



**#NoToHate**

## Factsheet

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

## What is hate speech?

Hate speech is any communication in oral form (e.g. speeches, songs), in writing (printed, online, graffiti), through images (e.g. photos, videos, cartoons, murals, billboard), or behaviour, that attacks or uses pejorative (offensive, degrading) or discriminatory language or images towards a person or a group because of who they are or are perceived to be<sup>1</sup>.

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

In Bosnia and Herzegovina, the most frequent forms of hate speech target individuals or groups based on their ethnic background and / or religion and gender. A form of hate speech that is common in Bosnia and Herzegovina is the condoning, gross minimization and denial of war crimes, crimes against humanity and genocide perpetrated during the 1992–1995 conflict and established beyond reasonable doubt by international tribunals. Another example is the glorification of individuals convicted for war crimes, crimes against humanity and genocide by international and domestic courts.<sup>2</sup>

In 2019, in order to raise awareness of the potential harm of hate speech, the United Nations Secretary-General launched the United Nations Strategy and Plan of Action on Hate Speech.<sup>3</sup> Its objective is to enhance United Nations efforts worldwide to support governments and other stakeholders in addressing hate speech, including in tackling its root causes and impact.

<sup>1</sup> See the United Nations Strategy and Plan of Action on Hate Speech, available at

[https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action\\_plan\\_on\\_hate\\_speech\\_EN.pdf](https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf).







<sup>2</sup> The glorification of convicted war criminals has taken the forms of murals and graffiti, slogans (often used in the context of football matches), songs, as well as names of public sites.

<sup>3</sup> <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>

## Is hate speech illegal?

There is no formal definition of hate speech in international human rights law. However, **hate speech that incites discrimination, hostility and violence is prohibited under international and domestic law.**

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

-  **Context** of the statement
-  **Speaker's** position or status
-  **Intent** to incite audience against target group
-  **Content** and form of the statement
-  **Extent** of its dissemination
-  **Likelihood** of harm, including imminence

It is sometimes difficult to determine when hate speech has crossed the line and constitutes a prohibited form of speech that incites violence or discrimination. Human rights experts have thus developed a set of criteria in a document entitled the **Rabat Plan of Action<sup>4</sup>** that can assist in determining which

**incidents of hate speech should be prohibited and punished.** Among these criteria, it is important to examine the **context** of hate speech (e.g. a political crisis), the **status of the speaker** (notably to assess his/her influence), the **intention**, the **content** of the actual speech, **how broadly it has been disseminated**, and the **likelihood of harm it can cause**, in order to understand whether it constitutes incitement.

## Is hate speech protected under freedom of opinion and expression?

In any society, not least in post-conflict contexts, hate speech (further) undermines social cohesion, fosters or entrenches discrimination, creates or deepens divisions, and can lay the foundation for violence or recurrence of conflict. **If widespread and not addressed, hate speech undermines peace, stability, sustainable development, and the fulfillment of the human rights of all.**

Therefore, while not all forms of hate speech are prohibited under international and domestic law, **any form of hate speech may be harmful and should be countered<sup>5</sup>** as it implies discrimination and is an attack on the dignity of those targeted.

That is why it is **critical** for all relevant authorities to **take all possible measures to counter hate speech by addressing its manifestations and root causes.**

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

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

Sexist hate speech relates to expressions that spread, incite, promote or justify hatred based on sex. Some groups

<sup>4</sup> <https://www.ohchr.org/en/freedom-of-expression>

<sup>5</sup> [https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action\\_plan\\_on\\_hate\\_speech\\_EN.pdf](https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf);

[https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech\\_Guidance%20on%20Addressing%20in%20field.pdf](https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech_Guidance%20on%20Addressing%20in%20field.pdf)

of women are particularly targeted by sexist hate speech (notably young women, women in the media, politicians and human rights defenders), but social media have contributed to amplifying sexist hate speech targeting women and girls. This can be countered through sensitization and awareness raising on the importance of positive portrayals of women as active agents of change.

While countering hate speech, it is important to safeguard freedom of expression, including the right to criticize policies and express unpopular opinions.

The protection of the right to freedom of expression should be the norm, and restrictions should be the exception. Any limitations to this right should be clearly defined by law, and should be justified, strictly necessary and proportionate.

International standards on the protection of freedom of opinion and expression thus include the protection of criticism or speech that can be offensive, disturbing, demeaning or shocking, and do not permit limitations solely on the basis of an 'offence' caused to an individual or an identity-based group.

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

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

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

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

Since July 2021, the **Law on Amendments to the Criminal code of Bosnia and Herzegovina** prohibits the public condoning, denial, gross trivialization or attempts to justify a crime of genocide, crimes against humanity or a war crime adjudicated in final instance by international and domestic courts<sup>6</sup>, as well as the glorification of war criminals convicted by international and domestic courts<sup>7</sup>. This law is not retroactive.

Across Bosnia and Herzegovina, under public peace and order laws, **insulting language in a public place that**

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6 The Law on Amendments to the Criminal Code of Bosnia and Herzegovina subjects to criminal sanctions “whoever publicly condones, denies, grossly trivializes or tries to justify a crime of genocide, crimes against humanity or a war crime established by a final adjudication pursuant to the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945 or by the International Criminal Tribunal for the former Yugoslavia or the International Criminal Court or a court in Bosnia and Herzegovina, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group”.

7 The Law on Amendments to the Criminal Code of Bosnia and Herzegovina subjects to criminal sanctions “whoever gives a recognition, award, memorial, any kind of memento, or any privilege or similar to a person sentenced by a final judgement for genocide, crimes against humanity or a war crime, or names a public object such as a street, square, park, bridge, an institution, building, municipality or a city or similar, or registers a brand, after or under a name of a person sentenced by a final judgement for genocide, crimes against humanity or a war crime, or whoever glorifies a person sentenced by a final judgement for genocide, crimes against humanity or a war crime in any way”.

jeopardizes the safety of citizens or generates insecurity constitutes a misdemeanour subjected to a fine.

