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Ending cyberdiscrimination and online hate

Committee Opinion[1]
Committee on Culture, Science, Education and Media
Rapporteur: Mr Volodymyr ARIEV, Ukraine, Group of the European People's Party

A. Conclusions of the committee

1. The Committee on Culture, Science, Education and Media welcomes the report by Ms Marit Maij (Netherlands, SOC) on behalf of the Committee on Equality and Non-Discrimination and its proposed draft resolution and draft recommendation. Cyberdiscrimination and, even more so, online hate have become widespread phenomena today, undermining public trust in online media and on the internet. The subject is thus timely and relevant for the Council of Europe due to its standards and action in this field.

2. Ms Maij has expressly stated in her report that she did not intend to look at issues falling within the remit of the Committee on Culture, Science, Education and Media and its report on "Online media and journalism: challenges and accountability" that will be discussed in a joint debate with this report. Therefore, this opinion refers to the aspects of cyberdiscrimination and online hate, which have been considered by the committee in the context of its related work. Some aspects are obviously transversal and need to be recalled in both this report and the report on online media and journalism.

3. There is an aspect which is not covered explicitly: besides incitement to discrimination and violence, other online content and behaviour, though not illegal, may be considered offensive or harmful to vulnerable groups or individuals. I believe this issue needs to be addressed more effectively through awareness-raising measures, education for democratic citizenship, enhanced media literacy and maybe also through media self-regulation. At this stage, it is not possible to develop concrete proposals on such measures, as they could raise delicate issues, but hopefully this could be covered by a future report.

4. The committee proposes the following amendments aimed at strengthening the draft resolution and draft recommendation.

B. Proposed amendments

Amendment A (to the draft resolution)

At the end of paragraph 2, after the words "hate speech", insert the words "and incitement to violence".

1. Reference to committee: Doc. 13828, Reference 4144 of 28 September 2015. Reporting committee: Committee on Equality and Non-Discrimination. See Doc. 14217. Opinion approved by the committee on 24 January 2017.

Amendment B (to the draft resolution)

In paragraph 2, after the first sentence, insert the following sentence:

> *"More and more first, second or third generation migrant children, as well as adoptive and minority children, report experiences of racism as part of their everyday life."*

Amendment C (to the draft resolution)

In paragraph 3, after the word "instruments", insert the following phrase:

> *", such as the United Nations International Convention on the Elimination of All Forms of Racial Discrimination and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of racist or xenophobic nature committed through computer systems (ETS No. 189),"*

Amendment D (to the draft resolution)

At the end of paragraph 6, add the following sentence:

> *"In this respect, the Parliamentary Assembly emphasises that legislation in member States must be guided by the case law of the European Court of Human Rights, such as its Grand Chamber judgment in the case of Delfi AS v. Estonia."*

Amendment E (to the draft resolution)

In paragraph 7.2.2, after the word "online" insert the words "incitement to violence against a person or a group of persons;".

Amendment F (to the draft resolution)

At the beginning of paragraph 7.4.2, add the following phrase:

> *"recognise that children and young people are particularly vulnerable to the negative effects of cyberdiscrimination and online hate and"*

Amendment G (to the draft resolution)

In paragraph 7.5.1, after the words "the European Convention on Human Rights", insert the following phrase:

> *"and the European Commission against Racism and Intolerance"*

Amendment H (to the draft resolution)

After paragraph 7.5.1, insert the following paragraph:

> *"encourage internet intermediaries to establish clear and effective internal processes to deal with notifications regarding hate speech;"*

Amendment I (to the draft resolution)

In paragraph 7.5.3, replace the words "data protection requirements as defined by law" by the words "international standards on data protection".

Amendment J (to the draft resolution)

At the end of paragraph 8, add the phrase:

> *"and through backing stakeholders' initiatives, such as the campaign Media Against Hate by Article 19, the European Federation of Journalists and others."*

Amendment K (to the draft recommendation)

After paragraph 3.1, insert the following paragraph:

> *"review and update its Internet Governance Strategy 2016-2019 having regard to Resolution … (2017) on ending cyberdiscrimination and online hate, as well as Resolution … (2017) 'Online media and journalism: challenges and accountability';"*

Amendment L (to the draft recommendation)

After paragraph 3.1, insert the following paragraph:

> *"launch work on education against racism and hate speech, focusing in particular on children;"*

C. Explanatory memorandum by Mr Volodymyr Ariev, rapporteur for opinion

1. Amendment A

Explanatory note:

Incitement to violence is inherent in hate speech, but is a slightly different notion. For this reason, it is suggested to mention it explicitly so that action against hate speech could also help to address more adequately this intertwined phenomenon.

2. Amendment B

Explanatory note:

The motion for a resolution "Protecting children from racism and hate speech" (Doc. 14040) shall be taken into account in the report of Ms Maij. The amendment seeks to strengthen this aspect.

3. Amendment C

Explanatory note:

Cyberdiscrimination and online hate are specifically addressed by Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination as well as the Additional Protocol to the Convention on Cybercrime. These legal standards should be recalled.

4. Amendment D

Explanatory note:

The European Court of Human Rights has clarified in its Grand Chamber judgment *Delfi AS v. Estonia* (Application No. 64569/09) the responsibility of internet service providers for hate speech posted by third parties. It is useful to recall this landmark judgment.

5. Amendment E

Explanatory note:

Paragraph 7.2.2 requires that all forms of online bullying, harassment, threats and stalking shall be "effectively prosecuted under national law". It seems proper to include online conduct which publicly incites to violence against a person or a group of persons.

6. Amendment F

Explanatory note:

The motion for a resolution "¨Protecting children from racism and hate speech" (Doc. 14040) shall be taken into account in the report of Ms Maij. The amendment seeks to strengthen this aspect.

7. Amendment G

Explanatory note:

Besides the case law of the European Court of Human Rights, the most advanced and specific work on this subject has been accomplished by the European Commission against Racism and Intolerance. Therefore, it would be appropriate to mention the latter in this sub-paragraph.

8. Amendment H

Explanatory note:

Cases of cyberdiscrimination and online hate generally become known through users reporting them to their internet service providers. Therefore, those providers should establish clear and effective internal processes to deal with such notifications.

9. Amendment I

Explanatory note:

Data protection could hamper legal co-operation and assistance between law-enforcement authorities. The right to protection of personal data is not an absolute right, but can be restricted for the suppression of criminal offences.

10. Amendment J

Explanatory note:

Article 19, the European Federation of Journalists (EFJ) and other organisations have launched the campaign "Media Against Hate" (http://europeanjournalists.org/mediaagainsthate/). This initiative should be welcomed and mentioned, in order to encourage synergetic co-operation with this campaign.

11. Amendment K

Explanatory note:

The Committee of Ministers has adopted its Internet Governance Strategy 2016-2019 in order to guide the work of the Council of Europe in this field. It is important that the Committee of Ministers update it, taking account of the relevant resolutions of the Parliamentary Assembly.

12. Amendment L

Explanatory note:

The motion for a resolution "Protecting children from racism and hate speech" (Doc. 14040) shall be taken into account in the report of Ms Maij. The amendment seeks to strengthen this aspect.