision and to bring recommendations to the Commission for the drafting of the future European legislation to combat hate speech and hate crime.

The current EU framework only covers hate speech and hate crime based on race, skin colour, religion and national or ethnic origin, so there is a clear need to effectively address hate speech and hate crime based on, but not limited to, sex, sexual orientation, age and disability, as proposed by the Commission.

Hate speech and hate crimes attack human dignity, weaken society as a whole and undermine the foundations of the Union, which is fuelled by extremist and populist movements and the multiplier effect of social media.

The social dynamics of intolerance, stigmatisation and discrimination are growing and their ‘normalisation’ requires the attention of the authorities and society as a whole. Any old or new motivation for hatred must be combated at the social, administrative or criminal level, if necessary.

This dynamism also requires protection that does not exclude new social motivations for hatred, since it is the dignity of the victims that must be protected as a universal human right. It is necessary to underline that minors are particularly vulnerable victims when it comes to this type of crime.

Criminal protection against hatred must be proportionate, which implies protecting freedom of expression in an exquisite manner and only limiting it when it is fully justified to do so. It should be noted that not all hate speech constitutes a crime but contributes to normalise manifestations of hatred and intolerance, and is therefore not harmless.

There is a need for Member States to take collective responsibility for the proliferation of such incidents and to unlock the possibility of adequate and sufficient coercive elements. Considering these areas of crime also as Euro-crimes will help to design a common and more effective strategy to combat hate crimes with a social motivation.

## ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

Entity and/or person
Movimiento contra la Intolerancia- Esteban Ibarra
Secretariado Gitano
Organisation for Security and Cooperation in Europe (OSCE) (OSCE)
HateAid gGmbH <ul style="list-style-type: none"> <li>• Committee of the Regions</li> <li>• ASSEDEL- L'Association européenne pour la défense des droits et des libertés</li> <li>• ABTTF- Federation of Western Thrace Turks in Europe</li> </ul>
Committee of the Regions
ASSEDEL- L'Association européenne pour la défense des droits et des libertés
ABTTF- Federation of Western Thrace Turks in Europe
Enrique Baca, professor of Psychiatry, Colegio Libre de Eméritos Universitarios
José Lázaro, professor of Medical Humanities in the Department of Psychiatry
Javier Lesaca, visiting researcher at George Washington University
Irene Muñoz Escandell, lawyer
Colectivo de Víctimas del Terrorismo (COVITE)
María Jiménez, former researcher at Observatorio Internacional de Estudios sobre Terrorismo (OIET)
Álvaro Herrero de Bethencourt, researcher at Observatorio Internacional de Estudios sobre Terrorismo (OIET)
Guillaume Denoix de Saint Marc, Director General and Spokesperson of the French Association of Victims of Terrorism (AFVT)
Asociación Pompaelo
Lesben und Schwulenverband in Deutschland e.V. (LSVD)
ILGA Europe
Bundesrechtsanwaltskammer (BRAK)-
Fundación Abogacía Española
Délégation Interministérielle à la Lutte Contre le Racisme, l'Antisémitisme et la Haine anti-LGBT ( <i>DILCRAH</i> )
European Fundamental Rights Agency (FRA)
Observatorio Español contra el Racismo y la Xenofobia (OBERAXE)
Maciej Stasinski, Gazeta Wyborcza
NGO Lunaria
G.S.ONCE

Comité Español de Representantes de Personas con Discapacidad (CERMI)
European Disability Forum (EDF)
Impulso Ciudadano
Federación Estatal de Lesbianas, Gais, Trans, Bisexuales, Intersexuales (FELGBT)
Observatory on Intolerance and Discrimination against Christians in Europe (OIDAC)
Observatorio para la Libertad Religiosa y de Conciencia (OLRC)
United Nations High Commissioner for Refugees (UNHCR)
Union of Islamic Communities of Spain
Muslim Human Rights Association
Observatorio Cívico de la Violencia Política en Cataluña
Federación de Comunidades Judías de España
Real Instituto Elcano
International Organization for Migration

The list above is drawn up under the exclusive responsibility of the rapporteur.

