



PROSECUTING DIGITAL ANTIGYPSYISM A POLICY GUIDE FOR THE CZECH REPUBLIC



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This policy guide is published in English and Czech and is a companion publication to 'Challenging Digital Antigypsyism in the Czech Republic', which documents the state of online hate speech towards Roma as researched by ERRC Roma Rights Defenders volunteering with Romea.cz.

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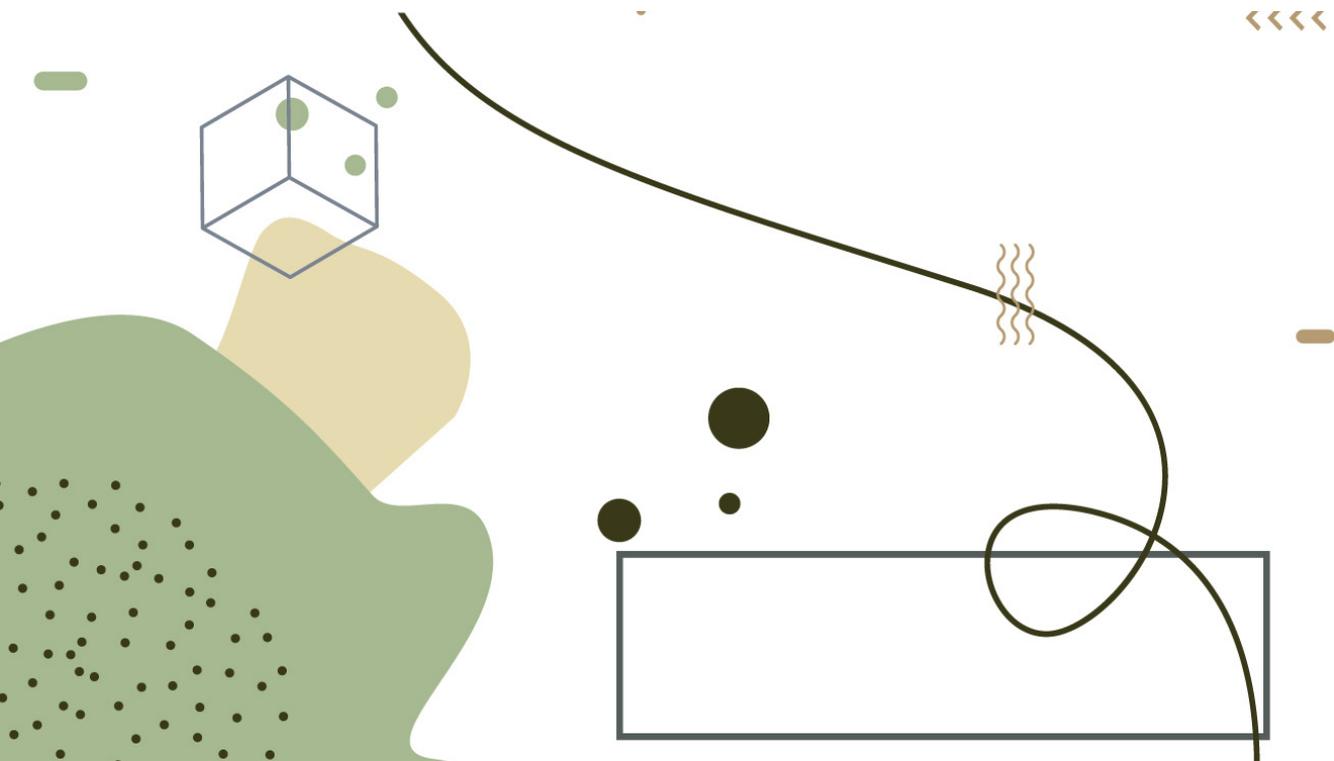
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Executive Summary

In the era of digital technology, the way people communicate has undergone a significant transformation. However, this has also led to an increase in hateful expression in the online environment, often with severe consequences for individuals and entire groups, especially those who are particularly vulnerable. The main purpose of this guide is to enhance the knowledge of relevant state actors (Ministry of Interior employees, public prosecutors, law enforcement management, and police officers) responsible for the prosecution of hate speech to better identify, investigate, and effectively address such hate speech. The guide could also be used as a resource for NGOs, activists, and others working in and around this topic.

Thousands of expressions of hate speech appear online daily, and statistics indicate the complexity, maybe even impossibility, of addressing such content comprehensively. In recent years, Czech district courts have dealt with only a very low number of such cases in criminal proceedings. This result shows a considerable discrepancy between the volume of these expressions online and the legal actions taken against them. The primary challenges, therefore, include the need for a proactive approach to deal with this issue by state actors, standardising police procedures when evaluating reported hate speech, more effective coordination across state agencies, the need for continuous education, the creation of preventive programs, involvement of the communities, and engagement of other relevant stakeholders.



About the project

This project was launched by the European Roma Rights Centre (ERRC), the Forum for Human Rights (FORUM), and the ROMEA organisation with the aim of combatting hate speech against the Romani community online in the Czech Republic. A group of young Romani volunteers, who are ROMEA scholarship recipients, monitored and reported hateful content on social media. Hate speech reaching the level of a criminal offence was reported to the Czech Police. The project is a continuation of the ERRC's *Challenging Digital Antigypsyism* project, whereby Romani volunteers actively intervene against online hate speech, and this policy guide is a companion publication to the *Challenging Digital Antigypsyism in the Czech Republic* report.

