

How to Understand And Confront Hate Speech

It can be argued that in the everlasting conflict of values free speech is important, but it is not the only value and it does not have priority over all other considerations. Those other rights, which are not less fundamental than the right to free speech, include - for instance - the right to live without fear and intimidation, the right to dignity (both on the personal and on the group level) and the right to be a member of society on an equal footing with others, without suffering discrimination and exclusion.

The conclusion drawn from the European historical experience is unambiguous regarding the spreading of racist views which led to the Holocaust. It must be emphasized that racist views are not just like any other views present in society to be reflected in the media. Racism is not just an opinion, but a deadly poison responsible for death and suffering. Racism is not a view, it is a crime.

It is the media which shapes our perception of the social world. It is the field of a battle for cultural hegemony, a battle waged by racists against democratic society. It is a matter of professional ethics not to give a free platform to racist and extreme-right organizations. We must not let the media become tools of racist propaganda.

The example of the former Yugoslavia illustrates yet again that incitement to ethnic hatred can have a deadly effect. All over Europe everyday racist violence is accompanied and preceded by racist speech.

Today, almost nobody questions the fact that hate speech is a dangerous phenomenon.

However, the question of how to counteract it is still much debated. Should racism be penalized or ostracized? In fact both options should be used simultaneously.

3

Hate speech is a term for discourse intended to degrade, intimidate, or incite violence or prejudice against a person or group of people based on their race, gender, age, ethnicity, nationality, religion, sexual orientation, gender identity, disability, language, moral or political views, socioeconomic class, occupation or appearance (such as height, weight, and hair colour), mental capacity and any other similar distinction. The term covers written as well as oral and visual communication including in the mass media as well as some other forms of behaviours in a public setting, e.g. on the Internet.

I Civil society and hate speech

Perhaps in some European countries, where civil society is stronger, ostracism¹ works well enough without an excessive use of the law. But it must be emphasized that in many other countries, most notably in the new democracies, civil society is not strong enough to confront hate speech without the support of the state. As a matter of fact, in some cases the civil society itself has been the perpetrator of hate speech.

Both the international law (e.g. the International Convention on the Elimination of All Forms of Racial Discrimination) and national legal provisions allow for hate speech to be prosecuted. What is lacking in most cases is not the necessary legislation but the will to use it on the part of the authorities. Non-governmental organizations have good reasons to criticize governments for their hypocrisy in not implementing the existing provisions against hate speech.

"My country needs support but it also needs pressure", said the famous Russian dissident Andrei Sakharov. The new democratic governments of Europe in particular need support but they also need pressure to take adequate action against hate speech. Laws against hate speech must be observed with an active participation of governments, judicial systems as well as journalists and their professional organizations.

It is a task of representatives of non-governmental organizations to ask the European governments what they have done to follow the 1997 Recommendation of the Council of Europe's Committee of Ministers, which was urging them to take specific measures against hate speech?

Racist activists are sometimes portrayed as victims of censorship or martyrs to the cause of the freedom of speech. This is a travesty of facts. In reality it is the extreme rightists and racists who try to censor critical analysis of the phenomenon of racism whenever they have a chance to do so. Examples from across Europe illustrate attempts by the extreme right to silence criticism from anti-racists by using physical threats as well as libel law². Such intimidation of the independent media is unacceptable. The existence of a European network of anti-fascist magazines (such as Searchlight, Nigdy Wiecej, Antifa-Infoblatt and others) must be noted in this context as a very important part of the international struggle against racism and neofascism.

The conventional media is not the only means of transmitting ideas, which can be positive and constructive as well as negative and devastating. The Internet and rock music in particular have become vehicles for spreading the message of racial hatred, but also: anti-racism and multiculturalism.

The neo-nazi movement poisons the hearts and minds of young people through the Internet and the nazi music industry. The extreme-right groups using the new media (such as Blood and Honour, Hammerskins, and the International Third Position/European National Front) are co-operating on a transnational level and they can only be fought through international co-operation. The existing international monitoring bodies (such as ECRI, the European Commission against Racism and Intolerance, established by the Council of Europe) and law enforcement bodies can be used for that purpose and new bodies should be created where appropriate, in co-operation with interested non-governmental organizations.

The mainstream media, too, can be blamed for outbursts of xenophobia edging on racism, e.g. strengthening negative stereotypes and stirring up anti-refugee hysteria. Whole ethnic groups, be it the Roma or the Chechens, have been stigmatized. Through a racialized discourse the media construct a racialized social reality. It is important the mass-media are sensitized to the vocabulary they use and realize their responsibility for maintaining good inter-ethnic relations. The media should reflect the pluralism and cultural richness of today's multicultural societies. The participation of ethnic minorities with their cultural capital in the media is especially beneficial to society as a whole.