25.10.2023

## **OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

for the Committee on Civil Liberties, Justice and Home Affairs

on extending the list of EU crimes to hate speech and hate crime  
(2023/2068(INI))

Rapporteur for opinion: Vera Tax

### **SUGGESTIONS**

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas equality between women and men is a core value of the Union enshrined in Article 2 of the Treaty on European Union (TEU); whereas Article 8 of the Treaty on the Functioning of the European Union (TFEU) requires the Union, in all its activities, to aim to eliminate inequalities, and to promote gender equality; whereas ending the spread of hate- and gender-based violence is a prerequisite to achieving real gender equality; whereas hate speech and hate crime breach the European Union's common values and are not compatible with the Treaties and the Charter of Fundamental Rights;
- B. whereas gender-based hate speech and hate crimes are forms of violence disproportionately affecting women<sup>1</sup>, girls and the LGBTIQ+ community<sup>2</sup>, and perpetuate and exacerbate gender inequality at both individual and institutional level; whereas young women and women in the public sphere, particularly politicians, women in the media and human rights defenders, are targeted by hate speech in particular and threats to their physical safety, which can escalate into hate crime offline; whereas persons belonging to specific groups and facing intersectional discrimination based on any grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation, gender identity or expression, sex characteristics, residence status or migrant background among others, are at a higher risk of being victims of crime, including hate speech and hate crimes; whereas there has

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<sup>1</sup> Council of Europe Gender Equality Strategy, 'Combating Sexist Hate Speech', 2016.

<sup>2</sup> Commission communication of 12 November 2020 entitled 'Union of Equality: LGBTIQ Equality Strategy 2020-2025' (COM(2020)0698); European Union Agency for Fundamental Rights (FRA), 'A long way to go for LGBTI equality', 14 May 2020.

been a marked increase in anti-LGBTIQ+ hate crime and hate speech in Europe and gender biases and other stereotypes are among the main drivers thereof<sup>3</sup>;

- C. whereas hate speech can be 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; whereas the aim of sexist hate speech is to humiliate or objectify, to undervalue women's skills and opinions, to destroy their reputation, to make them feel vulnerable and fearful, and to control and punish them for not following certain behaviour; whereas sexist hate speech takes many forms both online and offline, notably victim blaming and re-victimisation, 'slut-shaming', 'body-shaming', image-based sexual abuse, brutal and sexualised death threats and threats of rape and violence, offensive comments on appearance, sexuality, sexual orientation or gender expression, but also false compliments or supposed jokes, using humour to humiliate and ridicule the target; whereas sexist hate speech seeks to silence women and the gender non-conforming, undermine their freedom of speech and limit their movements and participation in society; whereas hate speech directed against women increases in emergencies and during conflicts; whereas it sometimes incites conflict-related sexual violence and war crimes, and crimes against humanity such as genocide;
- D. whereas sexist hate speech and disinformation are used both offline and online; whereas evidence suggests that women are generally more impacted than men by threatening behaviour experienced online; whereas 52 % of young women and girls have experienced online crime, including threats and sexual harassment<sup>4</sup>; whereas online hate speech has increased dramatically following the COVID-19 pandemic; whereas the phenomenon of hate speech is amplified online, including through social media platforms, by spreading disinformation and fear-inciting speech and threatening to undermine the human rights, privacy and dignity of the targeted individuals, leading to an increase in hate crimes against women and LGBTIQ+ persons in the physical world<sup>5</sup>; whereas many women and gender non-conforming people face online death threats and threats of sexual assault or rape on a daily basis and the victims are often not taken seriously by law enforcement officials and by society as a whole; whereas this can lead to self-censorship<sup>6</sup> and digital exclusion, resulting in the silencing of women, owing to their inability to fully participate and express themselves online out of fear of violence and abuse, excluding them from public debates they would like to be part of<sup>7</sup>, including directly threats discouraging women's political participation, ambition and

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<sup>3</sup> LGBTIQ Equality Strategy 2020-2025, 2020; Council of Europe, Resolution 2417 (2022) entitled 'Combating rising hate against LGBTI people in Europe'.

