



Monitoring and Detecting
Online Hate Speech

PRESS RELEASE

MANDOLA Study: E.U. Member States' Legislations Relating to Illegal Hatred Show Huge Disparities

The first FAQ on “Responding to on-line hate speech” was developed based on the study

November 28, 2016 - There are huge disparities between the EU Member States legislation in the field of illegal hatred, shows a study conducted under the MANDOLA project in over 1/3 of the EU countries. “Definition of illegal hatred and implications” investigates and compares the national legal framework in the light of International and European legislation in ten European countries - Bulgaria, Cyprus, France, Greece, Ireland, Spain, Netherlands, Belgium, Germany and Romania.

Based on the analysis was developed a Frequently Asked Questions Manual on “Responding to on-line hate speech”. The document presents the International and European legal instruments, the role of the different stakeholders and a list of over 20 frequently addressed questions and answers reflecting the important issues which affect users who are possible victims of hate speech or users who wish to understand this area more deeply. The area of hate speech online is also revealed through a range of sample court decisions.

The documents will be presented to experts from Law Enforcement, NGOs and industry, during a workshop on December 15, 2016 in Brussels.

The study conclusions

The disparity between legislations of these 10 countries is mainly due to a lack of proper transposition of International and European legal instruments, to correct transpositions that have not been done the same way (international and European instruments permitting a certain leeway), and to the differences that exist between these legal instruments, differences that are sometimes maintained at the domestic level, along with pre-existing national provisions, the study says. This may lead to the punishment, non-punishment or lower punishment of certain behaviours or of certain grounds motivating the behaviour,



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depending on the precise circumstances that surround the potential offence, even in one single country, and depending on the country that will be competent to judge the case.

National legislation comparison

For this first comparison of legislations, the choice has been made to include all the penal offences (and sometimes civil or administrative torts) that might clearly be committed for hatred-related reasons, which explains the broad extent of behaviours that are referenced below. Within this context,

1. Five behaviors are illegal in all or almost all studied EU Member States:

- Publicly inciting hatred or violence or discrimination directed against a group of persons or a member of such a group (a) determined on the grounds of their race, national or ethnic origin, and (if used as a pretext for any of the other factors) religion, (b - only in three countries out of 10) if the incitement is either carried out in a manner likely to disturb public order, or public peace, or which is threatening, abusive or insulting. An important number of countries add additional illegal grounds such as sexual orientation (6 countries out of 10), gender or disability. One country punishes the action whatever the ground.
- Making available to the public, through a computer system, (in 8 to 10 countries out of 10) xenophobic or racist material which incites hatred or violence or discrimination, or (in 4 to 5 countries out of 10) which promotes hatred, discrimination or violence, mostly for the same grounds as mentioned above.
- Publicly insulting a person or a group of persons by reason of their race, or their national or ethnic origin or religion is prohibited or covered in 10 countries but only 6 of them accept both one person or a group as a victim. Some countries may add additional requirements such as the intent to provoke a breach of the peace. In a majority of countries, the behaviour is illegal whatever the ground, but in some of them particular grounds may be taken into account as aggravating circumstances.
- Public defamation is prohibited in 10 countries, penally in 8 of them, on some specific grounds or on any ground depending on the country, and in the latter case particular grounds may be taken into account in some countries as aggravating circumstances
- Direct or indirect discrimination for certain grounds (differing from country to country), including harassment, in certain specified areas, is fully or partly covered in all countries. 7 countries provide for penal provisions, the 3 other provide for civil and/or administrative ones.

2. Over half of the studied countries have determined the following behaviour as illegal or partly illegal:

- Establishing or participating in organisations that promote or incite discrimination or violence or hatred. Illegal motivations that are common to all the countries that prohibit at least partly the behaviour are race, or national or ethnic origin (covered in 9 countries out of 9). Moreover, religion is fully covered in 7 countries.



