Factsheet

What is hate speech; Why is it important to counter all forms of hate speech; How to counter and report hate speech?

What is hate speech?

Hate speech is any communication in oral form (e.g. speeches, songs), in writing (printed, online, graffiti), through images (photos, videos, cartoons, murals, billboard), or behaviour, that attacks or uses pejorative (offensive, degrading) or discriminatory language or images towards a person or a group because of who they are or are perceived to be.

Individuals or groups can be the targets of hate speech based on their religion, ethnicity, nationality, race, colour, origin, descent, gender, sexual orientation, health conditions and other factors.

In Bosnia and Herzegovina, the most frequent forms of hate speech target individuals or groups based on their ethnic background and / or religion and gender. A specific form of hate speech in Bosnia and Herzegovina has been the condoning, gross minimization and denial of war crimes, crimes against humanity and genocide perpetrated during the 1992–1995 conflict and established beyond reasonable doubt by international tribunals. Another specific and widespread form of hate speech is the glorification of individuals convicted for war crimes, crimes against humanity and genocide by international and domestic courts. Such glorification has taken the forms of murals and graffiti, slogans (often used in the context of football matches), songs, as well as names of public sites. The denial of the Holocaust (see General Assembly resolution 76/250)¹ is also a form of hate speech.

¹ https://undocs.org/A/RES/76/250
Is hate speech illegal?

While not all forms of hate speech are prohibited under international and domestic law, any form of hate speech may be harmful and should be countered as it implies discrimination and is an attack on the dignity of those targeted.

In any society, not least in post-conflict contexts, hate speech (further) undermines social cohesion, fosters or entrenches discrimination, creates or deepens divisions, and can lay the foundation for violence or recurrence of conflict. If widespread and not addressed, hate speech undermines peace, stability, sustainable development, and the fulfillment of the human rights of all. That is why it is critical for all relevant authorities to take all possible measures to counter hate speech by addressing its manifestations and root causes.

Hate speech that incites violence is prohibited under international and domestic law. In particular, Article 20 of the International Covenant on Civil and Political Rights obligates States to prohibit by law any expression of national, racial or religious hatred that incites discrimination, hostility or violence. In practical terms, it means that States are obliged to develop and implement legislation that sets out criminal and other sanctions for these unlawful forms of expression. Such laws should not be used, however, to silence critical or dissenting voices and restrict the flow of information and opinions.

In May 2019, in order to raise awareness of the potential harm of hate speech, the United Nations Secretary-General launched the United Nations Strategy and Plan of Action on Hate Speech. Its objective is to enhance United Nations efforts worldwide to support governments and other stakeholders in addressing hate speech, including in tackling its root causes and impact.

Is hate speech protected under freedom of opinion and expression?

While not all hate speech is prohibited and punishable, all forms of hate speech may be harmful and should therefore be countered through addressing the root causes in order to prevent escalation into more dangerous forms.

Use of hate speech by political and religious leaders or other public figures is particularly serious, and individuals with public and otherwise influential roles in society have a particular responsibility not to use hate speech and to also systematically condemn and counter this phenomenon.

Hate speech that does not incite violence should be condemned as well because it is harmful to the victims, to the group they belong to, and fundamentally, to society. Such hate speech can be addressed by dealing with the root causes, including stereotypes and discrimination. It can be countered through awareness campaigns and education, among other measures.

Sexist hate speech relates to expressions which spread, incite, promote or justify hatred based on sex. Some groups of women are particularly targeted by sexist hate speech (notably young women, women in the media, politicians and human rights defenders), but social media have contributed to expanding occurrences of sexist hate speech targeting women and girls. This can be countered through sensitization and awareness raising on the importance of positive portrayals of women as active agents of change.

While countering hate speech, it is important to safeguard freedom of expression, including the right to criticize policies and express unpopular opinions. International standards on the protection of freedom of opinion and expression are important.

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expression thus include the protection of criticism or speech that is offensive, disturbing, demeaning or shocking, and do not permit limitations solely on the basis of an ‘offence’ caused to an individual or an identity-based group. As for any right, the right should be the norm, and restrictions should be the exception.

It is sometimes difficult to determine when hate speech has crossed the line and constitutes a prohibited form of speech that incites violence or discrimination. Human rights experts have developed a set of criteria in a document entitled the Rabat Plan of Action⁴ that can assist in determining which incidents of hate speech should be prohibited and punished. Among these criteria, it is important to examine the context of hate speech (e.g. a political crisis), the status of the speaker (notably to assess his/her influence), the intention, the content of the actual speech, how broadly it has been disseminated, and the likelihood of harm it can cause, in order to understand whether it constitutes incitement.

