

Targeted consultation: European Commission's initiative to include hate speech and hate crime in the list of EU crimes provided for in Article 83(1) TFEU

Fields marked with * are mandatory.

Introduction

[Article 83\(1\) of the Treaty on the Functioning of the European Union](#) (TFEU) lays down a list of areas of crimes ('EU crimes') in which the harmonisation of the definition of criminal offences and sanctions by the EU is possible under the ordinary legislative procedure. EU crimes refer to areas of particularly serious crimes with a cross-border dimension, resulting from the nature or impact of such offences or from a special need to combat them on a common basis. Article 83(1) TFEU also provides for the possibility for the Council to adopt - unanimously, after obtaining the consent of the European Parliament - a decision to identify further areas of crime that meet these criteria, based on "developments in crime".

As a result of the transposition of Council Framework Decision 2008/913/JHA, of 28 November 2008, on combating certain forms and expressions of racism and xenophobia by means of criminal law, all EU Member States have national laws in place criminalising hate speech and hate crime on the grounds of race, colour, religion, descent or national or ethnic origin.

In the perspective of strengthening the fight against hate speech and hate crime in Europe, President Von der Leyen announced[1] the Commission's intention to propose the extension of the list of EU crimes to hate speech and hate crime – whether because of race, religion, gender or sexuality. This commitment is reflected in the Commission President's [letter of intent](#), and the [2021 Commission Work Programme](#).

This key initiative, to be delivered in 2021, will also give effect to the EU Gender Equality Strategy 2020-2025[2] and the LGBTIQ Equality Strategy 2020-2025[3], which referred to the **extension of the list of EU crimes to cover hate speech and hate crime on grounds of sex and sexual orientation, respectively**.

The present questionnaire is targeted at national and international public authorities, key civil society organisations and networks, European networks of experts and research institutions, which have expertise on the national legal frameworks criminalising hate speech and hate crime and/or collect relevant data. The questions asked are meant to collect information and views on the current national legal frameworks and the landscape of hate speech and hate crime across Europe. In particular, the information to be collected on the scale, nature and impact of hate speech and hate crime will enable the Commission to assess whether these types of crime meet the criteria referred to in Article 83(1) TFEU, i.e. whether they are particularly serious crimes which have a cross-border dimension, and whether there are "developments in

crime” that justify their inclusion in the list of EU crimes.

The replies to the present **questionnaire will gather evidence, facts and information for this initiative** without either prejudging any action by the European Union or affecting the remit of its competences.

The European Commission will analyse the results of the consultation and will publish a summary of the contributions received in response to this survey.

For further information on this initiative, please see:

European Commission Roadmap: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12872-Hate-speech-hate-crime-inclusion-on-list-of-EU-crimes>

[1] [State of the Union Address by President von der Leyen, 16 September 2020](#)

[2] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

[3] https://ec.europa.eu/info/sites/info/files/lgbtiq_strategy_2020-2025_en.pdf

Instructions

The consultation will be open from **24rd February** to **10th April** at 00:00.

The consultation aims to gather information and data pertaining to individual Member States or aggregated at European level.

To provide information on several Member States, **separate replies to this questionnaire should be submitted for each Member State**.

Organisations operating or gathering information at European level, can submit such information in an aggregated manner, indicating which countries the data submitted relates to.

The consultation questionnaire should be completed only in English.

We encourage you to answer as many questions as possible, but even incomplete questionnaires will be taken into account. To finish the survey please click the “submit” button. If, in addition to completing this questionnaire, you wish to submit any relevant information, data or policy paper, please send it to JUST-NO-HATE@ec.europa.eu

Please refer to the privacy statement provided in the link in the right side of this page for information on data protection regarding this consultation.

We would like to thank you in advance for your time and input.

