

BCNL Report on Hate Speech in Bulgaria
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Abstract

There exists a consensus that hate speech in Bulgaria is widespread and commonplace, flooding the political, social, and media landscape. This report analyzes Bulgaria's treatment of hate speech through the compilation of desk research as well as qualitative interviews with experts on the subject, focusing primarily on the LGBTQ+ and Roma communities. It assesses the Bulgarian hate speech framework's compatibility with European and international legal obligations and identifies systemic problems. Most strikingly, the existing legislative framework leaves certain vulnerable groups unprotected by criminal law. Further, issues with implementation and public perception hinder adequate justice for victims. Justice system actors are unequipped to recognize, address, and counteract hate speech. Procedural and evidence-gathering hurdles prevent the success of online hate speech claims. Hate speech, in general, remains largely underreported and under-prosecuted, with ignorance, myths, and stereotypes remaining pervasive across society. Though these issues are, by nature, complex, multidimensional, and interdisciplinary, the report concludes by presenting avenues for legal and social improvement to better enshrine international standards and protect vulnerable communities.

Key Words

Hate speech, freedom of expression, Roma, LGBTQ+

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Author's Note

I have been lucky enough to work with the Bulgarian Center for Not-for-Profit Law, stationed in Sofia, Bulgaria, over the last three months thanks to their joint initiative with the McGill Law International Human Rights Internship Program. As a third-year law student born and raised in Montreal, Canada, my passions for human rights and justice deeply excited me about contributing to BCNL's initiatives.

Within my first few days of arriving in Sofia, I joined members of the BCNL team at large-scale protests in the city center. Between adjusting to a new city, culture, language, and time zone, I plunged into the deep end of Bulgaria's political and social discourse. This report blossoms out of conversations with my peers at BCNL, as well as local activists, on freedom of expression within the country.

I would like to thank, firstly, the team at BCNL for supporting, overseeing, and encouraging my research process, as well as equipping me with the tools to navigate a project out of my comfort zone. I truly could not have asked for a more engaging and helpful team to guide me through uncertainties throughout the project. I would also like to thank all the inspiring and insightful interviewees who shared their knowledge with me; their guidance was invaluable. Finally, I would like to thank the Center for Human Rights and Legal Pluralism, as well as the McGill International Human Rights Internship team, for their continuous support prior to and throughout my placement with BCNL.

I feel overwhelmingly grateful for my time with BCNL, and hope that this report provides a stepping-stone for future work on hate speech and freedom of expression reforms.

Introduction

Freedom of expression is a fundamental right enshrined in the Bulgarian constitution and international law. However, this right is not absolute. The right to freedom of expression has longstanding limitations, notably regarding the extent to which one's speech can infringe on the rights of others. Hate speech lies in this grey area.

As philosopher Jeremy Waldron posits, "hate speech undermines a public good that can and should be protected: the basic assurance of inclusion in society for all members."¹ The governmental exercise in line-drawing between freedom of expression and hate speech is of prime importance. Disproportionately flexible regulation emboldens discrimination, social exclusion, and extremism. Conversely, harsh regulation of speech favours censorship and repression of marginal opinions. International standards for hate speech regulation serve as a guide for national strategies on this balancing act.

This report analyzes Bulgaria's treatment of hate speech. The research aims to map the existing landscape for preventing and responding to hate speech in Bulgaria, as well as assess its

¹ See Jeremy Waldron, *The Harm in Hate Speech* (Cambridge: Harvard University Press, 2014).

adequacy and compatibility with Bulgaria's obligations to European and international law. Finally, it seeks to present avenues for the improvement of Bulgaria's treatment of hate speech.

Methodology

Research was carried out between May and July 2022 in Sofia, Bulgaria and included desk research as well as qualitative interviews with experts on the subject. The desk research included the analysis of various national and non-governmental organization (NGO) reports, academic and press articles, as well as sections of local, European, and international law. The qualitative research involved interviews with four members of civil society who work with target groups affected by hate speech in the country and/or specialize in the field of discrimination prevention and response. The focus target groups are the Roma and LGBTQ+ communities, which were established as two of the groups most affected by hate speech through desk research.

Context: Hate Speech in Bulgaria

When asked about the amount of hate speech in Bulgaria, experts were unanimous, describing its occurrence as “very common,” “typical,”² and “in every day [...] language.”³ There exists a consensus that hate speech in Bulgaria is widespread and commonplace, flooding the political, social, and media landscape. In a 2018 European Commission survey, about half of the respondents claimed to have heard statements made in public that expressed disapproval, hatred, or aggression towards members of ethnic, religious or sexual minorities.⁴ These findings were consistent with reporting over the previous five years, however, recent years show an increase in hate speech intensity through online avenues.⁵ In a March 2020 report, the Bulgarian Ombudsperson highlighted hate speech and hate crimes as one of the two main critical areas in need of heightened legal protection.⁶ The report also noted the increasing spread of hate speech in the media, on the Internet, and within public institutions.⁷

With growing nationalism and political turmoil, hate speech is commonly spread among new and far-right political figures. Parties coined as nationalistic and far-right, including some which have been part of previous ruling coalitions, have often been accused of inciting hatred, discrimination

² See Interview with the Director, an employee, and a volunteer from Infinite Opportunities Association (23 May 2022) at line 96 [*IOA Interview*]. Refer to Appendix A for full interview transcript.

