

# MAPPING RESPONSES TO HATE SPEECH IN BOSNIA AND HERZEGOVINA

A situational analysis and mapping report



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All other correspondence concerning this document should be addressed to the Antidiscrimination Department of the Council of Europe, Avenue de l'Europe F-67075 Strasbourg Cedex, France, Tel. +33 (0)3 88 41 20 00 23

E-mail: [Horizontal.Facility@coe.int](mailto:Horizontal.Facility@coe.int)

Authors:  
Adnan Kadribašić  
Chara Bakalis  
Nasir Muftić

Graphic design: A Dizajn d.o.o.

Photograph: [envatoelements.com](http://envatoelements.com)

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# I - INTRODUCTION

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In recent years, across the European continent awareness has been raised about the threats hate speech poses to societies, and how it undermines human rights, democracy and the rule of law.

The leading role undertaken by the Council of Europe in responding to hate speech by developing standards, guidelines, and initiatives such as the No Hate Speech Movement provided a good contribution to this effort. Member states of the Council of Europe are initiating different initiatives to address hate speech, including in the internet space, such as legislation, improving investigation and judicial remedies, dialogue with media, and support to education and awareness raising. While such efforts are laudable, a comprehensive and coherent approach is needed within a human rights framework to achieve sustainable results.

Moreover, the evolving case law of the European Court of Human Rights and the findings and recommendations of the Council of Europe monitoring bodies provide the framework needed to develop national strategies and action plans on combating hate speech.

Based on its country monitoring findings the European Commission against Racism and Intolerance (ECRI) has issued a General Policy Recommendation No. 15 on Combating Hate Speech. This outlines that a comprehensive approach must reconcile freedom of expression and other rights, notably those of vulnerable groups, which are jeopardised by hate speech. Such an approach should also increase society's resilience against hate speech. The Recommendation provides an inclusive definition of hate speech and outlines key components needed to ensure a comprehensive approach to combating it, including legislative and administrative measures; self-regulation; support to victims; education and awareness-raising measures and the use of counter speech.

ECRI's general policy recommendation is particularly concerned with the use of hate speech falling within ECRI's work, but its provisions are envisaged as being applicable to all forms of such speech, i.e. on grounds additional to "race", colour, language, religion, nationality, national or ethnic origin, gender identity or sexual orientation.

More recently, the Committee of Ministers of the Council of Europe adopted a Recommendation on combating hate speech (CM/Rec. 2022/16), and called on governments to develop comprehensive strategies to prevent and fight hate speech, including the adoption of an effective legal framework and implementing adequately calibrated and proportionate measures. When doing so, national authorities should carefully balance the right to private life, the right to freedom of expression and the prohibition of discrimination.

The guidelines recommend that member States differentiate between: firstly, the most serious cases of hate speech, which are to be prohibited by criminal law; secondly, hate speech subject to civil and administrative law; and finally, offensive or harmful types of expressions which are not sufficiently severe to be legitimately restricted under the European Convention on Human Rights but nevertheless call for alternative responses.

To counter online hate speech, governments should ensure clear and foreseeable provisions for the effective removal of online hate speech that is prohibited under criminal, civil or administrative law. They should also establish by law the effective measures which should be taken to prevent its dissemination.

The Recommendation furthermore covers the procedural requirements for the removal of hate speech, includes redress and appeal mechanisms and underlines the need for transparency and proportionality. Guidance is offered concerning awareness raising, education, the use of counter and alternative speech, the setting up of support mechanisms to help those targeted by hate speech and training for members of the police and the judiciary as well as other professionals.

## A holistic approach to the challenge

As per the relevant documents mentioned above, a comprehensive national response to hate speech needs to address the rights of individuals both on and offline, particularly members of vulnerable groups which are most often targeted by hate speech. It also needs to facilitate societal cohesion and clarify the responsibilities and roles of the national authorities and other key stakeholders. In fact, while both the above-mentioned documents are mainly addressed to the member states and their authorities, they also contain guidance for other actors such as local authorities, parliaments, Ombudsperson offices and Equality bodies, Internet businesses, media, the education sector, and NGOs.

For this reason, the Council of Europe engages with member State authorities and other stakeholders to support the design of comprehensive strategies against hate speech, based on a systemic approach. This approach involves as a first key step a **systemic analysis of the existing national approach to hate speech** which maps how members of society are impacted by hate speech and the redress available to them. The analysis maps the interaction individuals or targeted groups have with institutions, public bodies, NGOs and the private sector throughout the process of addressing hate speech. A systemic analysis is not restricted to legal redress but encompasses all possible responses as outlined in ECRI GPR No. 15, for example self-regulatory procedures, public condemnation, victim support and educational responses. Breaking down a system into its component pieces and studying how those pieces work and interact to accomplish their purpose helps identify gaps, challenges, new actions and tools.

The systemic mapping had the following objectives:

- to facilitate the process of reviewing and mapping existing policies, structures, tools and actions in BiH to prevent and combat hate speech
- to understand the roles of different public and private actors involved, and their interactions in addressing hate speech
- to analyse the results and identify emerging challenges, as well as ways to deal with them strategically in the process of combating hate speech.

This holistic approach to mapping in BiH was designed to include a range of stakeholders from various institutions and organisations in a process of research aimed at identifying causes, manifestations and consequences of hate speech at all levels of society. The methodology is based on a systematic approach to thinking and design and will result with a holistic map of hate speech mechanisms. The project involved a mixed research team, including a Lead Expert, Adnan Kadribašić; an academic associate, Nasir Muftić; an international expert Chara Bakalis; with support from the Council of Europe in partnership with the European Union Delegation in BiH and the Ministry for Human Rights and Refugees of BiH.

## PROJECT TIMELINE

The key activities of the project were:

**Desk research and drafting of a situational overview (April 2022)**, during which the documentation was studied and the use of hate speech as a complex problem space was created. During system mapping, a first mapping of existing interventions was created.

**Framing workshop (May 2022)**: the results of system mapping were presented and built upon, in order to create a common “playing field” for the stakeholders involved.

**Stakeholder interviews & data gathering (May/June 2022)**, during which input from additional stakeholders was collected and reporting on occurrences of hate speech gathered in order to enrich our understanding and identify challenges as seen from multiple perspectives.

**Reframing workshop (June 2022)**, during which the insights generated through the framing workshop, interviews and surveys were presented and used as beacons for future developments in this area.

**Finalisation of the report (end of June 2022)**

## II - FRAMING HATE SPEECH

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The first phase of this project was of research, to understand the context of BiH and how the phenomenon of hate speech manifests itself. This background was the starting point to building a systemic map that could represent the main factors leading to hate speech in the context of BiH.

### Desk research and reference material analysis

The following documents were reviewed:

#### Council of Europe documents

- ▶ Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocol No. 12 thereto (2000)
- ▶ European Social Charter (1996)
- ▶ Framework Convention for the Protection of National Minorities (1998)
- ▶ Convention on Cybercrime (2001)
- ▶ Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003)
- ▶ ECRI General Policy Recommendation No.15 on Combating Hate Speech
- ▶ Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech (Adopted by the Committee of Ministers on 20 May 2022 at the 132nd Session of the Committee of Ministers)
- ▶ ECRI - Country monitoring in BiH - Third report on BiH (adopted on 6 December 2016 / published on 28 February 2017)
- ▶ Report for civil servants in BiH for recognizing and dealing with hate speech cases (March 2021)
- ▶ Committee of Ministers of the Council of Europe Recommendation on combating hate speech CM/Rec. 2022/16 (May 2022)

#### European Union documents

- ▶ EU Code of conduct on countering illegal hate speech online
- ▶ EU framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law EUR-Lex - 32008F0913
- ▶ EU Anti-racism Action Plan 2020-2025 | European Commission
- ▶ Commission staff working document BiH 2021 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions



## Organization for Security and Co-operation in Europe documents

- ▶ Document of the Copenhagen Conference on the Human Dimension of the CSCE (Conference on Security and Co-operation in Europe) of 29/06/1990
- ▶ Decision No. 6 on tolerance and non-discrimination, Tenth Meeting of the Ministerial Council, Lisbon, December 2002
- ▶ <https://www.osce.org/hatemonitorbih>

## Research and publications

- ▶ RESILIENCE: For Media Free of Hate and Disinformation: Propaganda, Disinformation and Hate Models of Media and Communication in BiH, 2020
- ▶ Special Report on Hate Speech in BiH, Ombudsman Institution of BiH, 2021
- ▶ International Legal Research Group on Freedom of Expression –Protection of Journalistic Sources as one of the basic conditions for freedom of expression without which sources may be deterred from assisting the media in informing the public on matters of public interest, ELSA and Council of Europe, 2016
- ▶ Report on Manifestation of Hate Speech and Hate Crimes, SOC, 2019
- ▶ The Right to Movement, Hate Speech and the Pandemic in BiH, Civil Rights Defenders, 2021
- ▶ Online Violence and Hate Speech Against Journalists, BH Novinari, 2021
- ▶ Regulation of Harmful Content Online in BiH, Anida Sokol, Maja Čalović Izdavač: MEDIACENTAR Sarajevo 2022

## What is hate speech?

Under international law, there is no universally accepted definition of hate speech, while the prohibition of hate speech should be compatible with freedom of expression. Elements relevant to the definition of hate speech can be found in other international treaties and documents.

Freedom of expression is a fundamental human right also protected by Article 19 of the Universal Declaration of Human Rights and other key international and regional human rights instruments. In particular, Article 19 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that everyone has the right to freedom of expression, and that freedom of speech may be subject to restrictions only if the restrictions are prescribed by law and necessary to respect the rights and reputations of others, or to protect national security or public order or health or morals. Furthermore, Article 20 of the ICCPR provides that any propaganda of war should be prohibited by law, and that any incitement to hatred through “advocacy” of national, racial or religious hatred that incites discrimination, hostility or violence should be prohibited by law. It follows that Article 20 of the ICCPR does not require States to prohibit any national racial or religious hatred, but only those which constitute incitement to discrimination, hostility or violence.

ECRI General Policy Recommendation No. 15 defines hate speech as the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of “race”, colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

The most recent Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech defines it as follows:

*“hate speech is understood as all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status such as “race”, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation.”*

For example, as freedom of expression is not an absolute right, Article 10 paragraph 2 of the European Convention on Human Rights (ECHR), provides that freedom of expression may be restricted. However, the European Courts case law has reiterated in numerous judgements that restrictions must be strictly interpreted, and the need for restrictions on freedom of expression must be convincingly established and justified.

The European Court of Human Rights (ECtHR) has relied on the prohibition in Article 17 on acts and activities aimed at the destruction of any of the rights and freedoms in the ECHR, in dealing with the most extreme use of Hate Speech such as vehement attacks on a particular ethnic or religious group, antisemitic statements, the spreading of racially discriminatory statements and Holocaust denial.

The ECtHR, has, however, regarded other types of expression amounting to Hate Speech in the context of the protection afforded by Article 10<sup>1</sup>. Its interpretation, which is key to understanding the scope of freedom of expression, points out that the right to freedom of expression protects the expression of not only ‘information’ or ‘ideas’ that are readily accepted or considered harmless or irrelevant, but it also applies to those that may offend, shock or disturb as they will not on that account alone amount to hate speech. These are the demands of pluralism, tolerance and free thinking, without which there is no “democratic society”. On the contrary, speech that stigmatises, denigrates, or incites discrimination or violence against certain groups is incompatible with freedom of expression precisely because it violates the rights of others and directly conflicts with equality as a fundamental principle of life in society.

Finally, under the Lisbon Treaty, Article 67 (former Article 61 TEU and former Article 29 TEU), the European Union will seek to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent bodies, as well as through mutual recognition of convictions in criminal matters and, if necessary, approximation of criminal laws.

These key elements which are part of the above-mentioned definitions are shown in the diagram below and are elaborated below.



### 1. COMMUNICATION (ORAL, WRITTEN, NON-VERBAL)

Hate speech can be transferred by any form of expression, including images, cartoons, art objects, gestures and symbols. Hate speech can be spread outside and on the internet. With regard to behaviour, it is important to distinguish hate speech from hate crimes as well as from acts of discrimination.

Hate speech necessarily involves expression, while most hate crimes do not, although they are often preceded by hate speech. Furthermore, all hate crimes are criminal offences, while hate speech will not always constitute a criminal offense.

<sup>1</sup> ECtHR case law factsheet on [HYPERLINK “https://www.echr.coe.int/Documents/FS\\_Hate\\_speech\\_ENG.pdf”](https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf) Hate speech

## 2. BY WHICH SOMEONE IS THE TARGET OF INCITEMENT OF DISCRIMINATION OR VIOLENCE

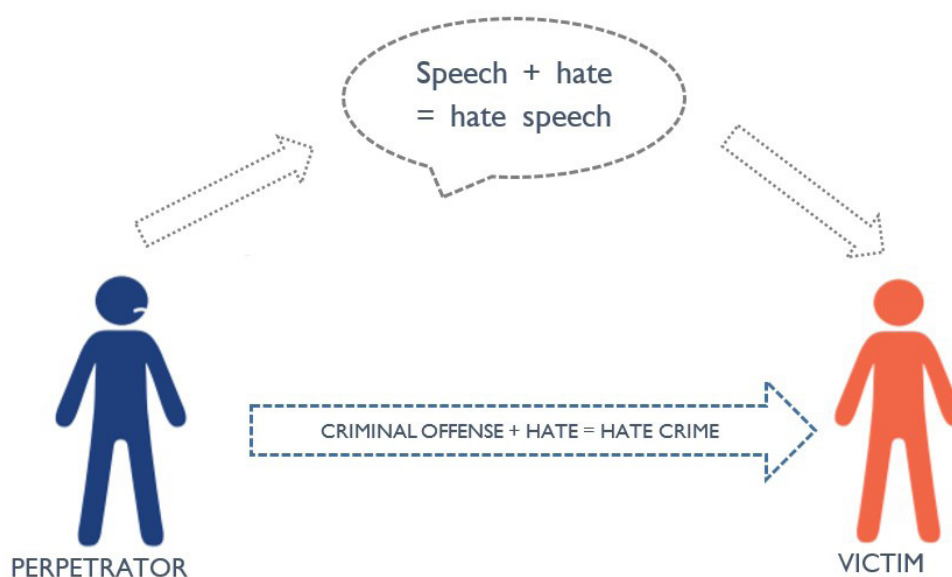
Hate speech is a communication that is biased, fanatical, intolerant or based on prejudices or stereotypes (“discriminatory”), or is contemptuous, insulting or humiliating (“pejorative”).

