



GENHA BRIEFING NOTE

October 2020, N. 3

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Under the general aim of the GENHA project, the partners have identified the most important existing literature on the topic of hate speech, anti-gender, internet and extreme right political parties. It also identified the most relevant laws and public policies applicable to these items, together with the most important case law at national and European level.

Our analysis is based in Europe, but particularly in the countries involved in this project: Italy, Hungary, Germany, Sweden, and Spain.

We should note, that the pandemic situation of Covid-19 stopped some normal activities on this type of research: dissemination events, seminars, conferences, and also meetings between partners. Nevertheless, these obstacles did not stop us to find a way to work together, discuss, debate, and share our findings in a virtual way.

LITERATURE REVIEW FINDINGS

One interesting finding in the literature review was that none of the participating countries in the project have specific research connecting anti-gender hate speech, social media, and political parties. Most of the countries have an approach to hate speech or anti-gender hate speech, but non a specific study on the matter.

However, important points could be mentioned this literature review:

First, victim behaviors. Many of them do not even know they are victims of illegal activities and they do not believe the police can do anything about these abuses. Literature and research focus on the uncertainty regarding what is illegal and what is not and how different types of attacks should be covered.

Second, the tension between freedom of expression and hate speech. It seems that often the right to freedom of expression is being used as a pretext to hide (especially via social media) this problem.

And third, a problem around the limits of fundamental rights. For instance, the limitation of freedom of expression, and other limitations are per se negative and something that



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should be avoided. But freedom of expression should not be an excuse to be used for any forms of discrimination and harassment against women or a preclude law enforcement to protect them.

Indeed, the literature review shows us that the existing legislation should be used more for two reasons: to better protect the victims, and to refer to the symbolic value of the law: this abuse is not acceptable. The scope of the legal definition is of great importance, i.e. that sexist hate speech should be considered a hate crime.

LEGAL FRAMEWORK AND PUBLIC POLICIES ACROSS THE PARTICIPATING COUNTRIES

Common issues on the **Constitution's analysis** refer to the concepts of equality and non-discrimination before the law but gender identity, sexual identity or sexual orientation might not always be explicitly mentioned. Only in some countries is sex equality mentioned.

Regarding **hate speech**, it has only appeared as an aggravating circumstance (not a crime) in the Criminal Codes of Germany, Hungary, Spain, and Sweden. Particularly in Sweden the Criminal Code includes anti-gender as an aggravating circumstance.

On this topic, Germany is the only country that has a **specific law** on hate crimes, hate speech on the Internet, and social media.

Regarding hate crime, they appear in the criminal codes of Hungary (albeit called as "against a community" not against an individual), Italy, Spain, and Sweden. But crimes motivated by sex, gender, sexual identity, or sexual orientation reasons are only actually explicitly mentioned in the Spanish Code.

Gender equality laws were identified in the majority of countries but, with different aspects and under different names. For instance, Hungary calls it equality between sexes, Italy do not include sexual orientation and gender identity and Spain does not have a mention of sex and sexual equality.

Specific laws on media freedom and/or freedom of expression were identified in Germany, Hungary, Spain, and Sweden. Although none of them explicitly mentioned potential attacks for gender reasons (Spain only includes sex reason).



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EUROPEAN CASE LAW ANALYSIS

Regarding the European Court of Human Rights, an extensive case law dealing with gender equality issues and sex, gender, gender identity, gender expression, sexual orientation and non-discrimination of the LGBTI, and even hate speech was identified.

Also, we found some cases on the ground of anti-gender hate speech in which the ECHR was analyzed. For instance, the Case Delphi AS v. Estonia, 16th June 2015 or the Case Beizaras and Levickas, 14th January 2020.

Related to domestic judgment, we found in the participating countries:

Italy. Racial and sexist hatred and sexual orientation and a significant case about hate speech through social networks and freedom of speech.

Spain. Many cases on gender issues and cyber-violence against women. And politics incited hatred against immigrants.

Germany. Incited hatred against high public profile women and politician's women. Also, cases that involve immigrants and refugees.

Sweden. Hatred motivated cases based on xenophobia. Agitation against a population group and gender-based violence.

Hungary. Racist hate speech and homophobic cases.

And related to **media case laws** it was identified the example of Hungary on the case of Képtelenség on EchoTV in 2009 in the ground of homophobic covered was important. Also, the case of the Morning Show program that making fun of rape, and the case of the daily newspaper Magyar Hirlap on their homophobic bias on their covers.

There are also other cases in Sweden involving media cases on agitation against a population group (Dnr:270-04-30) on 11th August 2004 and in Italy the "Laura Boldrini" online hate speech case against her.



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FUTURE STEPS IN 2020 AND 2021

Although the pandemic of covid19 continues, and the obstacles are beginning to become tiresome, the members of the Genha project, do not give up.

The next steps of the common research will be:

First, the pilot experience of Agenda Setting led by the German team (UE) on social media based in the University of Vienna together with the Central European University in Hungary. This pilot experience is based on an invisible exposure to an Agenda setting to change certain hate speeches on social networks.

Second, the analysis of the internal policies and protocols of the two important networks where the anti-gender hate speech moves (Facebook and Twitter). This will be led by the University of Gothenburg and the Autonomous University of Barcelona.

And third, a qualitative and quantitative analysis of the hate speech against the “ideology of gender” of one extreme-right political party on Twitter and Facebook in each of the participating countries, led by the Hungarian team (CEU).

The GENHA project and this briefing note were funded by the European Union’s Rights, Equality and Citizenship Programme (2014-2020).

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