³ See Interview with a sociologist specializing in the Bulgarian Roma community (15 June 2022) at line 63 [*Sociologist Interview*]. Refer to Appendix B for full interview transcript.

⁴ See Open Society Institute Sofia, “Public attitudes to hate speech in Bulgaria in 2018” (14 December 2018) at 2, online (pdf): *European Commission Website on Integration* <https://ec.europa.eu/migrant-integration/library-document/public-attitudes-hate-speech-bulgaria-2018_en> [*Public Attitudes*].

⁵ See *ibid*.

⁶ See Project One/Center for the Study of Democracy, “Franet National Contribution to the Fundamental Rights Report 2021 Bulgaria” (2021) at 13, online (pdf): *European Union Agency for Fundamental Rights* <https://fra.europa.eu/sites/default/files/fra_uploads/fr2021_bulgaria-fr2021_en.pdf> [*Bulgarian Fundamental Rights Report*].

⁷ See *ibid* at 19.

and violence against Roma, Muslims, migrants, and the LGBTQ+ community.⁸ Bulgarian politicians play a major role in popularizing negative stereotypes and discriminatory perceptions of minorities.⁹

The online media landscape is filled with hate speech, with its role as a public dissemination medium only growing. In its 2021 Bulgaria Report on Human Rights, the US Department of State noted an overall rise in the occurrence of hate speech and hate crimes, with the Commission for Protection Against Discrimination (the Commission) reporting an increase in hate speech complaints originating in media statements, social networks, and other online publications.¹⁰ People aged 18-29, as well as people with university or college education, witness hate speech online more frequently than through any other medium.¹¹ Among all young people who report to have heard hate speech in 2018, 70% have heard it on the Internet.¹² The director of Infinite Opportunities Association (IOA), a Bulgarian NGO working on the issue of hate speech, emphasized the popularity of “online trolls and disinformation campaigns”, stating that she has noticed they make “the general public [...] very sensitive [and reluctant] to issues related to tolerance and inclusion.”¹³ Ultimately, the Internet has become the most critical vehicle for hate speech propagation in the country.

Though hate speech towards any minority group is common in Bulgaria, the main targets of hate speech are the Roma and LGBTQ+ communities.¹⁴

Hate Speech & the Roma Community

In an interview, a sociologist who specializes in the Bulgarian Roma community described hate speech towards Roma people as a “mainstream” phenomenon “in every day [...] language.”¹⁵ Negative stereotypes and the perception of Roma people as a threat to Bulgarian values and society run rampant across public perception. Negative attitudes towards Roma are much higher than towards other minority groups, with one study showing 21.6% of respondents “hated” people of Roma origin – a much higher share of those having similar attitudes towards Turkish people (4.9 %) and Muslims (3.4 %).¹⁶

These negative perceptions are proliferated through the media. A report by the Association for European Journalists in Bulgaria showcased a “chronic tendency” in the media to dehumanize Roma people, blaming them for public woes.¹⁷ In December 2020, the Centre for the Study of

⁸ See *ibid* at 12.

⁹ See *ibid*.

¹⁰ See Bureau of Democracy, Human Rights, and Labor, “2021 Country Reports on Human Rights Practices: Bulgaria” (2021) at 25, online (pdf): *US Department of State* <<https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bulgaria>>.

¹¹ See *Public Attitudes*, *supra* note 4 at 15.

¹² See *ibid*.

¹³ See *IOA Interview*, *supra* note 2 at lines 511-512.

¹⁴ See *Public Attitudes*, *supra* note 4 at 2.

¹⁵ See *Sociologist Interview*, *supra* note 3 at line 63.

¹⁶ See *Bulgarian Fundamental Rights Report*, *supra* note 6 at 4.

¹⁷ See Association of European Journalists Bulgaria, “Representation of Roma, refugees, and expats in Bulgarian online media during the 2017 election campaign” (11 May 2017), online: *AEJ-Bulgaria*

Democracy published a study on the impact of far-right messages on young people in Bulgaria. They concluded that young people are most susceptible to anti-Roma messages, with a prevailing majority of respondents agreeing with statements such as: “The birth rate among Roma must be restricted so that Bulgarians do not become a minority in their own country” (74 %), “The liberal attitude toward the Roma resulted in Roma living on the backs of Bulgarians” (73.5 %), “The terror of Roma criminality over Bulgarians must be stopped with an iron fist” (71.4 %), etc.¹⁸ Moreover, over 80% of respondents agreed with the statement “the majority of people of Roma origin cannot be trusted”, and almost half shared the opinion that they would prefer to not live in the same country, be neighbours, work together, be friends with, or marry a person of Roma origin.¹⁹

