

**Question for written answer E-008726/2013
to the Council**

Rule 117

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Subject: European Agency for Fundamental Rights - simple definition

With reference to your reply of 28 May 2013 (E-002952/2013) there is a reference to incitement to violence but the context and cases that have come before the courts suggest that incitement to hatred is a wider concept than incitement to violence. What sort of words would be covered by the former that do not extend to the latter?

The answer also makes reference to the words 'racism' and 'xenophobia'. This would seem to mean that, in the opinion of the Council, the two words mean the same thing. If they do, why have two words for the same offence?

Xenophobia means literally fear of strangers. Is it possible and, if it is, is it desirable to legislate against a state of mind? There are a number of difficulties:

1. How do you prove what a person's thoughts are? Perhaps the Orwellian concept of face crime would suffice.
2. States of mind, as distinct from actions and words are involuntary states. Would we wish to penalise people for something over which they have no control?
3. Does a state of mind have any anti-social consequences that we would wish to prevent?

The word 'racism' is just as problematic.

There is an academic definition used by sociologists and which appears in their dictionaries – referring to ideologies about racial differences – but the word is rarely used in this sense and is certainly not confined to this meaning.

To many – perhaps most – it is used to mean being motivated by racial hatred, a concept that seems to extend beyond incitement to racial violence, but we are not told how far it extends beyond it. These might appear to some to be nit-picking points but we are talking of creating criminal offences for the use of words, as distinct from acts, that might lead to the speaker or writer (usually speaking or writing in a political context) being sent to prison. Before that happens, we need to have defined the offence so clearly that nobody could commit it unintentionally. Furthermore, the lack of clarity might lead to people erring on the side of caution and simply not talking about immigration, ethnicity or related matters.

Why should incitement to hatred be restricted to circumstances in which the victim is defined by: race/ethnicity/nationality; sex or sexuality; religion or denomination? Could there not simply be an offence of incitement to hatred of people on any ground, including incitement to hatred because of political opinion?