## 3. IT IS RELATED TO A PERSONAL / GROUP FEATURE

Hate speech is a communication that refers to an actual or assumed characteristic such as race, colour, language, religion, ethnicity, disability, age, national or social origin, affiliation with a national minority, political or other belief, property status, membership in a trade union or other association, education, social status, gender, sexual orientation, gender identity, or gender characteristics, but may include any other identity, including medical conditions, migrant or refugee status, place of residence, economic or social situation, marital or family status, HIV status or similar.

“Hate speech” and “hate crimes” are often interlinked and used interchangeably but should be distinguished. Both are symptoms of intolerance and prejudice, but most “hate crimes” are not linked to the issue of enjoying freedom of expression. Although the term “hate crime” is widely used, the use of the emotional term “hate” can lead people to believe that any manifestation of “hate”, including “hate speech” is a criminal offense. That is not the case. Although all “hate speech” is a cause for concern, it will not always be a criminal offence, and therefore not necessarily a “hate crime”.

The term “hate crime” refers to the commission of a crime aggravated by the fact that the perpetrator targeted the victim in whole or in part motivated by “hate” or prejudice. Many jurisdictions label certain crimes as “hate crimes” and acknowledge the broader prejudice of the context in which the person was the victim.



# III - THE SITUATIONAL ANALYSIS

The situational analysis was based on the sources identified and the data collected was presented against the standards of the ECRI General Policy Recommendation No. 15 on Combating Hate Speech. The situational analysis is informative, and its findings have been contrasted against the experiences of the institutions and organisations active in this area. Therefore, the findings were used for the development of draft maps, which were used during the workshops. The maps were amended with the information collected during the workshops.

BiH has ratified all major international acts that directly and indirectly relate to freedom of expression and the prohibition of hate speech, and the European Convention on Human Rights and its protocols are an integral part of the Constitution of BiH, directly applicable in BiH and with priority over all other laws. Moreover, BiH ratified the Council of Europe Convention on Cybercrime and its additional protocol in 2006. Article 2 of the Constitution of BiH states that the international conventions ratified by BiH have supremacy compared to domestic legislation, which has created a broad constitutional and legal basis for the protection of human rights and freedoms. Direct application of international standards provides protection against discrimination and racism. It also provides a framework for BiH legislation to regulate hate speech.

The authorities in Bosnia and Herzegovina at all levels actively monitor and are familiar with the recommendations of the European Commission regarding hate speech.

The authorities in Bosnia and Herzegovina, after the decision on the 5th session of the European Integrations Collegium within the framework of the European Integration Affairs Coordination System, undertook to prepare a detailed Integration Program in accordance with Article 70 of the Stabilisation and Association Agreement between the EU, its member states and BiH, which should include normative and non-normative measures aimed at improving the legal and institutional framework in order to prevent the monitoring and sanctioning of hate speech in Bosnia and Herzegovina.

BiH legislation has established various mechanisms to offer protection against hate speech. One part of these mechanisms is intended to prevent, and the other to sanction, hate speech. Criminal laws in BiH govern the role of the police, prosecutors and courts in terms of sanctioning hate speech as well as of bodies who have a duty to report crimes and testify in criminal proceedings.

## Criminal legislation and hate speech

Criminal provisions on hate crimes have been harmonized in all four criminal laws in the country. Due to its complex constitutional framework, power to adopt criminal law is vested in the state as well as in the entities: the Federation of BiH (hereinafter also FBiH), Republika Srpska (hereinafter also RS) and Brčko District (hereinafter also BD). In its Analytical Report – Opinion of the Commission on BiH's Application for Membership in the European Union – the European Union concluded that the legislation on hate crimes is harmonised between the four criminal laws in the country. Entity-level legislation criminalises hate speech only when it incites national, racial and religious hatred. Also, while criminal codes exist on each of these levels, other laws on specific subject matter occasionally define certain types of hate speech activities as crimes. Hate crimes are in general harmonised across BiH.

However, criminal law sanctions have limited reach and apply only to speech that concerns national, racial and religious hatred. Furthermore, a relatively low number of individuals are prosecuted for hate speech crimes.

While criminal sanction is the last resort against hate speech, still it is worth noting that in the BiH 2021 Report of the EU Commission, it has been stated that "119 ethnic-related hate incidents were recorded and 3 convictions were handed down in 2020, compared to 131 and 1 in 2019 and 121 and 2 in 2018. 8 trials are ongoing. The case law on hate crimes is not consistent."<sup>2</sup> These data include hate speech punished by criminal law.

<sup>2</sup> [https://ec.europa.eu/neighbourhood-enlargement/bosnia-and-herzegovina-report-2021\\_en](https://ec.europa.eu/neighbourhood-enlargement/bosnia-and-herzegovina-report-2021_en), 30.

This is not a new challenge. Rather, it has been pervasive for a significant amount of time. OSCE in 2013 recognised that “Police and prosecutors are not fully aware of how to identify the element of hatred in these provisions, meaning that many incidents reported do not actually progress beyond the initial investigation stage”<sup>3</sup>. An additional problem is a lack of clarity concerning the meaning of terms used in the prescription of hate crimes. For instance, with the exception of the Criminal Code of Brčko District, none of the statutes define the term ‘hate’. It held that terms used in the Criminal Code of FBiH “such as incitement, discord, and intolerance have very broad meanings,” and while they are not specifically defined in the Criminal Code, it would also be unrealistic to expect these terms to have precise legal definition or for the legislator to provide an exhaustive list of meanings or actions that could fit under their meaning.

Furthermore, BiH has ratified the Council of Europe Convention on Cybercrime and its additional protocol, but it is only partially implemented.

Unlike some European states, BiH does not have a *lex specialis* on hate speech. All crimes concerning hate speech are located within criminal codes. In addition to these, several other laws regulate elements of the prohibition of hate speech, including the Law on the Prohibition of Discrimination, the Law on Gender Equality, the Law on Freedom of Religion and the Legal Status of Churches and Religious Communities in BiH and Election Law.

### Anti-discrimination legislation

Bearing in mind that hate speech is closely linked to discrimination against a certain individual/group, the provisions of two laws govern hate speech. The Law on the Prohibition of Discrimination regulates the mandate of the Institution of the Human Rights Ombudsman of BiH and the role of the Ministry of Human Rights and Refugees of BiH in combating and preventing discrimination. The Law on Gender Equality in BiH establishes mechanisms for protection against gender-based discrimination including harassment, and it also regulates the mandate of the Gender Equality Agency of BiH/ Ministry of Human Rights and Refugees of BiH, Gender Centre of RS and Gender Centre of the FBiH. Both laws also set forth the possibility of judicial review against discrimination and provide special procedures in such cases.

Harassment as a form of discrimination contains elements of hate speech as it: a) is based on communication, b) is unwanted, c) is based on one of the protected characteristics and d) results in a degrading, offensive and humiliating environment.

### Public officials and state institutions

The Law on Civil Service<sup>4</sup> determines the principles that civil servants should uphold while performing their duties. These laws do not explicitly mention hate speech; however, they declare that civil servants should be accountable and that they should maintain professional impartiality. As a result, a civil servant may be subject to disciplinary action for the violation of official duties laid down by this law because of his/her guilt in cases of inappropriate conduct towards citizens, colleagues and other persons while performing their civil service. Disciplinary accountability of civil servants and sanctioning procedures are prescribed by the laws regulating the functioning of the civil service in BiH, by rulebooks/decrees issued by agencies and by the internal regulations of institutions.

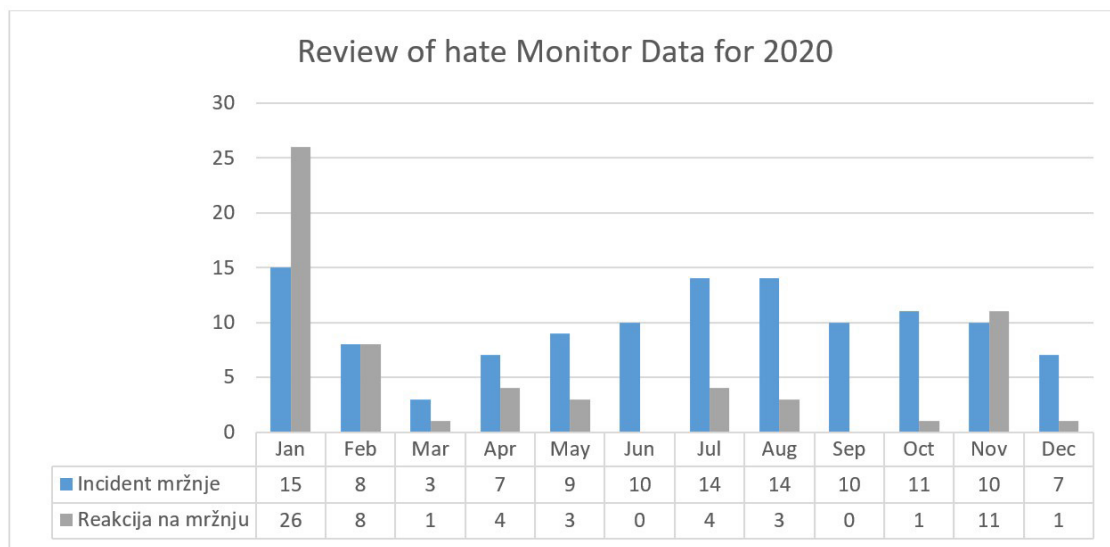
The Codes of Conduct for civil servants further elaborate on these obligations with no reference to hate speech. They do include linked principles, such as the principle of equality, which provides that civil servants have to treat all individuals equally, without discrimination or preference based on age, nationality, ethnicity or origin, social affiliation or origin, linguistic and racial origin, political, religious or other beliefs or inclinations, disability or handicap, education, gender, marital or family status, sexual orientation, material status, entity citizenship or another status.

<sup>3</sup> <http://www.institutemedia.org/wp-content/uploads/2020/02/Hate-speech-in-online-media-in-SEE.pdf>

<sup>4</sup> The Law on Civil Service in BiH Institutions, Law on Work in BiH Institutions, Law on Civil Service in the Federation of BiH, Law on Employees in Civil Service Bodies in FBiH, Law on Civil Servants of RS and the Law on Civil Service in Public Administration Bodies of the Brčko District of BiH

## Data on hate speech in BiH

There are no official data on hate speech in BiH. The OSCE Mission to BiH regularly supports government institutions, the judiciary, local authorities and civil society in responding effectively to incidents and hate crimes, including the form of speech which constitutes a crime (incitement to hatred). One way in which this support has manifested itself is in the development of the Hate Monitor. The Hate Monitor is a monthly graphic display of data on hate crimes at the disposal of the OSCE Mission in Bosnia and Herzegovina. It includes updated data on all incidents motivated by prejudice of which the OSCE Mission has knowledge, as well as the reactions of the judicial sector, local authorities and civil society in BiH to those incidents. This approach records on average about 10 hate incidents, and half of these are responded to on average (e.g. public condemnation by public officials, representatives of religious communities or civil society, repair of damaged property/removal of graffiti/cleaning actions/peaceful assemblies/parades, etc). Therefore, reported incidents include hate crime and hate speech, but also other forms of expressions of hate.



Explanation:

- ▶ Incident mržnje: Hate incident
- ▶ Reakcija na mržnju: Reaction to hate

According to the OSCE Mission to BiH, 3 convictions for criminal offenses committed out of hatred and criminal offenses of inciting hatred were issued in 2020 and 8 cases were pending. The European Union reported that the prohibition of hate speech in online media is not monitored nor enforced, while case law on hate crimes (including hate speech) is inconsistent.

When it comes to incidents in the field of hate speech, it can be concluded that there are manifestations of hate speech on ethnic grounds and religious grounds, as well as incidents aimed at religious symbols and hate speech directed at LGBTI people. Recently, there is more and more evidence of the use of hate speech against women but also men because of their gender. In particular, testimonies emerging from the #nisamtražila (#I didn't ask for it) movement show that many women have been targeted by sexual harassment and gender-based harassment and hate speech.

Data on hate speech on the internet is inconsistent, but most stakeholders state that it appears to be on the rise and internet platforms are often used to incite hatred and spread fake news. The European Union has recommended that the authorities take concrete measures to combat hate speech in the print and electronic media, as well as in official discourse.

In its Report on BiH - Fifth Monitoring Cycle (adopted on 6 December 2016 and published on 28 February 2017), the European Commission against Racism and Intolerance (ECRI) issued a series of recommendations for BiH.

ECRI recommends that the authorities, in cooperation with relevant civil society groups and international organisations, develop a comprehensive strategy to combat hate speech. This strategy should make effective use of ECRI's recommendation No. 15 regarding the general policy on combating hate speech. It should, among other things, contain:

- (i) a proactive mechanism for monitoring hate speech;
- (ii) stronger cooperation between law enforcement officials and self-regulatory media bodies to facilitate the processing of hate speech;
- (iii) an extension of the mandate of the Central Election Commission to monitor the use of hate speech throughout the election campaign; and
- (iv) greater involvement of the authorities in launching and conducting anti-hate speech campaigns, including the promotion of condemnation and denial by political representatives and officials.

## Regulation of hate speech in media

Media outlets play a major role in BiH society. As in other societies, they inform, educate, mediate political debates and hold the actors of the political scene accountable for their actions. Due to their role in informing the public and in creating public opinion, the media have the power to participate in creating, or even to create themselves, an atmosphere of intolerance or violence between certain groups, but also to promote tolerance as the basis of an organised society and a necessary precondition for individual development. BiH has developed different mechanisms to regulate hate speech in the media. They include a combination of regulation and self-regulation.