High-level politicians also embolden and spread hateful messages about the Roma community.²⁰ Messages regarding their stereotyped “criminality” and “nomadic” lifestyle eroding Bulgarian society are widespread across the political spectrum, often left unchecked and unquestioned.²¹

Hate Speech & the LGBTQ+ Community

Hate speech and hate crimes towards members of the LGBTQ+ community are also extremely common in Bulgarian society, with usual flare-ups occurring around Sofia Pride. Queer community spaces like The Steps and Rainbow Hub are usual targets of violence,²² with the latter having been recently stormed, attacked, and shut down by a far-right nationalist group.²³ Civilians are also often targets of hate crimes motivated by their gender or sexual orientation.²⁴ For example, 2020 was marked by a landmark case of anti-LGBTQ+ violence where a crowd of minors attacked two young girls with eggs and shouted homophobic slurs at them with the intention to “cleanse the park of gays.”²⁵ These occurrences, both of hate speech and crimes, go largely underreported; the GLAS Foundation's platform for hate speech and hate crimes against LGBTI people received 37 signals in 2020, but only two of the cases were reported to the police.²⁶ Additionally, far-right politicians use hate speech to gain public affection in their

<https://aej-bulgaria.org/en/representation-of-roma-refugees-and-expats-in-bulgarian-online-media-during-the-2017-election-campaign/>.

¹⁸ See *Bulgarian Fundamental Rights Report*, *supra* note 6 at 25.

¹⁹ See *Bulgarian Fundamental Rights Report*, *supra* note 6 at 24.

²⁰ See Minority Rights Group Europe, “Discrimination against Roma in Croatia and Bulgaria: A comparative report” (October 2021) at 12, online (pdf): *Amalipe Bulgaria* <https://amalipe.bg/wp-content/uploads/2021/10/MRG_ERELA_Rep_EN_electronic-1.pdf>.

²¹ See Violeta Naydenova, “Stereotyping the Roma in Bulgaria” (7 November 2010), online: *Open Society Foundations* <<https://www.opensocietyfoundations.org/voices/stereotyping-roma-bulgaria>>.

²² See Bulgarian Helsinki Committee, “Human Rights in Bulgaria in 2021” (2021) at 150, online (pdf): *BGHelsinki* <https://www.bghelsinki.org/web/files/reports/157/files/BHC-Human-Rights-in-Bulgaria-in-2021-bg_issn-2367-6930.pdf> [BHC 2021 Report].

²³ See GLAS, “Attack on the LGBTI community centre Rainbow Hub” (9 December 2021), online: *GLAS Foundation* <<https://glasfoundation.bg/en/attack-on-the-lgbti-community-centre-rainbow-hub/>>.

²⁴ See *BHC 2021 Report*, *supra* note 22 at 150-153.

²⁵ See Bulgarian Helsinki Committee, “Human Rights in Bulgaria in 2020” (2020) at 43, online (pdf): *BGHelsinki* <<https://www.bghelsinki.org/web/files/reports/155/files/BHC-Human-Rights-in-Bulgaria-in-2020-en.pdf>> [BHC 2020 Report].

²⁶ See *ibid.*

campaigns, with the VMRO having pledged to use its power to limit LGBTQ+ people's right to peaceful assembly and forbidding the occurrence of Sofia Pride.²⁷

International Law Applicable to Bulgaria

The Bulgarian constitution enshrines the right to freedom of expression through “opinion” or “public[ation] ... through words, written or oral, sound or image, or in any other way”, subject to certain limitations.²⁸ This national law echoes Bulgaria's international commitments to human rights and fundamental freedoms, notably through the United Nations (UN), the European Union (EU) and the Council of Europe.

Despite these commitments, there remains no academic nor political consensus on the definition of hate speech. Until the 1980s, the term “hate” remained general, referring to “any intense dislike or hostility whatever its object”. However, the term adopted a social dimension in the mid-1980s when it began to be used as that which “characterizes an individual's negative beliefs and especially feelings about the members of some other category of people based on their ethnicity, race, gender, sexual orientation, religion, age, or physical or mental disability.”²⁹

More specifically, under international and European human rights law, there is no universal accepted definition of hate speech.³⁰ However, regulations across the board call for the reconciliation of freedom of expression and the right to equality and freedom from discrimination. Several international instruments contain provisions focusing on various forms of expression that would typically be considered as constituting hate speech which therefore must be prohibited.³¹

The United Nations and its Conventions

Bulgaria has signed and ratified numerous United Nations (UN) general international agreements providing protection against various forms of hate speech. Most notably, protection against hate speech derives from the International Covenant on Civil and Political Rights (ICCPR)³² and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).³³ Article 2 paragraph 1 of the ICCPR and Article 1 paragraph 1 of the CERD prohibit

²⁷ See *ibid* at 154.