On the other hand, the very existence of the problem of racism is too often denied or played down by politicians and the mainstream media alike. It is impossible to deal with the problem without a public debate about it. By refusing to cover e.g. cases of racist violence the mainstream media, too, take the responsibility for tolerating dangerous social tendencies. Racist activities must not be allowed to pass by without any independent and critical media scrutiny. It is important for the media not to deny or trivialise the problem of racism and intolerance but to raise awareness of those issues.

Responsible journalism is not about re-publishing press releases, but about investigating the truth about what is happening in our societies.

¹ **Ostracism** was a procedure under the Athenian democracy in which a prominent citizen could be expelled from the city-state of Athens for ten years. The modern use of the term generally refers to informal modes of shunning or shaming.

² **Libel law** protects individuals or organizations from unwarranted, mistaken or untruthful attacks on their reputation. A person is libeled if a publication: exposes them to hatred, ridicule or contempt; causes them to be shunned or avoided; discredits them in their trade, business or profession; generally lowers them in the eyes of right thinking members of society.

II Examples of international legal documents against hate speech

United Nations, Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 4:

States undertake *inter alia* to declare an offence punishable by law “all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination...acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin”, and to declare illegal and prohibit organizations which promote and incite racial discrimination. The implementation of the Convention is carried out by the Committee on the Elimination of Racial Discrimination (UNCERD).

Council of Europe, Cybercrime Convention:

The First Additional Protocol to the Convention on Cybercrime of 2003 concerning the criminalization of acts of a racist or xenophobic nature committed through computer systems, provides that State Parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences under domestic law, intentional conduct including distributing, or otherwise making available, racist and xenophobic material to the public through a computer system.

European Union, Council framework decision on combating racism and xenophobia:

This framework decision of the European Union provides for the approximation of the laws and regulations of the Member States regarding offences involving racism and xenophobia. Racist and xenophobic behaviour must constitute an offence in all EU Member States and be punishable by effective, proportionate and dissuasive penalties.

This framework decision applies to all offences committed:

- within the territory of the European Union,
- by any national of a Member State or for the benefit of a legal person established in a Member State. To that end, the framework decision proposes criteria on how to determine the liability of a legal person

Racism and xenophobia means belief in race, colour, descent, religion or belief, national or ethnic origin as a factor determining aversion to individuals.

Certain forms of conduct outlined below committed for a racist or xenophobic purpose will be punishable as criminal offences:

- public incitement to violence or hatred;
- public insults or threats;
- public condoning of genocide or crimes against humanity as defined in the Statute of the International Criminal Court;
- public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia;
- directing of a racist or xenophobic group (by "group" is meant a structured organisation consisting of at least two persons established for a specific period).

Instigating, aiding, abetting or attempting to commit the above offences will also be punishable.

With regard to the above racist offences, Member States must ensure that they are punishable by:

- effective, proportionate and dissuasive penalties;
- terms of deprivation of liberty with a maximum penalty that is not less than two years for public incitement to violence or racist hatred or the directing of a racist or xenophobic group; in the other cases, by custodial sentences which can give rise to extradition;
- alternative sanctions such as community service or participation in training courses;
- fines;
- seizure of any material used as an instrument to commit the crime;
- penalties for legal persons (temporary or permanent disqualification from the practice of commercial activities, a judicial winding-up order, exclusion from entitlement to public aid).

In all cases, racist or xenophobic motivation will be considered as an aggravating circumstance in determining the penalty to be applied to the offence.

Resource

www.searchlightmagazine.com	Searchlight Magazine and Educational Trust
www.media-awareness.ca	Media Awareness Network
www.indexonline.org	Index on Censorship
www.ifex.org	International Freedom of Expression Exchange

III An initiative of UNITED against right-wing extremism

This Thematic Leaflet was developed in the frame of the project: 'Civil Society Against Right-Wing Extremism - Developing New Lifelong-learning Strategies for NGOs' a project supported by the Grundtvig Program of European Commission and implemented by UNITED for Intercultural in partnership with:

- ARI Immigrant Association Rieti, Italy - www.ariweb.it
- DUHA - Rainbow Association, Czech Republic - www.duha.cz
- Kulturbüro Sachsen, Germany - www.kulturbuero-sachsen.de
- Movement Against Intolerance, Spain - www.movimientocontralaintolerancia.com
- MTP Oradea, Romania - www.mtporadea.ro
- Never Again Association, Poland - www.nigdywiecej.org
- Norwegian People's Aid, Norway - www.antirasisme.no
- People Against Racism, Slovakia - www.rasizmus.sk
- University of Venice, Master on Immigration Programme, Italy - www.unive.it/masterim

Background information about the project "Civil Society Against Right-Wing Extremism"

This project was developed after many years' experience of UNITED network in antidiscrimination campaigns and deep analysis on the current trends of European civil society active in the fight against right-winged extremism, racism and discrimination.