The Regulatory Agency for Communication is an independent regulatory agency in charge of media regulation in BiH. It was established in 2000 and its rights and duties are defined in the Law on Communications of BiH (Official Gazette BiH 31/03). It operates in the fields of telecommunications, broadcasting, and electronic media. As it states on the official website, this organisation oversees the creation and promotion of rules in the broadcasting and telecommunications sectors, licensing operators in the broadcasting and telecommunications sectors, planning, managing and allocating frequency spectrums, applying technical and other quality standards, and establishing and maintaining licensing fees.

Unlike the Press Council, a self-regulatory body (see below), the Regulatory Agency for Communication has the power to fine a media outlet for violations of their governing standards, including rules on hate speech. Due to the spectrum of areas in which it exercises its jurisdiction, it has adopted a few legally binding instruments.<sup>5</sup> One of the most significant documents for the regulation of hate speech is the Code on Audiovisual Media Services and Radio Media Services adopted in 2015. Article 4 prescribes that audio-visual and radio media services have to refrain from humiliation, intimidation or incitement of hatred, violence or discrimination, against an individual or group, based on gender, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social background or any other circumstance which has the purpose or effect of preventing or endangering the recognition of any person, enjoyment or realisation on an equal basis, of their rights and freedoms, as well from the creation of risk of hatred, violence, or discrimination. However, there is a statutory basis for the prohibition of hate speech in the case of public television and radio systems. The Law on Public Radio and Television System in BiH regulates the work of channels of Radio and Television of BiH, Radio and Television of the Federation of BiH, Radio and Television of the Federation of Republika Srpska, and Corporation of public radio and television services in BiH. While the Law stipulates their independence, it also sets a limitation on their programs when it comes

<sup>5</sup> <https://www.rak.ba/bs-Latn-BA/brdcst-regulations>

to the content. This instrument stipulates that the programmes cannot encourage or spread national, racial or religious hatred and intolerance, anti-Semitism and xenophobia, or encourage discrimination and hostility towards individuals or groups because of their origin, colour, political opinion, religion, health, sex, sexual orientation or other determinations or characteristics. The Regulatory Agency for Communication can impose fines in case of violation of this rule.

Since the establishment of the Regulatory Agency for Communication, a number of media outlets have been sanctioned on the basis of violation of these rules.<sup>6</sup> The sanctions imposed range from fines of different amounts up to revocation of licences. The problems of capacity of this institution to effectively monitor a relatively high number of media and their content has been raised before.<sup>7</sup> Decisions of the Regulatory Agency for Communication are subject to judicial review. Apart from the examination of whether it overstepped its legislative authority, judicial review concerns whether the decision of the Regulatory Agency for Communication is in line with the European Convention of Human Rights and the case law of the European Court of Human Rights.

Along with the Regulatory Agency for Communication, citizens are allowed to file a complaint to the Institution of the Human Rights Ombudsman of BiH. In general, this institution can assist citizens in cases of human rights violations or the poor functioning of BiH, its entities and the Brčko District. However, their power is of limited reach, as they have the authority to issue non-binding recommendations to the institution to undertake measures to rectify human rights violations or the poor functioning of the administration. In the Report<sup>8</sup> on Hate Speech in BiH of 2021, the Institution of the Human Rights Ombudsman of BiH received 3 complaints in 2019 and 4 complaints in 2020 concerning hate speech. Several complaints have also been reported (without reference to a specific number) from 2015-2019.

Currently, there is a clear demarcation between jurisdiction of regulatory and self-regulatory mechanisms in the media field. While audio-visual and radio services are within the purview of the Regulatory Agency for Communication, the print and online media are subject to media self-regulation.

The Press Council and Online Media acts as the sole self-regulatory body in the field of print and online media in BiH. It operates as a non-governmental organisation in the fields of print and online media and has following goals: to mediate between dissatisfied readers and print and online media; to supervise the implementation of the Press and Online Media Code of BiH; to improve professional standards in print and online media in BiH; to protect the public from unprofessional and manipulative journalistic reporting; to protect the media from political, economic and all other pressures that threaten freedom of information and freedom of the media. The Press Council was established in 2000 and online media was included in the self-regulatory system in 2011. Media outlets individually and voluntarily become members of this organisation. However, a media outlet has to meet certain requirements in order to join. It has to be registered as a legal entity in BiH either as limited liability companies, joint-stock companies, citizens' associations or trades, and exist at least 6 months before submitting an application for admission to membership, editorial office with the physical address of the editor-in-chief and the imprint.

The Press Council and Online Media in Bosnia and Herzegovina adopted the Print and Online Media Code of BiH. This is the main document concerning hate speech in the field of media self-regulation. Hate speech and inflammatory speech are regulated under Article 4. The document fails to define these terms. Instead, it prescribes a duty of journalists, editors, and publishers to be aware of the dangers of hate speech (along with discrimination and intolerance) and to refrain from instigating, inflaming and/or instigating hatred and/or inequality based on ethnicity, nationality, race, religion, gender, sexual orientation, physical disability, or mental state. Furthermore, they are obliged to refrain from contributing to spreading hatred when reporting on events having elements of hate and to refrain from inciting crime or violence.

6 <https://rm.coe.int/medijske-regulatorne-agencije-i-govor-mrznje-bos-/1680a3351a>

7 [https://www.media.ba/sites/default/files/rsl\\_researchtemplate\\_20-09-16\\_bih-eng\\_chapter1\\_0.pdf](https://www.media.ba/sites/default/files/rsl_researchtemplate_20-09-16_bih-eng_chapter1_0.pdf)

8 [https://www.ombudsmen.gov.ba/documents/obmudsmen\\_doc2021111511252845bos.pdf](https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2021111511252845bos.pdf)



This document envisages a complaints procedure that can be initiated by any person who considers that a media outlet violated the Print and Online Media Code of BiH. After the complaint has been received, the Press Council facilitates communication with the media outlet. If the solution has not been found, i.e. if the media fails to meet what has been required in the complaint, the case is forwarded to the Complaint Commission. It has a final say on the violation of the Print and Online Media Code of BiH and reaches a decision by consensus. There are 9 members of the Complaint Commission. The Press Council Reported that in 2020 there were 915 complaints in total. Out of that number, 684 complaints referred to hate speech comments. The Press Council and the Complaint Commission do not have the power to punish or fine the media.

The Press Council and Online Media on 27 January 2022 adopted amendments to the Print and Online Media Code of BiH. The new provisions include, inter alia, an imposition of a duty of the editor and publisher for the overall content of the print or online media, and consequently for comments of the users in the online communication space. Online media editors are obliged to remove user comments that represent hate speech, incitement to violence, incitement, intolerance, insults, threats and any other form of inappropriate and socially unacceptable communication. When it comes to user-generated content moderation and user-generated content removal concerning online media, there is a lacuna in the civil law. There is no specific provision that decisively regulates this issue. Some media publish terms and conditions for the use of their space that include rules on content moderation and removal. Furthermore, the Press Council recently adopted an amendment to the Print and Online Media Code of BiH. However, this is a self-regulatory instrument and does not provide civil law remedies. Lastly, prominence is given to the European Convention of Human Rights in BiH and its direct applicability to its legal system. The case of *Delfi AS v. Estonia*<sup>9</sup> provides that the civil responsibility of intermediaries can be applied directly by domestic courts. It has not been used so far by BiH courts to establish it in practice, although the Constitutional Court of BiH recognises such a possibility in obiter dictum in case AP 96/19 of 14 October 2020. A recent study shows high amounts of hate speech in the online sphere.<sup>10</sup>

Civil and administrative law remedies that can be used to tackle hate speech are of limited scope. Hate speech is not subject to any specifically designed remedies. Rather, remedies available for other types of violations of rights can be used to protect one from hate speech. The most prevalent types of sanctions are civil law damages and administrative fines.

### The National Institution for Human Rights

The Institution of the Human Rights Ombudsman of BiH has the power to receive complaints by individuals and legal persons. It is vested with the power to monitor governmental institutions and scrutinise their practices for human rights violations and whether they are poor in general. However, it cannot issue mandatory measures to the institutions. It can only issue non-binding recommendations. Therefore, the protection is not effective. This institution is also entitled to inform administrative bodies of any human rights violation and to initiate administrative procedures as well as mediation. The Ombudsman may, if found grounded, attend administrative proceedings exercising its functions in the protection of human dignity, rights and freedoms of citizens guaranteed by the Constitution and instruments listed in the Annex to the Federation Constitution. The Ombudsman may be present in the administrative procedure until the enactment of the final administrative act and in extraordinary remedies proceedings. In cases of discrimination, it has broader powers. It may initiate proceedings not only against state institutions but also against natural and legal persons.

The Law on the Prohibition of Discrimination designates the Institution of Human Rights Ombudsman of BiH as the central institution for combating discrimination. It has the power to receive individual and group complaints, initiate and participate in proceedings, provide information to the parties, collect data and create annual and extraordinary reports to the legislative bodies at the state and entity levels, monitor implementation of the Law, inform the public, raise awareness and promote the fight against discrimination.

<sup>9</sup> 64569/09.

<sup>10</sup> Regulation of Harmful Content on the Internet in Bosnia and Herzegovina: Between Freedom of Expression and Damage to Democracy, *Mediacentar*, 2022, 32

## Hate speech in the election period

The Central Electoral Commission of BiH (hereinafter CEC) is an administrative body responsible for regulating the election process. It also has a mandate to monitor election campaigns in BiH and can sanction candidates who use hate speech. Article 1 of the Election Law contains the definition of hate speech: "Hate speech" is any form of public expression or speech that causes or incites hatred, discrimination or violence against any person or group of persons, based on race, colour, nationality, gender or religion, ethnic origin or any other personal characteristic or orientation that incites discrimination, hostility and violence.

According to the Election Law, Article 7.3 (§ 7): "Candidates and supporters of political parties, lists of independent candidates, lists of national minorities, coalitions, as well as independent candidates and their supporters, and employees or those otherwise engaged in the election administration shall not be allowed to use language that could induce or incite violence or hatred; nor to post or use images, symbols, audio and video recordings, SMS messages, online communication or other materials that may have such an effect".

If a voter or a candidate considers that their rights were violated, they may file a complaint to the Election Commission or the CEC no later than 48 hours, or in some cases 24 hours from the violation within the election period, unless otherwise provided by the BiH Election Law. In the investigation process, the CEC may obtain information on violations of the rules of conduct during the pre-election period based on the candidate's objections, but also based on any other information ex officio. Amendments to the Election Law from 2022 increased fines for political entities. Thus, Article 19.9 of the law establishes that a fine in the amount of 3,000.00 KM to 30,000.00 KM will be imposed for violating a political entity, if it uses hate speech, and/or publishes or uses a picture, symbol, audio or video recording, SMS message, online communication, social network or mobile application, or other material that may act in this way.

However, there are still issues during election campaigns. Stakeholders involved in this mapping exercise find that candidates and political parties often use hate speech and other offensive forms of expression in order to mobilise voters. As ECRI recognised in its report on BiH, politicians use inflammatory narratives concerning the war in BiH in the 1990s and contribute to ethnic-based hatred.<sup>11</sup> Article 7 of the Law on Elections prescribes that such forms of speech are prohibited only during the election campaign. The election campaign is defined as a period of 30 days prior to the elections in which the political entity acquaints voters and the public with its program and candidates for the upcoming elections in the manner prescribed by law. Consequently, the use of hate speech outside of the election campaign cannot be subject to sanctions by the Central Election Commission of BiH.

In practice, during electoral campaigns<sup>12</sup>, some examples of the CEC's decisions could be the decisions to fine a candidate who used its Facebook account to promote hatred or incitement to violence against Serbs<sup>13</sup>, the designation of Republika Srpska as a result of genocide<sup>14</sup> or the designation of a person who was a candidate as enemy of the peoples<sup>15</sup>.

11 <https://rm.coe.int/third-report-on-bosnia-and-herzegovina-bosnian-translation-/16808b5601>

12 Case law is collected in: <http://www.fbih.cest.gov.ba/images/doclink/DTP-GOVOR-MRNJE-5-FINAL-3-4-2021.pdf>

13 Decision of the Central Election Commission, no 05-I-07-5-872-4/18 from 25.9.2018, which was confirmed by the Court's decision BiH, br. SI 3 IŽ 030580 18 IŽ from 2.10.2018

14 Decision of the Central Election Commission, no br. 05-I-07-5-924/16 od 8.12.2016. and the decision of the Court BiH, no SI 3 IŽ 024037 16 IŽ from 7.2.2017.

15 Decision of the Central Election Commission, no 05-I-07-5-4176/10 od 1.10.2010, the decision of the Court BiH, br. IŽ-72/10 from 19.10.2010. and the decision of the Constitutional Court BiH, br. AP-578/10 from 10.4.2014.

## Withdrawal of all financial and other forms of support by public bodies from political parties who use hate speech

There are no clear mechanisms to ensure that **financial and other forms of support to political parties by public bodies are withdrawn when the political party uses hate speech**. There is no explicit duty to suppress public funding of organisations who engage in hate speech or support it. This finding applies to both non-governmental organisations<sup>16</sup> and political parties<sup>17</sup>.

The challenge of public funding of persons and organizations who are affiliated with spreading of hateful narratives is not new. It does not exist only in case of a specific narrative or a specific targeted group of such narrative, but rather covers a broad range of topics, people and groups. However, some of the most prominent ones are narratives used to inflame public debate on the grounds of ethnic hate. ECRI recognised that political parties and their members use this narrative extensively. Its recommendation to Bosnia and Herzegovina to adopt statutory measures whereby political parties whose members engage in racist or discriminatory actions would not be financed by public funds. However,<sup>18</sup> such measures have not been adopted so far. The EU Commission Report on BiH 2021 recognised that “the adoption of a framework for the transparent funding of civil society organisations remains outstanding”<sup>19</sup>.