For any further questions, please contact JUST-NO-HATE@ec.europa.eu

Identification

*** What is the nature of your organisation?**

- ☐ EU Agency or body
- ☐ International organisation
- ☒ National public authority/administration
- ☐ National independent authority (e.g. independent body dealing with anti-discrimination policies, such as equality body, ombudsperson etc.)
- ☐ Judicial authority
- ☐ Public prosecution body
- ☐ Police
- ☐ Other law enforcement structure
- ☐ EU experts' network
- ☐ Civil society organisation
- ☐ Civil society network or umbrella organisation
- ☐ Research institution
- ☐ Other

Please specify the name of your organisation

* Name:

Ministerie van Justitie en Veiligheid

* Name of the contact person:

* Email address:

*** Please indicate the place of establishment of your organisation (main headquarters in case of multinational organisations):**

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Czech Republic
- ☐ Denmark
- ☐ Germany
- ☐ Estonia
- ☐ Ireland
- ☐ Greece
- ☐ Spain
- ☐ France
- ☐ Croatia
- ☐ Italy
- ☐ Cyprus
- ☐ Latvia

- ☐ Lithuania
- ☐ Luxembourg
- ☐ Hungary
- ☐ Malta
- ☒ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovenia
- ☐ Slovakia
- ☐ Finland
- ☐ Sweden
- ☐ Other

What is the nature of your work in the area of hate speech and hate crime?

[Multiple choice is possible]

- ☒ Developing policies on combating hate speech, including online, and/or hate crime;
- ☐ Receiving and handling reports on incidents of hate speech and hate crime;
- ☐ Investigation or prosecution;
- ☐ Providing support, advice and/or legal assistance to victims;
- ☐ Conducting research;
- ☐ Collecting data;
- ☐ Carrying out advocacy and/or public awareness work;
- ☐ Carrying out training activities;
- ☐ Other

Do you consent that parts of your reply to this questionnaire or of other written contributions you may provide be cited in documents related to this initiative (such as in the external study or Commission documents), including the express quotation of your organisation's identity? Please note that your full reply/contribution will not be published (only parts of your reply/contribution might be cited).

[Multiple choice is possible]

- ☒ Yes
- ☐ No
- ☐ I consent partially

*** Please indicate what national legal context you have expertise on/are familiar with/you are providing data about.**

NB: If you would like to describe more than one national legal framework you will have to submit another reply to this questionnaire. If you represent an organisation working at European level, you may select the option below "EU level" indicating for which countries you are submitting data. In this case, the section on the "national legal framework" may not be applicable for your organisation.

- ☐ Austria

- ☐ Belgium
- ☐ Bulgaria
- ☐ Czech Republic
- ☐ Denmark
- ☐ Germany
- ☐ Estonia
- ☐ Ireland
- ☐ Greece
- ☐ Spain
- ☐ France
- ☐ Croatia
- ☐ Italy
- ☐ Cyprus
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Hungary
- ☐ Malta
- ☒ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovenia
- ☐ Slovakia
- ☐ Finland
- ☐ Sweden
- ☐ European level

Section I - National legal frameworks on hate speech and hate crime

As a result of the transposition of [Council Framework Decision 2008/913/JHA](#), of 28 November 2008, on combating certain forms and expressions of racism and xenophobia by means of criminal law, all EU Member States have national laws in place criminalising hate speech and hate crime on the grounds of race, colour, religion, descent or national or ethnic origin.

Some Member States also criminalise hate speech and hate crime on other grounds, including sex/gender, sexual orientation, gender identity/sex characteristics, disability and age. This section of the questionnaire intends to collect information on the criminalisation, at national level, of hate speech and hate crime on these grounds.

To your knowledge, does the national legal framework of the Member State(s) you are familiar with contain a specific provision criminalising hate speech on grounds of:

[Multiple choice is possible]

- ☒ Sex/gender

- ☒ Sexual orientation
- ☒ Gender identity/sex characteristics
- ☒ Disability
- ☐ Age
- ☐ None of the above
- ☐ I don't know
- ☐ I do not have any expertise on the legal framework

Please indicate the legal provision in question and mention any further information you consider relevant:

The Netherlands Criminal Code, Part V. Serious Offences against Public Order

Article 137c

1. Any person who in public, either verbally or in writing or through images, intentionally makes a defamatory statement about a group of persons because of their race, religion or beliefs, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding one year or a fine of the third category.

2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding two years or a fine of the fourth category shall be imposed.

Article 137d

1. Any person who publicly, either verbally or in writing or through images, incites hatred of or discrimination against persons or violence against their person or property because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.