<sup>4</sup> See the survey on young people's experience of online harassment conducted by the World Wide Web Foundation and the World Association of Girl Guides and Girls Scouts using UNICEF's U report platform, February 2020, available at: [http://webfoundation.org/docs/2020/03/WF\\_WAGGGS-Survey-1-pager-1.pdf](http://webfoundation.org/docs/2020/03/WF_WAGGGS-Survey-1-pager-1.pdf).

<sup>5</sup> Study – 'Combating gender-based violence: Cyberviolence', European Parliament, Directorate-General for Parliamentary Research Services, 17 March 2021, available at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662621/EPRS\\_STU\(2021\)662621\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662621/EPRS_STU(2021)662621_EN.pdf).

<sup>6</sup> Study – 'Social media platforms and challenges for democracy, rule of law and fundamental rights', European Parliament, Directorate-General for Internal Policies, Policy Department C, Citizens' Rights and Constitutional Affairs, 3 April 2023, available at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2023/743400/IPOL\\_STU\(2023\)743400\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/743400/IPOL_STU(2023)743400_EN.pdf).

<sup>7</sup> GREVIO General Recommendation No. 1 on the digital dimension of violence against women adopted on 20 October 2021.

opportunities; whereas disinformation campaigns often try to discredit the professional achievements of women by spreading fake stories about their personal lives; whereas when reporting cyber violence, women are still sometimes discredited and stigmatised, resulting in these crimes being under-reported and underestimated; whereas the monitoring of the voluntary EU Code of Conduct on countering illegal hate speech online has seen a decrease in companies' notice-and-action results in 2022<sup>8</sup>, and support for the Code of Conduct has further diminished, leading to a worsening online situation;

- E. whereas multiple factors, such as patriarchal societal structures, structural discrimination, unequal power relations, gender stereotyping and gender biases, fuel hate speech and hate crimes against women and gender non-conforming people; whereas they experience this hate online, but also offline in a variety of settings, including in public spaces, the workplace, schools or on public transport;
- F. whereas femicide is the most severe manifestation of gender-based violence; whereas in 2020, it is estimated that 2 600 women were killed by intimate partners or other family members in Europe; whereas the number of victims is estimated to be much higher, as there is a lack of comparative data and no harmonised legal definition of the crime; whereas, at present, 15 Member States do not have gender-based hate speech legislation; whereas statistics show that hate speech against LGBTIQ+ people is pervasive, in particular online, and there is a notable absence of laws in some Member States to prevent, address and penalise such forms of hate speech and hate crime;
- G. whereas anti-gender organisations are international movements that spread misleading, fearful messaging and rhetoric, particularly through the use of online tools, against anyone who does not fit the binary, gender-stereotypical and traditional vision of the heteronormative, cis-normative, patriarchal society, as is the case with the ongoing campaign against so-called 'gender ideology'; whereas these movements have the purpose of creating and perpetuating discrimination based on, among others, sex, sexual orientation, gender identity, gender expression, and sex characteristics, thereby violating fundamental rights; whereas the rhetoric propagated by anti-gender movements actively contributes to marginalisation, stigmatisation, exclusion and violence; whereas these movements create an 'anti-gender' ideology and discourse that fuels gender-based hate crime and hate speech against women and LGBTIQ+ persons; whereas these movements pose a significant threat to the principles of equality, non-discrimination, human dignity and respect for human rights enshrined in Article 2 TEU, they have hindered the process of the EU's ratification of the Istanbul Convention and have negatively affected the ratification and implementation of the Istanbul Convention at national level in some Member States; whereas these movements have a cross-border dimension, online as well as offline;
- H. whereas hate speech often starts as an act of bias, which can then lead to motivated aggression and violence; whereas gender-based hate speech and hate crime have enormous consequences for individual women and LGBTIQ+ people, seen as transgressing traditional gender roles, particularly those facing intersectional discrimination<sup>9</sup>, including physical harm, sometimes resulting in severe injury or death,

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<sup>8</sup> Press release, 24 November 2022, 'EU Code of Conduct against online hate speech: latest evaluation shows slowdown in progress', available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_7109](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7109).