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16 Law on associations and foundations of BiH.

17 Law on financing of political parties.

18 <https://rm.coe.int/third-report-on-bosnia-and-herzegovina-bosnian-translation-/16808b5601> u: Franjo Dragičević

19 [https://ec.europa.eu/neighbourhood-enlargement/bosnia-and-herzegovina-report-2021\\_hr](https://ec.europa.eu/neighbourhood-enlargement/bosnia-and-herzegovina-report-2021_hr), 11.

# IV - SYSTEMIC MAP OF THE MECHANISMS OF HATE SPEECH IN BIH

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**S**ystems thinking is a mental framework which interprets reality, as made of an organised group of elements influencing each other by a causal relation, to achieve one or multiple goals. Systems thinking is also a tool to examine a system's structure and behaviours, looking for leverage points and acting upon them. It can also be seen as a language, because it has a specific vocabulary to describe a system. Systems thinking can help understand more effectively which challenges need to be tackled. This is done by combining all the variables that are directly or indirectly affecting/contributing to the problem. It is possible to spot intuitive and counter-intuitive solutions with long-term positive effects, and to intervene in the structure and behaviour of the system affecting people lives.

Systemic mapping has the following objectives:

- to facilitate the process of reviewing and mapping existing policies, structures, tools and actions in the Member States to prevent and combat hate speech
- to understand the role of the different public and private actors involved and their interactions in addressing hate speech
- to analyse the results and identify emerging challenges, as well as ways to deal with them strategically in the process of combating hate speech.

The main phases of systemic mapping are desk research, an initial multi-stakeholder training and consultation workshop and a final multi-stakeholder workshop aiming at identifying next steps in the context of BiH. The main aim of all these phases was to:

- ▶ develop a deeper understanding of the phenomenon of hate speech in BiH as well as a graphic representation of the problem and the existing responses to it (policies, structures, tools, actions)
- ▶ gather stakeholders to discuss different perspectives on the problem of hate speech and their own role and positioning in relation to combating hate speech
- ▶ discuss with stakeholders emerging challenges and the road ahead on strengthening national responses to hate speech.

The preliminary system map was drafted by authors based on the following inputs:

- ▶ The situational analysis
- ▶ Reports from other research on the causes, manifestation and consequences of hate speech in BiH.

Two preliminary maps were drafted:

- ▶ The system map of hate speech in BiH
- ▶ A map of stakeholders active in the area of combating hate speech.

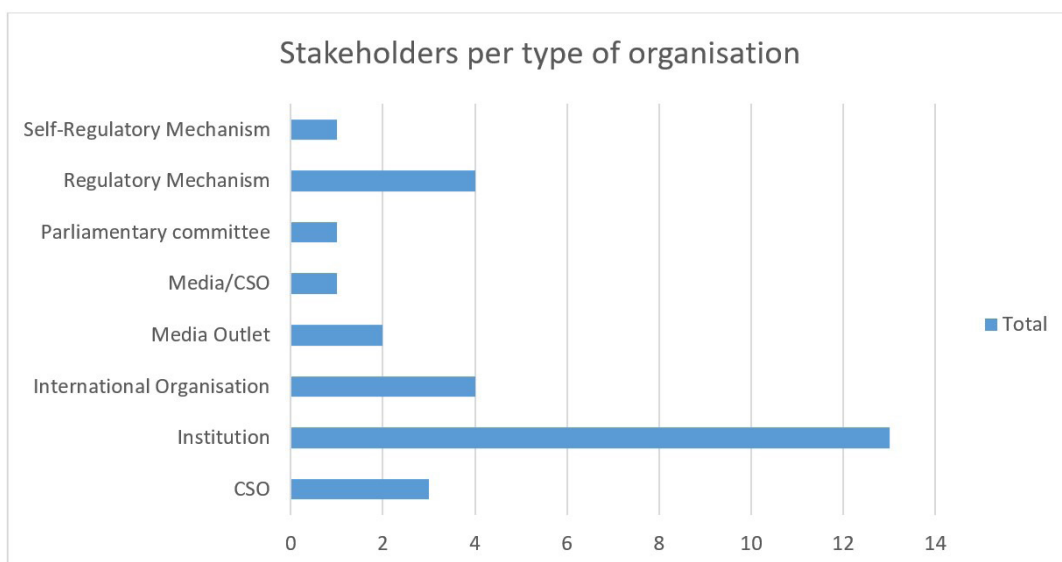
These preliminary maps were used as a starting point to design the framing workshop and to identify stakeholders who could contribute with their experience and knowledge.

## The Framing Workshop

The first workshop took place from May 5 to May 6 2022 in Tarčin. The framing workshop was designed to facilitate discussions and to create an atmosphere of a safe space. The role of each stakeholder who participated in the workshop was based on a stakeholder map. At the same time each participant was invited to participate in the discussion beyond their role and to share their experience.

A total of 31 highly motivated and experienced professionals participated in the event representing over 26 identified stakeholders. The following stakeholders participated in the workshop:

Agency for Gender Equality BiH, Ministry of Human Rights and Refugees of BiH	Institution
Center for Judicial and Prosecutorial Training of FBiH	Institution
Ministry of Justice BiH	Institution
Central Election Committee	Regulatory Mechanism
Sarajevski otvoreni centar	CSO
Ministry of Human Rights and Refugees of BiH	Institution
Brčko District Department for Education	Institution
Ministry of Civil Affairs BiH	Institution
Ministry of Justice of RS	Institution
Ministry of Security BiH	Institution
Ministry of Interior of RS	Institution
Raskrinkavanje	Media/CSO
Press Council and Online Media in BiH	Self-Regulatory Mechanism
Regulatory Communications Agency	Regulatory Mechanism
Center for Judicial and Prosecutorial Training of RS	Institution
Civil Service Agency of BiH	Institution
Ministry for European Integration and International Cooperation RS	Institution
Joint Committee on Human Rights	Parliamentary Committee
Institution of Ombudsman of BiH	Regulatory Mechanism
Ministry of Interior of FBiH	Institution
Ministry of Communication BiH	Institution
OSCE Mission in BiH	International Organisation
RadioSarajevo.ba	Media Outlet
Newipe	Media Outlet
Interreligious Council of BiH	CSO
Mikro Mreza	CSO
Personal Data Protection Agency	Regulatory Mechanism
United Nations BiH	International Organisation
European Union	International Organisation
Council of Europe	International Organisation



The workshop started off with a set of presentations on the relevance of combating hate speech today. The first speaker was Chara Bakalis, who introduced the topic as well as the relevance of international legal frameworks in combating hate speech. The next speaker was Professor Marija Lučić-Ćatić, who provided a presentation case studies of hate speech in the context of BiH. Finally, Adnan Kadribašić presented the methodology for the design and development of hate speech mechanisms and stakeholders. Participants were introduced to the work of the consultants concerning the mapping of national responses to hate speech in BiH.

The second day of the workshops was based on an interactive approach. The participants were asked to sit around tables in smaller groups to ensure that each voice was heard. Topics for discussion were shared by each group.

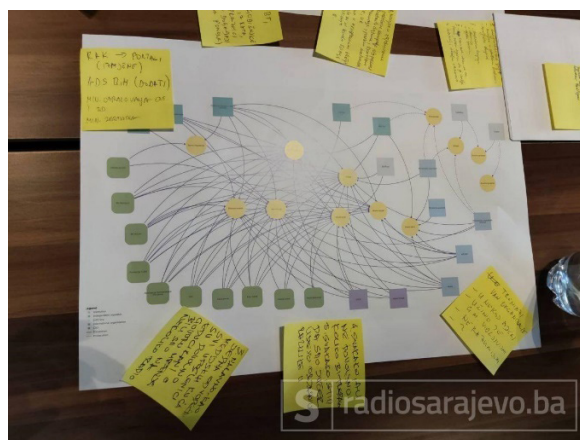
The workshop relied on a systematic approach to combating hate speech, and the preliminary map was used as an instrument throughout the life cycle of the rest of the mapping process. However, the workshop was based on an open-ended list of questions that were designed to engage with the stakeholders. This approach was selected to mitigate the risk of perceiving the mapping process as bureaucratic. The questions included:

- ▶ Based on your experience, are there periods in which hate speech is intensified? For example, during elections, international crises and the like?
- ▶ Are the staff at your institution sufficiently educated about hate speech? Have you had any training on this topic?
- ▶ Is the public sufficiently educated about hate speech?
- ▶ How have the internet and social networks influenced hate speech?
- ▶ Is the current legal framework clear enough to allow clear identification of hate speech?
- ▶ Is the path to victim protection clear, accessible and simple?
- ▶ Are there certain narratives or concepts that reinforce hate speech in BiH?

The information from the workshop were analysed and used to improve and update the map of hate speech mechanisms, which is included in this final report.

The preliminary maps were also shared, and the participants were invited to comment on the maps and provide feedback in order for consultants to update the maps. The discussion was structured in two parts. Participants were divided into groups and given time to discuss with their peers. In the first part,

participants in groups responded to the set of questions set forth on the previous page. In the second part, they provided feedback concerning stakeholders that were placed on the map.



The design of the workshop proved to be a success. Despite the fact that the participants represented stakeholders that often criticise each other, the discussions were positive and result-oriented.

The overall impression was that the level of engagement of participants, the quality of their answers, and their comments on the lack of similar previous studies in BiH attested to the pertinence of the study. The atmosphere was positive and open for the entire duration of the workshop. The comments were more than welcome, and participants felt free to discuss among themselves the subject matter of the workshop. In that respect, it seems that the group work allowed for discussants to receive feedback from one another and have a more comprehensive understanding of the issues.

The feedback was constructive, and it provided material for improvement of the maps. The questionnaire turned out to be a useful method for the collection of responses. The specific structure and order of the questions rendered the answers of participants to be structured and related to one another. Lastly, consultants were provided with a set of new actors that needed to be included among stakeholders as well as with information that clarified their mutual relationship.

The framing workshop inputs can be consolidated as follows:

<b>Comment</b>	<b>Category</b>
OSCE monitoring tool is used to monitor incidents related to hatred but includes incidents that would be considered hate speech which are not criminalised	Activity
The general perception is that hate speech is ever-present	Observation
In 2021 alone, the Press Council and Online Media in BiH noted 1073 complaints, out of which 505 complaints related to hate speech in user-created content	Information
It is hard to recognise hate speech as a crime in practice.	Observation
There is a practical problem of proving crime as well as mild sanctions.	Information
Hate speech is much more present than reports show.	Information
There are no official records of hate speech in BiH.	Observation
The Press Council and Online Media in BiH recognises the high presence of hate speech on social media but lacks authority in that sphere.	Intervention
The Central Election Commission noted the ambiguous definition of hate speech in elections and proposed some amendments. The amendments also suggested the adoption of stricter fines.	Activity
There is no aid to victims of hate speech.	Observation
Victims of hate speech hardly ever request compensation, even if a criminal conviction of a perpetrator occurred.	Information
The Ministry of Human Rights and Refugees of BiH considered the adoption of a lex specialis instrument on hate speech, but they found that it would not be necessary as criminal codes are sufficient.	Information
The BiH Football Federation should have an important role in hate speech suppression.	Observation
Jokes in BiH often perpetuate stereotypes with elements of hate speech.	Observation
Anonymity and ease of use of online media spurs hate speech.	Observation
Journalists lack education on hate speech.	Observation
Civil servants lack education on hate speech, with the exception of the Interreligious Council of BiH.	Information
The legal framework in BiH concerning hate speech can be described as vague.	Observation
The institutional structure and overlapping competences of institutions in BiH render their specific tasks sometimes unclear, especially for victims.	Observation
The adoption of ethical codes can improve the current situation.	Intervention
Legislation concerning online media should be adopted.	Intervention
Specific periods when hate speech is more increased are elections, anniversaries of war-related events, LGBTI pride, religious holidays, sports events, and incidents involving violence.	Information
Lack of media ownership requirements has negative effects on the overall presence of hate speech in media	Intervention
The groups most targeted by hate speech in BiH society are Roma, LGBTI, women, politicians, constitutional peoples and religious communities, ethnic and religious minorities, migrants, and persons with disabilities	Observation
Narratives that reinforce hate speech in BiH are war-related rhetoric, homophobia, patriarchy, and interethnic and interreligious hatred.	Observation
The educational system in BiH lacks focus on hate speech.	Observation



## Definition of the hate speech mechanism map

The preliminary maps were developed based on the situational analysis, and validated during and updated after the framing workshop. They include:

The hate speech mechanism map

<https://embed.kumu.io/5b47a8f7f16824ae1ad19236f71a359f>

The hate speech stakeholder map

<https://embed.kumu.io/88ba27172cebb5b25eca028428ab4499>

Data collected in the research helped the mapping team to draft the preliminary hate speech system for BiH. Theoretical aspects were contrasted against the situation in the country to develop the tailored causal loop diagram to model the hate speech system. The purpose of this map is to give a complete overview and properly understand the hate speech mechanisms.

As outlined in General Policy Recommendation No. 15 on Combating Hate Speech, a comprehensive approach must reconcile freedom of expression and other rights which are jeopardised by hate speech and increase society's resilience to it. The recommendation outlines key components needed for a comprehensive approach to combating hate speech, including legislative and administrative measures, self-regulation, support to victims, education and awareness-raising measures including through the use of counter speech. A systemic analysis of the approach in BiH to hate speech can map how members of society are impacted by hate speech and the redress available to them.

This analysis conducted for the drafting of the map is not restricted to legal redress but attempts to encompass all possible responses as outlined in ECRI GPR No. 15, for example self-regulatory procedures, public condemnation, victim support and educational responses.

Approaching hate speech from different perspectives made it possible to identify the component pieces, and studying how those component parts work and interact to accomplish their purpose helped to identify gaps, challenges and new actions and tools.

