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The role and responsibilities of political leaders in combating hate speech and intolerance

Report[1]
Committee on Equality and Non-Discrimination
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Summary

Hate speech and intolerance are on the rise in Europe, with increasing use of expressions that spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred.

Hate speech has become part of political discourse, not only among populist and extremist groups but also across the political spectrum and information technology contributes to spreading and amplifying it. Hate speech dehumanises the individuals and groups it targets and makes them more vulnerable to discrimination; it erodes the social fabric and hinders peaceful living together in diversity.

The most effective way of preventing hate speech and intolerance is to strengthen the principles of democracy, human rights and the rule of law, and to promote a model of society that embraces diversity and respects human dignity.

Politicians have a vital role to play in combating hate speech and intolerance and bear a moral responsibility to do so. Countermeasures include self-regulation, particularly by political movements and parties, and civil, administrative and criminal legislation. Co-operation between the authorities and information technology players also helps to combat online hate speech. A notable example of self-regulation is the Charter of European Political Parties for a Non-Racist Society, which should be updated and relaunched.

1. Reference to committee: Bureau decision, Reference 4431 of 1 March 2019.

Contents **Page**

A. Draft resolution 3
B. Explanatory memorandum by Ms Elvira Kovács, rapporteur 5
1. Introduction 5
2. Self-regulation: good practices 5
3. Denmark: a case study 6
4. Anti-Roma hate speech 8
5. ECRI's general policy recommendations: GPR No.1 5 on Combating Hate Speech 10
6. Freedom of expression and hate speech in politics: the case-law of the European Court of Human Rights 11
7. The role of political leaders 13
8. Self-regulation in political parties: Venice Commission guidelines 14
9. Hate speech in political discourse and the media 14
10. Conclusions 15

A. Draft resolution[2]

1. Europe is facing an upsurge in hate speech, including all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against national or ethnic, religious and linguistic minorities, migrants and people of immigrant origin, women and lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

2. The political arena is no exception to this worrying trend: hate speech and intolerance have become part of political discourse, where they are used not only by populist and extremist groups but increasingly by representatives of movements and parties across the political spectrum. Information technology has significantly contributed to spreading and amplifying hate speech, therefore trivialising it in the eyes of the general public.

3. The Parliamentary Assembly is concerned by the threat posed by hate speech, which dehumanises the individuals and groups it targets, making them more vulnerable to stigmatisation, discrimination and violence. Hate speech erodes the social fabric and hinders peaceful living together in diversity. It produces a feeling of exclusion among minority groups and can contribute to alienation, marginalisation, the emergence of parallel societies and, ultimately, radicalisation. When used in the political debate, it becomes a barrier to constructive dialogue between political forces and it undermines democratic values.

4. The Assembly considers that the most effective way of preventing hate speech is to strengthen adherence to the principles of democracy, human rights and the rule of law, and to promote a model of society that embraces diversity and respects human dignity. Politicians, along with other public figures, have a vital role to play in this process. Their status and visibility allow them to influence a wide audience and to define to a significant degree the themes and the tone of public discourse.

5. In fact, politicians have both a political obligation and a moral responsibility to refrain from using hate speech and stigmatising language, and to condemn promptly and unequivocally its use by others, as silence may be interpreted as approval or support. The enhanced protection of freedom of expression that they enjoy also strengthens their responsibility in this area.

6. The Assembly believes that a wide range of measures is necessary to counter hate speech, ranging from self-regulation, particularly by political movements and parties, and in the statutes and rules of procedure of national and local elected bodies, to civil, administrative and criminal legislation prohibiting and sanctioning its use, which should be considered as a last resort. Restrictions and sanctions should be proportionate and should not be misused to silence minorities or to suppress criticism.

7. Self-regulatory instruments adopted by political parties, such as statutes and charters, are particularly effective and more likely to be respected due to their voluntary nature. The Charter of European Political Parties for a Non-Racist Society, drawn up in 1998 under the auspices of the European Union Consultative Commission on Racism and Xenophobia, provides guidance for self-regulation by political parties in this area. To be relevant in the present times, however, it should be updated to take into account different forms of hatred, based on all grounds, and the technical means currently used to spread it. It should also redress one of its main weaknesses, namely the lack of measures for breaches of the Charter.

8. Media, including social media, should play an important role in limiting the impact of hate speech, by providing accurate, unbiased information and not giving excessive visibility to instances of stigmatising or abusive language, including by political leaders.

9. The Assembly refers to the exchange of letters between the Secretary General of the Council of Europe and the main players of information technology to promote an open and safe internet, where human rights, democracy and the rule of law are respected in the online environment, as a useful example of dialogue and co-operation with internet intermediaries.

10. The Assembly commends the work conducted by the European Commission against Racism and Intolerance (ECRI) in this area and supports, in particular, its General Policy Recommendation No. 15 which indicates a wealth of measures on preventing and combating hate speech, providing support for those targeted by it, and calling for self-regulation by public and private institutions, including elected bodies and political parties.

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2. Draft resolution adopted unanimously by the committee on 7 March 2019.

11. The Assembly recalls its No Hate Parliamentary Alliance, a network of parliamentarians who commit to taking an open, firm and proactive stand against racism, hatred and intolerance on whatever grounds and however they manifest themselves, as an example of a forum for discussion and exchange of good practices that should be replicated in national parliaments. It also recalls the No Hate Speech Movement and that, although the Council of Europe campaign came to an end in 2017, its national committees continue to be active.

12. In the light of these considerations, the Assembly calls on the Council of Europe member States to:

12.1. monitor the situation as regards hate speech, including in political discourse, and collect accurate, comparable data on its nature and prevalence, disaggregated by grounds of discrimination, target groups, types of perpetrators and channels used;

12.2. implement ECRI's General Policy Recommendation No. 15, by adopting relevant administrative, civil and, as a last resort, criminal law provisions;

12.3. encourage political movements and parties to adopt self-regulation texts, such as codes of conduct and ethical charters, which prohibit and sanction the use of hate speech by their members;

12.4. encourage the media to provide accurate, unbiased and responsible information in matters relevant to individuals and groups that are vulnerable to discrimination and hatred;

12.5. engage in dialogue and co-operation with internet intermediaries, in particular social media, to encourage them to adopt and apply self-regulation texts to prevent and sanction the use of hate speech and commit to removing offensive content;

12.6. promote information and awareness-raising activities addressed to politicians and elected representatives at all levels, focusing on initiatives and measures adopted to counter hate speech and intolerance, including at international level, such as the Charter of European Parties for a Non-Racist Society and the No Hate Parliamentary Alliance;

12.7. provide public officials with training on fundamental rights, equality and non-discrimination, particularly in schools and other educational institutions and in contexts where institutional discrimination may take place, including in police forces and the judiciary, the armed forces, legal services and the medical profession;

12.8. promote awareness-raising activities targeting the general public on racism and intolerance as well as hate speech specifically;

12.9. support the national committees of the No Hate Speech Movement campaign;

12.10. encourage politicians to disseminate, also on social media, positive messages in relation to minorities in their countries.