<sup>9</sup> Trans Murder Monitoring Update on Trans Day of Remembrance 2022, available at:



and psychological harm, including stress, anxiousness and depression; whereas gender-based hate speech and hate crime also have enormous consequences for communities and society as a whole, as well as for human rights globally;

1. Condemns all forms of hate speech and hate crimes, including those committed against women, girls and LGBTIQ+ persons; condemns the actions of anti-gender and anti-feminist movements in Europe and worldwide that aim to overturn existing laws and public policies protecting women's rights and LGBTIQ+ rights; observes that Member States have diverging rules and apply different standards to counter hate speech and hate crimes; stresses however, that common EU action is needed in order to ensure the promotion of EU values; calls on the Council to conclude a Council decision including hate speech and hate crimes as an area of crime within the meaning of Article 83(1) of the Treaty on the Functioning of the European Union as soon as possible;
2. Calls on the Commission to propose a clear definition of hate crime and hate speech, including an explicit definition of gender-based hate speech and hate crimes, which includes sexist and misogynous hate speech and related penalties, when legislation is proposed following the inclusion of hate speech and hate crimes in the list of 'EU crimes' in the Treaty, recognising that they are specific forms of violence directed against women and girls because of their gender; calls on the Commission to include offline and online gender-based hate speech and hate crime in the proposal; urges the Commission also to include sexual orientation, gender identity, gender expression and sex characteristics as discrimination grounds specifically covered by hate crime and hate speech as an area of crime under Article 83(1); considers such a measure to be essential to ensure the protection of women and LGBTIQ+ persons in the Union; calls on the Commission and the Member States to pay particular attention to the intersectional forms of gender-based hate speech and hate crime targeted at women, girls and the LGBTIQ+ community;
3. Welcomes the Commission proposal for a directive on combating violence against women and domestic violence, and the inclusion of minimum rules for the definition of the criminal offence of cyber incitement to violence or hatred; calls on the Commission to ensure that this directive serves as a model and a minimum standard when it comes to legislation tackling online hate speech and hate crimes; recalls the criteria laid down in the UN Rabat Action Plan regarding material qualifying as cyber incitement to violence or hatred; regrets that we still do not have a common definition of gender-based violence and violence against women, and that the offences covered in the Commission proposal are limited; requests that the Commission submit, on the basis of Article 83(1), third subparagraph, TFEU, a proposal for a Council decision identifying gender-based violence as a new area of crime with a view to combating all forms of gender-based violence in a coherent, holistic and coordinated way across the EU; calls on the Council to activate the passerelle clause by adopting a unanimous decision identifying gender-based violence as one of the new areas of crime listed in Article 83(1) TFEU;
4. Recalls that the proposals for legislation on combating violence against women and domestic violence, as well as the legislation combating child sexual abuse online, include provisions related to some important aspects of hate speech and hate crimes