EUROPEAN ROMA RIGHTS CENTRE (ERRC)

The ERRC is a Roma-led, international public interest law organisation that monitors and protects the human rights of Romani people in Europe by taking racist governments and state authorities to court. The cases they take across Europe are designed to expose and eliminate discriminatory structures that violate the rights of Roma. The ERRC supports cases in domestic and international courts, as well as before international bodies, committees, and tribunals. At the same time, the centre works at a local, national, and international level to ensure that human rights issues facing Romani communities in Europe are firmly on the political agenda. The ERRC has brought over a thousand such cases since its foundation in 1996 and is currently active in 16 European countries with a case load of around 150 legal actions.

FORUM FOR HUMAN RIGHTS (FORUM)

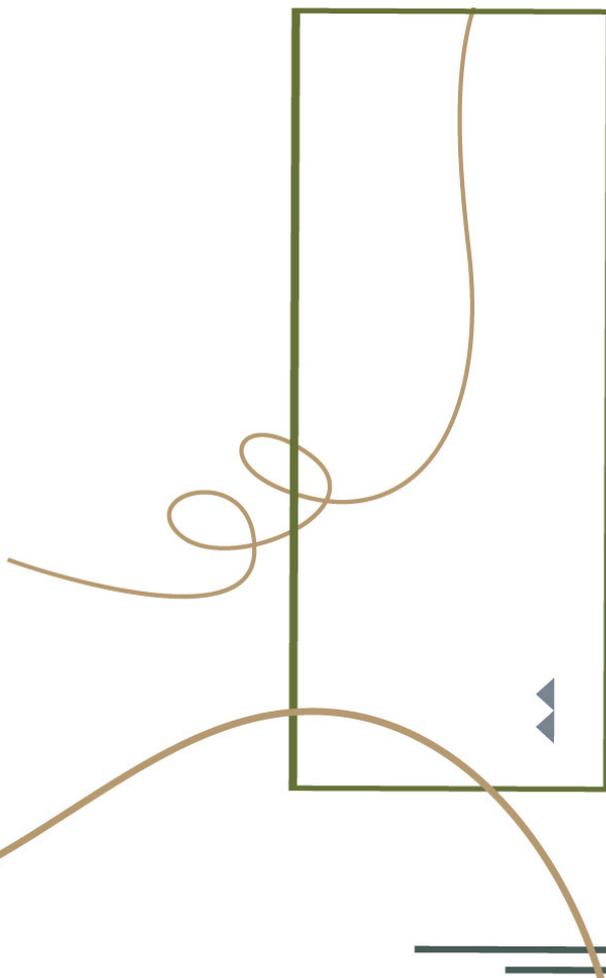
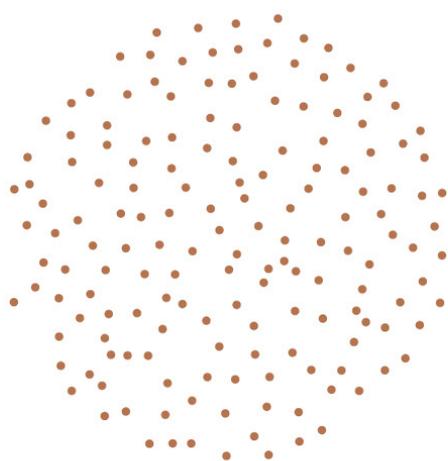
FORUM is a non-governmental non-profit organisation that has been operating in the Czech Republic and Slovakia since 2015. Its activities focus on the protection, respect and fulfilment of the fundamental rights and freedoms of all without distinction and in accordance with the international human rights conventions. To this end, FORUM uses legal instruments and represents a number of cases before domestic and international courts and human rights bodies.

ROMEIA

ROMEIA is a non-profit organisation that brings together citizens of Romani and Czech nationality who want to help the Romani and Czech peoples improve their coexistence. It has long been drawing attention to the existence of discrimination and differential treatment based on ethnicity and has been dedicated to the media coverage of this issue. On its news server, Romea.cz, it strives for objective reporting. At the same time, through education, it strives to eliminate stereotypes about the Roma minority and to promote mutual understanding and respect.

Other actors dealing with hate speech in the Czech Republic

- **Police** of the Czech Republic
- **Public Prosecutor's Office**
The Public Prosecutor's office works in compliance with the law, independently, impartially and effectively to protect public interest.
- **In IUSTITIA**
In IUSTITIA is a legal non-profit organisation which provides socio-legal counselling and representation to victims of prejudicial violence, training to law enforcement agencies, and analytical activities.
- **Office of the Public Defender of Rights (Ombudsman)**
The Ombudsman's agenda includes discrimination and hate speech.
- **European Union Agency for Fundamental Rights - FRA**
FRA researches and collects data from all EU countries, including the Czech Republic, on violence and discrimination against various groups of people, including Roma.



Why is this guide needed?

“ *A man raised in the family of a far-right politician murdered Matúš and Juraj in cold blood just because they were standing outside a club for queer people. The murderer’s motive was nothing other than prejudice, which he publicly expressed on social media. But these comments went unnoticed because hate speech is usually downplayed in the online space. In this case, however, it turned into a real, deadly act. (...) Words can kill.* ”

Together against hate: [An open call](#) to the government of the Czech Republic and the Parliament of the Czech Republic - Take concrete steps to protect LGBT+ people, their families, and children

Hate speech in the online space has gradually become a normal part of our lives, and it can have serious consequences for individuals and society as a whole. Hate speech in the digital sphere raises many challenges and, above all, a fundamental question which needs to be addressed:

How do we as a society deal with online hate speech?

According to [research](#) surveys conducted by international organisations, the amount of hatespeech on social media is increasing every year. Xenophobic and anti-Roma hate speech [accounts for the largest proportion](#) - a full third - of such content on social networks. In some cases, online hate speech can even lead to actual, real-world violence. [The European Commission reports](#) that at least 30% of Romani people have experienced hate-motivated harassment in their lives.