13. The Assembly calls on the parliaments of member States, as well as the parliaments enjoying the status of observer or partner for democracy, to:

13.1. provide parliamentarians and other political actors with information and training on how to prevent, identify and react to hate speech on- and offline, as well as on human rights, equality and non-discrimination, and the malignant use of social networks and other media, including disinformation;

13.2. ensure that their statutes and rules of procedure contain specific provisions against hate speech and stigmatising language, sanctions for non-compliance and accessible complain mechanisms;

13.3. establish study groups with the participation of parliamentarians, experts and civil society representatives, to monitor hate speech and recommend measures to address it at national level.

14. The Parliamentary Assembly believes that the 25th anniversary of the European Commission against Racism and Intolerance, which falls in 2019, provides a good opportunity to update, including measures for breaches of it, and relaunch the Charter of European Political Parties for a Non-Racist Society.

B. Explanatory memorandum by Ms Elvira Kovács, rapporteur

1. Introduction

> *"Hate speech is objectionable [because] it views members of the target group as an enemy within, refuses to accept them as legitimate and equal members of society, lowers their social standing, and in these and other ways subverts the very basis of a shared life. It creates barriers of mistrust and hostility between individuals and groups, plants fear, obstructs normal relations between them, and in general, exercises a corrosive influence on the conduct of collective life. Hate speech also violates the dignity of the members of the target group by stigmatising them, denying their capacity to live as responsible members of society, and ignoring their individuality and differences by reducing them to uniform specimens of the relevant racial, ethnic, or religious group."*
>
> *Bhikhu Parekh, member of the House of Lords, former Professor of Political Philosophy at the University of Westminster and the University of Hull*

1. Today Europe faces an alarming rise in hate speech, racism, xenophobia and intolerance. Nationalist and xenophobic movements play on fears and uncertainties. Racist abuse and hate speech targeting national minorities and migrants have reached unprecedented levels. This poses a serious threat to human rights and fundamental values, the rule of law and democracy. In addition, impunity is rife. Worryingly, some parliamentarians and State representatives contribute to spreading hatred and intolerance by means of shocking language and narratives.

2. Offensive remarks are made in political discourse in a large number of European countries. While the use of hate speech is particularly prominent within extremist groups, it has expanded to invade the entire political spectrum. The rise in populist movements in many European countries has led to more hate speech with a diversity of targets, including elites and national minorities. Representatives of populist movements have often disseminated false information and used hate speech for political gain. National minorities and migrants are the victims of constant, particularly conspicuous examples of hate speech.

3. This report addresses hate speech related to racism, xenophobia, misogyny and homophobia, as well as intolerance towards national minorities, because they all threaten the integrity of our democratic societies. Even though hate takes different forms, I believe that its roots are always the same.

4. This report builds among other things on the work of the European Commission against Racism and Intolerance (ECRI), in particular its General Policy Recommendation No. 15 on Combating Hate Speech, which was adopted on 8 December 2015, and on Assembly texts such as Resolution 1967 (2014) on a strategy to prevent racism and intolerance in Europe, Resolution 2069 (2015) on recognising and preventing neo-racism and Resolution 2144 (2017) and Recommendation 2098 (2017) on ending cyberdiscrimination and online hate.

2. Self-regulation: good practices

5. One of the key issues regarding hate speech in politics lies in drawing the limit between political discourse that is protected by freedom of speech, on one hand, and stigmatising language on the other. No precise, infallible rule has been formulated to define this subtle threshold. Taking into account the difference between the content of expression and the context in which it takes place is a useful element of guidance. Politicians, in particular, move in a very delicate area, as they need to catch the public's attention, express their thoughts effectively and be convincing. In addition, there is an element of competition in politics that makes "fighting" a physiological part of the political discourse.

6. The need to ensure that politicians may fully enjoy freedom of expression makes self-regulation and voluntary codes of conduct particularly appropriate tools for effectively combating hate speech. Parliaments' rules of procedure are also effective to this end. In 2018, the European Parliament changed its rules of procedure concerning sanctions against racist and xenophobic comments, thanks, *inter alia*, to support from political groups and the assistance provided by ARDI (European Parliament Anti-Racism and Diversity Intergroup) and ILGA Europe (International Lesbian, Gay, Bisexual, Trans and Intersex Association).The OHRID Institute for Economic Strategies and International Affairs, an organisation based in Skopje, has been promoting an interesting initiative for several years. On the occasion of elections, it invites the leaders of the youth branches of all political parties to sign a "Declaration for fair, free and democratic elections". The aim of

the Declaration is to encourage young politicians "to make greater efforts in the implementation of fair and democratic elections and electoral campaigns" and to show that political parties' youth branches have "the responsibility and maturity" to contribute to the country's democratisation.

7. The preamble and the text show that the Declaration is the outcome of a sensible, mature reflection on the importance of fundamental freedoms, in particular the freedom to vote and the freedom of expression, and the way in which these freedoms are closely interconnected. Two chapters, respectively on specific responsibilities and on information and awareness raising, spell out a number of commitments that the signatories make. Behaviour during the electoral campaign shall be one of dignity and respect, both during the presentation of one's own political programme and those of the competitors. The paragraph most strictly relevant to this report is the one on "Media and media campaigns", which reads "The undersigned political youth shall actively influence to minimise the hate speech on social networks and in everyday life".