What does the legislation in Bosnia and Herzegovina say about hate speech?

The criminal codes of Bosnia and Herzegovina, the Federation and Republika Srpska entities, and the Brčko District, prohibit hate speech defined as public incitement to national, racial and religious hatred, violence and hostility. The criminal code of Republika Srpska includes additional grounds for hatred (skin colour, sex, sexual orientation, disability, gender identity, origin or other properties) and identifies specific public spaces, including digital space.

Moreover, the Law on the Prohibition of Discrimination of Bosnia and Herzegovina provides further protection in relation to hate speech as it implicitly defines hate speech as a prohibited form of discrimination. Under this law, instructing others to discriminate, assisting others in discrimination, and incitement to discrimination are prohibited forms of discrimination. The Gender Equality Law of Bosnia and Herzegovina further prohibits discrimination on the grounds of gender and sexual orientation and all forms of gender-based violence.

The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina prohibits all forms of discrimination based on religion or belief. It explicitly prohibits attacks or insults against religious officials, activities or actions aimed at the dissemination of hatred against any Church, religious community or its members, as well as incitement to, encouragement of, or calls for religious hatred and prejudices.

Since July 2021, the Law on Amendments to the Criminal code of Bosnia and Herzegovina prohibits the public condoning, denial, gross trivialization or attempts to justify a crime of genocide, crimes against humanity or a war crime adjudicated in final instance by international and domestic courts⁵, as well as the glorification of war criminals convicted by international and domestic courts⁶. This law is not retroactive.

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⁵ The Law on Amendments to the Criminal Code of Bosnia and Herzegovina subjects to criminal sanctions “whoever publicly condones, denies, grossly trivializes or tries to justify a crime of genocide, crimes against humanity or a war crime established by a final adjudication pursuant to the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945 or by the International Criminal Tribunal for the former Yugoslavia or the International Criminal Court or a court in Bosnia and Herzegovina, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group”.
⁶ The Law on Amendments to the Criminal Code of Bosnia and Herzegovina subjects to criminal sanctions “whoever gives a recognition, award, memorial, any kind of memento, or any privilege or similar to a person sentenced by a final
Across Bosnia and Herzegovina, under public peace and order laws, insulting language in a public place that jeopardizes the safety of citizens or generates insecurity constitutes a misdemeanour subjected to a fine.

Some specific laws also foresee sanctions. For instance, the Election Law of Bosnia and Herzegovina provides for sanctions (suspension or fine) against political entities (individuals or parties) for spreading hatred and incitement to violence, including through electronic media and internet, as well as gender-based stereotypes and otherwise offensive or humiliating behaviour or content. Yet, this only applies during the electoral campaign period, i.e. over a period 30 days that includes polling day.

**What should you do if you are a victim or witness of hate speech?**

**Reporting to the police**

If you have been targeted by hate speech (online or offline), you should contact the police and report it. Police officers should record this information in a report and confirm receipt of the report and registration of the protocol.

In case of offline hate speech, the statement to the police and the protocol must contain detailed information about the alleged offence: date, place, circumstances, as well as any distinctive features of the perpetrators (e.g. sex, age, weight and clothing). It should also provide specific information that indicates discriminatory elements, e.g. biased comments. Any context suggesting a motivation of bias or hatred towards a certain group will be key to ensure that the crime is classified appropriately.

**Notifying social media administrators**

If you have been subjected to hate speech on social media, it is important to immediately make a screenshot of the content as it may be deleted. You should also inform the social media administrators about the inappropriate content.

You can also report to the Human Rights Ombudsperson Institution and to human rights organizations working on these issues, especially if the police and/or social media administrators did not act upon your complaint/notification or provided an inadequate response.

You can also file a complaint with the following State institutions, depending on the type of hate speech, the medium and the context.

**Reporting to the Human Rights Ombudsmen Institution of Bosnia and Herzegovina**

The Human Rights Ombudsmen Institution of Bosnia and Herzegovina is the main State institution mandated to promote and protect human rights across the country.

If you have been subjected to hate speech, you can file a complaint for discrimination and seek protection from the Ombudsmen Institution. This is particularly relevant if the hate speech has been disseminated by public office-holders, civil servants and any other person or entity with official authority.