The purpose of this guide is to increase the knowledge of law enforcement officials in the Czech Republic, notably the public prosecutors, police management, specialised police units, and police officers, as well as other state actors such as the Ministry of Interior, in recognising hate speech, investigating it, and addressing it effectively.

Full sources can be found in the endnotes for this section.

Data on hate

“The increase in hate speech in the online space is linked to a higher number of violent attacks in the real world. The Internet can thus serve as a “waiting room” for crimes against health, life and integrity.”

The Office of the Ombudsman, [Press Release](#), *Hate Speech on the Internet - Research and Recommendations*, May 2020

- Between 2014 and 2021, **hate speech** in the online environment in the form of threats of physical destruction or physical attack **increased** by a third. ([Pew Research](#))
- The number of court decisions issued in the Czech Republic regarding hate speech on the Internet **is considerably increasing** every year. ([The Office of the Public Defender of Rights](#))
- Over the last five years, the number of prejudiced incidents involving **verbal violence and threats** or intimidation has been increasing in the Czech Republic compared to previous years. ([In IUSTITIA](#))
- Between 2016 and 2019, the **Romani community** has been by far the **most frequent victim** of hate speech in the Czech Republic, making up 49% of court decisions. ([The Office of the Public Defender of Rights](#))
- The police have recorded a **long-term increase** in hate crime, verbal and otherwise. In 2022, police recorded 282 hate crimes, which is an increase by a third compared to 2021 and by a half compared to 2020. ([Police of the Czech Republic](#))
- The number of people prosecuted and charged with hate crimes is increasing. In 2022, the authorities **prosecuted 128 people for hate crimes** and indicted 102 people. ([Czech Prosecutor’s Office](#))
- In 2017 alone, the Czech police registered more than **50 cases** of criminally punishable hate speech.
 - Of those, 20 cases involved **threats of violence**. Police classified 21 as defamation of a nation, race, ethnic or other group, and 15 as incitement to hatred against a group of people or suppression of their rights and freedoms.
 - The number of cases in all three categories (threats of violence, defamation, incitement to hatred) increased in 2018 to 29, 36, and 25 cases respectively. Such a **rapid year-on-year increase** was considered **alarming** by the European Commission against Racism and Intolerance ([2020 ECRI report](#)).

Full sources can be found in the endnotes for this section.

What is hate speech?

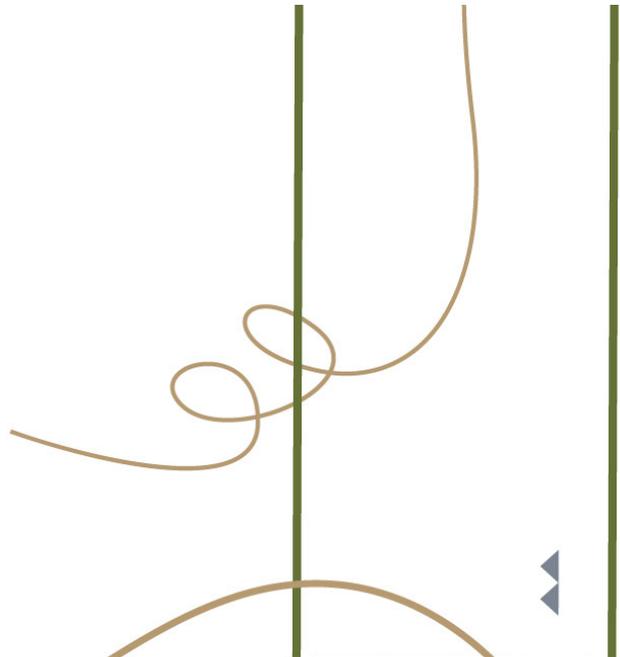
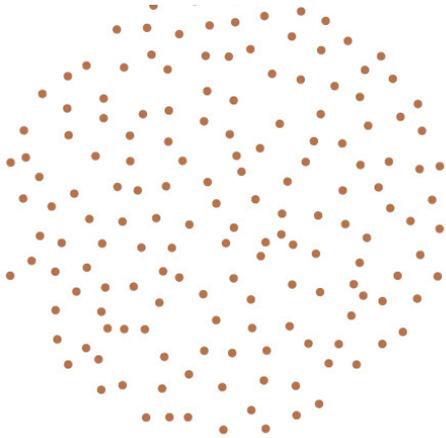
Basic concepts

Hate speech is usually a type of verbal or other speech that incites, encourages, justifies, or spreads hatred against a particular group or individual. It is usually motivated by prejudice and stereotypes. The targets for hate speech may include colour, nationality, ethnicity, gender, sexual orientation or identity, religion, belief, worldview, age, and disability.

Hate speech often stems from intolerance of others. It can take the form of, for example, aggressive nationalism, the promotion of negative stereotypes, and stigmatisation or hostility towards minorities, people of immigrant origin, and other groups that are ‘different’.

Prejudicial violence (hate crime) is violence motivated by an attacker’s negative attitude towards the attacked because of their real or perceived immutable personal characteristics, such as gender, skin colour, or nationality. Note that hate speech also falls under the broader category of prejudicial violence. It can take many forms, including verbal, in the real or online world.

According to [the ECRI definition](#), **antigypsyism** is a specific form of racism towards Roma, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination .



How to recognise hate speech

Hate speech is often perceived as a binary choice: either it qualifies as such and needs to be sanctioned, or it doesn't. Identification and sanctions require clear boundaries for classification, determining when a particular communication is considered hate speech by law and when it is not. However, in academic literature there are several interpretations of hate speech, some of which can be potentially more harmful to their targets than others. The below image is from one such **expert source** and specifically distinguishes three main typologies of hate speech and six categories that fall within them. The categories are arranged based on the intensity of hate speech, specifically by their escalating advocacy of violence leading ultimately to death.