The Law on Amendments to the Election Law of Bosnia and Herzegovina of July 2022 defines hate speech as any form of public expression or speech that can provoke or encourage hatred, discrimination or violence against any person or group of persons, based on any prohibited ground related to one's identity.<sup>8</sup> It prescribes fines ranging from BAM 3,000 and BAM 30,000 for any political entity for using hate speech, and/or publishing or using a picture/image, a symbol, audio or video recording, SMS message, Internet communication, social network and mobile application or any other material that can have such effect.<sup>9</sup>

The Central Election Commission of Bosnia and Herzegovina is competent to remove a candidate from electoral lists if it determines that he / she is personally responsible for hate speech as defined above; on the same grounds, it can cancel the certification of a political party, a coalition, a list of independent candidates or an independent candidate; and it can prohibit the professional engagement of individuals at polling stations and the Voters' Register Centre, municipal election commissions, the counting centres, and other election commission established in accordance with Article 2.21 of the Election Law of Bosnia and Herzegovina.<sup>10</sup>

These provisions only apply during the electoral campaign period, i.e. over a period 30 days that includes polling day.

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

Reporting hate speech is simple and free of charge. All complaints can be filed online, by email, via postal mail, or by phone.

### Reporting to the police

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

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

### Notifying social media administrators

If you are subjected to hate speech on social media, it is important to immediately make a screenshot of the content

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<sup>8</sup> The Law on Amendments to the Election Law of Bosnia and Herzegovina prohibits hate speech, which it defines as any form of public expression or speech that provokes or encourages hatred, discrimination or violence against any person or group of persons, based on race, skin colour, nationality, sex or religion, ethnic origin or any other personal characteristic or orientation that incites to discrimination, hostility and violence. The original text of the Election Law of Bosnia and Herzegovina prohibited the use of language that could induce or incite someone to violence, or the spread of hatred, or the publication or use of images, symbols, audio and video, text messages, Internet messages or other materials that induce or incite to violence.

<sup>9</sup> The Law on Amendments to the Election Law of Bosnia and Herzegovina foresees that: "A political entity shall be fined for a violation in an amount ranging between 3,000 and 30,000 BAM : [...] if it uses hate speech, and/or publishes or uses a picture/image, a symbol, audio or video recording, SMS message, Internet communication, social network and mobile application or any other material that can have such effect". The previous text of the Election Law of Bosnia and Herzegovina provided for fines ranging from 1,000 to 10,000 BAM for "a political entity that uses language that could induce or incite someone to violence or the spread of hatred, or the publication or use of images, symbols, audio and video, text messages, Internet messages or other material which can have such effect".

<sup>10</sup> The Law on Amendments to the Election Law of Bosnia and Herzegovina prescribes that: "[...] (2) The Central Election Commission of Bosnia and Herzegovina shall also have the authority to impose the following penalties: [...] removal of a candidate's name from the list of candidates, where it is determined that the candidate is personally responsible for a violation; de-certification of a political party, coalition, list of independent candidates or independent candidate; and prohibition of engagement of an individual to work at a Polling Station, in the Voters Registration Centre, in a Municipal Election Commission, in the counting centres or in another election commission established pursuant to Article 2.21 of this Law."



as it may be deleted. You should also directly report to the social media administrators about the inappropriate content.

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

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

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

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

Complaints can be submitted electronically through the [website of the Human Rights Ombudsmen Institution](#), where you can also find recommendations and reports.

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

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

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

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

The Uniform Rules for Receiving and Processing Requests for Examination of Violations of the Law on Gender Equality of Bosnia and Herzegovina regulate the procedure for receiving and processing complaints.

Complaints can be submitted electronically to the Agency for Gender Equality of Bosnia and Herzegovina, the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of Republika Srpska by filling in the form available [here](#).

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

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

The Regulatory framework on programme standards that is obligatory for broadcasters consists of a Code on audiovisual media services and radio media services and a Code on commercial communications. Both include

provisions that explicitly prohibit programme content that “humiliates, intimidates, or incites hatred, violence or discrimination against persons or groups based on gender, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social origin, or based on any other circumstance with the purpose or consequence to disable or endanger the recognition, enjoyment or exercise, on an equal basis, of any person’s rights and freedoms”. Under the Code on audiovisual media services and radio media services, such content can exceptionally be allowed if the purpose is to critically point out to it.

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

Anyone (natural persons and legal entities) can file a complaint with the Communications Regulatory Agency related to hate speech observed in audiovisual and radio media services. Complaints can be submitted electronically through the [website](#) of the Agency, where you can also find decisions as well as reports on violations of rules and regulations.

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

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

Anyone can file a complaint to the Central Election Commission in case candidates, members of political parties and coalitions, supporters of political parties and election administration officials, or anyone otherwise hired in the election administration use hate speech, and/or, publish or use pictures/images, symbols, audio and video recordings, SMS messages, internet communications, social networks and mobile applications or any other material that can have such an effect<sup>11</sup>.

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

Complaints can be submitted electronically through the [website](#) of the Central Election Commission.

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<sup>11</sup> The Law on Amendments to the Election Law of Bosnia and Herzegovina prescribes that: “ (1) Candidates and supporters of political parties, lists of independent candidates, lists of members of national minorities and coalitions, as well as independent candidates and their supporters, and election administration officials or those otherwise hired in the election administration are not allowed to [...] use hate speech, and/or, publish or use pictures/images, symbols, audio and video recordings, SMS messages, Internet communications, social networks and mobile applications or any other materials that can have such effect.”