2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding four years or a fine of the fifth category shall be imposed.

Article 137e

1. Any person who, for any reason other than the provision of factual information:

1°. makes public a statement which he knows or should reasonably suspect to be offensive to a group of persons because of their race, religion or beliefs, their hetero- or homosexual orientation or their physical, mental or intellectual disability, or incites hatred of or discrimination against persons or violence against their person or property because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability;

2°. sends or distributes, without request, an object which he knows or should reasonably suspect to contain such a statement to another person, or has such object in store for public disclosure or distribution; shall be liable to a term of imprisonment not exceeding six months or a fine of the third category.

2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding one year or a fine of the fourth category shall be imposed.

Please provide more information on the definition/scope of the ground(s) marked in the previous question

NB: For example, the criminal offence of hate speech based on sex may also cover hate speech on the basis of gender identity.

The criminal offence of hate speech based on sex/gender may also cover hate speech on the basis of gender identity, gender expression and sex characteristic.

Article 1 par 2 Equal Treatment Act (with effect in criminal law):

“Distinction based on sex/gender also includes distinction based on sex characteristics, gender identity and gender expression.”

See also for instance: Court of Appeal Leeuwarden 13 January 1995, NJ 1995/243.

To your knowledge, is online hate speech criminalised in a specific, distinct, manner?

- ☒ No
☐ Yes
☐ I don't know

To your knowledge, does the national legal framework of the Member State(s) you are familiar with contain a specific provision criminalising hate crime on grounds of:

[Multiple choice is possible]

- ☐ Sex/gender
☐ Sexual orientation
☐ Gender identity/sex characteristics
☐ Disability
☐ Age
☐ All of the above
☒ None of the above
☐ I don't know

Please indicate the legal provision in question and mention any further information you consider relevant:

The Netherlands fully endorse the importance of the criminal justice authorities responding appropriately to hate crimes (i.e. offences motivated by discrimination). It is an element of criminal law policy for the Public Prosecution Service to demand heavier penalties for offences with a discriminatory aspect or discriminatory motivation. A penalty increase of up to 100% can be recommended. The Public Prosecution Service's guidelines are deemed legislation within the meaning of section 79 of the Judiciary (Organisation) Act (Wet op de rechterlijke organisatie). This shows that in practice the Netherlands implements the objective of combating hate crimes, that is to regard a discriminatory or racist motivation as an aggravating circumstance. As indicated by letter of 19 June 2018 (Parliamentary Papers, House of Representatives, 2017/18, 29 279, no. 442), it might be possible to augment existing policy by adding discriminatory motivation as an aggravating circumstance. An academic study has been commissioned to identify the advantages and disadvantages. The study has been published and has been forwarded to Parliament, including a policy statement. The study consists of two parts. The first part focuses on how neighbouring countries take discriminatory motivation into consideration as an aggravating circumstance and how this works in practice (comparative law analysis). The second part aims at gaining insight into the extent to which the enhanced policy focus over the past few years has contributed to the proper implementation of existing policy on aggravating circumstances for offences with a discriminatory motivation. Also, an assessment was made to determine whether policy can be enhanced in other ways to improve current methods.

Please provide more information on the definition/scope of the ground(s) selected in your reply to the previous question.

NB: For example, the criminal offence of hate crime based on gender may cover both hate speech against women as well as hate speech against transgender people.

It is the task of the Public Prosecution Service to maintain the criminal legal order. With regard to discrimination, this task is in the first instance framed by the criminal law provisions on discrimination and the protected interests that the legislator has aimed at with these criminal provisions: protection of public order, protection of the unimpeded social functioning of groups and protection of individuals. The "Public Prosecution Service's guidelines on discrimination" provide a framework and rules for the criminal law approach to discrimination. The guidelines also pertain to general offenses with a discrimination aspect, also known as 'codis' offenses. This concerns, for example, offenses such as assault, overt assault, simple insult, threat, incitement, vandalism, arson or manslaughter in which a discrimination aspect under Article 137c or Article 137d of the Criminal Code has played as a motive or cause, or has been used to commit the offense more persistently. If the discrimination aspect lies in a gender identity that does not match the sex of birth, this is also considered a general offense with a discrimination aspect.

