

Tackling Disinformation and Online Hate Speech:

Case studies of 27 EU
member states, so far



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Introduction

The EU has addressed online disinformation and hate speech through a variety of policies and actions over the past three years. As far as regulation is concerned, it has adopted a soft regulatory approach, focusing on codes of conduct and practice, whereby online providers that shape public discourse have made voluntary commitments.

This approach will now change. In two major initiatives unveiled in December 2020, the European Commission has announced that it will propose binding EU legislation on issues including paid political advertising, algorithmic transparency and electoral integrity.

The question is: How will this regulatory drive relate to legislation and policies in the EU's 27 member states? What have they been doing on this front in recent years? In a recent report, "[Tackling disinformation and online hate speech: EU and Member State approaches, so far](#)" we provided an analysis and overview of the EU 27 approaches. This paper is a supplement to that report, providing case studies of each of the 27 member states, as of February 2021.



Disinformation

The Austrian Government addresses disinformation indirectly, through involvement in the promotion of media literacy. For example, the Federal Ministry of Education, Science and Research regularly publishes teaching materials online and co-funding initiatives such as [Saferinternet.at](#) – a website promoting the safe use of digital media through media literacy – and [Watchlist Internet](#) – an independent information platform dealing with online fraud.



Hate Speech

On 3 September 2020, the Austrian government introduced a draft law (Communications Platform Law, [Kommunikationsplattformen-Gesetz](#), or KoPI-G) that would oblige online platforms to remove illegal content (in relation to 15 criminal offenses, some of them related to hate speech type offences, such as insult or stalking, but including others like child pornography and terroristic content). On 25 November 2020, the draft was [approved](#) by the Constitutional Committee of the National Council, and came into force on 1 January 2021. Online platforms are obliged to provide an accessible complaint mechanism for illegal content and to react immediately to notifications. Under the law, if the content is manifestly illegal for laypersons, it must be removed within 24 hours of the notification; if the illegality is not that obvious, the platform may take up to 7 days to respond. The draft was criticized for delegating the responsibility to assess illegal content to private companies. (For a full analysis of an earlier draft, see the [Legal Review](#) by the OSCE Representative on Freedom of the Media).



Disinformation

The government has engaged in some public diplomacy on the issue, establishing the website www.stopfakenews.be, on which citizens can make recommendations on how to fight disinformation, as well as show their approval (by liking) or disapproval (by disliking) others' recommendations. There are also a number of initiatives to increase media literacy.



Hate Speech

Aspects of hate speech are covered in the [Anti-racism Law \(1981\)](#), the [Antidiscrimination Law \(2007\)](#) and the [Law against Negationism \(1995\)](#) prohibiting Holocaust denial. The [Belgian Police report](#) a relatively high number of hate crimes prosecuted per year (1,371 prosecutions, out of 1,568 registered incidents in 2019), but it is not clear how many of those resulted in convictions.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order. At the same time, an independent public institution, [Unia](#), is mandated to contact social media platforms that tolerate illegal content. It has made an agreement with Facebook to remove such content within 24 hours.



Disinformation

With the beginning of the COVID-19 pandemic, the Bulgarian government twice tried to pass legislation on disinformation with a third attempt under consideration (as of December 2020).

The first – the Emergency Bill – would have made the transmission of false information on the spread of infectious disease punishable by up to three years in prison (in case of serious damage five years). The draft bill was later [vetoed](#) by the President. The second attempt was to make the Radio and Television Act apply to internet platforms. Thus, the country's media regulator, the Council for Electronic Media, would have new powers over disinformation in the internet environment, including powers to announce that a website spreads disinformation online, and to ask for a court order to discontinue access to the website. The attempt was [rejected](#) by the parliamentary Culture and Media Commission.

The third attempt suggests that “disinformation in the internet environment” should be a theme to be included in the Personal Data Protection Act. If passed, the owners of websites, online blogs and, in certain cases, social networks might be responsible for the dissemination of disinformation online. The bill has been criticized by governmental and non-governmental organisations for defining “disinformation” too broadly, and for entrusting the Commission for Personal Data Protection with powers to discontinue access to websites, which is [outside the scope](#) of its competence.



Hate Speech

Hate speech is criminalised under Article 162 of the Bulgarian Penal Code (incitement to hatred on protected grounds). It has however been shown to be [difficult to enforce](#) the law against perpetrators offline, and nearly impossible online. There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

The only legal act containing reference to disinformation in Croatia is [Article 16](#) of the Law on Misdemeanours against Public Order and Peace, adopted in 1977 and amended in 1994. Under the law, spreading disinformation that disturbs the public peace is punishable by a negligible fine, or a prison term of up to 30 days.

With regard to political advertising, the Agency for Electronic Media (the Croatian authority with powers to regulate the media in electoral matters) currently does not [consider](#) social media as media, and does not apply the requirements to report spending on social media and other digital platforms in a transparent manner. This represents a risk, since the latest European Parliament elections have [shown](#) that the parties had spent both extensive time and resources on their social media accounts.