In the image, 'rhetoric' includes negative words or phrases associated with the targeted out-group, which could refer to their past, present, or future actions or character. 'Response' includes proposed actions that the could/should be taken, either in response to the actions of the out-group or independent of the out-group's actions.



COLOUR	TITLE	DESCRIPTION	EXAMPLES
	Disagreement	Rhetoric includes disagreeing at the idea/belief level. Responses include challenging claims, ideas, beliefs, or trying to change their view	False, incorrect, wrong, challenge, persuade, change minds
	Negative actions	Rhetoric includes negative nonviolent actions associated with the group. Responses include nonviolent actions including metaphors	Threatened, stole, outrageous act, poor treatment, alienate
	Negative character	Rhetoric includes nonviolent characterizations and insults	Stupid, thief, aggressor, fake, crazy
	Demonizing dehumanizing	Rhetoric includes subhuman and superhuman characteristics	Rat, monkey, Nazi, demon, cancer, monster
	Violence	Rhetoric includes infliction of physical harm or metaphoric/ aspirational physical harm or death. Responses include calls for literal violence or metaphoric/aspirational physical harm or death	Punched, raped, starved, torturing, mugging
	Death	Rhetoric includes literal killing by group. Responses include the literal death/elimination of a group	Killed, annihilate, destroy

Hate speech as defined by national and international bodies

Although there is no one settled definition of what falls under ‘hate speech’, it does not mean that it is not possible to identify such speech. In their decisions and judgments, national and international courts often work with the definitions of international bodies, which are also the basis for the definition in the Basic Concepts above. Moreover, law enforcement authorities must be guided by national legislation, contained in particular in the **Criminal Code**. However, hate speech is also regulated in the Misdemeanours Act, the Anti-Discrimination Act, and the Civil Code.

Protection of rights against hate speech in general is already contained in the Czech Charter of Fundamental Rights and Freedoms (the Charter). The Charter guarantees the protection of fundamental rights and freedoms to **all people without distinction** of sex, race, colour, language, membership of a national or ethnic minority and other characteristics. Human dignity, personal honour, reputation or name are protected. It is these rights that clash with the right to freedom of expression, which is also enshrined in the Charter. The two rights are generally equivalent; neither has an automatic priority. Therefore, **each case must be assessed individually**.

It is true that the current concept of freedom of expression covers not only information or ideas that are favourable or considered harmless or indifferent, but also those that may shock or disturb. Interference with freedom of expression is only permissible if it is strictly necessary. At the same time, however, freedom of expression may be restricted by law where there is a legitimate reason for doing so. Such reasons include, for example, the protection of the rights and freedoms of others or public security. **Freedom of expression, including online expression, can therefore be restricted under certain conditions**. The conflict between freedom of expression and protection of human dignity, honour and reputation is assessed by the courts in the light of the concrete situation.

When interpreting statutory provisions, courts consider various criteria in the light of the specific context of the case. The outcome of the assessment is thus determined by the interplay of various factors. Although the assessment is highly **context-specific**, it is possible to identify the basic elements that courts typically take into account, and law enforcement authorities should do the same.

These are mainly the following elements:

- the (real) intention of the statements;
- the nature and wording of the statements
- the context in which they were published
- who makes the statements, what is her/his “personal” history
- against whom the statements were directed
- the potential for statements to lead to harmful consequences (for example, violence or escalation of conflict)
- the impact of the statement on other people and the public
- And other elements relevant in specific cases

WHAT IS HATE SPEECH?

Although the courts also take into account the behaviour of other actors in the online environment, the **primary responsibility lies with the author of the hate speech**. Thus, authors can be held liable for their unlawful speech even if other users or a social network have taken steps to remove the hateful comments they have posted. The rule is that speech posted in an online space is just as serious (and in some cases more serious) than speech made in the real world.

The European Court of Human Rights (ECHR) usually considers the most serious form of hate speech to be that which undermines the fundamental values of a democratic society. Typically, these are **statements that call for violence against others** and such a threat raises genuine concern by its wording or form. It also includes statements that call for hatred or discrimination against certain groups of people, their social exclusion, Holocaust denial, and so on. The ECHR, like the national courts, assesses each case individually according to the overall context.

Full sources and further reading can be found in the endnotes for this section.



Why do some people get more hate than others?

“*super shame that we don't have it today...*”

Hateful comment posted on TikTok; left in the authentic version. The comment was published under a post with an article about the concentration camp in Lety u Písku. The article, based on actual historical events, described the cruel, inhuman, degrading treatment and torture of the prisoners, who were mostly Roma.

According to research and monitoring reports by international organisations, hate speech in the online space is most often directed at minorities, whether they are Roma, LGBTQ+ people, immigrants, or other minority groups. Hate speech creates or promotes tensions in society and is often a precursor to actual violence. This has recently been confirmed by attacks motivated by hate in the Czech Republic, [Slovakia](#), and [Hungary](#).

However, verbal attacks in the online space against certain minorities in society also have other **consequences**. These can include the reinforcement of negative stereotypes or prejudices, the creation of social barriers, the marginalisation of certain groups, the interference with the psychological integrity and dignity of individuals, or the dissemination of false or misleading information about such groups.

Yet, most cases of hate speech are left unanswered and without solution. Often the reason for this inaction is the victim's fear of another wave of hatred, concerns about physical threats, as well as mistrust and a feeling that the police will not be able to help with the situation.