8. These commitments are reiterated at each election, as the Declaration is signed at a public event. I find this initiative positive in many respects. Firstly, it focusses on politicians' roles and responsibilities in preventing and combating hate speech, which is entirely in line with the aims of my work as rapporteur. Secondly, it acknowledges the potential of young politicians, which I welcome not because they represent the future – they are in fact already part of the political landscape – but rather because youth is typically the time when people are more ambitious, more daring and more open to change. Last, but by no means least, the public dimension of the signing of the Declaration has considerable added value, as it contributes to raising the awareness of all political players, the media and the general public.

9. A less recent, but still inspiring, initiative is the Charter of European political parties for a non-racist society, signed in February 1998 in Utrecht. The Charter's signatories ("We, the democratic political parties of Europe"), "being aware of the special tasks and responsibilities of political parties as actors in a democratic political process, defending, articulating and bearing witness to the basic principles of a democratic society", commit themselves to abide by a list of principles, including in particular "to defend basic human rights and democratic principles and to reject all forms of racist violence, incitement to racial hatred and harassment and any form of racial discrimination", "to refuse to display … in any way views and positions which stir up or invite … prejudices, hostility or division between people of different ethnic or national origins or religious beliefs". They also commit to dealing "responsibly and fairly with sensitive topics relating to such groups and to avoid their stigmatization".

10. In Resolution 1345 (2003) on racist, xenophobic and intolerant discourse in politics, the Parliamentary Assembly strongly supported this Charter, recommending that all European political parties sign it and fully implement its provisions.

11. The Charter corresponds only partially to the focus of this report, which not only covers racist and xenophobic hate speech, but also all other forms of it. However, it is interesting to note that two decades ago the initiators were fully aware of the special responsibility held by political parties. Since then, hatred has become pervasive and technology has made it much easier to spread it. In October 2015, the parties represented in the Finnish Parliament signed the Charter, on the occasion of a debate on racism held at the initiative of Nasima Razmyar, a member of parliament of Afghan descent. This shows that almost two decades after its launch, the Charter is still relevant. In the light of the mounting tide of hate speech in the present day, especially online, the time has come to update and relaunch this initiative, calling on politicians to formally take responsibility for their language and usage of communication tools. They should constantly keep in mind that they are in very powerful positions and that people look up to them. They are role models and representatives for all. The geographic scope of the Charter should include all Council of Europe member States and all forms of hate speech should be covered by its provisions.

3. Denmark: a case study

12. I had the opportunity to learn more about the situation in Denmark concerning hate speech, particularly in political discourse, thanks to the meeting of the Committee on Equality and Non-Discrimination in Copenhagen on 1 March 2018 and the meetings I held in the margins of it. The information I collected was thought-provoking. The ongoing debate on the language that should be used when discussing matters relevant to minorities, the challenges that politicians face and the activities carried out by civil society and some media outlets seemed to me particularly interesting and worth presenting in this report.

13. At a hearing held during our meeting in Copenhagen, well-known journalist Lisbeth Knudsen explained that in Denmark the main targets of hate speech were Muslims and people with a migration background. Although reliable data were insufficient, she had empirically observed that, whenever she mentioned Islam and its believers in her blog, hateful comments would skyrocket. Politicians were also often targeted by hate

speech. One third of them had even received death threats at least once in their career. While most online news outlets and discussion forums in Denmark where moderated, and hateful comments filtered, she deemed it important to leave the discussion open and give everyone the possibility to express their opinions. The risk, when the debate is silenced and censorship is practised, is to push online hatred underground, towards closed Facebook groups or other less accessible spaces, that are more difficult to control and potentially more dangerous.

14. The Danish public seems to be aware of the role of social media: 77% of respondents to a survey thought that social media had a large responsibility when it came to spreading hate speech, and many of them said that they would not engage in a debate on social networks when the tone was harsh.

15. Ms Knudsen was in favour of legislation to counter hate speech by putting social media companies in charge of some vigilance. However, she found that additional measures were necessary, including awareness raising and proper digital education included in school curricula. In other words, young people should receive education on how to communicate on the internet and how to interpret the information coming from it. Combating hate speech is everyone's responsibility. Up to now, civil society organisations have been the most effective actors. Finally, law enforcement services had a role to play in the prevention and prosecution of hate speech. This sector, Ms Knudsen said, should be provided with more resources.

16. At that committee meeting, fellow members raised the issue of Denmark's underprivileged urban areas, typically inhabited by large communities with a migration background, currently referred to as "ghettos". Worryingly, this term is also used by the authorities. A "list of ghettos" was first introduced by the Ministry of Transport and Housing in 2010, regularly updated since then, and is available to the public.

17. As if this sort of reverse-quality labelling process were not stigmatising enough, in February 2018 the Danish Government tabled a bill on "special punishment zones". The idea behind it was to sanction more severely certain criminal behaviours, such as vandalism and theft, when committed in certain areas. The government's initiative left to the parliament the task of defining the details, including the designation of the special zones and the specific crimes. The idea found the support of representatives of the opposition but was criticised by civil society organisations and legal experts as a threat to the principle of equality before the law.

18. I had the opportunity to discuss this initiative and the situation in Denmark as regards hate speech with several interlocutors, namely Vibeke Borberg, Head of research of the Danish School of Media and Journalism; Qasam Ijaz of the Center for Forebyggelse af Eksklusion (CFE); journalist Bent Jensen of the online newspaper *Sameksistens* (Coexistence); Jens Elo Rytter, Professor at the Faculty of Law of the University of Copenhagen, and Lumi Zuleta, Special consultant at the Danish Institute for Human Rights.

19. The representatives of academia said during our meeting that statistical data about Danish "ghettos" were not as grim as some were depicting them, in terms of unemployment and other indicators of social well-being. Indeed, a few weeks after our conversation the press revealed that according to national police statistics, the crime rate in these areas had decreased by 30% between 2013 and 2017.

20. My interlocutors explained that a debate was going on in Denmark about "calling things by their name": some politicians and public figures refused the limits of "politically correct" language, especially when referring to people with a migration background residing in the country. The use of the term "ghetto" was a symptom that public discourse in this area was becoming increasingly harsh. In the past, the use of "parallel communities" was preferred, to describe the situation of communities not being included in the socio-political and cultural spheres of the host country.