To your knowledge, does the offence of hate crime on the ground(s) selected in your reply to the previous questions cover:

- ☒ All crimes committed with a bias motivation, which are criminalised under national law with a higher penalty;
- ☐ Only certain types of crimes or only crimes of particular seriousness (for example, hate crimes constitute a self-standing crime for only certain type of serious offenses)
- ☐ I don't know

Please indicate which penalties are laid down in the national legal framework for hate speech:

[Multiple choice is possible]

- ☒ A custodial sentence
- ☒ A financial penalty
- ☒ Other
- ☐ I don't know

If other, please specify:

Community service; criminal order of the PPO; settlement; disqualification from exercising a profession

Please indicate the minimum and maximum thresholds (e.g. 12 months):

The legislation of The Netherlands only contains maximum thresholds:

- defamatory statement about a group of persons (137c CC): term of imprisonment not exceeding one year or a fine of the third category
- incitement of hatred (137d CC): term of imprisonment not exceeding two years or a fine of the fourth category
- publication or distribution of discriminatory content (137e CC): term of imprisonment not exceeding six months or a fine of the third category
- community service: max 240h

Please indicate which penalties are laid down in the national legal framework for hate crime:

[Multiple choice is possible]

- ☐ A custodial sentence
- ☐ A financial penalty
- ☒ Other
- ☐ I don't know

If other, please specify:

Not applicable

To your knowledge, even if in the national legal framework there is no specific provision criminalising hate crime on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age, is there another criminal law provision of general application based on which national courts may nevertheless take into consideration the bias motivation of the perpetrator on such grounds when determining the criminal penalties?

NB: For example, the national criminal code may contain a provision of general application on the sentencing powers of the courts that allows them to take into account the motivation of the perpetrator when determining the criminal penalty.

- ☐ Yes
- ☒ No
- ☐ I don't know

To your knowledge, are there other, alternative means of justice for victims of hate crimes on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age?

The Criminal Code does not provide that racist motivation constitutes an aggravating circumstance for any criminal offence. When an offence with a racist or otherwise discriminatory motive has been committed, the discrimination aspect must be emphasised in the public prosecutor's demand and included as an aggravating condition in the demand. This has been laid down in the Discrimination Instructions of the Public Prosecution Service (OM).

The following applies to the mandatory nature of the policy rules of the Public Prosecution Service (OM): the Board of Procurators General can give general and special instructions with regard to tasks and powers of the Public Prosecution Service (article 130, paragraph 6 of the Judiciary Organisation Act). Instructions in particular concern the investigation, prosecution and execution policy. Instructions may also refer to the implementation of (investigative) tasks that are carried out by the police and other investigative authorities under the authority of the Public Prosecution Service.

Instructions have legal effect and commit the Public Prosecution Service on the basis of principles of a due process of law in so far as it concerns instructions that are suitable to be applied as legal rules according to their content and purport. It concerns instructions and rules that apply in general and are (or must be) applied. Citizens can therefore derive certain rights from them. In view of this, the instructions are published in the State Gazette and on the website of the Public Prosecution Service.

The introduction of a discriminatory objective as a legal basis for aggravation is a possible supplement to existing policy. An academic study has been commissioned to identify the advantages and disadvantages. The study has been published and has been forwarded to Parliament, including a policy statement. The study consists of two parts. The first part focuses on how neighbouring countries take discriminatory motivation into consideration as an aggravating circumstance and how this works in practice (comparative law analysis). The second part aims at gaining insight into the extent to which the enhanced policy focus over the past few years has contributed to the proper implementation of existing policy on aggravating circumstances for offences with a discriminatory motivation. Also, an assessment was made to determine whether policy can be enhanced in other ways to improve current methods.

Please provide the reference of the national law(s) criminalising hate speech and hate crime on the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age selected in reply to the previous questions, including the criminal law provisions of general application, where relevant.

The Netherlands Criminal Code, Part V. Serious Offences against Public Order
Article 137c

1. Any person who in public, either verbally or in writing or through images, intentionally makes a defamatory statement about a group of persons because of their race, religion or beliefs, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding one year or a fine of the third category.
2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding two years or a fine of the fourth category shall be imposed.