The most notorious and particularly serious prejudicial crime in the Czech Republic is the 2009 arson attack in Vítkov, in which four neo-Nazis threw Molotov cocktails and set fire to the house of a Romani family. Three people were injured, including a two-year-old girl who suffered life-threatening third and fourth degree burns over 80% of her body. An early release of the perpetrators in 2023 spurred another wave of hate speech against the affected family, as well as the entire Romani community. The hateful comments included, for example, that the perpetrators “did the act [of setting the fire] wrong”, meaning that they did not complete the attack against the family in full.

Full sources and further reading can be found in the endnotes for this section.

What about the law?



The user commented this under a photo of first grade Romani pupils from the Plynárenská Primary School. The District Court in Tachov convicted the user of the offence of inciting hatred against a group of persons or restricting their rights and freedoms.

Existing regulation

Freedom of expression is one of the fundamental pillars of a democratic society. Thanks to public debate, important social issues can be named and political development and people's self-realisation can take place. Freedom of expression also allows for information or ideas that are not favourable or merely innocuous. It also protects speech that offends, shocks, or disturbs. Without a broad concept of freedom of expression, it would be impossible to meet the requirements of pluralism, tolerance, and acceptance on which a democratic society is based.

However, freedom of expression is not limitless. States may, under certain conditions, restrict expression that disrupts the development of society and that falls within specifically defined legitimate aims. These include, for example, the protection of national or public security, health, morals, but also the protection of the reputation or rights of others.

States have a positive obligation to ensure the effective exercising of the rights and freedoms guaranteed by the European Convention on Human Rights. This obligation is of particular importance for members of minorities, as they are more vulnerable to victimisation. These positive obligations may require the State to adopt measures guaranteeing **effective prevention** and in cases of serious interference with essential aspects of private life **require protection** through **criminal law**.

Czech legislation provides for the punishment of hate speech on several levels:

- The **Charter of Fundamental Rights and Freedoms** protects freedom of expression in Article 17. At the same time, paragraph 4 sets out the conditions under which it can be restricted. This can also be done (by law and only if necessary) in cases where certain speech interferes with the protection of other people's rights or freedoms. Other rights - for example, the right to human dignity, personal honour, reputation and name - are on the same level as freedom of expression. Where freedom of expression and the right to human dignity are in conflict, each case is assessed individually. In these situations, it is not the case that one right "automatically" trumps the other.
- The **Civil Code** protects a person's personality and personality rights in Section 81 onwards. A person whose personality has been violated has the right to demand that the unjustified interference be refrained from or that its consequence be eliminated. The protection of personality under the Civil Code applies to all levels of a person's honour and esteem, including

personal, professional, civil and others. Interference can be caused by various types of conduct, consisting of acts or omissions, verbal speech or non-verbal attack (for example, by publishing a photograph of a person), including the publication of derogatory information. Case law does not require that the person attacked be named in the offensive speech. It is sufficient if they are identified in such a way that their identity can be established.

- In its current wording, Section 7 of the **Act on Certain Offences** defines offences against civil coexistence, including defamation by ridiculing or otherwise grossly insulting another. It is also an offence for someone to cause harm to another because of their membership of a national minority, their ethnic origin, their race, or colour (and for other reasons).
- The conceptual elements of the offence are that the **statement is insulting or ridiculing** and the offender's knowledge that it is a derogatory statement in the given situation and among the given group of people. It must be a statement which goes beyond mere impropriety in its intensity, a statement which is dehumanising and grossly offensive from an objective point of view and which, according to general opinion and belief, is more socially harmful than an improper statement. The forms of attacks may take different forms, but the perpetrator must ridicule or otherwise grossly offend another. In contrast to criminal law, culpability in the form of wilful negligence is sufficient. The offence is punishable by a fine of CZK 10,000, or CZK 15,000 in the case of repeated offences, or by a restrictive measure, such as an obligation to refrain from contacting a certain person.
- The **Anti-Discrimination Act** defines important basic concepts. Discrimination includes harassment, sexual harassment, victimisation, instruction to discriminate and incitement to discriminate. Incitement to discriminate means conduct by a person who persuades, encourages, or induces another person to discriminate against another person.
- The **Criminal Code**, selected provisions:

§ 356 Incitement to hatred against a group of persons or to restriction of their rights and freedoms

(1) Anyone who publicly incites hatred towards a nation, race, ethnic group, (...) or the restriction of the rights and freedoms of their members shall be punished by imprisonment for up to two years.

The offender shall be punished by imprisonment for six months to three years, if s/he commits the act referred to in paragraph 1 (...) by means of a publicly accessible computer network or by other similarly effective means.

§ 355 Defamation of a nation, race, ethnic or other group of persons

Whoever publicly defames a nation, its language, a race or ethnic group; or a group of persons because of their actual or perceived race, ethnic group, (...), shall be punished by imprisonment for up to two years.

The offender shall be punished by imprisonment for up to three years if s/he commits an act referred to in paragraph (1)

(...) by a publicly accessible computer network or other similarly effective means.

§ 352 Violence against a group of persons and against an individual

2) Whoever uses violence against a group of persons or an individual or threatens them with death, bodily harm, or damage on a large scale because of their real or perceived race, ethnic group, (...) shall be punished by imprisonment for six months to three years.

§ 405 Denying, questioning, condoning, and justifying genocide

Anyone who publicly denies, questions, approves, or attempts to justify Nazi, Communist or other genocide or Nazi, Communist or other crimes against humanity or war crimes or crimes against peace shall be punished by imprisonment for six months to three years.

