

Initiative to Extend List of EU Crimes to Hate Speech and Hate Crime



Anna Pinggen

News

On 9 December 2021, the European Commission published an [initiative](#) to extend the list of EU crimes to hate speech and hate crime. The initiative follows a set of EU actions already in place to counter illegal hate speech and violent extremist ideologies and terrorism online, such as 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, the EU Code of Conduct on countering illegal hate speech online, the proposed Digital Services Act, the 2021 Regulation on addressing terrorist content online, and the EU Internet Forum.

The Commission reiterated that combating hate speech and hate crime is part of its actions to promote the EU's core values and ensure that the EU Charter of Fundamental Rights is upheld. Any form of discrimination, as laid down in Art. 19 TFEU, is prohibited. Hate crime and hate speech go against the fundamental European values set out in Art. 2 TEU. Freedom of expression, as one of the pillars of a democratic and pluralist society, however, must also be strongly protected. The Commission recognised that there has been a sharp increase in hate speech and hate crime in Europe during the past decade, especially through use of the Internet and social media.

The proposed extension of the list of areas of EU crimes to hate speech and hate crime is based on Art. 83(1) TFEU, which lays down an exhaustive list of areas of crime for which the European Parliament and the Council may establish minimum rules involving the definition of criminal offences and sanctions applicable in all EU Member States. Art. 83(1) TFEU further specified that based on developments in crime, the Council may adopt a decision identifying other areas of particularly serious crime 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.

The Commission justified the extension by pointing out that hate speech and hate crime were particularly serious crimes because of their harmful impacts on the individuals and on society at large, undermining the foundations of the EU. The Commission further argued that the cross-border dimension of hate speech and hate crime is evidenced by the nature and impact of these phenomena – a special need exists to address them on a mutual basis. It stressed that, according to the UN, there has been an alarming spike in online and offline hate speech and incitement in recent years that can be linked to changes in the social, economic, and technological environment. Factors contributing to this increase have been the COVID-19 pandemic and the Internet. For the Commission, only the identification of hate speech and hate crime as a new, distinct area of crime can enable an effective and comprehensive criminal law approach to these phenomena at the EU level.

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