²⁸ See *Constitution of the Republic of Bulgaria*, 13 July 1991, at art 39.

²⁹ See Burcu Nur Binbuga, “Examining hate speech from the perspective of Arendt's political theory” (2016) 43 METU Studies in Development 707-724 at 708.

³⁰ See Minority Rights Group Europe, “Countering cyberhate against Roma: A toolkit for civil society organizations and activists” (2021) at 5, online (pdf): *Amalipe Bulgaria* <https://amalipe.bg/wp-content/uploads/2020/05/MRG_A5_FFHToolkit_ENG_FINAL-1.pdf> [Countering Cyberhate].

³¹ See *ibid* at 10.

³² See OSCE Office for Democratic Institutions and Human Rights, “Opinion On Certain Provisions Of The Criminal Code Of Bulgaria Pertaining To Bias-Motivated Crime, “Hate Speech” And Discrimination” (17 April 2018) at 5, online (pdf): *Legislation Online* <https://legislationline.org/sites/default/files/documents/c8/320_HCRIM_BGR_17Apr2018_en.pdf> [OSCE Opinion].

³³ See *ibid*.

discrimination on a number of specified grounds in relation to the enjoyment of other human rights and freedoms.³⁴ Further, Article 20 of the ICCPR prohibits “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”³⁵ The CERD prohibits “all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as [...] incitement to [...] acts [of violence] against any race or group of persons [...], and also the provision of any assistance to racist activities, including the financing thereof.”³⁶ The CERD also criminalizes organized propaganda, organizations, and members of organizations which “promote and incite racial discrimination”, as well as specifically prohibiting “public authorities or public institutions, national or local, to promote or incite racial discrimination”.³⁷ Finally, Article III(c) of the UN Convention on the Prevention and Punishment of the Crime of Genocide prohibits the “direct and public incitement to commit genocide.”³⁸

However, not all hateful speech can be forbidden under the UN conventions. Prohibitions referred to in Article 4 and Article 20 of the ICCPR must meet the conditions set out in Article 19, which has been clarified by the Rabat Plan of Action.³⁹ Restrictions on the right to express one’s opinions must be exceptional, restricted by the State only where there is legal provision to do so, when it is necessary to protect the rights or reputations of others, national security or public order, public health or morals.⁴⁰ The Rabat Plan of Action recommends a clear distinction between expressions constituting a criminal offence, in opposition to those where a civil suit/administrative sanctions may apply or where no sanctions apply. It also clarifies that criminalization should be used as a last resort to combat the most serious forms of incitement under Article 20(2) of the ICCPR.⁴¹

UN bodies have also clarified the applicability of its hate speech regulations to the online world. The Human Rights Committee specified that any restrictions on online content must respect international standards for freedom of expression and must be compatible with Article 19 of the ICCPR.⁴² Moreover, the Committee on the Elimination of Racial Discrimination recommends that States take “strict measures against any incitement to discrimination or violence against the communities, including through the Internet.”⁴³ In other words, States must prevent the dissemination of online hate speech.

³⁴ See *ibid* at 6.

³⁵ See *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 art 20 (entered into force 1968, accession by Bulgaria 1970) [ICCPR].

³⁶ See *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, 660 UNTS 195 art 4 (entered into force 1966, accession by Bulgaria 1966).

³⁷ See *ibid*; see also European Commission against Racism and Intolerance, General Policy Recommendation No 15 On Combating Hate Speech (8 December 2015) at 22, online (pdf): *Council of Europe* <<https://rm.coe.int/ecri-general-policy-recommendationno-15-on-combating-hate-speech/16808b5b01>>.

³⁸ See *UN Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, 78 UNTS 277 at art III(c) (entered into force 1951, accession by Bulgaria 1950).

³⁹ See *Countering Cyberhate*, *supra* note 30 at 7.

⁴⁰ See *ibid* at 7; see also ICCPR art 19(3).

⁴¹ See *Countering Cyberhate*, *supra* note 30 at 8.

⁴² See UNHRC, 102 Sess, UN Doc CCPR/C/GC/34 (2011); see also *Countering Cyberhate*, *supra* note 30 at 11.

⁴³ See *Countering Cyberhate*, *supra* note 30 at 11.

The European Union Framework

Just as there is no internationally established definition of hate speech, there is no pan-European definition. At the EU level, European law requires the criminalization of certain forms of hate speech.⁴⁴ As a member State of the EU, Bulgaria is bound by Council Framework Decision 2008/913/JHA of 28 November 2008 on combatting certain forms and expressions of racism and xenophobia by means of criminal law.⁴⁵ The Framework decision indicates, in Article 1, that the following conduct is punishable: (a) publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, [...] (c) publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes [...] directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.⁴⁶ These provisions include only some of the groups vulnerable to hate speech, excluding LGBTQ+ people, among others. As such, the European Parliament indicated the need for a revision of the Framework Decision, so as to include also manifestations of antisemitism, religious intolerance, antigypsyism, homophobia and transphobia.⁴⁷