Other relevant provisions may include:

§ 184 Defamation

§ 312e Support and promotion of terrorism

§ 312f Threatening to commit a terrorist offence

§ 345 False accusation

§ 353 Dangerous threats

§ 357 Dissemination of an alarm message

§ 365 Approval of an offence

§ 404 Expression of sympathy for a movement aimed at suppressing human rights and freedoms and other provisions according to individual circumstances.

Typical manifestations of hate speech may include:

- prejudicial online comments or tweets against an entire group or individuals
- statements inciting hatred against Roma or restricting their rights, including statements calling for their extermination or physical assault
- symbolic expressions in the form of images, memes, or emoticons (e.g., weapon symbol)

Prejudicial offences, including hate speech, are punished more severely than offences committed without premeditation. This is because their effect occurs on three levels:

- they damage the interests of individuals (protection of life, health, dignity);
- they resonate in vulnerable communities that may perceive attacks on their members as highly threatening and hostile;
- they also affect the principles of the democratic rule of law: equality, non-discrimination and peaceful coexistence between different groups of people.

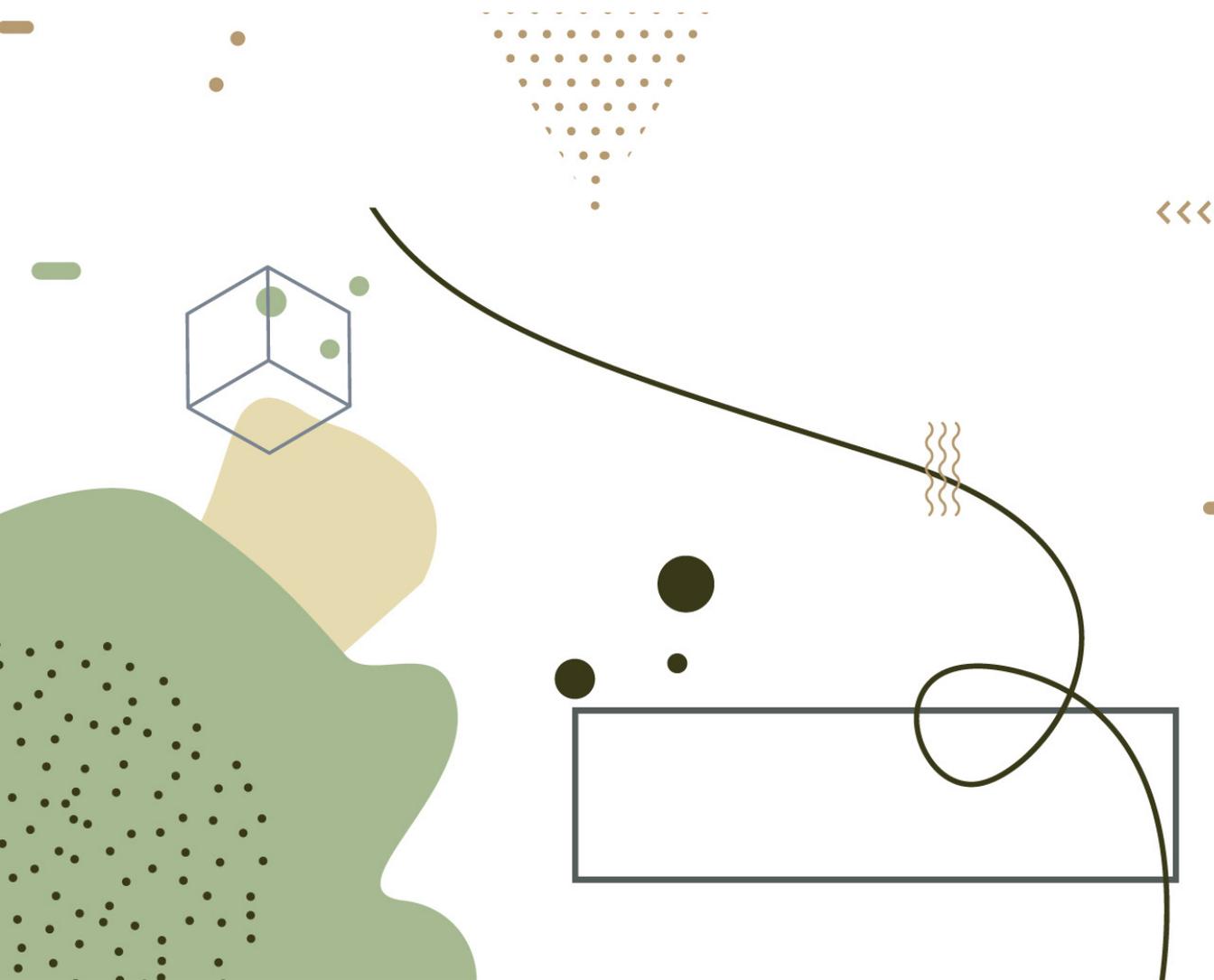
The prosecution of prejudicial crimes under the Criminal Code is based on a three-track system. Prejudicial motive is part of the definition of some crimes. The perpetrator of these offences faces up to three years' imprisonment. In addition, for selected crimes, prejudicial motive appears as a circumstance conditioning the application of a higher penalty rate: the so-called 'qualified offence'. Hateful motivation is also included in the Criminal Code as a general aggravating circumstance, which

applies if the facts of a particular crime do not contain a specific aggravating circumstance (qualified facts). The general aggravating circumstance is taken into account when deciding on the penalty.

Particularly serious verbal attacks, such as calls to kill or harm, are punishable. The offence is completed **by the mere utterance of a statement** which is generally capable of inciting another either to hatred or to restrictions on the rights and freedoms of the group concerned. It is not necessary for the inciting statement to come to fruition.