Article 137d

1. Any person who publicly, either verbally or in writing or through images, incites hatred of or discrimination against persons or violence against their person or property because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.
2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding four years or a fine of the fifth category shall be imposed.

Article 137e

1. Any person who, for any reason other than the provision of factual information:
 - 1°. makes public a statement which he knows or should reasonably suspect to be offensive to a group of persons because of their race, religion or beliefs, their hetero- or homosexual orientation or their physical, mental or intellectual disability, or incites hatred of or discrimination against persons or violence against their person or property because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability;
 - 2°. sends or distributes, without request, an object which he knows or should reasonably suspect to contain such a statement to another person, or has such object in store for public disclosure or distribution; shall be liable to a term of imprisonment not exceeding six months or a fine of the third category.
2. If the offence is committed by a person who makes a profession or habit of it or by two or more persons in concert, a term of imprisonment not exceeding one year or a fine of the fourth category shall be imposed.

Article 137f

Any person who takes part in, or who extends financial or other material support to activities, aimed at discrimination against persons because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding three months or a fine of the second category.

Article 137g

1. Any person who, in the exercise of his office, profession or business, intentionally discriminates against persons because of their race shall be liable to a term of imprisonment not exceeding six months or a fine of the third category.
2. If the offence is committed by a person who makes a habit of it or by two or more persons in concert, a term of imprisonment not exceeding one year or a fine of the fourth category shall be imposed.

Article 137h

If the offender commits any of the offences defined in sections 131 to 134 inclusive, 137c to 137g inclusive and 147a, in the exercise of his profession, he may be disqualified from practising that profession.

Part II. Minor Offences related to Public Order

Article 429quater

1. Any person who, in the discharge of his office, practice of a profession or in conducting a business discriminates against persons on the grounds of their race, their religion, their beliefs, their sex or their hetero- or homosexual orientation, shall be liable to a term of detention not exceeding two months or a fine of the third category.
2. Any person who, in the discharge of his office, practice of a profession or in conducting a business, undertakes or refrains from undertaking, for no reasonable grounds, certain acts which can have the purpose or effect in regard of persons with a physical, mental or intellectual disability of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the field of politics or economics, in social or cultural matters or any other area of social life, shall be liable to the same punishment.

To your knowledge, are there any plans at national level to amend the existing legislation in order to criminalise hate speech and/or hate crime on any of the grounds of sex/gender, sexual orientation, gender identity/sex characteristics, disability or age?

- ☐ No
- ☒ Yes
- ☐ I don't know

If yes, please specify, in particular, whether the legislative amendments envisaged relate to hate speech and/or hate crime and on which of the above mentioned grounds.

Hate speech: A draft bill amending hate speech offences was opened for public consultation from 29 September to 30 November 2020. This draft bill aims to (i) a change in formulation from “hetero or homosexual orientation” to a more inclusive term “sexual orientation”, (ii) make explicit that the existing ground “sex” may cover “sex characteristics, gender identity and gender expression” and (iii) broaden the scope of two specific hate speech offences – i.e. public insults directed against a group of persons or a member of such a group defined by reference to race, religion or beliefs, hetero or homosexual orientation or physical, mental or intellectual disability (Article 137c Dutch Criminal Code) and the distribution of such a statement as mentioned in (Article 137e) – by adding the ground “sex characteristics, gender identity and gender expression”. Comments received will be incorporated and this draft will then follow the normal legislative process.

Hate crime: In January 2021 a draft bill was brought before Parliament, aiming to introduce a criminal law provision of general application by which crimes committed with a discriminatory motive are criminalised with a higher penalty. This bias motivation may cover race, religion or beliefs, sex (including sex characteristics, gender identity and gender expression), sexual orientation and physical and mental or intellectual disability. The determinate term of imprisonment imposed on the basic offence may be increased by one third.

Section II - Information and data on the scale of hate speech and hate crime, related trends and developments

This section of the questionnaire is intended to collect information and views on the scale of hate speech and hate crime and related trends, including by collecting data on incidents of hate speech and hate crime during the period of 2015-2020, if possible disaggregated by ground and by year.