Additionally, other EU legal tools tackle hate speech in the particular context of the online world. Bulgaria is bound by the Audiovisual Media Services Directive, 2010/13/EU of the European Parliament and of the Council of 10 March 2010.⁴⁸ The directive requires Member States to ensure that audiovisual media services provided by media service providers do not contain any incitement to hatred based on race, sex, religion or nationality.⁴⁹ Additionally, Member States must ensure communications provided by media service providers shall not prejudice respect for human dignity or include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.⁵⁰

Council of Europe & European Court of Human Rights

⁴⁴ See Bulgarian Helsinki Committee, “Hate Crimes” (2019) at 27-28, online (pdf): *BGHelsinki* <https://nohate.bghelsinki.org/cms/wp-content/uploads/2020/02/bhc_nohatebg_web.pdf> [*Hate Crimes*].

⁴⁵ See European Council, “Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law” (28 November 2008) at art 1, online: *Access to European Union Law* <<http://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=celex:32008F0913>>. Article 4 states “[f]or offences other than those referred to in Articles 1 and 2, Member States shall take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstance, or, alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties.”

⁴⁶ See *ibid* at art 1.

⁴⁷ See *Countering Cyberhate*, *supra* note 30 at 10.

⁴⁸ See European Commission against Racism and Intolerance, General Policy Recommendation No 15 On Combating Hate Speech (8 December 2015) at 27, online (pdf): *Council of Europe* <<https://rm.coe.int/ecri-general-policy-recommendationno-15-on-combating-hate-speech/16808b5b01>> [*ECRI Recommendation*].

⁴⁹ See European Council, Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) at art 6 (10 March 2010).

⁵⁰ See *ibid* at art 9.

The Council of Europe, unlike the other international legal bodies, provides two non-binding definitions of hate speech.

The Committee of Ministers Recommendation No. R 97(20) outlines hate speech to include “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”⁵¹ Simultaneously, the European Commission against Racism and Intolerance (ECRI) General Policy Recommendation No. 15 posits hate speech as “the use of one or more particular forms of expression – namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or status that includes ‘race’, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.”⁵²

Amalipe, a leading Roma rights organization in Bulgaria, describes how the comparison between these definitions illustrates how the international understanding of hate speech has evolved, “expanding to include other protected categories not originally foreseen in international law, but which are now among the main targets of hate speech.”⁵³

The European Convention on Human Rights (ECHR) does not contain any provision directed specifically to hate speech. Rather, it guarantees freedom of expression under Article 10 and prohibits discrimination.⁵⁴ Despite this, the European Court of Human Rights (ECtHR), in applying the ECHR, has had to address hate speech when considering the restriction or sanctioning of certain forms of speech. The ECtHR uses two approaches in cases dealing with hate speech.⁵⁵ First, statements amounting to hate speech directed against the underlying values of the ECHR are excluded from the protection of the Convention.⁵⁶ This approach can be observed in attacks on a particular ethnic or religious group, antisemitic or racially discriminatory statements, and Holocaust denial.⁵⁷ Alternatively, in cases where the remarks do not negate the Convention’s underlying values, interference with Article 10 can be justified if it is prescribed by law, serves a legitimate aim, or is necessary in a democratic society.⁵⁸ These cases include instances of statements alleged to stir up or justify violence, hatred, or intolerance.⁵⁹

⁵¹ See Council of Europe, Recommendation No. R (97) 20 of the Committee of Ministers to Member States on ‘Hate Speech’, adopted 30 October 1997; see also *Countering Cyberhate*, *supra* note 30 at 8.

⁵² See *ECRI Recommendation*, *supra* note 48 at 16; see also *Countering Cyberhate*, *supra* note 30 at 8.

⁵³ See *Countering Cyberhate*, *supra* note 30 at 9.

⁵⁴ See Council of Europe, “Convention for the Protection of Human Rights and Fundamental Freedoms” Series 005 (1950) at art 10; see also *ECRI Recommendation*, *supra* note 48 at 24.

⁵⁵ See *OSCE Opinion*, *supra* note 32 at 9.

⁵⁶ See *ibid* at 8.

⁵⁷ See *ECRI Recommendation*, *supra* note 48 at 24; see also European Court of Human Rights, “Fact Sheet - Hate Speech” (June 2022) at 2-5, online (pdf): *European Court of Human Rights* <https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf> [*Fact Sheet - Hate Speech*].

⁵⁸ See *ibid*.

⁵⁹ See *ECRI Recommendation*, *supra* note 48 at 24; see also *Fact Sheet - Hate Speech*, *supra* note 57 at 6.