Hate Speech

Hate speech is criminalised under [Articles 325.1](#) (public incitement to hatred based on protected grounds), [325.4](#) (approval or incitement to genocide and crimes against humanity), and [87.21](#) (motive based on protected characteristics as an aggravating circumstance) of the Croatian Penal Code. Furthermore, the Croatian Anti-Discrimination Act classifies harassment based on protected grounds ([Article 3.1](#)) as a misdemeanour, punishable by a fine.

In 2018, a [working group](#) had reportedly been established under the auspices of the Central State Bureau for the Development of the Digital Society to propose a bill “On unacceptable behaviour on the Internet”, which would provide accountability for content published online. To date, no such bill has been proposed, and experts are [warning](#) against any interventions with online speech without an appropriate case-by-case judicial consideration.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

In an EU Commission [survey](#) of EU citizens' awareness of and attitudes towards disinformation online (2018), Cyprus had the highest proportion of respondents who viewed disinformation as a problem (91 per cent). However, despite statements made in 2018 promising new legislation, there have been [no proposals](#).

Article 50 of the Penal Code of Cyprus classifies the “dissemination of disinformation that may shake public order or public confidence in the state or harm public peace and order” as a misdemeanour, punishable by imprisonment up to two years or a fine. This Article is limited in scope and has not been successfully invoked in court.



Hate Speech

Hate crimes are punishable. According to OSCE Office for Democratic Institutions and Human Rights' [Hate Crime Reporting](#), in the year 2019, 40 hate crimes were reported, with 6 prosecuted and none resulting in conviction.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

In the Czech Republic, the Centre against Terrorism and Hybrid Threats was established in 2017. It has a mission to countering terrorist online content and disinformation campaigns.



Hate Speech

Hate speech is criminalised in several sections of the criminal code. Some of these sections provide for harsher penalties when the offence is committed online. They have been applied to crimes committed online. For example, in 2012, five young men received suspended [sentences](#) of three years for promoting Nazism on their Facebook profiles. In September 2014, former MP Otto Chaloupka was conditionally [sentenced](#) for derogatory comments about Roma people posted on his Facebook profile.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

In 2017, Denmark set up an Inter-ministerial [task force](#) to counter disinformation. Moreover, one of the strategic benchmarks in the Danish Cyber and Information Security [Strategy](#) 2018-2021 is to incorporate “digital competencies and knowledge about security throughout the educational system, from municipal primary and lower secondary school to research at universities [...] to ensure that children and young people develop digital judgment.”

In view of rising levels of foreign influence campaigns, a 2019 [amendment](#) criminalises the dissemination of disinformation that “aids or enables” a foreign state actor to influence public opinion in Denmark. The amendment imposes a maximum penalty of 12-years’ imprisonment for offenses carried out in connection with Danish or EU parliamentary elections.



Hate Speech

Hate speech is criminalised by [article 266 b](#) of the Danish criminal code. If the hate speech has elements of propaganda activity, it is considered an aggravating circumstance. There are [currently](#) no legislative measures or administrative regulations in Denmark aimed directly at or imposing obligations on social media platforms, search platforms and/or platform users to remove, restrict, or otherwise regulate online content on the basis of hate speech.



Disinformation

Estonia is a heavily digitised country, which makes the interference with democratic processes technically easier. Like in other Baltic States, concerns centre around Russian interference, either through cyber-attacks, or through orchestrated disinformation campaigns. Like many Baltic States, rather than resorting to legislative measures to tackle the issue, despite being highly digitalised.

A key element of Estonian counter-efforts is [Estonia's Defense League](#) (EDL, or Kaitseliit) – a voluntary security force under the auspices of the Ministry of Defence with responsibilities ranging from cyber defence to fighting against disinformation.

In fighting disinformation, EDL runs an anti-propaganda blog, propastop.org, with a focus not only on countering harmful narratives, but also on highlighting corporate practices related to social media, outing individuals and posts that further disinformation (“naming and shaming”), and advocating for media literacy.



Hate Speech

Estonia criminalises hate speech, but the provision is narrowly construed. To fall under [Article 151 of Estonian Penal Code](#), the act must involve a risk of danger to a person's life, health or property. In February 2019, the Estonian authorities [publicly rejected](#) the European Commission's call to criminalise hate speech more stringently across the EU.

On 30 October 2020, the European Commission [launched](#) infringement proceedings against Estonia (and Romania) for inadequate transposition of the EU Framework Decision on combating racism and xenophobia by means of criminal law ([Framework Decision 2008/913/JHA](#)).



Disinformation

Finland is often referenced as a good model of fighting disinformation through systematic through a [systematic approach](#) primarily based on education Finland ranks first for media literacy out of 35 European countries, [according](#) to Open Society Foundations.

Following a spike in disinformation in the wake of Russia's illegal annexation of Crimea in 2014, the Finnish government launched an anti-fake news initiative to educate its citizens on disinformation campaigns, beginning in primary school. Thus, media literacy is a cross-departmental priority, and a key strategic aim of the Finnish Ministry of Education and Culture.