online and offline;kerr

5. Stresses the link between online and offline hate speech and hate crime, following the rapid development of the digital world and social media platforms, primarily targeting young women and women; notes that presumed anonymity online makes it easier for people to engage in hate speech and hate crime;
6. Calls on the Commission to actively research, analyse and report on anti-gender movements within three years, including their strategies and funding, as well as combat the misinformation that they spread; recalls that the labelling of LGBTIQ+ people as an 'ideology' is growing in online and offline communication, and in campaigns against so-called 'gender ideology'; highlights that feminists and LGBTIQ+ activists are often the targets of defamation campaigns, online hate speech and cyberbullying;
7. Calls on the Commission and the Member States to improve the regular availability and comparability of quality, disaggregated data on all forms of hate speech and hate crimes at Union and national level, and to harmonise data collection systems among Member States through cooperation with Eurostat, the European Union Agency for Fundamental Rights and the European Institute for Gender Equality; stresses that Member States need to collect accurate disaggregated data on hate speech and hate crimes against women and LGBTIQ+ persons, and to interrelate the factors and multiple layers of deprivation, disadvantage and discrimination that make them vulnerable to hate speech and hate crime;
8. Calls on the Member States to tackle the problem of under-reporting and the issues victims are facing in obtaining access to criminal procedures and protection, in a gender-sensitive way;
9. Recalls the need to address the underlying causes of hate speech and hate crimes against women, girls and LGBTIQ+ people, and emphasises the importance of adopting comprehensive measures and broad policies in a gender-targeted way, also addressed specifically to boys and men; stresses that these measures should include mandatory, recurrent, effective and evidence-based capacity-building training aimed at professionals who are likely to come into contact with victims, in order to provide human rights-based, intersectional and gender-sensitive targeted support and to prevent secondary victimisation and stigma; recalls the need for effective prevention strategies, awareness raising and education and training<sup>10</sup> to ensure protection, access to justice, specialised support services and reparation to victims, minimise the risk of hate speech and hate crimes and to allocate appropriate resources for their implementation;
10. Calls on the Member States to develop specific educational programmes, including comprehensive, age-appropriate, sexuality and relationships education curricula, which focus on creating awareness of gender biases, stereotypes and the resultant expectations about appropriate roles in society that can lead to gender-based hate speech and hate crime, including resilience campaigns and awareness raising aimed at countering hate speech, disinformation, fake news and fear-inciting speech; calls on employers and other stakeholders, as well as governments, to fully play their role in this regard;

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<sup>10</sup> Council of Europe, Recommendation CM/Rec(2022)16 on combating hate speech, 2022.

11. Welcomes the work of the EU High Level Group on combating hate speech and hate crime and, in particular, its key guiding principles on cooperation between law enforcement authorities and civil society organisations, and acknowledges the importance of such an approach<sup>11</sup>; calls on the Commission to revise the Code of Conduct in line with the obligations of the Digital Services Act and to tackle disinformation and hate speech, alongside launching a large-scale campaign headed by the Commission, Member States and tech and social media platforms in order to spread awareness of human rights-compliant online content moderation and specifically of reporting, flagging and notifying practices in order to empower both victims and bystanders of online hate speech and fear-inciting speech;
12. Calls on Member states and the Commission to support civil society organisations fighting all forms of online and offline gender-based violence, particularly those that provide victim support services, including by providing financial support; calls on the Commission and the Member States to promote ethical and privacy-by-design development and the use of technological solutions that support victims and help them to regain agency, and that contribute to protecting victims in the online space; calls for the full accountability of perpetrators and for the promotion of programmes addressed to perpetrators, aimed at ensuring safe relations and pro-social behaviour; stresses the need for special programmes to promote the respect of fundamental rights in the online space, in line with EU rules, with special regard to developing digital education, literacy and skills in order to equip users to fight against the dangers of the digital space, as well as to manage their responsibilities when interacting within it, particularly in social media platforms, and to ensure the safe use of the internet;
13. Stresses again that EU-wide measures are needed to reinforce the existing standards and to encourage measures to engage in counterspeech and counteract hate speech and hate crime, along with adequate protection for the victims of such crimes, through the creation of a solid framework and institutional network alongside soft measures or self-regulation that will serve to build social resilience against hate speech; recalls that in the EU budget, the Citizens, Equality, Rights and Values programme includes specific funding to promote equality and to fight against racism, xenophobia and discrimination, including hate crime and hate speech.

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<sup>11</sup> Available at:  
[https://commission.europa.eu/system/files/202303/KGP%20on%20cooperation%20LEAs%20CSOs\\_final.pdf](https://commission.europa.eu/system/files/202303/KGP%20on%20cooperation%20LEAs%20CSOs_final.pdf).