However, it is important to note that the ECHR has recognized member States' responsibilities to protect the targets of hate speech from violence or interferences of their rights resulting from incitement.⁶⁰ Moreover, passivity, including the failure to enforce criminal provisions effectively in the face of protected rights and freedoms, may amount to a violation of the prohibition on inhuman and degrading treatment under Article 3.⁶¹ Finally, a failure to provide redress for insulting and negative stereotypical expression could entail a violation of the responsibility to secure the right to private life under Article 8.⁶²

With regards to online hate speech, the Council of Europe has confirmed that its offline hate speech standards apply to conduct online as well.⁶³ Further, service providers have a duty to vet their user content for hate speech and to ensure online freedom of expression is in accordance with Article 10(2) of the ECHR.⁶⁴ The only binding international instrument related to online hate speech is the Convention on Cybercrime of the Council of Europe's Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems.⁶⁵ This sets out the minimum legal standards necessary to combat crimes committed online, and notably criminalizes distributing or making available "racist and xenophobic material".⁶⁶ Article 2 specifies that this material refers to any representation of ideas which "advocates, promotes or incites hatred, discrimination or violence, against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion."⁶⁷

The Legal Landscape for Hate Speech in Bulgaria

Criminal Route under Article 162 of the Criminal Code

Article 162(1) of the Bulgarian Criminal Code criminalizes anyone who, "by speech, press or other media, by electronic information systems or in another manner, propagates or incites discrimination, violence or hatred on the grounds of race, nationality or ethnic origin."⁶⁸ Simultaneously, Article 164(1) criminalizes the same propagation or instigation of discrimination, violence, or hatred on the basis of religion.⁶⁹

Implementation

⁶⁰ See *ECRI Recommendation*, supra note 48 at 25.

⁶¹ See *ibid.*

⁶² See *ibid.*

⁶³ See *Countering Cyberhate*, supra note 30 at 11.

⁶⁴ See *ibid.*

⁶⁵ See Council of Europe, Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003).

⁶⁶ See *ibid* at art 3.

⁶⁷ See *ibid* at art 2.

⁶⁸ See *Criminal Code of Bulgaria*, 1 May 1968, at art 162 [*Criminal Code*].

⁶⁹ See *ibid* at art 164.

The Director of IOA described Article 162 as “where the story begins and ends.”⁷⁰ Indeed, Article 162 is widely regarded as a dead article due to the prosecutor’s office’s refusal to initiate proceedings under it.⁷¹ The enumerated protected grounds are narrow, especially compared to those protected under PADA, and cases under the Article are excessively scarce. For example, a text published in a 2012 newspaper containing clear incitement to hatred and discrimination on the basis of ethnicity was reported to the prosecutor’s office on at least two occasions, both which were ignored by the responsible institution.⁷²

Civil and Administrative Routes using the Protection Against Discrimination Act

The Protection Against Discrimination Act (PADA), established in Bulgaria in 2004, regulates the protection against all forms of discrimination and aims to contribute to its prevention.⁷³ Article 4 bans direct and indirect discrimination “on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by the law, or by international treaties to which the Republic of Bulgaria is a party.”⁷⁴ Similarly, Article 5 also protects members of the enumerated grounds in Article 4 from harassment, including the incitement to discrimination.⁷⁵ Hate speech claims, including online hate speech, would naturally fall under one or both of these articles.

Under PADA, victims of hate speech have two recourses. First, they can file a civil claim to a Bulgarian court. This case would entail a potential finding of discrimination, court orders, as well as a determination of compensation, if necessary. Alternatively, they can file a claim to the Commission, the quasi-judicial Bulgarian national equality body. The Commission can issue a binding decision for or against the finding of discrimination. Though they cannot grant financial compensation for damages flowing from the decision, the claimant can then file a claim in civil court for the determination of compensation after the binding administrative judgement has been issued. However, the Commission has special ex officio procedural powers, including the power to ask for certain evidence to be gathered or to ask a party to provide written or oral testimony.⁷⁶

Implementation

⁷⁰ See *IOA Interview*, *supra* note 2 at lines 483-484.

⁷¹ See Association of European Journalists Bulgaria, “How Bulgarian and international legislation treats hate speech” (7 July 2014), online: *AEJ-Bulgaria* <<https://aej-bulgaria.org/%D0%BA%D0%B0%D0%BA-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D1%81%D0%BA%D0%BE%D1%82%D0%BE-%D0%B8-%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%BE-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD/>>.

⁷² See *ibid*.

⁷³ See *Protection Against Discrimination Act*, 1 January 2004, at art 1.

⁷⁴ See *ibid* at art 4.

⁷⁵ See *ibid* at art 5.

⁷⁶ See Interview with a lawyer at the Bulgarian Helsinki Committee (6 June 2022) at lines 106-123 [*BHC Interview*]. Refer to Appendix C for full interview transcript.