Hate Speech

[According](#) to the European Commission against Racism and Intolerance (ECRI), online hate speech incidents are dealt with under three types of crimes in Finland: incitement to hatred, criminal defamation, and threats. There were 23 investigations of online hate speech in 2015, 24 in 2016, and 91 in 2017. While the number of prosecutions was 18 for both 2015 and 2016, this increased to 63 in 2017. ECRI received no information about the outcome of these prosecutions.

Just as with disinformation, Finland addresses the issue of hate speech through information campaigns. For Finland's 2019 Media Literacy Week, the Ministry of Justice launched a campaign to tackle hate speech online, with the specific aim of increasing "internet users' awareness of what kinds of content constitute punishable hate speech".

Further, an [anti-discrimination law](#) was adopted in 2014, and measures have been taken to combat hate speech, including the setting up of hate speech investigation teams in every police department, consisting of some 900 officers nationwide.

No obligations exist mandating online platforms to take down material without a prior court order. Even under the Act on Preventive Measures Relating to the Distribution of Child Pornography (1068/2006), operators have the right, but not the obligation, to block access to child pornography sites. Under the Act on the Exercise of Freedom of Expression in Mass Media (460/2003), a court may order the distribution of a published network message to be ceased if it is evident that providing the content of the message to the public is a criminal offence.



Disinformation

In France, the Republic Act of 29 July 1881 on the freedom of the press (Article 27) contains a definition of false news. Its spread is sanctioned by a fine under certain circumstances. On 20 November 2018, the French Parliament passed the Law on the Fight against Manipulation of Information, which bans the spreading of disinformation during election periods (for a full analysis of the law, see the [Legal Review](#) (in French) by the OSCE Representative on Freedom of the Media).

Under [Article 1](#) of the law (amending Article 163.2 of the Electoral Code), online platforms can be served with a court injunction (within 48 hours upon referral) ordering them to take swift action to end the spread of fake news items during election periods. Concerns have been raised as to whether such complex assessments can be made within 48 hours, and to whether the time constraints established by the law will have an effect on freedom of expression.

[Article 11](#) of the law imposes transparency obligations on platforms in relation to paid ads. During an election period, platforms must make public:

1. The identity of the advertiser who paid for the content and the person on whose behalf the advertiser acts;
2. The amount spent on promoting content concerned (beyond a threshold defined by decree);
3. Clear and transparent information to users on the use of their personal data (i.e., targeting criteria).

The law was met with criticism and challenged by senators at the Constitutional Council. The challenge was not upheld. The Council argued that the obligation imposed on online platform operators is limited to the duration of the election campaign; and the scope of the law does not include opinions, parodies, partial inaccuracies or simple exaggerations.

Between elections, the text establishes a duty of cooperation for platforms, to force them to introduce measures against false news and to make these measures public. Checking for compliance with this duty has been entrusted to the CSA (French Broadcasting Authority).



Hate Speech

The French government introduced some limitations to freedom of speech online since the Charlie Hebdo and November 2015 attacks in Paris. Terrorist content, electoral disinformation, gambling and child pornography materials are subject to legally-mandated speedy removal by hosting services.

Already in 2004, the Law on Confidence in Digital Economy stipulated that the administrative authority may ask the hosts or publishers to remove certain terrorist or child pornography content and, in the absence of removal within 24 hours, may send notification about the website to internet service providers, who must then immediately prevent access to these sites. The list of illegal content to which access should be limited has been extended since the law's passing to include incitement to terrorism; violence, including sexual and gender-based violence; and hatred on the basis of race, sex, sexual orientation, gender identity or disability. In February 2015, an [implementing decree](#) outlined administrative measures to make hosting websites restrict access to materials that incite or condone terrorism, as well as sites that display child pornography.

The French law on hate speech (Law on Fighting Hateful Content on the Internet, La loi visant à lutter contre les contenus haineux sur internet, or the Avia Law after [Laetitia Avia](#)) – the parliamentary rapporteur for the bill) was inspired by the [German Network Enforcement Act](#).

The legislation was adopted in May 2019, despite much criticism. In June 2020, the Avia Law was overturned by the Constitutional Council, which ruled that it constituted a disproportionate interference with freedom of expression.

Despite the overturning of the Loi Avia, it did lead to the establishment of an “[Online Hate Observatory](#)”, officially launched in July 2020. Set up by the Conseil supérieur de l’audiovisuel (Superior Audio-visual Council) observatory [aims](#) to monitor and analyse hateful content online, collaborating with online platforms, associations and researchers.

On January 19, 2021, the French government proposed to amend the “Law for Confidence in the Digital Economy” (“La loi pour la confiance dans l’économie numérique, n° 2004-575 du 21 juin 2004”), strengthening reporting duties of platforms on their content moderation practices. The [amendment](#) reflects the EU’s Digital Services Act proposal. The government presented this as a move “[in anticipation](#)” of the DSA’s adoption expected in December 2023, which is when the amendment will expire.