Incitement to hatred against a group of persons or to restriction of their rights and freedoms was the most frequent crime; **according to research** by the Office of the Ombudsman, national courts qualified the crimes in this way in almost half of the decisions analysed (49%).

Full sources can be found in the endnotes for this section.



Where is the problem?

“The reach, and therefore the potential impact, of online speech is also important, as calls to violence can be spread more than ever before in a matter of seconds and sometimes remain persistently available online. To assess the potential impact of such a statement, it may be relevant to determine its reach to the public.”

Kilin v. Russia, no. 10271/12, ECtHR, judgment of 11 May 2021, § 78 (abbreviated)

The 2020 report of the Office of the Ombudsman on hate speech online and the Czech Courts' response shows that in the period 2016-2019, Czech district courts issued only 47 decisions on the crimes related to hate speech committed in the online environment. Although the data may not be complete, and the number of decisions has probably been increasing over the past years, this is still a very **low number of judgments in relation to the number of unlawful hate speech crimes** occurring in the online environment. Despite how it seems, that which is illegal in the real world is also illegal in the online environment.

This year the Forum for Human Rights, alongside volunteers from ROMEA, embarked on a project mapping the Czech online environment of social networks and discussion platforms. They looked through thousands of offensive, vulgar, repulsive and hateful expressions against Romani people. They found more than 200 of them to be particularly disturbing and discouraging examples of hateful comments. They filed criminal charges against ten of the users.



These freaks from Pakistan don't deserve anything good, so I don't care about some Natálka...

Like • Reply • Message • 10m

One of the hate comments that Forum has filed a criminal complaint against. Written in response to the parole of the Vítkov arsonists. As a result of their attack, a two-year-old girl, Natálka, suffered burns over 80% of her body. The police set aside the case.



Deport the gypsies to Russia. They'll deal with them there.

Like • Reply • Message • 10m

One of the hate comments that Forum has filed a criminal complaint against. The user posted the comment with several other similar comments on Facebook. The police referred the matter to the misdemeanour procedure, and the author was fined.



Stinking gypsies from Ukraine!!! Execute!!!
Dirty bitches!!! Let them die!!!

Like • Reply • Message • 10m

One of the hate comments that Forum has filed a criminal complaint against. The user posted the comment with several other similar comments on Facebook. The police set aside the case.



They should shoot those black pigs !!!!
Death to all gypsies

Like • Reply • Message • 10m

One of the hate comments that Forum has filed a criminal complaint against. The user posted the comment with several other similar comments on Facebook. Police have referred the case to the prosecutor's office for further proceedings.



Gas them all to the last.

Like • Reply • Message • 10m

Now!!!

Like Reply Message 10m

One of the hate comments that Forum has filed a criminal complaint against. The police referred the case to another police department on suspicion of committing the crime of defamation of a nation, race, ethnic or other group of persons (§ 355) and the crime of incitement to hatred against a group of persons (§ 356 of the Criminal Code).

As can be seen from the above actual cases, the **procedure and practice of police authorities** in individual cases of suspected hate speech **varies considerably**, even in comparable cases. While some reported speeches have been set aside, others have been referred to misdemeanour proceedings and others (similar in content) have been referred to another police authority on suspicion of a criminal offence or to the prosecutor's office. It should be added that the police notification does not indicate the specific reason for setting aside the criminal complaint, i.e. whether, for example, the identity of the perpetrator could not be established or whether the statement has not reached the intensity of a criminal offence.

However, there has been a significant **acceleration** in the **referral** of cases for the most recently filed criminal reports (as of July 2023). The receiving police authority referred all criminal complaints within

WHERE IS THE PROBLEM?

1-2 working days to the General Crime Department of the Regional Police Directorate or the Extremism and Terrorism Department. It may help to standardise the assessment of criminal complaints in this area if hate speech complaints are consistently assessed by a dedicated and trained unit. In doing so, the specialized unit should place particular emphasis on the individual circumstances of cases.

The Forum for Human Rights has always highlighted which specific elements of the speech have reached the intensity of a crime and for what reasons. These included, for example, **calls for violence** that could have caused victims to reasonably fear for their lives or health, or a combination of multiple statements directed at an entire group of Roma, that humiliated them or aimed at their **exclusion from society**.

The legally **protected interest** is the **equality of people** regardless of nationality, ethnicity, or race. Protection is provided against those who publicly incite hatred towards a nation, ethnic group, race, religion, class, or other group of persons or to restrict the rights and freedoms of their members. **Incitement** to hatred means an **attempt to develop hatred** against a particular group.

Czech **domestic courts have previously condemned similar hate speech**. The District Court in Příbram, for example, has ruled that the hate speech against Romani people (“*We must exterminate those fucking subhumans*”, “*Gypsy greed has no value*”) constitutes a continuing offence of incitement to hatred against a group of persons or to restriction of their rights and freedoms (§ 356), or a continuing offence of incitement to hatred against a group of persons. Similarly, the District Court in Tachov ruled that the call for violence against Roma, i.e. the call to shoot the Romani pupils in the photograph, was an offence of inciting hatred against a group of persons or restricting their rights and freedoms (§ 356 of the Criminal Code).

Similarly, the ECHR stated that:

- incitement to hatred **by insulting, ridiculing or defaming** certain groups of the population is sufficient grounds for the State authorities to suppress such racist speech (*Vejdeland and Others v. Sweden*, § 55)
- a strong, generalised attack on one ethnic group **undermines the fundamental values** of the Convention, such as **tolerance, social peace and non-discrimination**, and cannot be left without a State response (*Pavel Ivanov v. Russia*)
- calling for the removal of all those who do not belong to the country in question is clear racial discrimination and undermines the fundamental values of the Convention (*Glimmerveen and Hagenbeek v. the Netherlands*).