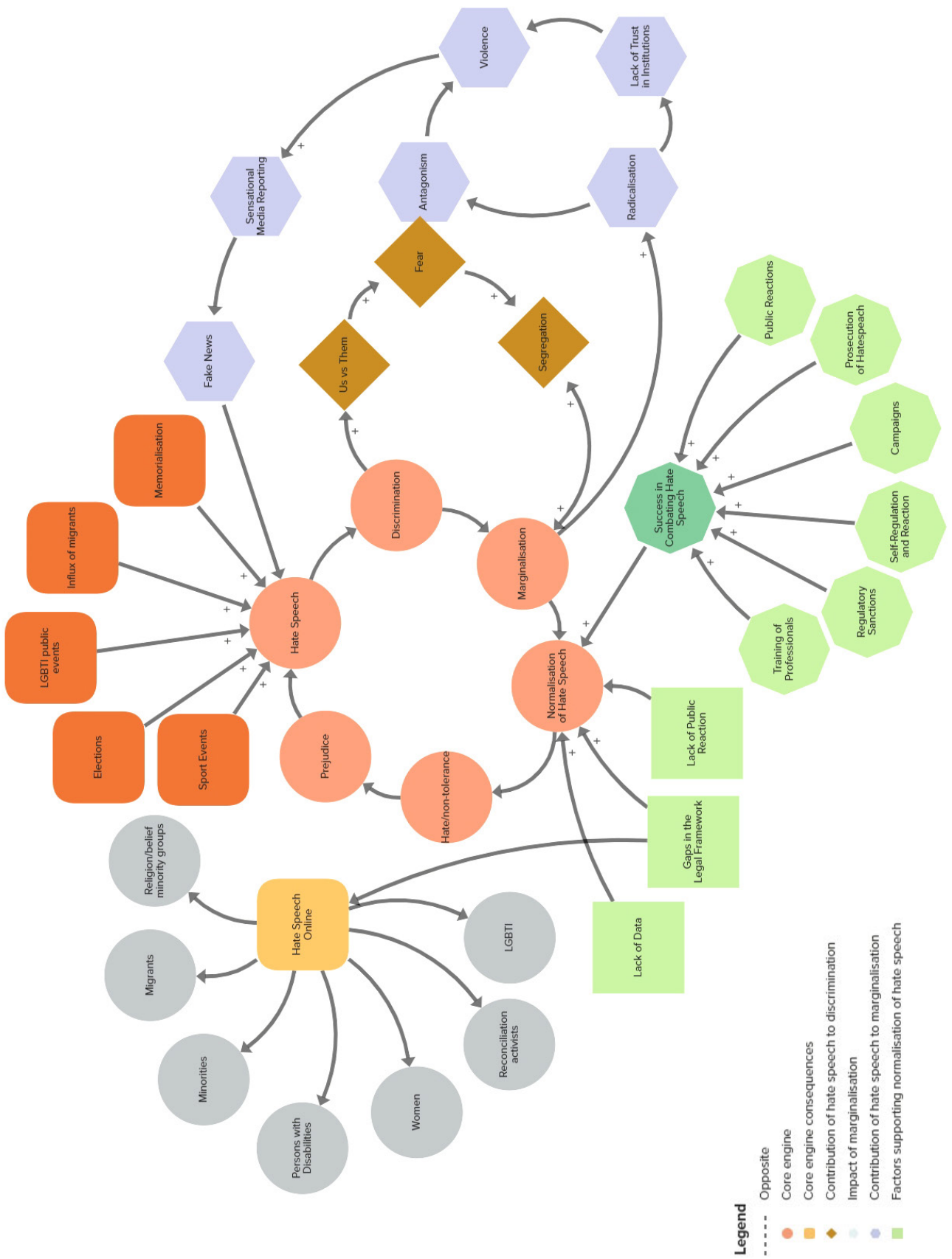
This system depicts the problem space of the use of hate speech in terms of reinforcing loops that perpetuate this type of behaviour and balancing loops that hinder successful addressing of the issue. Its purpose is to raise awareness of the underlying complexity of the use of hate speech and highlight that more than an observed behavioural pattern: it is a deep systemic issue, intertwined with taken-as-given discriminatory mindsets and structures that perpetuate and exploit social inequality.

Eight mechanisms are identified in this draft stage. These include:

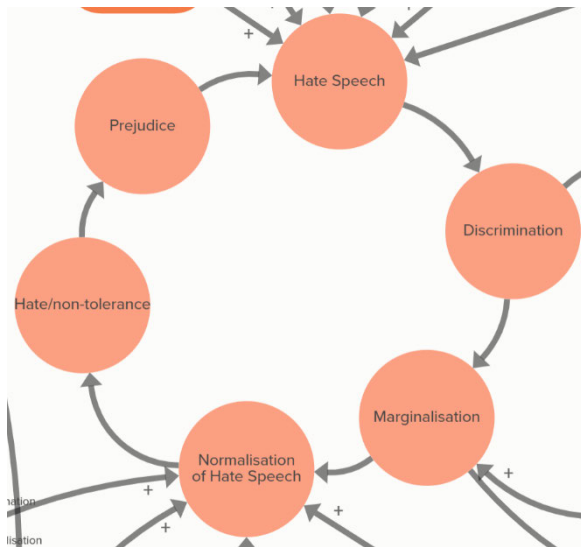
The core engine	The general mechanisms leading to hate speech
Relation of hate speech to discrimination	Which outlines the inter-relation between these two issues
Contribution of hate speech to marginalisation	Which outlines how hate speech creates a causal loop with marginalisation with and provides an additional insight into the impact of marginalisation
Factors supporting normalisation of hate speech	Outlines the prevailing factors identified that support the normalisation of hate speech.
Impact of marginalisation	Outlines the impact of marginalisation and its loop back to hate speech
Periods of intensive use of hate speech	Identifies periods that intensify the use of hate speech
Particularly vulnerable targets of online hate speech	Outlines the groups that are particularly vulnerable to hate speech in the online sphere
Successes in combating hate speech	Outlines the impact of different activities that contribute to success in combating hate speech and its impact on the normalisation of hate speech

The draft map identifies a number of areas where stronger interventions will be needed, including both prevention and sanctioning. These themes and gaps were discussed during the workshop to collect feedback from key stakeholders. The mapping team anticipated that additional loops will be needed to include specific hate speech loops related to issues of **hate against women, hate against persons with disabilities, hate based on religious grounds, internet hate, hate against migrants, hate against LGBTI and hate against Roma.**

The hate speech mechanism map is presented below.

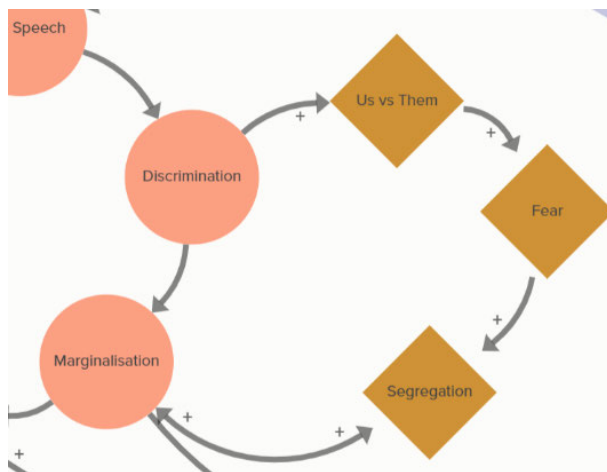


## Loop | Core engine (Reinforcing loop)



Hate speech is a self-reinforcing phenomenon. This is the core engine or core mechanism of the hate speech phenomenon. The action of promoting or inciting, in any form, the denigration, hatred or vilification of a person or group of people, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in their respect as first consequence spreads ideas, words and actions of intolerance. The hate speech loop starts with groups who face prejudice in society, usually LGBTI, women, persons with disabilities, minorities, migrants, religious/belief-based groups which are in a minority and peace activists. These prejudices result in hate speech, which leads to discrimination in access to rights and freedoms, which results in marginalisation and the normalisation of hate speech.

## Contribution of hate speech to discrimination

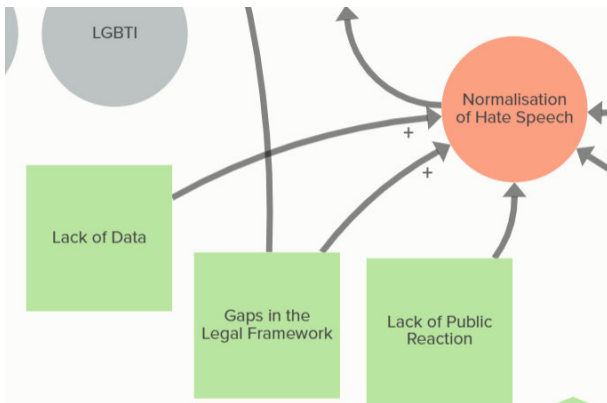


The use of hate speech generates an unjustified differential treatment towards the victims because of their practices, ideas or origins. Discrimination leads to alienation: a social condition reflected by a low degree of integration or common values between individuals and their environment. Discrimination fuels the “us vs them” narrative. The “us vs them” narrative contributes to fear of the other and results in segregation as a form of spatial exclusion of different groups. Segregation feeds back to marginalisation as a direct link to discrimination in the core engine group.

## Contribution of hate speech to marginalisation

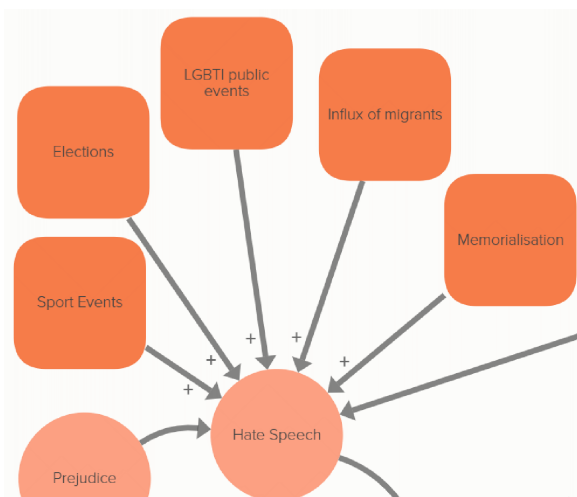
Marginalisation and its consequent effects are also reinforced by the marginalisation of vulnerable groups fuelled by hate speech. Marginalisation potentially leads to radicalisation, lack of trust in institutions, violence and antagonism. Violence often results in sensational reporting, which leads to fake news, which fuels hate speech.

## Factors supporting normalisation of hate speech



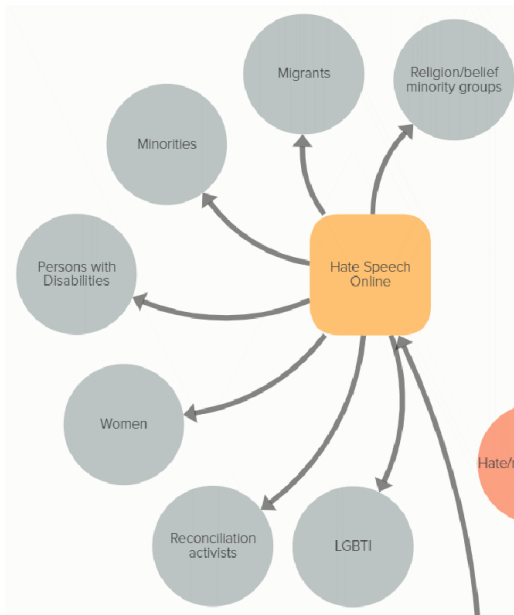
The factors that support the normalisation of hate speech are lack of public reaction, gaps in legislation and lack of data, which contribute to an atmosphere of impunity and lack of accountability for hate speech. Most stakeholders agreed that the absence of clarity in the legal framework is one of the key obstacles preventing an effective response. Moreover, lack of public reaction was recognised as a major gap, since in most instances of use of hate speech public reaction is lacking. There seems to be no clarity on whether and who should react publicly, and stakeholders agreed that this contributes to the normalisation of hate speech. Finally, lack of data was highlighted as another factor since there are no attempts to consolidate the available data or to collect additional information on hate speech.

## Periods of intensive use of hate speech



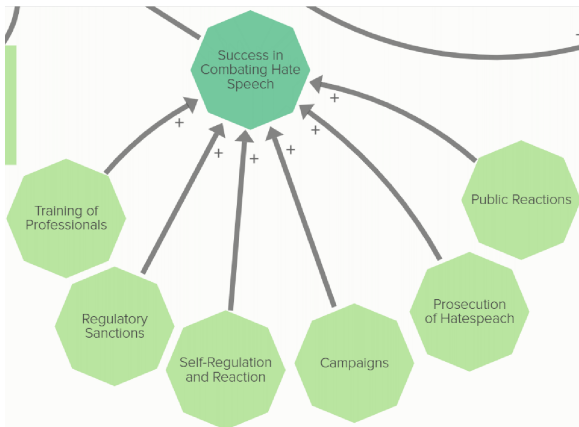
The periods and events that intensify the use of hate speech loop was added after the framing workshop. The stakeholders identified the following events: elections, memorialisation, LGBTI public events, influx of migrants and sport events. These are the events/periods which result in a higher intensity of use of hate speech and should be considered for policy intervention. These events were discussed in detail, and all agreed that these are the periods where hate speech intensifies significantly. The stakeholders have proposed the development of strategies to mitigate the use of hate speech during these periods.

## Particularly vulnerable targets of online hate speech



This segment outlines the groups that are particularly vulnerable to hate speech in the online sphere. The use of hate speech online was identified as the main form of manifestation of hate speech. The groups most frequently targeted by online hate speech include: migrants, minorities, women, LGBTI, religion/belief, minority groups, peace activists and persons with disabilities. These groups are targeted because of their identity and because they stand out from the dominant narratives.

## Successes in combating hate speech



The impact of successes made in combating hate speech was added after the framing workshop. The stakeholders shared information that progress is visible and agreed that such progress needs to be visible in the map. Even though these successes are not based on a holistic approach to combating hate speech, evidence was presented that confirmed that activities implemented have a positive effect on decreasing hate speech. These factors outline the impact of different activities that contribute to success in combating hate speech and their impact on the normalisation of hate speech. In addition, these activities illustrate the potential of a holistic approach to combating hate speech.