If the institution determines that the case constitutes hate speech in the form of prohibited discrimination, it
would issue an opinion and recommendation aimed at addressing the case, suggesting appropriate legal and other solutions to the competent institution(s) / authority.

Complaints can be submitted electronically through the website of the Human Rights Ombudsmen Institution, at https://www.ombudsmen.gov.ba/

The recommendations and reports of the Human Rights Ombudsmen Institution can be found at https://www.ombudsmen.gov.ba/

**Reporting to the Agency for Gender Equality of Bosnia and Herzegovina (under the Ministry of Human Rights and Refugees of Bosnia and Herzegovina)**

Under the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, the Agency for Gender Equality of Bosnia and Herzegovina is the State mechanism which, together with the Gender Centres of the Federation of Bosnia and Herzegovina and the Republika Srpska entities, is mandated to promote gender equality and protect women’s human rights.

If you have been subjected to sexist hate speech and misogyny by public office–holders, civil servants and any other person or entity with official authority, you can file a complaint for gender-based discrimination and violations of the provisions of the Law on Gender Equality of Bosnia and Herzegovina.

If any of the three gender equality mechanisms determine that the case constitutes hate speech in the form of prohibited gender-based discrimination, it would issue an opinion and recommendation aimed at addressing the case, suggesting appropriate legal and other solutions to the competent institution(s) / authority.

The Uniform Rules for Receiving and Processing Requests for Examination of Violations of the Law on Gender Equality of Bosnia and Herzegovina regulate the procedure for receiving and processing complaints. Complaints can be submitted electronically to the Agency for Gender Equality of Bosnia and Herzegovina, the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of Republika Srpska by filling in the form available at https://arsbih.gov.ba/o-agenciji/zahtjev-za-ispitivanje/.

**Reporting to the Communications Regulatory Agency of Bosnia and Herzegovina**

The Communications Regulatory Agency of Bosnia and Herzegovina is an independent State institution regulating the sectors of broadcasting, telecommunications and radio frequency spectrum. Its competences include licensing operators in the broadcasting and telecommunications sectors and overseeing implementation of rules and regulations in that area.

The Regulatory framework on programme standards that is obligatory for broadcasters consists of a Code on audiovisual media services and radio media services and a Code on commercial communications. Both include provisions that explicitly prohibit programme content that “humiliates, intimidates, or incites hatred, violence or discrimination against persons or groups based on gender, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social origin, or based on any other circumstance with the purpose or consequence to disable or endanger the recognition, enjoyment or exercise, on an equal basis, of any person’s rights and freedoms”. Under the Code on audiovisual media services and radio media services, the only exception to include such content is if the purpose is to critically point out such actions.

The Communications Regulatory Agency acts either upon complaints or ex officio. If it establishes violations of the rules, it can impose sanctions that include oral and written warnings, financial penalties, or suspension or revocation of license. The Council of the Communications Regulatory Agency acts as second-instance body.
related to all decisions of the Agency. Administrative dispute procedures can be initiated before the Court of Bosnia and Herzegovina.

Anyone (natural persons and legal entities) can file a complaint with the Communications Regulatory Agency related to hate speech observed in audiovisual and radio media services. Complaints can be submitted electronically through the website of the Agency, at https://rak.ba/.

The decisions of the Communications Regulatory Agency, as well as reports on violations of rules and regulations are available at www.rak.ba.

**Reporting to the Central Election Commission of Bosnia and Herzegovina**

The Central Election Commission of Bosnia and Herzegovina is an independent body mandated to conduct election–related activities and to oversee the conduct of political parties, coalitions and candidates during election campaigns.

Anyone can file a complaint to the Central Election Commission in case candidates, members of political parties and coalitions, supporters of political parties and election administration officials, or those otherwise hired in the election administration, use language which could provoke or incite violence, spread hatred, or publish or use pictures, symbols, audio and video recordings, SMS messages, Internet communications or any other materials that could have such an effect.

In case it has determined a violation of the Election Law of Bosnia and Herzegovina, the Central Election Commission can impose financial sanctions as well as removal of individuals or a party from running for elections. The decisions of the Central Election Commission can be appealed, and the final decision is made by the Court of Bosnia and Herzegovina.

Complaints can be submitted electronically through the website of the Central Election Commission, at https://www.izbori.ba/.

**Is it simple to report to these mechanisms and is it free?**

It is simple to report to all these mechanisms. All complaints can be filed online, by email, via postal mail, or by phone. Filing a complaint is free of charge.