

Advocating for an Inclusive and Just Europe: Prioritizing the Expansion of EU Crimes to Include Hate Speech and Hate Crime

ASSEDEL (*L'Association européenne pour la défense des droits et des libertés*), is a non-profit association governed by its statutes. Its objective is to disseminate, promote, and defend human rights and fundamental freedoms in the spirit of the European Convention on Human Rights, both within the Council of Europe system and at the local, national, and international levels.

As a human rights association, we closely monitor and advocate for the implementation of legal mechanisms in alignment with the provisions outlined in **Article 83(1) of the Treaty on the Functioning of the European Union (TFEU)**.¹ This article presents an exhaustive list of specific criminal offenses with a cross-border dimension, collectively referred to as “*EU crimes*”. In this regard, both the European Parliament and the Council of the European Union² share the responsibility of establishing essential guidelines pertaining to the definition and sanctions of these offenses.

Article 83(1) empowers the Council to expand the list of criminal areas through the adoption of a decision. Additionally, the Commission possesses the authority to issue a communication addressed to the European Parliament and the Council, instigating the process of such a Council decision.

In December 2021, the Commission took a proactive step by issuing a communication entitled *'A more inclusive and protective Europe: Extending the List of EU Crimes to Include Hate Speech and Hate Crime'*.³ **The primary objective of this document is to broaden the scope of EU crimes to encompass hate speech and hate crime.** The necessity for this expansion arises from the disturbingly increasing prevalence of hate crimes and hate speech, which stand in stark contradiction to the fundamental values of the EU.

Regrettably, since 2021, the Council has yet to adopt a decision that would formally incorporate hate crime and hate speech into the list of EU crimes. In the meantime, the European Parliament issued a proposal for a Council decision and evoked the use of the passerelle clause to speed up the process.⁴

Indeed, addressing hate crime and hate speech is a pressing concern that should be accorded the highest priority within the European Union. These offenses pose substantial threats to the cohesiveness of a democratic society, the safeguarding of human rights, and the supremacy of the rule of law. Such actions are inherently incompatible with the core values of

¹ European Union, Consolidated version of the Treaty on the Functioning of the European Union, 13 December 2007, 2008/C 115/01 (published on 26th of October 2012) article 83(1).

² Hereinafter ‘The Council’

³ European Commission, Communication from the Commission to the European Parliament and the Council: ‘A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime’ COM/2021/777 9th December 2021.

⁴ European Parliament Committee on Civil Liberties, Justice and Home Affairs, Report on the proposal for a Council decision on extending the list of EU crimes to hate speech and hate crime (2023/2068(INI)) 28th June 2023.

the EU, which include the principles of respect for **human dignity, freedom, democracy, and equality**, among others.

Moreover, it is essential to acknowledge that hate speech has evolved significantly, especially with the advent of the internet and social media platforms. This evolution has rendered hate speech more potent, and it now frequently targets particularly vulnerable groups.

Specific groups in vulnerable situations, such as **asylum seekers, refugees, migrants, racialized communities, LGBTIQ+ individuals, people with disabilities, and those from socioeconomically disadvantaged backgrounds** encounter heightened barriers when it comes to reporting hate-motivated crimes.⁵ These barriers may include fear of reprisal, mistrust in the justice system, or lack of awareness about reporting mechanisms. As a result, addressing hate speech and hate crimes against these groups becomes not only a matter of legal and ethical responsibility but also a pressing social imperative to ensure that justice, protection, and equality is accessible to all members of society.

As a human rights association, ASSEDEL firmly believes that due to the paramount importance of this matter, the proposition to extend the list of EU crimes to include hate speech and hate crime must be prioritized by the European Union. Such an expansion will help foster a more inclusive, just, and secure Europe that upholds the principles of human rights and fundamental freedoms for all.

⁵ European Parliament Committee on Civil Liberties, Justice and Home Affairs, Report on the proposal for a Council decision on extending the list of EU crimes to hate speech and hate crime (n.3) para E.