21. This leads us to a crucial point: attention should be paid to the choice of words.[3] While it is fair to use a straightforward communication style, to fully exercise freedom of expression and to avoid self-censorship, it is important to refrain from any form of derogatory language, stigmatisation and even negative stereotyping, particularly regarding vulnerable groups, as this might fuel hostility towards them. This applies to the media and to political communication alike. The experts I met explained that empirical observation showed a link between the tone of headlines in online newspapers and the comments from readers. When the headlines contained hostile words, the share of hateful comments was higher.

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3. The word "ghetto" comes from the Venetian Ghetto in Cannaregio, and has been used for a long time to refer to segregated areas. The African-American sociologists Horace Cayton and St. Clair Drake used the term in their study of Chicago, *Black Metropolis*. Cayton and Drake wrote of how black residents were prevented from moving out of their overcrowded neighbourhoods by "the invisible barbed-wire fence of restrictive covenants". Mitchell Duneier referred in his book "Ghetto: The Invention of a Place, the History of an Idea" that for these scholars "the ghetto [was] a metaphor for both segregation and Caucasian purity in the Nazi era".

22. The same dynamic applied to the political discourse: although there was a general lack of data on hate speech in Denmark, some studies hinted that the use of certain terms by politicians was reflected in the attitudes of their supporters. Citing one of the interlocutors: "It is mostly hate speech against foreigners, migrants, religious, ethnic and other kind of minorities. There is no real integration, but rather assimilation. I believe we would all agree that there is a big difference between integration and assimilation. A problem of integration is a social problem." However, Danish politicians did not, strictly speaking, practice hate speech. They were more often the targets than the perpetrators. Women politicians were particularly at risk of abuse. They were more exposed to hate speech and consequently often refrained from using social media, to avoid sexist and misogynous hate speech targeting them. Some public figures even decided to leave political life so as not to have to put up with this situation. The Danish Prime Minister denounced the challenge of online abuse and called for a responsible use of social media, that needed to remain a forum for discussion open to everyone.

23. The Center for Forebyggelse af Eksklusion is a small non-governmental organisation "wishing to contribute in creating a more cohesive society which embraces all the differences that our society contains, across religion, ethnicity, sexual orientation and political standpoint". One of their main projects, "Anmeld Had" (Report Hate) aims to raise awareness on hate speech and protect victims. Their website allows victims to report physical or verbal assaults, which the Center assesses and transmits to the police if necessary. This project is useful for the victims but also on a more general scale, as it helps to investigate the extent of hate speech and hate crimes in Denmark, providing data that support the work of those who prevent and prosecute it.

24. Sameksistens carried out research on how seven Danish newspapers portrayed Islam and Muslims between March and November 2017, analysing 136 articles. An interesting result that is relevant to our report is that politicians were influential in shaping this representation; in these articles, politicians were featured more often than Danish Muslims (45% of the persons interviewed versus 16%). Politicians set the agenda of media coverage, meaning that the focus of news reports were political statements or initiatives rather than a description of Danish Muslims' beliefs or life. According to this analysis, the image of Danish Islam was distorted for the sake of creating "conflict" and in order to make information more interesting.

25. The situation in Denmark is interesting in many respects. It highlights that even in modern, open societies that have benefited economically from the contribution of a migrant population, prejudice is present and can easily be exploited for political gain. It also shows, once again, that there is a link between the language used in public and political discourse, and the attitudes of the population. My impression is that the former has an impact on the latter, even more than the other way around. Some politicians master the art of influencing the political debate by producing and evoking fear and anxiety. I would like to highlight that politicians, particularly members of the government and legislators, should be aware that prejudice may originate not only from fully fledged hate speech. Even more subtle forms of stigmatisation, or discrimination, such as unequal criteria for the application of criminal sanctions, may disrupt peaceful coexistence and trigger vicious circles of exclusion and anger.

4. Anti-Roma hate speech

26. Roma, Sinti and Travellers are among the main targets of hate speech and hate crime in most Council of Europe member States. The language used against them is particularly harsh, and dehumanisation often reaches disconcerting levels. Members of these groups are regularly described as a threat to social order and are associated with criminal activities. This is also a clear example of how prejudice against a category or group is used by certain politicians for electoral gain.

27. "Whenever politicians take an interest in my community, it is often to attack us and further division between us and the settled community", observed Cassie Marie McDonagh, an Irish Traveller and member of the Gypsy, Roma and Traveller Women's Empowerment Network, in an article in *The Guardian* on 11 October 2017. She reported that during a debate on "Gypsies and Travellers and local communities" at the House of Commons, in October 2017, Labour MP John Speller claimed that "the public view of the community will continue to be shaped by the appalling behaviour of the minority, who bring absolute chaos to their own communities".[4] While this is not an example of hate speech, it shows how easily the political discourse can slip into negative stereotyping and stigmatisation of this group.

4. Racism against Travellers and Gypsies is still permissible – even in parliament, *The Guardian*, 11 October 2017.

28. In the Slovak Republic, while Ombudswoman Jana Dubovcová has highlighted on various occasion the unjustified use of violence by police forces on the occasion of raids on Roma sites, Interior Minister Robert Kaliňák justified and even praised the police without any hint of the possibility of an internal investigation to clarify possible responsibilities.[5]

29. Examples of even harsher rhetoric abound across Europe. In the Czech Republic, Jaroslav Staník, a member of the SPD Party, is said to have declared that members of various minority groups should be gassed to death. The 2017 Report on Extremism, prepared by the Czech Republic's Interior Ministry, observed that Tomio Okamura, leader of the conservative SPD Party, had used xenophobic rhetoric[6] and that in the past, when anti-Roma sentiment was dominating the news cycle, he had made anti-gypsy comments.[7]

30. Revisionism is often part of the derogatory rhetoric targeting Roma. Czech parliamentarian Miloslav Rozner, for instance, called the Second World War concentration camp for Romani people at Lety a "pseudo-concentration camp".[8]

31. In Italy, the leader of the League party Matteo Salvini has repeatedly indulged in anti-Roma statements. In March 2018, on the occasion of International Roma Day, he tweeted that "if many of them worked more and stole less, if many of them sent their children to school instead of teaching them to steal, then it really would be something to celebrate". He continued to use extremely offensive language after he was appointed Interior Minister and Deputy Prime Minister. In June, he announced during a television interview that he had given instructions for a "census" of the country's Roma community, adding that those with Italian nationality would "unfortunately" be allowed to stay.