## Stakeholder mapping

A comprehensive response to hate speech needs to address the rights of individuals, in particular of vulnerable groups that are most often targeted by hate speech both online and offline. It also needs to clarify the responsibilities and roles of the national authorities and other key stakeholders (state regulatory bodies, parliaments, Ombudsperson's offices and equality bodies, internet service providers and operators, online media entities, the education sector, NGOs, etc). During this mapping process the researchers engaged with member authorities and other stakeholders to support the design of effective strategies against hate speech, based on a systemic approach.

The mapping process was highly participatory and inclusive and resulted in the involvement of stakeholders.

Some of the stakeholders consulted are already active in combating hate speech, and links between different institutions have already resulted in a collaborative approach in this process. Other stakeholders are yet to establish effective communication and coordination.

The existing coordination of different stakeholders in combating hate speech have included:

- ▶ Monitoring of hate speech
- ▶ Awareness raising about the need to address the issue of hate speech
- ▶ Provision of training to various professional groups
- ▶ Public reaction.

However, a holistic approach is still not established. Therefore, the research team has classified recommendations and policy proposals in categories that have allowed for discussions on coordination needed between different institutions. These categories, along with the analysis of each stakeholder’s mandate, has resulted in a stakeholder map which visualises the links that need to be established for a holistic approach to exist.

## PREVENTION

Legislation and legal remedies	Recommendations concerning specific changes to laws and other legal documents
Self-regulation	Recommendations on the need to ensure self-regulation and the existence of self-regulatory mechanisms
Policy	Recommendations on the need for a coordinated policy approach
Legal advice	Recommendations on the necessity to provide tailored legal advice to victims of hate speech
Awareness raising	Recommendations about the necessity to raise awareness and actions to contrast it
Research and publication	Recommendations on the need to research the dynamics of hate speech, its causes and consequences, and to ensure wide distribution of findings
Public reaction	Recommendations targeting the need to ensure public reaction to incidents of hate speech
Monitoring	Recommendations focused on the need to find instruments to monitor and provide documentation of hate speech cases
Training	Recommendations about the necessity to plan regular training on hate speech identification, awareness and actions to contrast it

## PROSECUTION

Investigation	Recommendations focused on the need to investigate instances of hate speech where they constitute a crime
Sanctioning hate speech	Recommendations focused on the importance of adopting instruments to identify and sanction hate speech

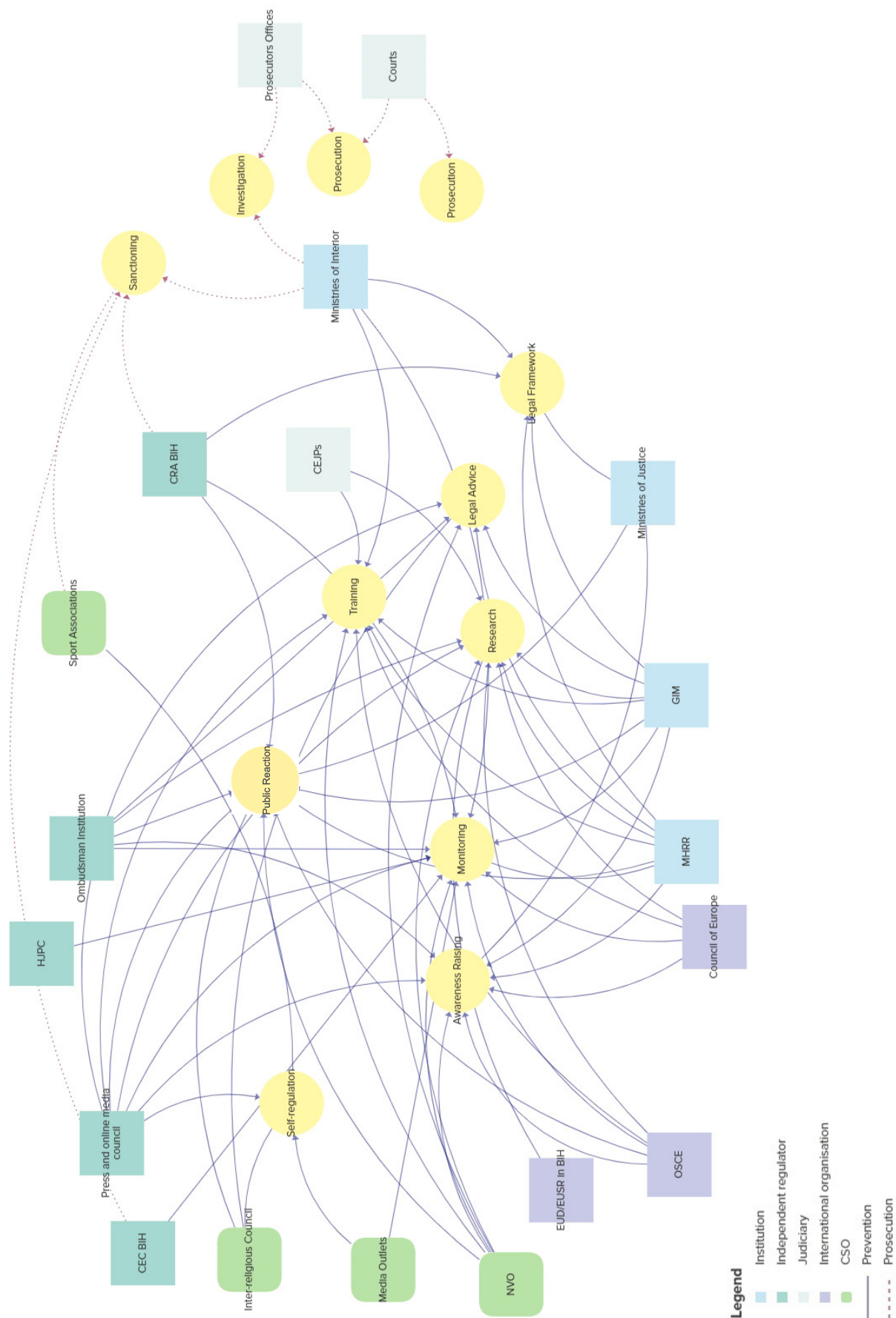
This clustering has focused the efforts of the mapping team to identify stakeholders and to sort them against different actions. After mapping a first structure of the main mechanisms leading to hate speech, the second phase focused on identifying key stakeholders involved in responding to hate speech. The stakeholders were grouped into the main clusters identified above. This allowed the planning of meaningful consultations during the workshop(s).

The hate speech stakeholder map was updated during the framing workshop. This mapping confirmed that a variety of stakeholders are involved in each category of activities needed to successfully combat hate speech. However, there seems to be little to no coordination of activities at this moment, even though there is significant overlapping between different institutions. As a result of lack of coordination, most activities in prevention are not taking place or are ad hoc. There seems to be an understanding that legislation and the regulatory framework needs to be improved but with little to no coordination. The Central Election Committee of BiH has prepared amendments of the Election Law to extend its mandate to react to hate speech during the entire election period; however, this was done in isolation from other institutions. Legal advice is provided by organisations and institutions, but there seems to be little to no interaction between them even in cases where such interaction is needed. Data on hate speech is collected by several institutions and organisations, but it is not combined or published. The OSCE manages a Hate Speech Monitor, which primarily refers to the monitoring of incidents and criminal acts committed out of hatred, and the methodology is based on widely developed OSCE standards in this field. Training for professionals on hate speech is provided through projects and is still not part of regular training curricula. Lack of training was mentioned mostly in reference to law enforcement and the judiciary. Police officers, prosecutors and judges are not systematically trained on how to qualify actions as hate speech or hate crime, albeit with some progress in recent years.

Public reaction to hate speech seems to be the area where almost no coordination takes place, which results in a lack of reaction to most incidents of use of hate speech, leading to the normalisation of hate speech. Data on prosecution and sanctioning of hate speech is missing, resulting in normalisation and a narrative of impunity. There seems to be a lack of understanding of how hate speech can be prosecuted, and it seems that legal professionals have not received consistent training on how to identify and prosecute hate speech.

The role of each stakeholder is elaborated in Annex I.



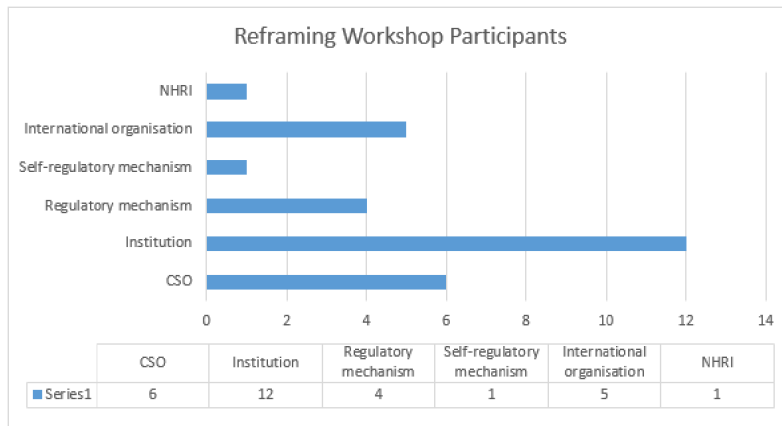


## Reframing workshop

The reframing workshop took place on June 10 2022 in Sarajevo and gathered most stakeholders identified in the stakeholder map. A total of 37 participants were present, out of which 31 appeared in person and 6 participated online.

Agency for Gender Equality BiH, Ministry of Human Rights and Refugees of BiH	Institution
Association for Democratic Initiatives Sarajevo (ADI)	CSO
Brčko District Department for Education	Institution
Center for Judicial and Prosecutorial Training of FBiH	Institution
Center for Judicial and Prosecutorial Training of RS	Institution
Central Election Committee	Regulatory Mechanism
Council of Europe	International Organisation
EU Delegation in BiH	International Organisation
Federal Ministry of Education and Science	Institution
High Judicial and Prosecutorial Council BiH	Regulatory Mechanism
Institution of Ombudsman of BiH	NHRI
Interreligious Council of BiH	CSO
Mikro Mreza	CSO
Ministry for European Integration and International cooperation RS	Institution
Ministry of Civil Affairs BiH	Institution
Ministry of Education and Culture RS	Institution
Ministry of Human Rights and Refugees of BiH	Institution
Ministry of Interior of FBiH	Institution
Ministry of Interior of RS	Institution
Ministry of Justice BiH	Institution
Ministry of Justice of RS	Institution
Ministry of Security BiH	Institution
MyRight BiH	CSO
OSCE Mission to BiH	International Organisation
Personal Data Protection Agency	Regulatory Mechanism
Press and Online Media Council in BiH	Self-regulatory Organisation
Raskrinkavanje	CSO
Regulatory Communications Agency	Regulatory Mechanism
Sarajevski otvoreni centar	CSO
United Nations BiH	International Organisation

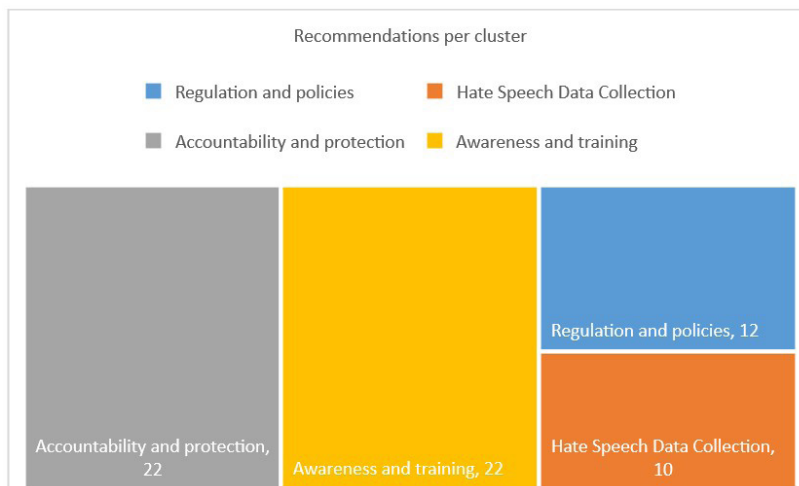
The reframing workshop was designed to facilitate discussion and to verify the second versions of the core engine and the stakeholder map. After collecting feedback on the maps, the focus of the workshop shifted toward the interventions needed to address hate speech in BiH. The participants, most of whom were from these stakeholders, participated actively and shared their personal and organisational insights.



The experts presented the list of possible interventions, which are based on following documents:

- ▶ Recommendation CM/Rec(2022) 16 of the Committee of Ministers to Member States on combating hate speech (Adopted by the Committee of Ministers on 20 May 2022 at the 132nd Session of the Committee of Ministers)
- ▶ General Policy Recommendation No. 15 on Combating Hate Speech of the European Commission Against Racism and Intolerance
- ▶ EU 2021 – Report on BiH 2021, Directorate-General for Neighbourhood and Enlargement Negotiations
- ▶ ECRI – ECRI Report on BiH (fifth monitoring cycle)

The different proposals for possible interventions were clustered into 4 groups, which correspond to the activities of different stakeholders.



The participants were asked to use the list of possible interventions, to discuss each intervention against the core engine map and to identify potential stakeholders from the stakeholder maps. A total of 5 groups were formed. Afterwards, the participants were asked to present their findings, to add and to discuss in the plenary.



The input received significantly added to the findings and discussions from the framing workshop and resulted in a number of interventions.

# Roadmap for combating hate speech in BiH

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**T**he mapping process confirmed the complexity of the phenomenon of hate speech and the related consequences in BiH. It has also concluded that addressing hate speech at this moment is not approached in a systematic way. The mapping also confirmed that a multitude of stakeholders need

to be involved to address such a complex issue: institutions, regulatory and self-regulatory bodies and civil society organisations, ideally in a collaborative, transparent and mutually agreed manner. Due to its constitutional structures, reaction to hate speech in BiH requires various governmental and nongovernmental actors to react together or one after another, in monitoring and reporting incidents, sanctioning perpetrators, mitigating consequences or informing the public in order to provide deterrent effect.

