



EU Legislation combating hate speech

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Outline

- ❖ The **legal framework**: the Treaties and the EU Charter of Fundamental Rights
- ❖ The **Framework Decision on racism and xenophobia**
- ❖ **Other EU legislation and tools** combatting hate speech
- ❖ **Current initiatives** to combat hate speech.

The Treaties and the EU Charter of Fundamental Rights

- **General provisions** on EU founding values and EU's objectives
- **EU principle of non-discrimination**
- **Relevant provisions of the EU Charter** within their scope of application

The Right of Freedom of expression

- **Article 11 of the EU Charter:** Freedom of expression and information
- **ECtHR:** freedom of expression also protects speech which "*Offends, shocks or disturbs the State or any sector of the population*".
- **But:** States may sanction or even prevent *genuine and serious incitement to violence and hatred*

The Framework Decision on racism and xenophobia

- **Framework Decision 2008/913/JHA adopted in 2008** to lay down a common approach to a common phenomenon by means of criminal law
- **Scope:** Certain **intentional forms of hate speech and hate crime** committed with a **bias motivation related to the race, colour, religion, descent or national or ethnic origin** of the victims

Combating hate speech under the Framework Decision:

- Obligation to criminalise the **public incitement to violence or hatred**, including by public dissemination or distribution of tracts, pictures or other material (Article 1).
- Punishment **may be limited** to conduct 'carried out in manner likely to disturb public order or which is threatening, abusive or insulting'
- **Aiding and abetting** must also be punished (Article 2)

- Obligation to provide for **effective, proportionate and dissuasive penalties** (Article 4)
- Both **natural persons** and **legal persons** shall be held liable (Article 5)
- Both **offline and on-line hate speech.**
- Investigations into or prosecution of the conduct **should not depend on a report or an accusation made by a victim** (Article 8)
- **General rules on jurisdiction**, which oblige Member States to ensure that jurisdiction can be established also when the conduct is committed through an **information system** (Article 9)

Ongoing work on implementation:

- The implementation deadline expired in November 2010: **all Member States have now notified their transposing legislation**
- **Implementation report** published in January 2014
- The Commission **formally acquired enforcement powers since 1 December - bilateral dialogues** with all Member States have started



Other EU legislation and tools combatting hate speech



The Audiovisual Media Services Directive and Hate Broadcasts

- **Article 6:** MS shall ensure that Audiovisual media services provided under their jurisdiction do not contain any incitement to hatred based on **race, sex, religion or nationality**.
- **Article 3:** MS may provisionally derogate from the freedom of reception if a television broadcast coming from another MS **manifestly, seriously and gravely** infringes Article 6. The same applies to third country broadcasts if they are available in the EU and come under the jurisdiction of a MS.

Financial support

Available **EU funding** to combat hate speech:

- the development of **efficient monitoring and reporting mechanisms for racist and xenophobic hate speech, including online hate speech**, and the **exchange of best practices to combat racism, xenophobia and other forms of intolerance**, with a focus on criminal law tools
- the development of programmes providing **support to victims**
- the **training of judges, prosecutors and other legal professionals**

Current Initiatives

Investigation and prosecution of individual cases of hate speech are the responsibility of national law enforcement authorities.

But:

- * **Infringement proceedings**
- * **Policy activities.**
- * Supporting the development of **efficient monitoring and reporting mechanisms**
- * **Digital Single Market Strategy**
- * **Prevention and counter-narratives – media literacy**

CONCLUSION

- **Growing problem** of hate speech, specially online hate-speech.
- Important **role of the media** to avoid hate speech and negative stigmatisation and stereotyping.
- **Commission's priority:** to enforce and correctly implement all the instruments available.



THANK YOU