32. Several attacks are currently being investigated in Italy as possibly being motivated by racism. Among them there is the shocking case of a 13-month-old Roma child who was shot with an air gun in Rome on 25 July 2018. The existence of a link between violent or discriminatory behaviour targeting Roma and other minorities and the attitude of politicians is particularly evident.[9]

33. On 7 August 2018, a loudspeaker announcement was heard on a regional train on the Milano-Mantua line inviting Roma passengers to get off the train as they were a nuisance (the language used was particularly insulting). An internal investigation identified a female staff member as the person behind this announcement and the company announced that she faced sanctions and possible dismissal. Minister Salvini reacted by defending the staff member and stated that he would do his utmost to avoid any sanctions being applied. Days later, he declared publicly that this person should by be awarded a prize for her actions.

34. In its opinion on Romania adopted in June 2017, the Advisory Committee on the Framework Convention for the Protection of National Minorities indicates that the persistence of negative attitudes and prejudice against the Roma is a reason for considerable concern. "In particular, the continuing pernicious language employed by some politicians against the Roma and persons belonging to the Hungarian minority perpetuate divisions which are detrimental to finding solutions to problems affecting society." This report describes a worrying process that probably applies to many other countries: "Intolerant language which used to be restricted to the extreme right-wing political parties has, over the years, become commonplace and entered mainstream political discourse. Regrettably, it has to be noted that negative stereotypical portrayal of the Roma and exacerbated nationalism brings a measure of electoral success in particular at local level, and even more respectable political organisations resort to using anti-Roma and anti-Hungarian rhetoric."

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5. Discrimination, police brutality highlighted, *The Slovak Spectator*, 24 March 2017.
6. Czech President's staff criticize inclusion of "Freedom and Direct Democracy" party in extremism report, *Romea.Cz*, 19 June 2018.
7. A useful tool in understanding how small acts of prejudice can escalate to extreme violence is the pyramid of hate model which is mentioned in many studies (notably "The pyramid of hate in Italy", report published by the "Jo Cox" Committee on hate, intolerance, xenophobia and racism). According to the model, biased behaviours build on one another, becoming ever more threatening and dangerous towards the top. At the base is bias, which includes stereotyping and insensitive remarks. It sets the foundation for a second, more complex and more damaging layer: individual acts of prejudice, including bullying, slurs and dehumanisation. Next is discrimination, which in turn supports bias-motivated violence, including apparent hate crimes. And in the most extreme cases, if left unchecked, at the top of the pyramid of hate is genocide.
8. Czech politician spreads hateful racist hoaxes online against dark-skinned footballers, Muslims and Roma, *Romea.Cz*, 17 July 2018.
9. "Hate speech contributes to social exclusion and increased polarisation. Moreover, such speech intimidates people, deterring them from speaking publicly, and thus weakens democracy. Hate speech fans prejudice, creates fear and anxiety among the affected groups and it deprives people of dignity. Hate speech can therefore trigger discrimination and harassment and/or violence" (Norway, report of the Equality and Anti-Discrimination Ombud: "Hate Speech and Hate Crime", 2015).

35. A 2014 report published by Harvard University on "Accelerating patterns of anti-Roma violence in Hungary" analyses several causes of the increasing anti-gypsyism in the country. In addition to general patterns of impunity and lack of accountability for violence targeting specific groups in the past, and the creation of paramilitary and vigilante groups as well as extreme-right organisations, the report highlights that "events amounting to hate speech and hate crimes, especially by leaders and organised groups, lead to an inflammatory atmosphere and insecurity". The text refers among other things to the expression "gypsy crime" used in the public discourse (words ruled as racist by the European Court of Human Rights as they associate crime with a specific group) and to anti-Roma events organised by the Jobbik Party, such as a march held on 12 January 2013 in Szigethalom.

36. A direct cause-effect relationship between hate speech by politicians and hate crime has not been proven.[10] However, the simultaneous increase in anti-gypsy rhetoric, including in public discourse, and in violent attacks on Roma and Traveller people in Europe hardly looks like a coincidence. When they use the "Roma card" to gain visibility and popularity, public personalities and politicians in particular should be aware that they may be encouraging discrimination and ultimately violence against this community, with possible serious consequences.[11]

5. ECRI's general policy recommendations: GPR No.1 5 on Combating Hate Speech

37. The European Commission against Racism and Intolerance (ECRI), an independent monitoring body composed of impartial members, has worked relentlessly to combat racism in Europe since it was established in 1993.

38. In addition to country-specific monitoring activities, ECRI's mandate includes the preparation of general policy recommendations. These provide Council of Europe member States with guidelines to be used when drawing up national policies in areas including racism, xenophobia, anti-Semitism and intolerance.

39. Sixteen general policy recommendations have been adopted so far. GPR No. 15, on Combating Hate Speech, is particularly relevant to this report.

40. According to GPR No. 15, hate speech is based on the unjustified assumption that a person or a group of persons is superior to others; it incites acts of violence or discrimination, thus undermining respect for minority groups and damaging social cohesion. In this recommendation, ECRI calls for speedy reactions by public figures to hate speech; promotion of self-regulation of media; raising awareness of the dangerous consequences of hate speech; withdrawing financial and other support from political parties that actively use hate speech; and criminalising its most extreme manifestations, while respecting freedom of expression. Anti-hate speech measures must be well-founded, proportionate, non-discriminatory, and not be misused to curb freedom of expression or assembly nor to suppress criticism of official policies, political opposition and religious beliefs.

41. Through extensive research on the various manifestations of hate speech in Europe and legislation and policies to counter it, ECRI has identified a range of measures and summarised them in ten recommendations within GPR No.15. First come the more general and far-reaching measures, that should be considered as a higher priority. More specific measures follow. Criminal law provisions are listed last, which shows they are considered as the last resort. I will present here a selection of measures, namely those that are particularly relevant to the role and responsibilities of politicians:

– awareness-raising and counter-hate speech measures[12] are presented as important and potentially very effective: member States should "undertake a vigorous approach" to raising public awareness of the dangers posed by hate speech, but also to demonstrating the falsity and unacceptability of it. This means promoting understanding of diversity, facilitating intercultural dialogue, combating misinformation

10. However, beyond any doubt, words used on the campaign trail or in the news have consequences. They directly impact our ability to sustain a society that ensures dignity and equality for all. Bigoted rhetoric and words laced with prejudice are building blocks for the pyramid of hate.