One common and reoccurring theme which dominated the discussions is **the definition of hate speech**. During the framing and later during the reframing workshop most stakeholders were puzzled by the spectrum of actions which fall within the scope of the definition as identified in international law. In addition to this, stakeholders were focusing their interventions on the specific national provisions, which are part of different legislation, which prevented them from recognising different manifestations of hate speech and the potential use of different redress mechanisms. This is why this document has included an overview of key elements that are part of hate speech as a phenomenon with the aim that it could lead to a shared understanding of this complex issue. It can be anticipated that these discussions will continue in the future and that is one of the themes that should be included in any action.

The mapping process contributed to a large extent to this process, and national stakeholders that took part in this process developed a shared understanding the complexity of the issue. This is an important prerequisite since most of the stakeholders that participated in the mapping process have the agency to formulate future legislative and policy proposals.

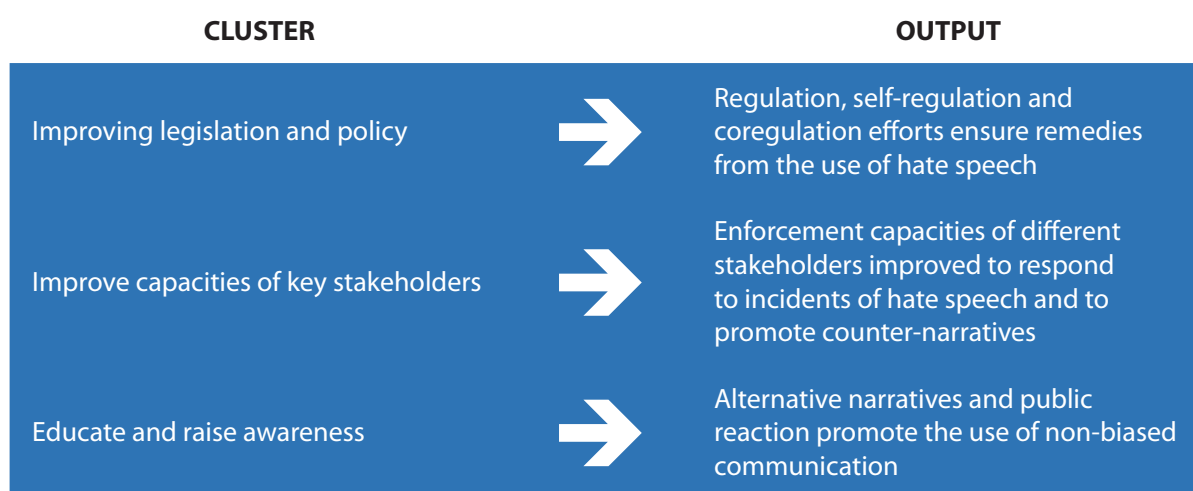
Another major theme is the **need to ensure synergies and coordination between different stakeholders**. Several stakeholders have already developed coordination strategies that have resulted in success, e.g. in the area of elections and media, but more is needed. A possible approach would be to develop a public policy (action plan, strategy) as it was suggested by ECRI or the EU, but given the current political context this may not be an option at this moment. However, different approaches could provide the same results. The mapping process showed that professionals from the stakeholders appreciate coordination and recognise its importance. This model could be replicated in the future.

Finally, **use of hate speech in the online sphere** is the key emerging challenge in BiH. This issue was discussed by each stakeholder and its prevalence shows that traditional tools may not be sufficient. Several emerging mechanisms are being developed that seem to show promising effects. One is the new Press and Online Media Code, which includes a set of self- and co-regulatory standards for online media. A number of online media have signed the new code, and have started to combat hate speech by promoting the code and developing internal mechanisms to remove hate-related material. The second approach is the initiative of the Regulatory Agency for Communications in BiH (the Agency) to amend the by-laws in terms of extending the responsibility of license holders of the Agency for Television and Radio Broadcasting to content published on websites under the logo of licence holders, which were the subject of public consultations. The comments that the Agency recorded in relation to the proposed changes during public consultations appreciated that the proposed changes, which include jurisdiction only over online portals of electronic media, would represent a partial solution, and that the problem of unregulated online portals is extremely complex and encompasses numerous issues, including transparency of ownership, which also needs to be regulated by law. The amendments to the by-laws initiated by the Agency have not yet been adopted, and a study is currently being prepared within the framework of the Council of Europe project, which will provide recommendations regarding the regulation of harmful content in the online space in BiH.

There is also the work of the Central Election Commission, which sanctions hate speech by candidates on social media. Thanks to each of these examples, a great deal of experience has been gained, but there are still obstacles that prevent the full effect. The Press and Online Media Council, as a self-regulatory body, is faced with the problem of deregulation of online media and has started creating a register of online media. Finally, the Central Election Committee has a mandate over the election campaign (30 days leading to the elections) and not for the entire election period (i.e. once the lists of candidates and political subjects are approved), which prevents any regulation outside of these 30 days.

The roadmap takes into account all findings of the mapping process and proposes key directions for a medium- to long-term period. This approach needs to be planned to take place over a longer period of time. The Theory of Change and the Log-Frame matrix list possible actions which are a result of the mapping process and the re/framing workshop.

Three key clusters with corresponding outputs on a medium-term level can be identified:



There is no hierarchy between the clusters proposed, but they mutually support each other. Actions within these three clusters can be implemented simultaneously, and many are intersectional and include a variety of actors. The clusters of activities and the outputs are adaptive and can be updated as the situation develops. They are elaborated below.

### Output 1 - Regulation, self-regulation and coregulation efforts ensure remedies against the use of hate speech

This output and corresponding set of activities have been discussed in detail. There seems to be sufficient understanding of the complexities of the legal system, and there is consensus that the legislation needs to be updated. This is also recognised by key international stakeholders including ECRI and the EU. There seems to be a strong focus on criminal legislation, and there is an anticipation that the solution to combating hate speech is the use of sanctions. However, criminal law should only be applied as a last resort and for the most serious expressions of hatred. Therefore, in implementation, the focus should be on building a comprehensive and effective legal framework, which should consist of appropriately calibrated provisions of civil, administrative and criminal law. In any case, legislation combating hate speech should be designed to include effective legal and practical safeguards against any misuse or abuse of hate speech legislation for the purpose of inhibiting public debate and silencing critical voices, political opponents or persons belonging to minorities.

The Recommendation CM/Rec(2022)16[1] of the Committee of Ministers to member States on combating hate speech outlines which elements should be covered by different parts of the legal system and can serve as guidance.

**Recommendation CM/Rec(2022)16[1] of the Committee of Ministers to member States on combating hate speech**

**Criminal law**

11. Member States should specify and clearly define in their national criminal law which expressions of hate speech are subject to criminal liability, *such as*:
  - a. public incitement to commit genocide, crimes against humanity or war crimes;
  - b. public incitement to hatred, violence or discrimination;
  - c. racist, xenophobic, sexist and LGBTI-phobic threats;
  - d. racist, xenophobic, sexist and LGBTI-phobic public insults under conditions such as those set out specifically for online insults in the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189);
  - e. public denial, trivialisation and condoning of genocide, crimes against humanity or war crimes; and
  - f. intentional dissemination of material that contains such expressions of hate speech (listed in a-e above) including ideas based on racial superiority or hatred.
12. Member States should ensure that effective investigations are conducted in cases where there is reasonable suspicion that an act of hate speech punishable by criminal law has occurred.

**Civil and administrative law**

13. Member States should ensure that effective legal protection against hate speech is provided under their civil law and administrative law, in particular general tort law, anti-discrimination law and administrative offences law.
14. Member States should ensure that their anti-discrimination legislation applies to all expressions of hate speech prohibited under criminal, civil or administrative law.
15. Member States should ensure that public authorities or institutions are required by law to actively prevent and combat hate speech and its dissemination and to promote the use of tolerant and inclusive speech.

**Legislation regarding online hate speech**

16. Member States should ensure that their legislation addressing hate speech covers offline as well as online hate speech and contains clear and foreseeable provisions for the swift and effective removal of online hate speech that is prohibited under criminal, civil or administrative law.

**Output 2 - Enforcement capacities of different stakeholders improved to respond to incidents of hate speech**

Another cluster of activities over which consensus was reached is the need to continue developing the enforcement capacities of stakeholders tasked with responding to incidents of hate speech. This is an area where progress has already been achieved and where accumulated knowledge and resources exist. These include training modules for the police and judiciary and training manuals, e.g. for civil servants. During the mapping process it was recognised that training on hate speech should recognise the full complexity of the phenomenon and include a variety of institutions to foster coordination and cooperation. Another aspect of capacity-building efforts should be on all those involved in preventing and combating hate speech with a view to enabling them to identify and avoid the use of hate speech; to be sensitive to the needs of persons targeted by hate speech and assist them in seeking redress; to address and report its use by others and to limit its impact on those affected. This training should also target media and media professionals to encourage them to provide accurate and reliable information;

avoid derogatory stereotypical depictions of individuals, groups and communities; and give voice to diverse groups and communities in society, especially when reporting on matters of particular public interest and during election periods, all in line with regulatory and self-regulatory standards (which already exist, or which are to be updated).

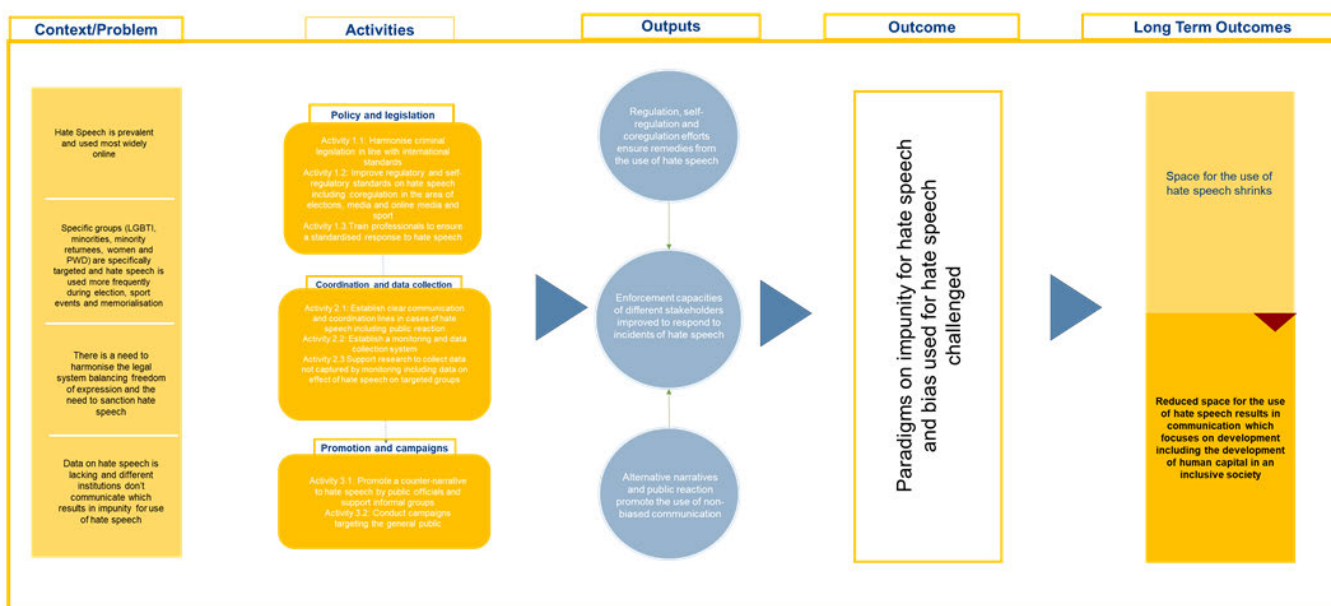
Finally, capacity building efforts can be effective if they are evidence-based. Therefore, efforts should be made to identify, record, monitor and analyse trends and ensure the collection and dissemination, by criminal justice authorities, of disaggregated data on criminal hate speech, including reported and prosecuted cases and access to case law developed by the judiciary. These efforts should also include research that could collect data on victim perceptions and the perceived prevalence of non-criminal but harmful speech. Such data, information and analysis of hate speech and ongoing trends should be publicly available and published as part of official reports.

### Output 3 - Alternative narratives and public reaction promoting the use of non-biased communication

The stakeholders have recognised the need to engage with the general population to raise awareness on the effect and harm hate speech causes to individuals, communities and society. The discussions have focused on addressing root causes of hate speech, which include disinformation, negative stereotyping and stigmatisation of individuals and groups, all of which are recognised as being part of the core engine of hate speech. Even though several initiatives have targeted alternative narratives and public reaction, there is significant room for improvement in this area in particular by including public officials. Therefore, it will be important to encourage public figures, such as politicians, high-level officials and religious, economic and community leaders, to condemn the use of hate speech, use counter-speech and alternative speech and promote intergroup understanding, including by expressing solidarity with those targeted by hate speech firmly and promptly.

Based on these outcomes the team was able to draft a Theory of Change for preventing and combating hate speech in BiH which is presented below.

### Theory of change



## Proposed log-frame

Finally, the outcomes have led to the formulation of a set of activities with corresponding indicators, which is presented below. The log-frame matrix is based on a set of key activities, which link together in the results chain, aiming to challenge paradigms on impunity for hate speech and bias used for hate speech.