*** Does your authority, body or organisation record hate speech, including online, and/or hate crime incidents or collect other relevant data?**

- ☒ Yes
- ☐ No
- ☐ I don't know

*** Please specify which type of information is recorded or collected:**

[Multiple choice is possible]

- ☐ Data on hate speech online reported to social networks and other platforms;
- ☒ Data on incidents reported to police, independent bodies or civil society organisations;
- ☐ Data on investigations of incidents;
- ☒ Data on prosecutions;
- ☐ Data on convictions;
- ☐ Other

*** Is the information publicly available?**

- ☐ No
- ☒ Yes

☐ I don't know

* If yes, please add the name of the publication:

Data police and anti-discrimination bodies: Discriminatiecijfers [year]
Data public prosecutor's Office: Cijfers in Beeld [year]

* **Is the data disaggregated by grounds (i.e. race, religion, sexual orientation, etc.)?**

☒ No

☐ Yes

Please provide the data you collect, if possible, for the period 2015-2020. Please indicate which period the data relates to and, if possible, disaggregate per year.

*** In your view, do official statistics on incidents reported to and/or recorded by law enforcement (or other authorities) reflect the real number of incidents on hate speech and/or hate crime occurring in the Member State(s) you are familiar with?**

- ☐ Yes
☒ No
☐ I don't know

*** If no, please explain further:**

In The Netherlands, both "hate speech" and "hate crime" are no legal terms, which makes it difficult (if not impossible) to aggregate the requested data.

Would you have an estimate of the extent of under-reporting of incidents of hate speech and/or hate crime?

- ☒ No
☐ Yes

In your view, what would be the main reasons for under-reporting?

[Multiple choice is possible]

- ☐ Lack of trust in police
☒ Burden of proof
☐ Loss of evidence
☒ Fear of secondary victimisation
☐ Fear of stigmatisation
☐ Other
☐ All of the above
☐ None of the above
☐ I don't know

In your view, has there been an increase of the phenomenon of hate speech and/or hate crime at national or European level in the last years?

NB: Please reply to this question, if possible, comparing the period 2018-2020 with the period 2015-2017.

- ☒ No
☐ Yes
☐ I don't know

Section III - Nature and impacts of the phenomena of hate speech and hate crime

This section of the questionnaire is intended to gather information and views on the interlinkages between hate speech and hate crime, the cross-border nature of these phenomena and their harmful impacts on individual victims and on society as a whole.

In your view, can hate speech perpetrated offline (e.g. orally or through symbols, in public places, in sport events or in political speech) have a spillover impact across national borders? (i.e. even if it occurs in one Member State, it can encourage/lead to instances of hate speech in (an) other Member State(s))

- ☐ Yes
- ☒ No
- ☐ I don't know

*** In your view, can hate speech perpetrated online (e.g. through social media or online audiovisual services) have a spillover impact across national borders? (i.e. even if it occurs in one Member State, it can encourage/lead to instances of hate speech in (an) other Member State(s))**

- ☒ Yes
- ☐ No
- ☐ I don't know

In your view, in what ways can hate speech committed in one Member State lead to instances of hate speech in (an) other Member State(s)?

[Multiple choice is possible]

- ☒ Hateful messages in public, e.g. expressed in sport events, broadcast on television or contained in political speech, are reproduced and become easily available throughout the EU;
- ☒ Through the increasing use of social media, people across the EU are exposed to similar online content, including the same hateful rhetoric;
- ☐ Hate speech may create a climate of fear or social conflicts, which may spill over from one Member State to the other;
- ☒ The ideologies behind hate speech messages are developed internationally and are cross-border phenomena;
- ☒ Hateful ideologies even when rooted in one location and related to the local context, can spread across borders through online platforms and the media;
- ☒ Hateful messages are developed and propagated by networks with members from several countries (within or outside the EU) that inspire, organise or plan verbal attacks against specific groups that share a protected characteristic;
- ☐ Other
- ☐ All of the above
- ☐ I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- ☐ No
- ☒ Yes

If yes, please further describe. Please add links to any relevant report/source of data.