11. Gail B. Murrow and Richard Murrow, A Hypothetical Neurological Association between Dehumanization and Human Rights Abuses, *Journal of Law and the Biosciences*, Volume 2, Issue 2, 13 July 2015, pp. 336-364: *"…* if hate speech conditions … an implicitly dehumanized view of its human targets, and, if this reduces empathy for targets that motivates prosocial behavior toward them, then, in legal terms, it also reduces the sense of equality that conspecifics have toward the targets and thus deprives the latter of equal protection of their rights, which is provided not simply by positive law, but by the capacity to provoke empathy. Therefore … it may pose a true threat to such targeted groups' safety or human rights."

12. GPR No. 1.

and negative stereotyping, and also developing educational programmes for children and the general public alike.[13] I would like to highlight particularly the indication:[14] "Encourage speedy reactions by public figures, and in particular politicians, religious and community leaders, to hate speech that not only condemn it but which also seek to reinforce the values that it threatens";

– self-regulation: appropriate codes of conduct should be adopted by public and private institutions, including elected bodies and political parties. The latter should be encouraged to sign the Charter of European Political Parties for a Non-Racist Society. Complaint mechanisms should be established so that non-compliance may be reported and sanctioned;

– of great interest for politicians, and therefore for our report, is GPR No. 9 on the funding of political parties, calling on member States to withdraw all financial and other forms of support from political parties or other organisations that use hate speech or fail to sanction its use by their members. The recommendation even envisages the possibility of applying rigorous sanctions, such as prohibiting or dissolving such parties or organisations "where their use of hate speech is intended or can reasonably be expected to incite acts of violence, intimidation, hostility or discrimination".

42. As already mentioned, criminal law is the last of the tools recommended by GPR No.15. While criminal provisions are necessary in this area, they should be applied only where no administrative or civil law measure is considered effective. ECRI's prudence in recommending criminal law sanctions is motivated mainly by two types of risk that they pose: on the one hand, they might unduly limit freedom of expression; on the other hand, there is a risk of potential misuse of such provisions, even in the realm of politics where they could, for instance, be used to silence opponents. Therefore, the recommendation adds, criminal law provisions related to hate speech should be drafted with clarity and precision.

43. ECRI's General Policy Recommendation No.15 is one of the main references in the area of countering hate speech and it adequately covers public and political discourse. Its indications should be carefully studied and interpreted, so as to allow different implementation in different contexts. Legislators and policy makers should make good use of them. I believe that the Assembly should promote this text and do its utmost to support ECRI's activities in general.

6. Freedom of expression and hate speech in politics: the case-law of the European Court of Human Rights

44. The case law of the European Court of Human Rights ("the Court") provides guidance in the interpretation of the nature and limits of freedom of expression and may help to understand how this freedom should be exercised in the realm of politics.

45. Article 10 of the European Convention on Human Rights (ETS No. 5, "the Convention") stipulates that "[e]veryone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". In other words, everyone has the right to hold opinions and to express them freely. This is a crucial element of democracy and is particularly relevant to the activity of politicians, but also for the possibility for citizens to choose among the opinions presented to them by politicians and behave – vote – accordingly.

46. When pronouncing on alleged breaches of Article 10 of the Convention, the Court uses two different approaches. The first is exclusion from the protection of the Convention, based on Article 17 (Prohibition of abuse of rights), which reads: "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention" (or, in the simplified version of selected articles provided by the Court, "Nothing in this Convention can be used to damage the rights and freedoms in the Convention"). This means that the most general limit to freedom of expression is the need not to infringe all other fundamental rights, nor to negate the fundamental values of the Convention.

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13. Martha Minow reminds us that bias crimes exist within a context and within a culture. Similarly, a polity's bias crime law reveals context and provides insights into the society's self-understanding. She claims that "if the goal is to eradicate the dehumanization of the hated group, attention would more fruitfully turn to … the surrounding social traditions and practices that have made and continue to make that group subject to dehumanization". Martha Minow, Regulating Hatred: Whose Speech, Whose Crimes, Whose Power?, An Essay for Kenneth Karst, 47 *UCLA Law Review*, Vol. 47, pp. 1253 and 1277 (2000).

14. GPR No. 4.g.

47. The second approach applied by the Court is based on the restrictions on protection, provided for by paragraph 2 of Article 10, which refers to "formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society". The interests protected by this paragraph include national security and public safety, the prevention of disorder or crime, and the protection of health or morals. The Court uses this approach when it considers that the expression in question amounts to hate speech, but it does not undermine the fundamental values of the Convention.

48. Françoise Tulkens, former Vice-President of the European Court of Human Rights, highlights that "the general rule should be respect for freedom of expression, and the utmost care is to be commended when it comes to the legal framework of this fundamental freedom". She adds that the case law of the Court enshrines the right to express "ideas that offend, shock or disturb the State or others".[15] This confirms that even harsh criticism does not necessarily amount to hate speech.

49. However, particularly relevant to this report, the Court indicates that "it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance".[16]

50. On the other hand, as researcher Tarlach McGonagle underlines,[17] the Court states that the limits of acceptable criticism are wider for politicians than for private individuals because politicians "inevitably and knowingly" lay themselves open to scrutiny of their words and deeds and must therefore display a greater degree of tolerance.[18] Freedom of expression is especially important for elected representatives of the people, as they represent the electorate, draw attention to their preoccupations and defend their interests.[19] The protection of freedom of expression is particularly strong as regards political expression: the Court states that "[p]arliaments … are the essential fora for political debate" and that "very weighty reasons must be advanced to justify interfering with the freedom of expression exercised therein".[20] But heightened protection for political expression extends beyond such institutional framework, Dr McGonagle observes, as "freedom of political debate is at the very core of the concept of a democratic society which prevails throughout the Convention" (*Lingens v. Austria*).

51. A number of cases confirm that the Court ensures an ample protection of freedom of expression for politicians. The judgment *Temel v. Turkey* of 1 February 2011, for instance, upheld the right of the chairperson of a political party to criticise the United States' intervention in Iraq and the solitary confinement of the leader of a terrorist organisation, even though these and subsequent statements had been considered by the national judiciary as propaganda and public defence of the use of violence.