As a lawyer from Deystvie describes, the success of hate speech complaints brought under PADA are “like 50/50, I really can’t decide if they’re more positive or negative”.⁷⁷ This uncertainty can be attributed to the Courts’ and the Commission’s general reluctance to establish discrimination and sanction hateful speech. A lawyer from the Bulgarian Helsinki Committee (BHC) observes a pattern of “bad decisions in terms of hate speech” in the past few years, “where both the Commission and the courts were basically saying that politicians have unlimited free speech, that these are important social issues they are discussing, this is their freedom of expression”.⁷⁸

These observations are confirmed by some high profile hate speech cases which were thrown out by Bulgarian courts. Notably, in July 2020, the Sofia Administrative Court upheld a Commission decision rejecting the claim that Deputy Prime Minister Krassimir Karakachanov’s statements against the Roma community in January 2019 constituted discrimination on the grounds of ethnicity. The Court went against substantive law in deciding that the victims needed to provide evidence to the court that Karakachanov’s speech gave rise to a “hostile, degrading, humiliating, insulting or threatening environment”. However, standard practice confirms that the establishment of such an environment should be derived from the very nature of the statements, the social status of the perpetrator and victims, as well as the case’s context.⁷⁹ The cases filed against politician and author Volen Siderov by the Jewish and Roma communities represent another important example. After years of litigation, the courts in Bulgaria refused to convict Siderov of hate speech under PADA, despite his repeated attacks of numerous minority groups in his speeches, statements, and book excerpts. The claims were dismissed in Bulgaria on the grounds that the purpose of Siderov’s statements were not to create “hostile, offensive or threatening environment” for minorities, nor was he able to influence his audience.⁸⁰ Rather, courts emphasized the significance of his speech as “legitimate debate on issues of public importance.”⁸¹ Infamously, the ECtHR overturned the Bulgarian decisions in 2021 and condemned his hateful remarks.

There is also a lack of uniformity in the way PADA is applied. Judges often apply PADA too narrowly, requiring the ground of differential treatment to be the sole grounds for the existence of discrimination.⁸² Several judgements state, “the concrete actions [...] claimed to be of a

⁷⁷ See Interview with a lawyer at Deystvie (3 June 2022) at lines 125-126 [*Deystvie Interview*]. Refer to Appendix D for full interview transcript.

⁷⁸ See *BHC Interview*, *supra* note 76 at lines 376-377.

⁷⁹ See *BHC 2020 Report*, *supra* note 25 at 29.

⁸⁰ See Veselina Bozhilova, “Bulgaria was condemned for hate speech. Bulgarian courts had turned a blind eye.” (22 February 2021), online: *Deutsche Welle*

<<https://www.dw.com/bg/%D0%BE%D1%81%D1%8A%D0%B4%D0%B8%D1%85%D0%B0-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D0%B8%D1%8F-%D0%B7%D0%B0%D1%80%D0%B0%D0%B4%D0%B8-%D0%B5%D0%B7%D0%B8%D0%BA-%D0%BD%D0%B0-%D0%BE%D0%BC%D1%80%D0%B0%D0%B7%D0%B0%D1%82%D0%B0-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D1%81%D0%BA%D0%B8-%D1%81%D1%8A%D0%B4%D0%B8%D0%BB%D0%B8%D1%89%D0%B0-%D1%81%D0%B8-%D0%B1%D1%8F%D1%85%D0%B0-%D0%BA-%D0%BD%D0%B0%D1%82%D0%B2%D0%BE%D1%80%D0%B8%D0%BB%D0%B8-%D0%BE%D1%87%D0%B8%D1%82%D0%B5/a-56654397>>.

⁸¹ See *ibid.*

⁸² See Bulgarian Helsinki Committee, “Roma in the Case-Law Under the Protection Against Discrimination Act (2004-2017)” (2018) at 32, online (pdf): BGHelsinki

<[https://www.bghelsinki.org/web/files/reports/135/files/2018-READI-Roma-in-the-Case-Law-\(2004-2017\)-Executive-Summary-EN.pdf](https://www.bghelsinki.org/web/files/reports/135/files/2018-READI-Roma-in-the-Case-Law-(2004-2017)-Executive-Summary-EN.pdf)>.

discriminatory character should be based exclusively on the ethnicity of the persons concerned.” This requirement falls out of line with standard practice of the Supreme Administrative Court of Bulgaria, as well as the Court of Justice of the European Union and the ECtHR, who concede that a protected ground can be one of multiple causes for the discriminatory treatment.⁸³ Similarly, Bulgarian courts seem to deviate from the letter of the law in its application of the definition of discrimination. Numerous court decisions follow the erroneous definition of discrimination, stating “discrimination is examined as difference, exclusion, restriction or preference on the grounds of race, skin colour, gender, language, religion, political or other convictions, national or social origin, economic status or birth, aimed at or resulting in destroying or violating the equality in the treatment.”⁸⁴ This generalized definition of discrimination exists nowhere in PADA, nor any international standard. The strict PADA definitions of direct and indirect forms of discrimination under Article 4 are repeatedly neglected by the courts.

Issues with Bulgaria’s Treatment of Hate Speech

In its 2021 report, the Bulgarian Ombudsperson identifies a number of problematic issues linked to hate-related incidents, pointing out the deficiencies in the existing legal framework, the lack of effective prosecution of offenders, the insufficient capacity-building initiatives for law enforcement and justice system practitioners, and the absence of reliable data on the subject.⁸⁵ This report identifies similar systemic problems.