Conspiracy thinkers, referring to QAnon's conspiracy theory, place flowers on graves of people who died at a young age. They claim the children were murdered by Satanists. (<https://nos.nl/nieuwsuur/artikel/2369544-complotdenkers-hebben-het-gemunt-op-gedenkstenen-vaatstra-en-verstappen.html>)

In your view, can hate speech, perpetrated online and/or offline in one Member State, have a spillover impact across national borders and induce people to commit hate crimes against (members of) groups that share a protected characteristic in (an)other Member State(s)?

- ☒ Yes
- ☐ No
- ☐ I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- ☐ No
- ☒ Yes

If yes, please further describe. Please add links to any relevant report/source of data.

Various conspiracy theories are circulating, some of which suggest a link between 5G networks and COVID-19, leading to extremist incidents both at home and abroad.

In your view, can hate crime have a spillover impact across national borders? (i.e. even if it occurs in one Member State it can encourage/lead to instances of hate crimes in (an)other Member State(s))?

- ☒ Yes
- ☐ No
- ☐ I don't know

In your view, in what ways can hate crimes committed in one Member State lead to instances of hate crimes in (an)other Member State(s)?

[Multiple choice is possible]

- ☐ The psychological impact or spillover effect of hate crimes on society may provoke follow-up hate crimes in other Member States, imitating or echoing the crime committed in the Member State where the first crime occurred;
- ☐ Hate crimes may create a climate of fear or social conflicts, which may spill over from one Member State to the other;
- ☒ The ideologies behind hate crimes are developed internationally and are cross-border phenomena because they can be rapidly shared through social media;
- ☐ Hate crimes offences may be committed by networks with members from several countries (within or outside the EU) that inspire organise or plan physical attacks against specific groups that share a protected characteristic;
- ☐ Other
- ☐ All of the above
- ☐ None of the above
- ☐ I don't know

Could you further elaborate and/or provide examples of such a spillover impact?

- ☐ No
- ☒ Yes

If yes, please further describe. Please add links to any relevant report/source of data.

There is a radical undercurrent in which staunch distrust of the authorities can lead to extremist conduct, such as harassing politicians and journalists, intimidating police officers or publishing lists containing personal details of police officers and politicians (a practice known as 'doxing') as part of online anti-government activities.

In your view, does hate speech/hate crime cause harm to:

[Multiple choice is possible]

- ☒ The individual victims;
- ☒ The group sharing protected characteristics of the victim;
- ☒ The perpetrators;
- ☒ Society as a whole;
- ☐ Other
- ☐ None of the above
- ☒ All of the above
- ☐ I don't know

In your view, what are the harmful impacts of hate speech/hate crime on the individual victims:

[Multiple choice is possible]

- ☒ It affects their identity;
- ☒ It provokes behavioural changes;
- ☒ It provokes fear that the victim might be attacked again because of their personal characteristics;
- ☒ It causes psychological distress;
- ☒ It may prompt secondary victimisation;
- ☐ Other
- ☒ All of the above
- ☐ None of the above
- ☐ I don't know

In your view, what are the harmful impacts of hate speech/hate crime on society as a whole:

[Multiple choice is possible]

- ☒ Polarisation of the society, creation of social conflicts;
- ☒ Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for persons belonging to groups sharing protected characteristics;
- ☒ Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for journalists and politicians;
- ☒ Creation of a climate of fear with a chilling effect on freedom of expression and engagement in democratic debate (both online and off line) for the public in general;
- ☐ Chilling effect on the willingness of citizens to engage in politics and to exercise official functions (such as mayors, politicians);
- ☐ Other
- ☐ All of the above
- ☐ None of the above

☐ I don't know

Could you elaborate, including by providing examples or data on impacts, if possible:

There are individuals in right-wing, identitarian and anti-government circles who sometimes make violent threats, both online and offline. So far, these threats have not been acted upon. In due course, the negative socioeconomic and political consequences of the pandemic are likely to prove more significant in terms of how the threat evolves than these calls for violence. Social cohesion could become threatened as a result of pressure from the politicisation and economic impact of the pandemic, creating more scope for extreme viewpoints. This has already been seen in the rise of nationalist and xenophobic sentiments in recent years.