52. Other judgments, although not concerning politicians, shed light on the limits to freedom of expression that probably apply to political actors as well. *Garaudy v. France* of 24 June 2003, for instance, states that denying crimes against humanity was one of the most serious forms of racial defamation of Jews and of incitement to hatred of them. Such acts were manifestly incompatible with the fundamental values which the Convention sought to promote; therefore, the Court applied Article 17 (prohibition of abuse of rights) and held that the applicant was not entitled to rely on Article 10 (freedom of expression). The judgment in *M'bala M'bala v. France* of 20 October 2015 also excluded the protection of Article 10 for expressions of anti-Semitism disguised as an artistic production. The Court excluded that the satirical or provocative character of the performance may justify its contents, and that the comedian had used his right to freedom of expression for ends which were incompatible with the letter and spirit of the Convention.

53. The cases of *Norwood v. the United Kingdom* (16 November 2004) and *Belkacem v. Belgium* (27 June 2017) were both based on the same principle, leading the Court to consider that freedom of expression had not been breached. They concerned respectively a member of the British National Party (who had displayed in his window a poster representing the Twin Towers in flames and the words "Islam out of Britain – Protect the British People") and the leader and spokesperson of the organisation "Sharia4Belgium", which had been

15. Françoise Tulkens, report on the conference "The hate factor in political speech – Where do responsibilities lie?", Warsaw, 18-19 September 2013.
16. *Erbakan v. Turkey*, judgment of 6 July 2006, paragraph 56.
17. Dr Tarlach McGonagle, expert paper on "The Council of Europe against online hate speech: conundrum and challenges", for the Conference of the Council of Europe Conference of Ministers responsible for Media and Information Society, "Freedom of Expression and Democracy in the Digital Age: Opportunities, Rights, Responsibilities", Belgrade, 7-8 November 2013.
18. *Lingens v. Austria*, judgment of 8 July 1986, paragraph 42.
19. *Féret v. Belgium*, judgment of 16 July 2009.
20. *A. v. United Kingdom*, judgment of 17 December 2002, concerning parliamentary immunity related to allegedly defamatory statements made by a Member of Parliament.

convicted for incitement to discrimination, hatred and violence contained in YouTube videos concerning non-Muslim groups. The expressions used were considered incompatible with the values of tolerance, social peace and non-discrimination underlying the European Convention on Human Rights. These judgments are relevant to our subject in that the applicants were political actors in the broad sense. It is worth noting that the political nature of the expression did not justify its violent and intolerant character.

54. Reconciling the exercise of freedom of expression and the respect of other fundamental rights is not a simple task, but the Court carefully endeavours to strike a balance. In the case *Fáber v. Hungary* (judgment of 24 July 2012), for instance, the Court prioritised freedom of expression, holding that there had been a violation of Article 10. The applicant had been fined for displaying the striped Árpád flag, which had controversial historical connotations, less than 100 metres away from a demonstration against racism and hatred. The Court found that "the applicant, who had not behaved violently or abusively and had not posed a threat to public order, should not have been sanctioned for merely displaying the Árpád flag". Other considerations, in particular the possible unease of participants in the demonstration, were not considered sufficient to justify the sanction that had been inflicted. This decision is in my opinion sensible and balanced. However, we should be careful in applying its underlying principle to other contexts, such as the behaviour of political leaders. In the case of political actors, particularly prominent ones, language and symbolic gestures have an impact on the general public's attitude and action and should therefore be scrutinised attentively.

55. Even though it requires identifying the boundaries of the protection granted by Article 10, the fight against hate speech does not run counter to freedom of expression. Protecting freedom of expression and countering hate speech are not mutually exclusive: on the contrary, they are mutually reinforcing objectives. Setting limits to freedom of expression in order to prevent hate speech allows everyone to enjoy such right while respecting all other people's exercise of freedom.

7. The role of political leaders

56. As already mentioned, political leaders have an important role in preventing and combating hate speech and intolerance. They are increasingly aware of their responsibilities in this respect, as indicated by the Declaration of Rome signed by 17 European ministers who met in Italy in 2013 to express solidarity with Minister Cécile Kyenge. At the time Italy's Minister for integration, Ms Kyenge had been targeted by racist insults on- and off-line, including by fellow politicians.[21]

57. How should they play such role? The most general indication is that politicians and public officials must refrain from making any statement that might undermine equality or promote discrimination. In addition, they should react to statements of this kind, as silence may be perceived as tacit endorsement and contribute to creating a climate of impunity. To this end, public bodies should have clear rules governing the conduct of individuals speaking in their capacity as public officials.

58. An interesting observation from the organisation Article 19, represented at the hearing held in Paris on 19 September 2018 by Ms Joanna Szymanska, is that simply condemning "hate speech" may be insufficient. Politicians should also "substantively and persuasively engage with the underlying anxieties and misperceptions" that contribute to expressions of "hate speech". Responses by public officials should be nuanced. In addition to denouncing the use of hate speech or negative stereotyping, they should provide persuasive counter-narratives based on accurate facts. They should also take into account the fears of the public and possibly challenge the biased information underlying them. An additional, very sensible indication is that in some cases reacting to hate speech incidents is counterproductive. When the perpetrators are fringe individuals or groups that are not influential, responding to their provocation may give them the visibility they would not otherwise have.

59. It is also important to address the causes of the specific hate speech incidents, such as the hostility towards certain individuals or groups, especially by expressing solidarity with them and support, and by giving them the opportunity to express their views.

60. Politicians also have the power to instigate or encourage dialogue between groups, for instance when hate speech originates from tensions between communities. They can create opportunities for counter-speech and counter-narratives by others, in addition to using these tools themselves.

21. "EU ministers meet to condemn racism aimed at Italian minister Cécile Kyenge", *The Guardian*, 23 September 2013.

61. The No Hate Parliamentary Alliance, officially launched within the Parliamentary Assembly on 29 January 2015, is a step in the right direction. As members of the Alliance, parliamentarians "commit to taking firm, proactive and public stances against racism, hatred and intolerance, for whatever reasons and in whatever form they appear". The Alliance provides a forum for many of the activities that I have mentioned (such as counter-speech and counter-narratives) and for debate on how to counter hatred. The Charter of Commitments that members sign underlines the element of personal responsibility of parliamentarians and gives it visibility.