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	24.10.2023
<b>Result of final vote</b>	+ : 21 - : 2 0 : 0
<b>Members present for the final vote</b>	Robert Biedroń, Annika Bruna, Gwendoline Delbos-Corfield, Rosa Estaràs Ferragut, Frances Fitzgerald, Lina Gálvez Muñoz, Alice Kuhnke, Elżbieta Katarzyna Łukacijewska, Radka Maxová, Andželika Anna Mozdżanowska, Johan Nissinen, Maria Noichl, Carina Ohlsson, Sirpa Pietikäinen, Evelyn Regner, Christine Schneider, Sylwia Spurek, Elissavet Vozemberg-Vrionidi, Marco Zullo
<b>Substitutes present for the final vote</b>	Elena Kountoura, Monika Vana, Angelika Winzig
<b>Substitutes under Rule 209(7) present for the final vote</b>	Martin Hojsík

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ECR	Andželika Anna Mozdżanowska
PPE	Rosa Estaràs Ferragut, Frances Fitzgerald, Sirpa Pietikäinen, Christine Schneider, Elissavet Vozemberg-Vrionidi, Elżbieta Katarzyna Łukacijewska, Angelika Winzig
Renew	Martin Hojsík, Marco Zullo
S&D	Robert Biedroń, Lina Gálvez Muñoz, Radka Maxová, Maria Noichl, Carina Ohlsson, Evelyn Regner
The Left	Elena Kountoura
Verts/ALE	Gwendoline Delbos-Corfield, Alice Kuhnke, Sylwia Spurek, Monika Vana

2	-
ECR	Johan Nissinen
ID	Annika Bruna

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	13.11.2023
<b>Result of final vote</b>	<div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="text-align: right; padding-right: 10px;"> +: -: 0: </div> <div style="text-align: right;"> 36 5 1 </div> </div>
<b>Members present for the final vote</b>	Abir Al-Sahlani, Malik Azmani, Pietro Bartolo, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Damien Carême, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Maria Grapini, Sylvie Guillaume, Evin Incir, Sophia in 't Veld, Jeroen Lenaers, Juan Fernando López Aguilar, Erik Marquardt, Birgit Sippel, Sara Skyttedal, Annalisa Tardino, Milan Uhrík, Tom Vandendriessche, Elena Yoncheva
<b>Substitutes present for the final vote</b>	Jan-Christoph Oetjen, Anne-Sophie Pelletier, Dragoș Tudorache, Maria Walsh
<b>Substitutes under Rule 209(7) present for the final vote</b>	Petras Auštrevičius, Katalin Cseh, Ciarán Cuffe, Marie Dauchy, Estrella Durá Ferrandis, Cyrus Engerer, Malte Gallée, Niclas Herbst, Martin Hojsík, France Jamet, Bernd Lange, Nathalie Loiseau, Jutta Paulus, Laurence Salliet, Ivan Štefanec

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

36	+
PPE	Vasile Blaga, Karolin Braunsberger-Reinhold, Niclas Herbst, Jeroen Lenaers, Sara Skytvedal, Ivan Štefanec, Maria Walsh
Renew	Abir Al-Sahlani, Petras Auštrevičius, Malik Azmani, Katalin Cseh, Lucia Ďuriš Nicholsonová, Martin Hojsík, Sophia in 't Veld, Nathalie Loiseau, Jan-Christoph Oetjen, Dragoș Tudorache
S&D	Pietro Bartolo, Estrella Durá Ferrandis, Cyrus Engerer, Maria Grapini, Sylvie Guillaume, Evin Incir, Bernd Lange, Juan Fernando López Aguilar, Birgit Sippel, Elena Yoncheva
The Left	Cornelia Ernst, Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Ciarán Cuffe, Malte Gallée, Erik Marquardt, Jutta Paulus

5	-
ID	Marie Dauchy, France Jamet, Annalisa Tardino, Tom Vandendriessche
NI	Milan Uhrík

1	0
PPE	Laurence Sailliet

Key to symbols:

+ : in favour

- : against

0 : abstention