- Publicly condoning, denying or grossly trivialising crimes against peace, crimes of genocide, crimes against humanity and war crimes. This behaviour is totally prohibited or covered in 1 country out of 10, mainly or partly prohibited/covered in 5 countries out of 10, limited to the holocaust / National Socialism in 3 countries, and not prohibited in 1 country. Specific circumstances are required in certain countries, including illegal motivations, the most common being race, national or ethnic origin, religion, and (missing in only 1 country out of the 9 that cover at least partially the infringement) colour and descent.
- Sending of grossly offensive and/or indecent or obscene or menacing character messages or whatever other content, is fully or partly prohibited in 6 countries out of 10. The exact nature of the contents that are prohibited vary widely, and only one country requires specific perpetrator's motives such as (inter alia) beliefs, race or gender.
- Direct public incitement to commit any offence or crime, for any ground, is fully or partly prohibited in 8 countries out of 10. In certain of these countries specific motivations are an aggravating circumstance on the basis of a general provision mentioned above.
- Threatening a natural person, motivated by racism or xenophobia, through a computer system, is totally covered in 2 countries and partially covered in 8 countries. Common illegal motivations are race, national or ethnic origin, religion, colour and descent.
- Certain illegal motivations are an aggravating circumstance of all the penal infringements in 5 countries out of 10, and of certain penal infringements in 3 countries out of 10. Motivations considered as illegal include *inter alia* race national origin / nationality; ethnic origin (8 countries out of 8); religion (7 countries); gender and sexual orientation (6 countries); political beliefs and handicap (5 countries); age, philosophical beliefs (4 countries).
- Insult to religion or to God is prohibited in 4 countries and partly prohibited in 3 other countries.

3. The following behaviours are defined as illegal only in one or a small percentage of the studied countries:

- Sending a message, or whatever content, which can cause annoyance, harassment and / or needless anxiety to another person, which the sender knows to be false, for any ground. This behaviour is fully prohibited in 1 country (in which sanctions are aggravated in case of illegal motivations).
- Promotion or public incitement to hostility or violence between communities is prohibited or covered only in 2 countries, in case of specific motivations or for any ground (and, in this case, some illegal grounds are an aggravating circumstance).
- Recording of images of the commission of a crime or offence against a person, for any ground and by any means is prohibited in 1 country and might be partly covered in 3 additional countries (of which 2 countries provide for aggravating circumstances in case of illegal motivations).
- Realising a montage with the talk or the images of a third party without his or her consent, if it is not obvious that it is a montage or if it is not specified that it is a montage, for any ground. This behaviour is prohibited or covered in 2 countries (of



- which 1 country provides for aggravating circumstances in case of illegal motivations).
- To misuse / usurp someone else's identity, for any ground. This behaviour is prohibited in 2 countries (of which 1 country provides for aggravating circumstances in case of illegal motivations).

Methodology

The analysis is based on questionnaires send to legal experts in each of the participating countries. On the basis of their answers, a table that enables to compare legislations has been created (and annexed to "Definition of illegal hatred and implications"). As a first conclusion of this table, illegal behaviours have been classified into three categories: (1) behaviours that are illegal in all or almost all the studied E.U. Member States, (2) behaviours that are illegal or partially illegal in a majority of these countries; and (3) behaviours that are illegal in a minority of these countries.

The two documents: "Definition of illegal hatred and implications" and FAQ on "Responding to on-line hate speech" are available here: <http://mandola-project.eu/publications/>

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About the project:

MANDOLA (Monitoring ANd Detecting OnLine hAte speech) is a 24-months project (October 2015 - September 2017), co-funded by the Rights, Equality and Citizenship (REC) Programme of the European Commission. The project is led by the project coordinator FORTH (Foundation for Research and Technology – Hellas) in a consortium with Aconite Internet Solutions (Ireland), the International Cyber Investigation Training Academy (Bulgaria), Inthemis (France), the Autonomous University of Madrid (Spain), the University of Cyprus (Cyprus) and the University of Montpellier (France). MANDOLA aims at improving the public understanding of how on-line hate speech prevails and spreads. The project also aims at empowering ordinary citizens to report hate speech.

For more information please check <http://mandola-project.eu>

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