8. Self-regulation in political parties: Venice Commission guidelines

62. The Council of Europe's European Commission for Democracy through Law (Venice Commission) has conducted extensive work on political parties as major players in democratic life. The Commission writes that "as a specific type of free association of persons, political parties are central to the functioning of democracy. They are essential to a pluralist society, and their role in the formation of the will of the people is fundamental". The Venice Commission has issued Guidelines on Political Party Regulation,[22] a Code of Good Practice in the field of Political Parties[23] and Guidelines on prohibition and dissolution of political parties and analogous measures.[24] In the Code of Good Practice in the field of Political Parties, adopted in 2008, the Venice Commission explains that the activities of political parties are regulated both by national legislation and self-regulation. This text notes, among other things, that "the codes to which political parties voluntarily subscribe as instruments of self-restraint present an added value, not only because they are more likely to be respected but because their very process of elaboration puts into practice the style and culture of campaigning that these codes aspire to inoculate into political parties". Campaigning is a key moment in the life of politicians and political parties, and one in which communication is particularly important and may become more aggressive. However, it seems to me that this principle applies to political communication in general, and that parties' self-regulation should be used to encourage all members to use an appropriate language and avoid biased, stigmatising and hateful expressions targeting individuals and groups.

9. Hate speech in political discourse and the media

63. Mass media also have an important role to play regarding the impact of hate speech, particularly in the political discourse, on society. Media coverage contributes to shaping the perception of reality by the general public. Journalists may choose between merely reproducing the language used by political leaders and reporting on it with an independent, critical approach. At the hearing on "Migrant invasion – breaking the myth", held by the No Hate Parliamentary Alliance on 26 June 2018 in Strasbourg, Mr Yannis Kotsifos of the European Federation of Journalists explained to members the ethical questions that reporting on migration and refugees raised. These matters are central in the stigmatising discourse of certain political leaders and in stirring fear and other negative emotions among the public. A study entitled "Getting the facts right: reporting ethnicity and religion", published in 2012 by the Media Diversity Institute in partnership with ARTICLE 19 and the European Federation of Journalists, found that most stories in newspapers revolved around five subjects only, migrants and refugees being one of those. More recently, the European Federation of Journalists, together with a coalition of civil society organisations ran a project called "Media against hate", aimed at countering hate crime while protecting freedom of the media. In 2018, this project published the study "Responding to 'hate speech': Comparative overview of six EU countries",[25] which takes into account the link between media and politics. The study reads: "Hate speech' is reflected in the media, online and in political discourse, including sometimes in statements made by politicians and public officials. In many cases, the rise in prejudice and intolerance can be directly linked to a government's own policies and communication strategies."

64. Mr Kotsifos was of the opinion that the best recipe against hate speech in the media was to combine the regulations against hate speech already existing, not necessarily related to information, and self-regulation by media operators. Existing regulations may have to be updated, and people involved in disciplinary bodies should be offered adequate training on how to recognise and counter hate speech. He made another point

22. CDL-AD(2010)024, Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) and the Venice Commission, adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010)
23. CDL-AD(2009)002, adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008).
24. CDL-INF (2000) 1, adopted by the Venice Commission at its 41st Plenary Session (Venice, 10-11 December 1999).
25. Responding to "hate speech": Comparative overview of six EU countries, ARTICLE 19 (2018).

that I wish to support: media audiences should be taught the skills to interpret and better understand information. This might trigger a virtuous circle, as media dealing with an educated audience tend to improve the quality and accuracy of their reporting.

65. In Greece, a charter of ethics for journalism has been drafted, entitled "Charter of Idomeni",[26] which aims to denounce and discourage the climate of intolerance in the media. The European Federation of Journalists disseminated the charter and wrote to editors drawing their attention to the language they were using. Such interventions were meant to raise awareness and not to control or, even worse, sanction their work. The underlying idea was that freedom is crucial to journalism, as a common ground between journalists and the audience, and should not be limited unless strictly necessary.

66. The way social media are used to spread hate was looked into by Ms Marit Maij, in her report on "Ending cyberdiscrimination and online hate",[27] which highlighted the responsibilities not only of member States but also of internet intermediaries. The indications contained in this report and in the resolution and recommendation stemming from it are still timely and relevant. However, the main focus of the present report is on the ethical and political responsibility of political leaders not to spread hatred, including as social media users. The formidable impact of Facebook or Twitter makes this responsibility even more serious.

10. Conclusions

67. Hate speech is pervasive and on the rise in today's societies. Politics is not immune to it: some political leaders are targeted by it, particularly online, and some of them indulge in stigmatising or abusive language that may amount to hate speech.

68. In the light of its negative impact on targeted individuals and groups, as well as society at large, hate speech should be prevented and countered effectively. The most relevant and effective way of combating it is to strengthen the values of human dignity, democracy and human rights in European societies.

69. Politicians, along with other public figures, have a particularly significant responsibility with regard to combating hate speech, considering that their status allows them to influence a wide audience. Political leaders contribute significantly to defining the themes and the tone of the public discourse. The public's attention or concern about a given matter often reflects the messages conveyed by politicians during an electoral campaign or a particularly important parliamentary debate.

70. On the other hand, political leaders operate in a social and cultural environment defined by a variety of actors, including the media and civil society organisations. These actors also bear responsibilities and a role to play in preventing and countering hate speech.

71. The European Commission against Racism and Intolerance has conducted an extensive work on hate speech. The main outcome of such work, General Policy Recommendation No. 15 on Combating Hate Speech, provides Council of Europe member States with a wide range of indications on measures to prevent and combat hate speech, support the people it targets and reduce its harmful impact. These measures should be implemented by member States.

72. Self-regulation is a particularly effective way to counter hate speech, especially in politics, and should be practised by political organisations such as movements and parties. The same applies to the media.

73. Co-operation among all social actors is needed to combat hate speech and reinforce peaceful living together in diversity in today's Europe.

74. As regards media specifically, while fully enjoying freedom of expression, they should ensure unbiased, accurate reporting and avoid negative stereotyping and stigmatising language.

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26. See also Greek journalists draft ethical code to fight racism on refugees coverage, European Federation of Journalists, 12 May 2016.
27. Doc. 14217. See also Resolution 2144 (2017) and Recommendation 2098 (2017).