Disinformation

The German Federal Government has launched several campaigns aimed at media literacy. The examples include “[Ein Netz für Kinder](#)” (A Network for Children), providing guidelines for parents and caretakers on how to introduce children to the internet, and “[Schau Hin!](#)” (Look at it!), an online guide for parents on traditional media, the internet, social media, smartphones, etc. The Federal Agency for Civic Education also offers resources for adults to foster media competency, with a focus on disinformation.

At the legislative level, the Federal Interstate Media Law transposes the EU’s revised Audiovisual Media Services Directive (AVMSD) and, additionally, requires media intermediaries (i.e., social media platform providers) to keep the following information easily and permanently available:

1. The criteria that determine the accessibility of content on a platform;
2. The central criteria of aggregation, selection and presentation of content and their recommendation system, including information on the functioning of the algorithms used.

Intermediaries are prohibited to discriminate editorial-journalistic content on a systematic basis. Online platforms will also be required to identify and label “social bots”, without prohibiting their use.

Contrary to common misperceptions, NetzDG (described in detail below) does not apply to so-called “fake news” or political disinformation [unless](#) these also constitute defamation or libel.



Hate Speech

In 2017 Germany adopted the Network Enforcement Act (Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken, hereinafter – **NetzDG**), which proved to be controversial.

NetzDG does [not](#) create new categories of illegal content. Instead, its purpose is to better enforce 22 provisions of the German criminal code in the online space and to hold large social media platforms responsible for their enforcement. The 22 provisions include “incitement to hatred,” “dissemination of depictions of violence,” “forming terrorist organizations,” and “the use of symbols of unconstitutional organizations.” NetzDG also applies to other categories, such as “distribution of child pornography,” “insult,” “defamation,” “defamation of religions, religious and ideological associations in a manner that is capable of disturbing the public peace,” “violation of intimate privacy by making photographs,” “threatening to the commission of a felony” and “forgery of data intended to provide proof.”

NetzDG is aimed at for-profit social networks that have more than 2 million users within Germany. They are obliged to set up an accessible complaint mechanism for users and to ensure that “obviously unlawful content” is deleted or blocked within 24 hours. For content that is not “obviously illegal”, seven days are allocated for consultations. Failure to comply can result in fines of up to €50 million.

Under the law, any platform that receives more than 100 complaints per calendar year must also publish bi-annual reports on their moderation activities. The law has been criticized by many for obliging private companies to make decisions on illegality. Civil society groups fear that platforms may overblock content, thus weakening freedom of speech. The proponents of the law argue that platforms make such decisions anyway and it is better a democratic legislator provides guidance. The government argued that online hate speech was not seriously addressed as a problem by platforms and users unable to get meaningful redress. The law has been challenged in courts by several players, including the Free Democratic Party. In a report published in September 2020 the Ministry of Justice and Consumer Protection concluded that the law has proved effective over the first three years of its existence, and that it has not led to excessive removal of legal content.

In 2019 the authorities imposed a fine of EUR 2 Million on Facebook, based on NetzDG, for a lack of transparency in its reporting on complaints filed and actions taken when tackling hate speech and other criminal offences. Facebook reserved the right to appeal the decision, claiming that [the act “lacked clarity”](#).



Disinformation

In Greece, the National Centre for Audiovisual Media and Communication (EKOME) plays a leading role in addressing disinformation. In October 2018 the Centre published a [White Paper](#) on Media and Information Literacy aiming to contribute to a national strategic plan that would promote, inter alia, activities on media and information literacy and on awareness-raising campaigns against disinformation.



Hate Speech

Greece has comprehensive provisions on hate speech, in [Article 81A of the Penal Code](#) and in the [2014 Law against Racial Discrimination](#). According to [statistics](#) from the Greek National Police, in 2018, 164 instances of hate crimes were reported, with 17 cases prosecuted, 4 of which resulted in convictions.

Until just recently, Greece has had in place harsh civil defamation laws, which were [alleged](#) to stifle journalists and have led to self-censorship among the media. The law was [amended](#) in December 2015, and this was hailed as a much-needed change.

There is no legislation mandating online platforms to take down hate speech/disinformation material without a court order.



Disinformation

In 2013, the Hungarian government passed an amendment to the Penal Code making scaremongering and spreading rumours that can disturb public order punishable under [Article 338](#) of the Penal Code.

At the beginning of the COVID-19 pandemic, a [YouTube vlogger was arrested](#) for spreading false news about the closure of Budapest (to entry from non-residents). In addition, police have launched investigations into [four other cases](#) of spreading false news on the internet (mainly on social media), under Article 338.

Additionally, on 29 March 2020, the government passed the [Coronavirus Control Act](#), which introduced [Article 337](#) to the Penal Code, on spreading false news, under which stating or disseminating false or misrepresented facts in front of a large audience during the period of a special legal order is punishable by one to five years imprisonment. The legal developments have been criticised by [civil society](#), who argue that the measure is aimed at weakening press freedoms even further. [Reportedly](#) more than 100 prosecutions have been launched on the basis of Article 337. Although the original Coronavirus Control Act did not set an expiry date for the measures, in June 2020, the parliament repealed the law, thus ending the state of emergency.