<b>OUTPUT 1</b>	<b>Regulation, self-regulation and coregulation efforts ensure remedies from the use of hate speech</b>		
Activity 1.1: Harmonise criminal legislation in line with international standards	MoJ BiH MoJ RS MoJ FBiH MoJ BD	All Criminal Codes define hate speech in line with international standards	2025
Activity 1.2: Improve regulatory and self-regulatory standards on hate speech including coregulation in the area of elections, media and online media and sport	CEC BiH CRA BiH Press Council and Online Media in BiH	CEC BiH has a mandate to respond to hate speech during the entire election campaign CRA BiH has a clear mandate to respond to hate speech in electronic and online portals of electronic media Guidelines for media professionals to help them to avoid using bias, stereotypes and prejudice in reporting and advise on how to promote a culture of tolerance and understanding Press and Online Media Council capacities supported to uphold the Code of Conduct	2023
Activity 1.3: Train professionals to ensure a standardised response to hate speech	CEPJ FBiH CEPJ RS Mols CSA BiH CSA FBiH CSA RS MoEs	# of developed curricula for training of professionals including online modules % of judges and prosecutors trained on hate speech % of police officers trained on hate speech % of civil servants trained on hate speech % of education professionals trained on hate speech	2025
<b>OUTPUT 2</b>	<b>Enforcement capacities of different stakeholders improved to respond to incidents of hate speech and to promote counter narratives</b>		
Activity 2.1: Establish clear communication and coordination lines in cases of hate speech including public reaction	MHRR BiH	# of protocols between different institutions # of public reactions # of resources for stakeholders developed and available	2023
Activity 2.2: Establish a monitoring and data collection system	MHRR BiH	A methodology to monitor and collect data developed # of reports published # of reports which include case law on hate speech published	2023
Activity 2.3: Support research to collect data not captured by monitoring including data on effect of hate speech on targeted groups	MHRR BiH	Survey on victim perceptions and the perceived prevalence of non-criminal but harmful speech conducted	2023



OUTPUT 3	Alternative narratives and public reaction promote the use of non-biased communication		
Activity 3.1: Promote a counter-narrative to hate speech by public officials and support informal groups	CSOs	# of counter-narrative campaigns and events conducted  % of schools which are targeted by activities related to promoting the counter-narrative	2025
Activity 3.2: Conduct campaigns targeting the general public	MHRR BiH	# of campaigns conducted	2025

## Annex I – Roles of different stakeholders

The role of each stakeholder is elaborated below.

MHRR	<p>The role of the Ministry of Human Rights and Refugees of BiH in providing protection against discrimination is to monitor the implementation of the Law on Prohibition of Discrimination.</p> <p>Article 8 of the Law on Prohibition of Discrimination defines its obligations as follows:</p> <ul style="list-style-type: none"> <li>* collecting information on the occurrence of discrimination and keeping a central database,</li> <li>* based on the information collected, it prepares a report for the Council of Ministers and the Parliamentary Assembly of BiH on the occurrences of discrimination,</li> <li>*proposing legislative or other measures to combat discrimination</li> </ul>
Ombudsman Institution	<p>The Institution of Human Rights Ombudsman of BiH has the power to receive complains by citizens and legal persons. It is vested with the power to monitor governmental institutions and whether their practices violate human rights or whether they are poor in general. However, they cannot issue any mandatory measures to the institutions. They can only issue non-binding recommendations. Therefore, the protection is not effective. This institution is also entitled to inform administrative bodies of a human rights violation and to initiate administrative procedures as well as mediation.</p> <p>The Ombudsman may, if it finds that it has grounds, attend the administrative proceedings exercising its functions in the protection of human dignity, rights and freedoms of citizens guaranteed by the constitution and instruments listed in the Annex to the Federation Constitution. The Ombudsman may be present in the administrative procedure until the enactment of the final administrative act and in extraordinary remedies proceedings. In case of discrimination, it has broader powers. It may initiate proceedings not only against governmental organisations but also against natural and legal persons.</p> <p>The Law on Prohibition of Discrimination designates the Institution of Human Rights Ombudsman of BiH as the central institution for combating discrimination. It has the power to receive individual and group complaints, initiate and participate in the proceedings, provide information to the parties, collect data and create annual and extraordinary reports to the legislative bodies on the state and entity levels, monitor implementation of the Law, inform the public, raise awareness and promote the fight against discrimination.</p>

HJPC	<p>The self-regulatory body of the judiciary, the High Judicial and Prosecutorial Council of BiH (HJPC), is tasked with guaranteeing its independence. The HJPC manages the Case Management System which collects statistical information from all courts and prosecutors' offices in the country.</p>
Council of Europe	<p>As part of the European Union and Council of Europe joint programmatic framework "Horizontal Facility for the Western Balkans and Turkey II", the Council of Europe is implementing the Action "Promotion of Diversity and Equality in BiH".</p> <p>The aim of the Action is to improve the functioning of anti-discrimination mechanisms and their accessibility to vulnerable groups in line with European standards, especially with recommendations from CoE monitoring bodies, notably those from the European Commission against Racism and Intolerance, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority languages.</p> <p>The Action intends to meet the following:</p> <ul style="list-style-type: none"> <li>- Support initiatives to harmonise the anti-discrimination framework across the country and to develop and implement the respective action plans/strategies in relation to national minorities, LGBTI rights and hate speech;</li> <li>- Strengthen the capacity of the authorities, local governments and/or equality bodies in order to allow them to better tailor their interventions to address discrimination and increase cooperation among authorities in this field;</li> <li>- Increase the knowledge and awareness of the general public about the existence and rights of national minorities, about the rights of LGBTI persons and about the dangers posed by hate speech, offering means to develop counter-narratives.</li> </ul> <p>The action is implemented by the No Hate Speech and Cooperation Unit of the Council of Europe, Anti-discrimination Department, Directorate General for Democracy.</p> <p>Another project is JUFREX which focused on 2 areas on the topic of hate speech:</p> <ul style="list-style-type: none"> <li>▶ trainings for legal professionals, including police representatives, which are based on relevant case law of the ECtHR, and</li> <li>▶ interdisciplinary seminars for both media and legal professionals.</li> </ul>
CEJPs	<p>There are two institutions for the education of judges and prosecutors in BiH:</p> <p>Centre for Judicial and Prosecutorial Training of the Republika Srpska and Centre for Judicial and Prosecutorial Training of the Federation of BiH (further: JPTC/ JPTCs), working harmoniously.</p> <p>JPTCs, under the supervision of the High Judicial and Prosecutorial Council of BiH (further: HJPC), provide initial training courses to those persons considering a career as a judge or prosecutor (e.g. courts' and prosecutors' assistants and interns) and continuous professional training for judges and prosecutors. The Centres award annual certificates on the completion of any minimum advanced professional training requirements.</p>

CEJPs	<p>Centres deliver custom-tailored training (flexible combination of centralised and decentralised training) for the judiciary in BiH covering all areas of law and other disciplines relevant to the practice of judges and prosecutors, such as society and economy, as well as relevant developments in other areas.</p> <p>The centres publish research on a number of human rights issues relevant to the judiciary.</p>
EUD/EUSR in BiH	<p>EUD/EUSR –The EU Delegation to BiH /the EU Special Representative to BiH is one of the key stakeholders involved in conditionality in the area of human rights. EUD/EUSR supports developments in the area of combating hate speech, among other things by funding and technical assistance.</p>
NGOs	<p>Sarajevo Open Centre Experience in working on hate speech against LGBTI people; maintain a database; cooperation with ECRI.</p> <p>Association of BH Journalists They receive petitions; accumulated knowledge in this area; link to the ECRI recommendation</p> <p>The Mediacentre Sarajevo Foundation is an NGO with a mission to support the development of an open and professional media scene in BiH and the Balkan region through trainings, consultations and research.</p> <p>Association of Democratic Initiatives Experience in monitoring and responding to hate speech; data from all over BiH</p>
CRA BiH	<p>The Regulatory Agency for Communication is an independent regulatory agency in charge of media regulation in BiH. It was established in 2000 and its rights and duties are defined in the Law on Communications of BiH (Official Gazette BiH 31/03). It operates in the fields of telecommunications, broadcasting, and electronic media.</p> <p>The Regulatory Agency for Communication has the power to fine a media outlet for violations of governing standards, including rules on hate speech. Due to the spectrum of areas in which it exercises jurisdiction, it adopted a number of legally binding instruments. One of the most significant documents for the regulation of hate speech is the Code on Audiovisual Media Services and Radio Media Services adopted in 2015.</p> <p>Article 4 prescribes that audio-visual and radio media services have to refrain from humiliation, intimidation or incitement of hatred, violence or discrimination based on gender, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social background or any other circumstance which has the purpose or effect of preventing or endangering the recognition of any person, enjoyment or realisation on an equal basis, of their rights and freedoms. as well from the creation of a risk of hatred, violence, or discrimination.</p>
Ministries of Interior	<p>Police officers have a major role in prosecuting hate speech as a criminal offence and as a misdemeanour in accordance with the law.</p>

Courts	<p>Having in mind the specific nature of hate speech as a criminal offence, one of the most important roles of judges is to examine thoroughly the case before choosing the type of criminal law sanction. As regards the subject-matter jurisdiction, in the first instance criminal proceedings for crimes punishable by a fine or imprisonment of up to 10 years, municipal courts are competent in the FBiH, basic courts in the RS, and the basic court in the Brčko District.</p> <p>Appeals against decisions of first instance courts in the FBiH are decided by the cantonal courts, in the RS by the district courts and in the Brčko District by the BD Court of Appeals.</p>
Inter-religious Council	<p>The Interreligious Council is a non-governmental organisation established by the 4 principal religious groups in BiH. It has created a monitoring tool to track the desecration of religious buildings. The Interreligious Council of BiH (MRV BiH) monitors these attacks and seeks to contribute to the reduction or complete disappearance of this specific phenomenon.</p>
OSCE	<p>The OSCE Mission to BiH supports the work of government institutions, the criminal justice system, local authorities and civil society to effectively respond to these incidents. The 'Hate Monitor' provides a monthly update on hate crimes and incidents and responses throughout BiH.</p>
Sport Associations	<p>Sport Associations of BiH (e.g., football, basketball) have adopted disciplinary rulebooks to sanction events and manifestations which have elements of discrimination, insults and racism which result in harm to the dignity of individuals.</p>
Media Outlets	<p>The BiH Code of Print and Online Media sets forth the following regarding hate speech: "Journalists, editors and publishers will at all times be aware of the danger that occurs when the media incites discrimination and intolerance through hate speech"</p>
Prosecutors' Offices	<p>The position of prosecutors in criminal proceedings in BiH is characterised by two important components: the right to initiate and conduct an investigation and the right to propose and present evidence at trial. In criminal proceedings, the prosecutor performs prosecutorial activity within the limit of their statutory rights and obligations.</p>
CEC BiH	<p>The Central Election Commission of BiH conducts the election process, and its jurisdiction includes monitoring election campaigns in BiH and sanctioning candidates who use hate speech. According to the Election Law, Article 7.3 (chapter 7) "Candidates and supporters of political parties, lists of independent candidates, lists of members of national minorities and coalitions, as well as independent candidates and their supporters, and employees in the election administration are not allowed to use hate speech, and/ or publish or use images, symbols, audio and video recordings, SMS messages, Internet communications, social networks and mobile applications or other materials that may have such an effect."</p> <p>A voter or a political subject who believes that one of their rights is threatened can lodge a complaint with the Election Commission or CEC within 48 hours at the latest, or within 24 hours during the election period, of the violation, unless the Election Law of BiH states otherwise.</p>

CEC BiH	<p>In the investigative procedure, the CEC can obtain information about the violation of the rules of conduct in the pre-election period based on the candidate's complaint, but also on the basis of other information ex officio. Where a violation of the rules of conduct due to the use of hate speech is found, the CEC generally imposes fines, and in exceptional cases, deletion from the list of candidates.</p> <p>During the election campaign, there is a specific provision on the fine from 3,000 BAM up to 30,000 BAM that can be imposed on candidates and supporters of political parties, lists of independent candidates, lists of members national minorities and coalitions, as well as independent candidates and their supporters, and employees or otherwise engaged in election administration.</p>
Press Council and Online Media in BiH	<p>The Press Council and Online Media acts as the sole self-regulatory body in the field of print and online media in BiH. It operates as a non-governmental organisation in the fields of print and online media and has following goals: to mediate between dissatisfied readers and print and online media; to supervise the implementation of the Press and Online Media Code of BiH; to improve professional standards in print and online media in BiH; to protect the public from unprofessional and manipulative journalistic reporting; to protect the media from political, economic and all other pressures that threaten freedom of information and freedom of the media. The Press Council was established in 2000 and online media was included in the self-regulatory system in 2011. Media outlets individually and voluntarily become members of this organisation. However, a media outlet has to meet certain requirements in order to join. It has to be registered as a legal entity in BiH.</p> <p>The Press Council adopted the Print and Online Media Code of BiH. This is the main document concerning hate speech in the field of media self-regulation. Hate speech and inflammatory speech are regulated in Article 4. The document fails to define these terms. Instead, it prescribes a duty of journalists, editors, and publishers to be aware of the dangers of hate speech (along with discrimination and intolerance) and to refrain from inflaming and/or instigating hatred and/or inequality based on ethnicity, nationality, race, religion, gender, sexual orientation, physical disability, or mental state. Furthermore, they are obliged to refrain from contributing to spreading hatred when reporting on events having elements of hate and to refrain from inciting crime or violence.</p>
GIM	<p><b>Gender Institutional Mechanisms</b></p> <p>According to the Law on Gender Equality in BiH, the Agency for Gender Equality of BiH/Ministry of Human Rights and Refugees of BiH, and the Gender Centres of FBiH and RS have a coordination role in the area of gender equality. The Agency and the Gender Centres are mandated to perform following tasks within their jurisdiction:</p> <ul style="list-style-type: none"> <li>- Present and analyse status of gender equality in BiH</li> <li>- Produce special reports, opinions, suggestions and recommendations to be delivered to competent bodies at the state level</li> <li>- Consider depositions and complaints of citizens that point to violation of a certain right from this law based on the Unified Rules for Consideration of Depositions and Complaints of Citizens</li> </ul>
Ministries of Justice	<p>Ministries of Justice are the key stakeholders in the area of development of criminal and other legislation that prohibits incitement to hatred.</p>



*Ministarstvo za ljudska prava i izbjeglice BiH /  
Ministry for Human Rights and Refugees of BiH*

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