Full sources can be found in the endnotes for this section.

Conclusions and recommendations



Pluralism and democracy are built on genuine recognition of, and respect for, diversity. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion (...)



Beizaras and Levickas v. Lithuania, no. 41288/15, ECtHR, judgment of 14 January 2020, § 107

Inconsistent practice in police procedures.

- It is recommended to standardise procedures for assessing prejudicial hate speech. For this purpose, it is recommended to amend the 2019 methodological guidance of the Supreme State Prosecutor's Office, or create a new practical guidance. The latter can refer to examples of specific speeches and their handling by the police and courts.
- It is further recommended to thoroughly document circumstances indicating a prejudicial motive for the crime and include it in the order instituting the prosecution and in the indictment, even in cases where the legislation does not explicitly include prejudicial motive (LGBTQ+, health, age, social status).
- It is suggested to strengthen the education and training of police officers evaluating reported hateful statements in criminal proceedings.
- It is recommended to maintain clear and consistent public communication from the police and other state authorities about the types of hate speech that are deemed illegal.

Inconsistency between the procedures of state authorities.

- There is a need for better communication between the Police of the Czech Republic, the Police Presidium of the Czech Republic, the Ministry of the Interior, the Ministry of Justice, the Supreme State Prosecutor's Office, and other actors on the issues of hate speech.

The need for general education and prevention programmes.

- It is advisable that the Ministry of Education, Youth and Sports cooperates with other actors, including civil society organisations, in the development of education and awareness-raising plans, methodologies and activities on hate speech.

Continuous training of national judges and unification of case law.

- Supreme Court, Union of Prosecutors, Judges' Union, Judicial Academy, Institute for Criminology and Social Prevention, etc.

CONCLUSIONS AND RECOMMENDATIONS

Collecting and evaluating information on the topic.

- Collect, monitor and evaluate data from crime databases, trends, increases, etc. Link with the analysis of related misdemeanour cases.

Legislative changes.

- Ensure the same level of protection for vulnerable groups from hate crimes under the Criminal Code.

Engaging communities.

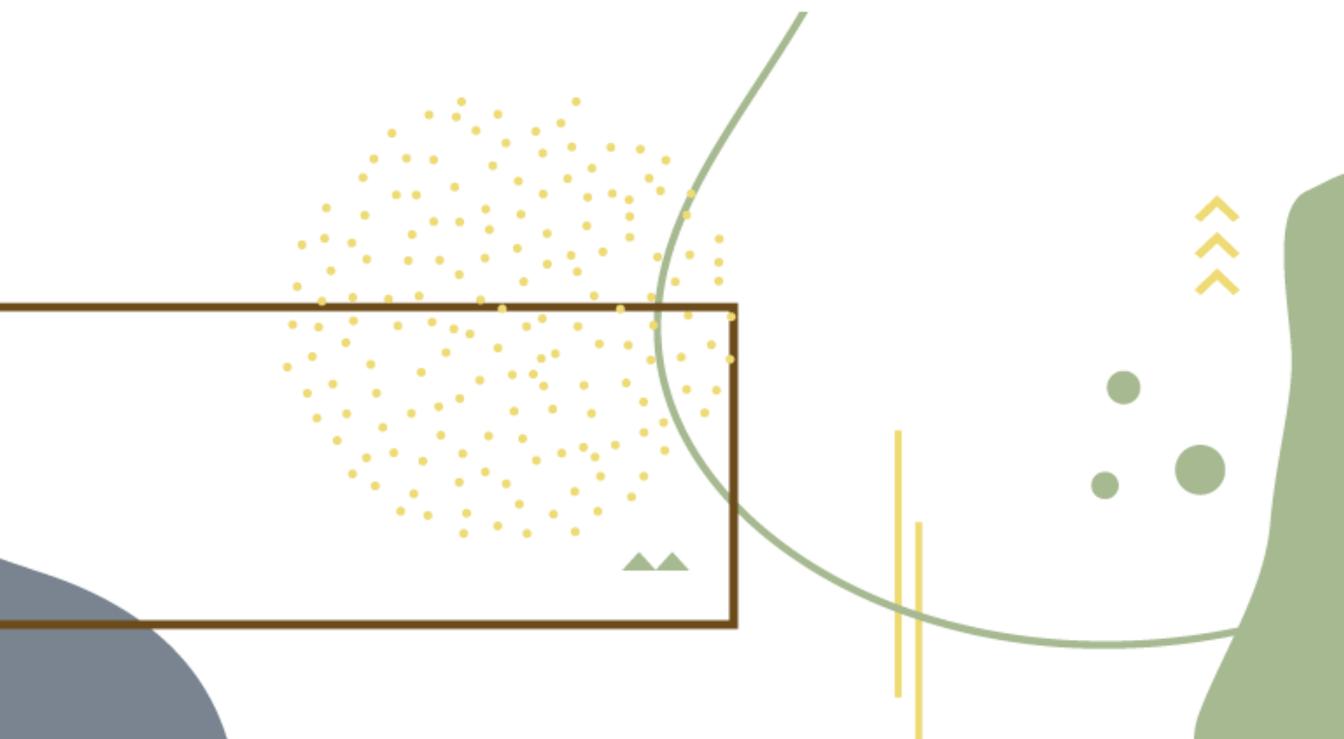
- Involve the Romani community and other minorities who are targeted by hate on the Internet in finding concrete solutions to hate on the Internet.

Support for civil society organisations.

- To monitor and report criminal and other forms of racist and hate speech against minorities.

Cooperation with other relevant actors.

- Establishing contacts and strengthening cooperation with, for example, providers of services to victims of crime.



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