Hate Speech

Hate speech is criminalised under Articles 332 (public incitement to hatred or violence based on protected characteristics), 333 (public denial of sins of nationalist socialist and communist regimes), 334 (desecration of state symbols) and 335 (the use of communist symbols) of the Hungarian Penal Code. Defamation provisions are present in both the Penal (defamation, in Article 226, and libel, in Article 227) and Civil Codes.

There is no legislation mandating online platforms to take down hate speech material without a prior court order or notice. However, the Hungarian state lost a [case](#) in the European Court of Human Rights (ECHR) in 2016 after Hungarian courts held online news portals liable for comments made in their comment sections by users. In 2018 the Hungarian state lost another [case](#) in the ECHR, which found that Hungarian courts had overreached in holding a news site liable for content to which a hyperlink in an article had referred.



Disinformation

In December 2017, the Irish government established an Interdepartmental Group to assess threats to the Irish electoral process (Interdepartmental Group on Security of Ireland's Electoral Process and Disinformation, or IDG). In the group's [first report](#) of July 2018, the main finding was that "risks to the electoral process in Ireland are relatively low but that the spread of disinformation online and the risk of cyber-attacks on the electoral system pose more substantial risks". The report outlined seven recommendations, including establishing an Electoral Commission, continuing with media literacy initiatives and enhancing cyber security measures.

In November 2019, the Irish government introduced a [legislative proposal](#) to regulate the transparency of online paid political advertising within election periods, in line with [another](#) of the interdepartmental group's recommendations. According to the proposal, its main objective is to "respect the role of the internet in the public sphere of political discourse and ensure that the public have access to legitimate information required in order to make autonomous voting decisions".

Under the proposal, the online platforms should, inter alia, ascertain whether content is political and whether a micro-targeting algorithm has been used, as well as confirm whether targeting was applied, and provide a description of target audience/criteria applied and whether the target audience contains "Lookalike" target lists. The proposal is still in the process of development.



Hate Speech

The Prohibition of Incitement to Hatred Act was enacted in 1989 and, according to the Department of Justice, there had been 55 prosecutions and 5 convictions [under](#) the Act by 2017, critics call the law "not fit for purpose".

In 2019, the Irish Government [held public consultations](#) on possible amendments to the Act, but none have yet been adopted.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order or notice.



Disinformation

In October 2017, the Italian Ministry of Education announced an “Enough-with the Hoaxes” (Bastabufale.it) media literacy campaign for primary and secondary schools.

Before the general elections in March 2018, a “red button” [portal](#) was also launched, where citizens could report disinformation to a special cyber police unit. The police unit would investigate the content in question, help citizens report disinformation to social media platforms and, in cases where there is defamatory or otherwise illegal content, file a lawsuit.

The Italian communications regulator AGCOM also published guidelines prior to the 2018 elections to ensure equal treatment of all political parties and political ad transparency, as well as to encourage online fact-checking.



Hate Speech

Hate speech is generally criminalised under [Articles 604 bis](#) (propaganda and incitement to crime based on protected characteristics) and [Article 595](#) (criminal defamation) of the Italian Penal Code.

In 2013, the Supreme Court of Italy extended the application of [Article 416](#) of the Penal Code (criminal conspiracy) to hate speech perpetrated within virtual communities, blogs, chats and social networks.

In 2015, the Italian [Charter of Rights on the Web](#) was adopted. In Article 13, the Charter addresses hate speech online, stating that “no limitation of freedom of expression is allowed”, but “the protection of the people’s dignity from abuses related to behaviours such as incitement to hatred, discrimination and violence must be guaranteed”.

Hate speech is prosecuted irrespective of whether the crime was committed online or offline. There have been notable cases of local politicians being convicted for hate speech: In 2015, the Supreme Court convicted a councillor from the district of Padua for [incitement to racial violence](#) against Cécile Kyenge, the former Minister for Integration, for a comment posted on her Facebook profile; In 2016, the Court of Appeal of Trento found a district councillor [guilty](#) for posting on his Facebook page an offensive comment referring to the aforementioned Minister of Integration Cecile Kyenge’s Congolese origin.

In 2017, Law no. 71 expanded the application of “hate speech” to cyberbullying – the instigation of hatred online towards individuals on various protected grounds.

As to the responsibility of online platforms, there is no legislation mandating that they restrict access to hate speech material without a prior court order or notice. However, Italian case law presents a conflicting picture, as it does not specify whether the platforms are obliged to remove illegal content upon a mere notice of its existence (e.g., reports by users) or a formal notice from the police or a court order.

The Vivi Down association sued Google for failing to promptly remove defamatory content, after Google had received numerous reports from users, but only removed the content in question upon receiving formal notice from the Postal Police. The Supreme Court, [in its final judgement in 2013](#), ruled that “the position of Google is that of a mere host provider”, and noted that Google removed the content upon receiving official communications from the competent authorities.

Conversely, in a more recent case, in 2016, the [Supreme Court ruled](#) that the online blog [agenziacalcio.it](#) was responsible for complicity in defamation for a user comment, as it removed it only when a judge had ordered the preventative sequester of the website, despite having been alerted via email about the post.



