



## Resolution 2144 (2017)<sup>1</sup>

# Ending cyberdiscrimination and online hate

Parliamentary Assembly

1. The internet is an exceptional tool and resource that has revolutionised many aspects of our lives and opened up powerful new channels of expression. Freedom of expression is one of the most important pillars of a democratic society, and it is crucial to preserve it, including on the internet. The internet must never become a space in which censorship drowns out dissenting voices, or where private companies dictate which and whose views can be heard.

2. At the same time, countless individuals are targeted every day by online hate. More and more first, second or third generation migrant children, as well as adopted and minority children, report experiences of racism as part of their everyday life. A person's real or supposed sex, colour, ethnicity, nationality, religion, migration status, sexual orientation, gender identity, political or other opinion, disability or other status may all serve as pretexts to make inflammatory and hateful statements, to harass and abuse a target, to stalk, threaten or incite psychological or physical violence against them. Hate speech is not limited to racism and xenophobia: it may also take the form of sexism, anti-Semitism, Islamophobia, misogyny, homophobia and other forms of hate speech directed against specific groups or individuals. Such forms of behaviour, which are not accepted offline, are equally unacceptable online. Just like the face-to-face world, the internet must provide space to be critical, without providing space for hate speech, including incitement to violence.

3. The European Court of Human Rights has found that the protection of freedom of expression under the European Convention on Human Rights (ETS No. 5) does not extend to racist or xenophobic speech. Other international instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of racist or xenophobic nature committed through computer systems (ETS No. 189), also address racist and xenophobic speech but do not cover all forms of hate speech; moreover, not all international standards have been universally accepted. However, although a single, harmonised definition of hate speech is not applicable across all Council of Europe member States, definitions of hate speech and discrimination exist in their domestic law. National legislation may thus already allow for effective measures to be taken against some forms of online hate, but it does not always cover all such behaviour or capture new forms of communication effectively. These gaps in the law must be addressed in order to provide effective protection against online hate.

4. Online hate is a reflection of hate in our societies. It is crucial therefore that strategies to eliminate hate in the online environment acknowledge and tackle hatred and intolerance in people's hearts and minds. In parallel, however, such strategies must also recognise and address the specificities of the online environment and of people's behaviour online, such as the scope for instant and broad dissemination of internet content, the ability to remain anonymous and the uninhibited interactions this can foster, and the difficulties inherent in taking legal action, where this is needed, in cases that frequently cross international borders.

5. Strategies to prevent and combat online hate must also recognise that the internet has become an omnipresent and indispensable communication tool, from which people cannot simply walk away in order to avoid abuse, especially where their job requires them to be in the public eye.

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1. *Assembly debate* on 25 January 2017 (5th Sitting) (see [Doc. 14217](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Marit Majj; and [Doc. 14242](#), opinion of the Committee on Culture, Science, Education and Media, rapporteur: Mr Volodymyr Ariev). *Text adopted by the Assembly* on 25 January 2017 (5th Sitting).

See also [Recommendation 2098 \(2017\)](#).



6. There is also a need to clarify the responsibility and role of internet intermediaries that provide the tools, forums and platforms on which internet communications occur, as regards preventing and combating online hate. In this respect, the Assembly emphasises that legislation in member States must be guided by the case law of the European Court of Human Rights.

7. In the light of the above, and bearing in mind the relevant recommendations made in its [Resolution 2069 \(2015\)](#) on recognising and preventing neo-racism, the Assembly calls on the Council of Europe member States:

- 7.1. in view of the international dimension of online communications, to:
  - 7.1.1. ratify, if they have not already done so, the Convention on Cybercrime (ETS No. 185) and its Additional Protocol, concerning the criminalisation of acts of racist or xenophobic nature committed through computer systems;
  - 7.1.2. work together to ensure that harmonised and comprehensive definitions of hate speech can be applied in cases of online hate, and draw in this respect on the recommendations of the European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation No. 15 on combating hate speech;
- 7.2. with regard to national legislation, to:
  - 7.2.1. ensure, in conformity with the case law of the European Court of Human Rights, that their national law allows for the effective prosecution of online hate speech, while fully respecting freedom of expression and in particular the freedom to criticise the actions of public authorities;
  - 7.2.2. ensure that national legislation covers all forms of online incitement to violence against a person or a group of persons, bullying, harassment, threats and stalking, so that these can be effectively prosecuted under national law;
  - 7.2.3. amend national legislation or policy guidelines wherever necessary to ensure that the full range of characteristics considered as grounds for protection under discrimination law are taken into account in online hate cases, including sex, colour, ethnicity, nationality, religion, sexual orientation, gender identity, political or other opinion, disability or other status;
- 7.3. with regard to the enforcement of national legislation, to:
  - 7.3.1. train police, prosecutors and judges on the seriousness of all forms of online hate, including online hate speech, bullying, harassment, threats and stalking;
  - 7.3.2. train and provide clear guidance to police on the need to record all reported incidents in this area and investigate them expeditiously and effectively, and on how to do so; such training and guidance should also explain the avenues of assistance available to the police where they lack the technical capacity to investigate themselves;
  - 7.3.3. provide training and clear guidance also to prosecutors and judges on the ways in which the existing law applies to cases of online hate;
  - 7.3.4. ensure that victims' complaints of online hate are taken seriously and that they receive full support in dealing with its consequences;
  - 7.3.5. provide instruments to identify online hate and promote its removal;
- 7.4. with regard to prevention, education and awareness raising, to:
  - 7.4.1. raise awareness in society about the extent and impact of online hate;
  - 7.4.2. recognise that children and young people are particularly vulnerable to the negative effects of cyberdiscrimination and online hate and it should thus be ensured that they are educated at an early age about both the exceptional possibilities and the challenges of online exchanges; also ensure that online competences are included as an essential element of school curricula;
  - 7.4.3. launch programmes and support initiatives from civil society and other relevant actors to encourage responsible use of the internet, to combat cyberbullying while also helping victims to handle it, to empower individuals to develop counter-speech and alternative narratives to online hate speech, re-establish dialogue and de-escalate online conflicts, and to mobilise networks of and build alliances among those working to combat online hate;

7.4.4. ensure that such initiatives and programmes are sustainably funded and designed to have a lasting impact on people's attitudes to online hate;

7.4.5. organise regular events to underscore the ongoing need to combat hate, for example by recognising 22 July as the European Day for Victims of Hate Crime, as called for by the Assembly in its [Recommendation 2052 \(2014\)](#) on counteraction to manifestations of neo-Nazism and right-wing extremism;

7.5. with regard to internet intermediaries, to:

7.5.1. ensure that the standards on freedom of speech set by the European Convention on Human Rights and the European Commission against Racism and Intolerance are applied to online communications in member States;

7.5.2. encourage internet intermediaries to establish clear and effective internal processes to deal with notifications regarding hate speech;

7.5.3. promote efforts by such intermediaries to ensure that content that amounts to online hate speech, bullying, harassment, threats or stalking on any of the grounds mentioned in paragraph 7.2.3 above is rapidly removed, without prejudice to the possibility of taking legal proceedings against its author;

7.5.4. encourage such intermediaries to take online hate speech seriously and to co-operate closely with the law-enforcement authorities, while respecting the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), in cases concerning online hate;

7.5.5. establish by law, where this has not already been done, the responsibility and role of internet intermediaries as regards the removal of online hate-motivated content, using as far as possible a notice-and-take-down approach.

8. Finally, the Assembly invites national parliaments to mobilise against hate speech and all forms of racism and intolerance, in particular through participating in initiatives such as the No Hate Parliamentary Alliance developed by the Assembly.