Alongside the diverse, law-abiding upper layer of activists, there is also a radical undercurrent in which staunch distrust of the authorities can lead to extremist conduct, such as harassing politicians and journalists, intimidating police officers or publishing lists containing personal details of police officers and politicians (a practice known as 'doxing') as part of online anti-government activities.

Section IV - European Union action in the area of criminal law measures to combat hate speech and hate crime

This section of the questionnaire is intended to collect views on the added value of EU action as regards the criminalisation of hate speech and hate crime at EU level.

*** In your view, should the list of EU crimes in Article 83 TFEU be extended to include hate speech?**

- ☐ No
☐ Yes
☒ I don't know

*** In your view, should the list of EU crimes be extended to include hate crime?**

- ☐ No
☐ Yes
☒ I don't know

In your view, should the list of EU crimes be extended to include hate speech and hate crime on grounds of race, colour, religion, descent, national or ethnic origin?

NB: Please note that while [Council Framework Decision 2008/913/JHA](#), already criminalises hate speech and hate crime on the above grounds, since the entry into force of the Treaty of Lisbon, the EU has no longer a competence to adopt any additional legislative measures further to the existing EU framework.

- ☐ Yes
☐ No
☒ I don't know

In your view, which is the most important reason(s) justifying the extension of the list of EU crimes to hate speech and/or hate crime?

[Multiple choice is possible]

- ☐ The particular seriousness of these types of crimes, such as the distress caused to the victim;
- ☐ Their cross-border dimension, since they may lead to the commission of crimes in (an) other Member State(s);
- ☐ The developments in these areas of crime, since trends show an increase of these phenomena;
- ☐ To address and effectively tackle the extremist ideologies behind hate speech and hate crime;
- ☐ To address existing gaps and shortcomings at national level as regards the prosecution of hate speech and/or hate crime and the protection of victims;
- ☒ Other
- ☐ All of the above
- ☐ I don't think the list of EU crimes should be extended

If other, please specify:

We look forward to the Commission's proposal, and will assess the proposal on its legal base, its proportionality and its subsidiarity.

- In the view of the Netherlands it is desirable that the definition of hate speech corresponds to Article 1 of the Council Framework Decision 2008/913/JHA.
- In the view of the Netherlands the main goal should be to ensure that, in line with Article 4 of the Council Framework Decision 2008/913/JHA, Member States shall take the necessary measures to ensure that national courts may take into consideration a broad bias motivation (i.e. on the grounds of race, religion or belief, sex, sexual orientation or disability).

Section V - Sources of information and data

Are you aware of any exercises to collect data or gather information on the criminalisation of hate speech and/or hate crime that are underway, already planned for the future or envisaged (for example in the context of an EU or national funded project)?

- ☐ No
- ☒ Yes

If yes, please specify, adding, if possible, relevant links:

The national Action Programme on the Safety and Security of LGBTI persons includes an action point on defining 'hate crime' and 'hate speech', in order to better collect data.

Is there any other information or source of information related to the scale, impact or criminalisation of hate speech and hate crime or to relevant data that you would like to share with us?

- ☐ No
- ☒ Yes
- ☐ I don't know

If yes, please specify:

The Minister for Legal Protection has requested the Scientific Research and Documentation Center (WODC) to conduct a study on the needs of victims of hate crime in the context of criminal proceedings and victim

support (<https://repository.wodc.nl/handle/20.500.12832/2404>).

The motion of MP Bergkamp (Parliamentary Paper 30 420, no.324) requested the government to conduct an investigation into experiences abroad with the deployment of specialized investigators in the event of discrimination and to engage in dialogue with interest groups, the police and the Public Prosecution Service (OM). This has been included in the study.

This study primarily aimed to find an (explorative) answer to the question what procedural and supportive needs victims of hate crime have within the context of criminal proceedings, and to what extent the Dutch criminal procedure and victim support currently meet those needs. In order to answer this question, first an inventory was made of the impact of hate crime on various groups of victims, as well as their needs regarding and experiences with criminal proceedings and victim support. The procedural rights and provisions developed for victims of hate crime in foreign jurisdictions (United Kingdom and EU member states) were also studied.