Disinformation

Although media literacy has not yet been put into formal education programmes, as it has in Finland, in February 2017, the [Baltic Media Centre of Excellence](#) launched the new “[Full Thought](#)” initiative, aimed at promoting media literacy among Latvia’s 10th-to-12th grade high school students and their teachers.



Hate Speech

Latvia has extensive hate speech laws, contained in [Articles 78](#) (incitement to national, ethnic, and racial hatred), [Article 741](#) (glorification of genocide or public denial or acquittal of genocide) and [Article 882](#) (public incitement to terrorism) of the Penal Code. According to statistics from the [Latvian National Police](#), in 2016, there only a 11 instances cases were reported, of which 7 were prosecuted, but none resulting in conviction.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

Lithuania is one of the few countries that has [legal measures](#) in place to tackle alleged sources of disinformation. In June 2018, the [Law on Cyber Security](#) was passed, Article 8(11) of which empowers the National Cyber Security Centre to order electronic communications providers, such as servers, to temporarily shut down (for up to 48 hours) without a court order if they are used to mount a “cyber incident”, such as a disinformation attack. There have been concerns that such measures can stifle public debate – a claim Lithuanian officials deny, insisting that the measures are employed only to stop blatant factual fabrications.



Hate Speech

Although hate speech is criminalised under [Article 170](#) of the Lithuanian Penal Code (incitement against any national, racial, ethnic, religious or other group of persons), according to statistics from the [Lithuanian National Police for 2019](#), only nine instances of hate crimes were reported, with one prosecuted and none resulting in conviction.

Furthermore, on 14 January 2020, in [Beizaras and Levickas v. Lithuania](#), the European Court of Human Rights held that the Lithuanian government violated its obligations to enforce the hate speech laws by refusing to launch a pre-trial investigation into Facebook comments targeting the plaintiffs – a homosexual couple. This is the first judgement by the Court to [directly address](#) the state’s failure to prosecute online hate speech.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

In Luxembourg, there is no wider discussion on disinformation. There are limited [relevant initiatives](#) or agencies addressing the issue at either the state, counterintelligence, or non-governmental level.

There are efforts on the government side to teach media literacy. In 2015, for example, the Ministry of Education, Children and Youth launched the national strategy [Digital \(4\) Education](#), with the aim of enabling students to develop the skills necessary for the appropriate and responsible use of ICTs, and of promoting innovative pedagogical projects using digital technology in schools.

Further, there is a government initiative, “[BEE SECURE](#)”, operated, inter alia, by the Lëtzebuerg Police and the General Prosecutor’s Office of the Grand Duchy of Luxembourg. The initiative was introduced in 2010, and addresses media literacy and the safe use of new media by young people in the country.



Hate Speech

Hate speech is criminalised under [Articles 454](#) (prohibition of discrimination based on protected grounds) and [Article 457-1](#) (incitement to hatred based on protected grounds) of the Penal Code of Luxembourg. There have been prosecutions of online hate speech (e.g., a [2013 case](#) resulting in a conviction for comments made on Facebook).

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

Spreading false news that is likely to alarm public opinion or disturb public peace and order is punishable under [Article 82 of the Maltese Penal Code](#).

In July 2020, in the [bill on the Broadcasting Act](#) (which transposes the revised Audiovisual Media Services Directive), Maltese legislators included the concept of media literacy, defined as “skills, knowledge and understanding that allow citizens to use media effectively and safely”. The idea is to foster “critical thinking skills” that would “enable citizens to access information and to use, critically assess and create media content responsibly and safely”.



Hate Speech

Hate speech is criminalised under [Articles 82A](#) (threat, abuse or insulting behaviour based on protected grounds), [83B](#) (condoning genocide) and [83C](#) (condoning crimes against peace) of the Maltese Penal Code. There are no sufficient public data to assess how well these crimes are enforced when committed online.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

The Dutch Ministry of Interior Affairs ran a media literacy campaign, titled “[Stay Curious. Stay critical](#)” in the run up to the European Parliament elections in May 2019.

In October 2019, the Dutch government adopted a [strategy against disinformation](#), emphasising critical media literacy, transparency of social media platforms and political parties (preferably through self-regulation), and maintenance of a pluriform landscape. Fact-checking is deemed important as a means of countering disinformation, but “addressing the content of disinformation as such is, according to the government, primarily not a task for governments or EU institutions, but primarily for journalism and science, whether or not in collaboration with internet services”.



Hate Speech

Hate speech is criminalised under Articles 137c (group defamation) and 137d (incitement to hatred or discrimination) of the Dutch Penal Code.

The Police report a high number of recorded instances of hate crimes (2,016 in 2019, of which 343 were [prosecuted](#)), however, the cases rarely go to trial.

There is [no legislation mandating](#) online platforms to restrict access to hate speech material without a prior court order.



Disinformation

In 2018, ahead of local elections, the Polish government launched the “[Safe Elections](#)” ([Bezpieczne Wybory](#)) website, created with a cross-government, cross-sector team that included representatives of social media platforms.