Experience shows that despite the quantitative and qualitative work done by many organizations active in this field, many NGO's have little knowledge about democratic institutions and processes. Nevertheless, there are effective ways to tackle discrimination at its local and regional level through innovative and informal learning strategies. There are as well ways to give the best practices a European dimension.

The aim of the project is to create a space for antiracial adult education and make it qualified, available and accessible throughout Europe. The objectives are: the creation of feasible ways to enhance the work of local grassroots groups and NGO's active in the field of antiracial education, their training as learning facilitators in antiracial education, and the counterbalance of the unevenness in antiracial fight Europe-wide. The project has as its direct target group precisely NGOs activists. Ultimately, the project is also expected reach-out the NGOs' target groups, mainly disadvantaged social categories with less opportunities to access education else way. The main activities envisaged include identification, selection and dissemination of best practices in the antiracist field, conferences, workshops and campaigns, which will eventually bring the following outputs: publications, handbooks, info leaflets, web-pages and campaigning material.

What is UNITED?

UNITED for Intercultural Action is the European network against nationalism, racism, fascism and in support of migrants and refugees. Linked through UNITED, more than 560 organizations from a wide variety of backgrounds, from all European countries, work together on a voluntary basis. They base their cooperation on common actions and shared activities on a mutual respect. UNITED is and will remain independent from all political parties, organisations and states, but seeks an active co-operation with other anti-racist initiatives in Europe. Through the UNITED network organizations meet each other, work on common actions and share information. European-wide action weeks, campaigns and such are planned and discussed on UNITED conferences. Like-minded organisations find each other on such conferences and work together on specific projects and on specific topics. Information is received from more than 2000 organisations and mailings go out to about 2500 groups in Europe. If you want to get involved, discuss the ideas and aims of the UNITED network within your organisation. Let us know that your organization would like to join or receive information. And add us to your mailing list!

*Written by Rafal Pankowski, NEVER AGAIN Association and Collegium Civitas, Poland
rafal_pankowski@yahoo.com*

Thematic Leaflet 3, Updated and corrected version November 2007

(An early printed version of this thematic leaflet included certain passages which were not authorised by the author.)

UNITED IS SUPPORTED BY



Socrates
Grundtvig

more than 560 organisations from all European countries, many prominent individuals, private supporters and long-term volunteers from Aktion Sühnezeichen Friedensdienste, Austria Service Abroad and Ca' Foscari University of Venice. Since 1992 financial support was received from various sponsors such as: European Commission (General Budget/Socrates/Grundtvig/Youth Programme/DG Employment Social Affairs/ TACIS), Council of Europe (European Youth Foundation/European Youth Centres), Heinrich-Böll-Stiftung, World Council of Churches, Olof Palmes MinnesFond, Cultural Council Sweden, Ministry of Education Slovenia, Green Group- Socialist Group-, and GUE/NGL Group in the European Parliament, European Cultural Foundation, Stiftung West-Ostliche Begegnung, Aktionsbündnis Gegen Gewalt, Rechtsextremismus und Fremdenfeindlichkeit Brandenburg, Home Office UK, Ministry of Interior-BZK NL, Federal Department of Foreign Affairs CH, Ministry Foreign Affairs-BUZA NL, Vuurwerk Internet, Instituto Português da Juventude, National Integration Office Sweden, Service Nationale de la Jeunesse Luxembourg, LNU - Norwegian Youth Council, Europees Platform Grundtvig, Friedrich Ebert Stiftung, Youth Board of Cyprus, Federal Social Insurance Office (Dep. for Youth Affairs) CH, Swiss Coordination Office of Youth for Europe, Federal Service for Combating Racism (Fund for Projects Against Racism) CH, Migros Kulturprozent CH, Comunidad de Madrid, Ministry of Youth and Sport of Azerbaijan, Final Frontiers Internet, Dijkman Offset and others



COUNCIL
OF EUROPE

CONSEIL
DE L'EUROPE

The information contained herein does not necessarily reflect the position nor the opinion of our sponsors. Sponsors are not to be held responsible for any use that may be made of it.
This publication is part of the project 'Civil Society Against Rightwing Extremism' part funded and made possible by the support of the European Union Grundtvig Program.
UNITED publications can be freely re-used, translated and re-distributed, provided source (www.unitedagainstracism.org) is mentioned and a copy is sent to the UNITED Secretariat.

UNITED for Intercultural Action • Postbus 413 • NL-1000 AK Amsterdam • Netherlands
phone +31-20-6834778 • fax +31-20-6834582 • email info@unitedagainstracism.org • website www.unitedagainstracism.org