Hate Speech

Hate speech is criminalised under [Articles 119\(1\)](#) (violence or unlawful threats against individuals based on protected grounds), [256](#) (incitement to hatred based on protected grounds, condoning Nazi, communist or any other totalitarian system), and [257](#) (public insult based on protected grounds) of the Penal Code of Poland.

The enforcement of hate speech laws is effective in Poland, and online hate speech cases are on the rise. In 2015, for example, there were 1,548 proceedings opened on hate crimes, around [half of which](#) concerned online content. However, [the Polish Police report](#) high levels of reporting and convictions alike: In 2019, out of 972 recorded cases, 597 were prosecuted, and 432 resulted in convictions.

There is no legislation yet mandating online platforms to restrict access to hate speech material without a prior court order.

On January 14, 2021 the Polish Ministry of Justice [announced](#) the elaboration of a “freedom of speech protection” bill out of concern of the social media platforms power to delete posts or to block accounts. The idea is to establish a “Freedom of Speech Council” which could receive complaints about blocking or deletion decisions by platforms and order they be restored. Polish civil society organisations have [criticised](#) the bill.



Disinformation

The strategy to tackle disinformation in Portugal is [more focused on defamation](#) and personal attacks.

The regulatory authority for the media (Entidade Reguladora para a Comunicação Social) has, since 2009, been the body responsible for promoting activities and initiatives in the field of media literacy. In April 2017, the cross-ministerial national initiative “[Digital Skills e 2030](#)” – Portugal (INCoDE.2030) was launched.

The objective of the initiative is to strengthen the competencies of the Portuguese population in information and communication technologies, making people better qualified to participate successfully in the labour market and promoting, at the same time, digital literacy.



Hate Speech

Hate Speech is criminalised under [Article 240](#) of the Portuguese Penal Code (discrimination and incitement to hatred and violence on protected grounds). Before the amendment of Article 240, in 2017, the crime required intent to incite racial or religious discrimination, which made enforcement difficult (e.g., see a [domestic case](#) where no conviction was secured).

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

On 16 March 2020, President Klaus Iohannis issued a decree declaring a state of emergency (initially for 30 days, then prolonged for another 30 days) due to COVID-19. [Article 54](#) of the decree limits the right to freedom of information and has been used by the Ministry of Interior to [suspend access to 15 online resources](#) “spreading false news” without a court order or clear means for judicial redress.

On 15 May 2020, when the emergency period came to an end, [access to the 15 websites was restored](#) by the [decision](#) of the National Authority for Administration and Regulation in Communications (ANCOM).



Hate Speech

Hate speech is criminalised under [Articles 369](#) (incitement to hatred or discrimination based on protected grounds) and [77\(h\)](#) (discriminatory intent on protected grounds as aggravating circumstance) of the Penal Code of Romania.

However, on 30 October 2020, the European Commission launched infringement proceedings against Romania (and Estonia) for inadequate transposition of the EU Framework Decision on combating racism and xenophobia by means of criminal law (Framework Decision 2008/913/JHA).

According to the [European Commission](#), Romania has not correctly defined hate speech, as it fails to criminalise hate speech inciting violence. Furthermore, Romania only criminalises hate speech inciting hatred where this conduct is directed against a group of persons (Article 369, against a category of individuals), but not against an individual member of such groups.

According to the [report](#) of the project “eMore –Monitoring and reporting online hate speech in Europe”, Romania has low levels of prosecution of hate speech, both off-line and online. There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

As in the Baltic states, the public discourse in Slovakia around disinformation is focused on Russian disinformation campaigns. The National Counter-Terrorism and Extremism Unit, established in 2017 within the auspices of the national police, is [tasked with detecting propaganda](#).

Slovak civil society is, unlike the government, a strong player in countering disinformation campaigns (see successful civic projects, such as [konspiratori.sk](#), the Slovak Network of Experts against Hybrid Attacks ([SOPHIA](#)), and research by the Bratislava-based think tank [GLOBSEC](#)).



Hate Speech

Hate speech is criminalised under Articles [422d](#) (defamation based on protected grounds), [423](#) (incitement to hatred based on protected grounds) and [140e](#) (specific motivation based on protected grounds) of the Slovakian Penal Code.

In January 2017, an amendment to the Criminal Code was passed to ensure the more effective investigation of extremist and racially motivated crimes. Since then, such crimes fall within the competence of the Special Prosecutor's Office, the General Prosecutor's Office and the Specialized Criminal Court (See this [report](#) by the Council of Europe for details).

In February 2017, a special 125-person-strong police unit was established within the National Criminal Agency (NAKA) to investigate crimes related to the support of terrorism, extremism and hate speech, both online and offline. Within three years of the creation of NAKA, the number of proceedings initiated on extremism and hate speech charges [are increasing](#): from 30 before 2017, to 176 cases in 2017, and 109 in 2019. The Specialized Criminal Court's public database suggests that judges are dealing with hate crimes regularly, including online.

In 2019, Milan Mazurek, an MP from the right-wing People's Party Our Slovakia, was convicted by the Supreme Court for making racist remarks about the Roma minority, and lost his mandate (he was subsequently re-elected in 2020). In 2020, prosecutors brought the case of the leader of the party, Marian Kotleba, to the Specialized Criminal Court, on [charges](#) under Article 423 for promoting neo-Nazi ideology. He was convicted and sentenced to four years imprisonment. As of December 2020, his conviction was under appeal.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

No measures have been taken to tackle disinformation. The non-governmental sector is involved in [media literacy efforts](#) on the level of universities.



Hate Speech

Hate speech is criminalised under [Article 297](#) (incitement to hatred based in protected grounds) of the Slovenian Penal Code. Cases of hate speech are considered by the State Prosecutor's Office. According to [European Commission against Racism and Intolerance \(ECRI\)](#), the prosecution authorities interpret the Article too narrowly, which leads to a "significant impunity gap". In 2019, 57 instances of hate speech were [reported](#), with 2 prosecuted and ending in conviction.

There is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.



Disinformation

The Spanish government has approved a ministerial decree that updates the existing national system to prevent, detect and respond to disinformation campaigns. In October 2020, the National Security Council approved the Procedure for Intervention against Disinformation ([published on 5 November 2020](#)). The Procedure establishes four levels of involvement that serve both for the detection of disinformation campaigns and analysis of their possible impact on national security, and as support in the management of crisis situations.

The government responded to [concerns](#) regarding the effect of the Procedure on the freedom of expression by stating that under no circumstances would the procedure be used to “limit the free and legitimate right of the media to offer information” or to monitor or censor them. The plan would allow the Secretary of State for Communication to conduct public communication campaigns to curb detected disinformation campaigns.



Hate Speech

Spain has extensive laws both on hate speech and terrorism. The provisions on the latter have been [criticized by civil society](#) as disproportionate and too broad. They overlap with hate speech provisions in their subject matter. The numbers of hate crimes [reported by the Spanish Police](#) is consistently high: 1,706 in 2019 and 1,598 in 2018 (no information has been provided on how many of these were prosecuted or resulted in convictions).

Hate speech is criminalised under [Articles 510.1.a](#) (incitement to hatred based on protected grounds), [510.1.c](#) (denying or trivializing genocide, crimes against humanity), [510.2.a](#) (harming people’s dignity based on protected grounds) and [510.2.b](#) (exalting or justifying crimes against a group or individuals based on the protected grounds) of the Spanish Penal Code.

As to terrorism, [Article 573.3](#) of the Penal Code extends the definition of terrorism to include the “glorification” and “incitement” of terrorism.

More specifically, [Article 578\(1\)](#) makes it a criminal offence to engage in any “public praise or justification” of terrorism, with aggravated penalties if such speech is expressed online ([Article 578.2](#)). The latter rationale exists in the Czech Penal Code as well, and was a source of [criticism](#) from the British human rights organization Article 19, noting that “the government has not made the case as to why an increase in sentencing for online speech”. [Article 579 of the Penal Code](#) criminalises incitement to terrorism separately from “praise and justification”, with no differentiation between online and off-line expression.

There is no legislation mandating online platforms to restrict access to hate speech material without a court order. Moreover, [Article 578\(4\)](#) of the Penal Code explicitly states that the removal of illegal content (related to terrorism or its glorification/incitement) may be ordered only by a court or a judge.



Disinformation

In July 2018, Sweden's Civil Contingencies Agency (MSB) set up a [task force](#) on protecting the integrity of elections.

In August 2018, the Swedish government mandated a special investigator to analyse and submit proposals to develop a Psychological Defence Authority, [with the aim to](#) “preserve our open society’s free exchange of knowledge and information ... a precondition for our democracy and rule of law”. Aside from counteracting deception and disinformation, it should also [ensure](#) that government authorities can effectively communicate with the public during crises, including war. Originally, the launch of the institution was planned for August 2019, with current hopes that it will be in place by 2022 (which is also when the next general elections will be held).



Hate Speech

Hate speech is criminalised under [Chapter 16, Section 8](#) of the Swedish Penal Code (expression of threat or contempt based on protected characteristics) and [Chapter 29, Section 1, paragraph 2.7](#) (discriminatory motive as an aggravating circumstance).

Additionally, after an amendment passed in 2018, [Chapter, 18 Section 9](#) of the Penal Code prohibits discrimination. In particular, a trader may not refuse to provide services or sell items, and an organiser of events/gatherings may not refuse entry based on protected characteristics.

The statistics [reported by the Swedish Police](#) demonstrate high reporting rates for hate crime (e.g., 5,858 cases in 2018), and relatively low prosecution rates (in 2018, 218 out of the 5,858 cases). Online hate speech is prosecuted under the same provisions, with Swedish courts delivering [18 convictions in 2017](#) for comments made on Facebook.

The considerably lower prosecution rates demonstrate a restrictive interpretation of the hate speech provisions and the high value placed on freedom of speech when balancing with other rights.

Sweden has historically [taken a stance](#) against blocking or limiting internet access, arguing that “crimes should be prosecuted, not hidden”. Hence, there is no legislation mandating online platforms to restrict access to hate speech material without a prior court order.