Legislative Issues

The largest legislative issue is the limited scope of protected enumerated grounds under Article 162 in the Bulgarian criminal code. Though international standards reflect the need to include an expansive list of grounds such as race, colour, language, religion or belief, nationality or national or ethnic origin, descent, age, disability, sex, gender, gender identity and sexual orientation,⁸⁶ Bulgarian law limits its list to “race, nationality or ethnic origin.”⁸⁷ This precludes, among others, members of the LGBTQ+ community from filing claims under the criminal code; as one of the two communities most affected by hate speech, this exclusion is critical. It diverges from international norms and sends the message that LGBTQ+ Bulgarians aren’t worthy of the same protection nor criminal sanction as other targeted groups. This too can be said for people living with disabilities in Bulgaria. Members of these groups only have the option to pursue charges under either administrative law or civil law. The only possible alternative criminal remedy would be to pursue a claim under Article 320 of the Criminal Code for openly abetting to a crime.⁸⁸ However, the prosecutor’s office refuses to initiate pre-trial proceedings for such claims, even in extreme cases of public incitement to violence or perpetrators providing specific instructions on

⁸³ See *ibid.*

⁸⁴ See *ibid* at 30.

⁸⁵ See *Bulgarian Fundamental Rights Report*, *supra* note 6 at 19.

⁸⁶ See, for example, *ECRI Recommendation*, *supra* note 48 at 16.

⁸⁷ See *Criminal Code*, *supra* note 68 at art 162; see also *OSCE Opinion*, *supra* note 32 at 14.

⁸⁸ See *Criminal Code*, note 66 at art 320.

how to commit homophobic violence.⁸⁹ Ultimately, to adequately protect vulnerable groups, including the LGBTQ+ community and people with disabilities, the legislative criminal recourse for hate speech must be explicitly expanded to include them.

Implementation Issues

There are significant problems with the implementation of pursuing and sanctioning hate speech through the courts or the Commission. This lack of effective prosecution of offenders can be traced to a general absence of knowledge among actors within the justice system on how to properly recognize, address, and counteract hate speech. The Director of IOA notes in particular that hate speech is “not a familiar topic for the authorities and I would say that there are very few [...] successful [cases].”⁹⁰ The hesitancy of prosecutors to bring forward hate speech claims can be linked to this lack of awareness and recognition of hate. Multiple interviewees expressed how people, including prosecutors, are “blind to these kind of expressions”⁹¹ because it’s so normalized.⁹² Further, a lawyer from Deystvie described a significant divide between judges and people in government from the targets of hate speech in Bulgaria. She notes how many actors simply don’t have the requisite competence or sensitivity training to adequately help minorities, emphasizing that even if a judge “wants to help, [they] just [don’t] know how”.⁹³ This lack of knowledge can also, at least in part, explain discrepancies in PADA’s application across different cases.

Solving this issue requires mandatory educational and sensitivity trainings for actors in the justice system. IOA and Deystvie have been kickstarting work on police sensitivity trainings⁹⁴ but describe difficulties reaching other actors. One lawyer notes, “we’re trying to reach, for example judges or prosecutors, but it’s harder to get into the system.”⁹⁵ Programs like these need to be State-sanctioned, mandatory, and widespread across all actors of the justice system to ensure the requisite competence to properly deal with hate speech and crimes directed at vulnerable groups. They would likely also contribute to help promote willingness and urgency among prosecutors to pursue hate speech cases, as well as uniformity among judges in their application of the law. As a lawyer from BHC noted, education is necessary to enable these actors to “recognize discrimination and hate speech when they see it” and to encourage implementation which “make[s] the law most effective.”⁹⁶

Online Hate Speech Issues

The particularities of online hate speech complicate its regulation through legislation and implementation. Bulgaria must implement its national legislation, including the Criminal Code

⁸⁹ See Bulgarian Helsinki Committee, “Human Rights in Bulgaria in 2019” (2019) at 157, online (pdf): *BGHelsinki* <https://www.bghelsinki.org/web/files/reports/123/files/BHC-Human-Rights-in-Bulgaria-in-2019-bg_issn-2367-6930.pdf>.

⁹⁰ See *IOA Interview*, *supra* note 2 at lines 489-490.

⁹¹ See *Sociologist Interview*, *supra* note 3 at lines 64-65.

⁹² See *Deystvie Interview*, *supra* note 77 at lines 469-477.

⁹³ See *ibid* at lines 528-531.

⁹⁴ See *IOA Interview*, *supra* note 2 at lines 644-656; see also *Deystvie Interview*, *supra* note 77 at lines 202-206.

⁹⁵ See *Deystvie Interview*, *supra* note 77 at lines 202-203.

⁹⁶ See *BHC Interview*, *supra* note 76 at lines 437-447.

and PADA, to sanction online hate speech in order to honour its international obligations to prevent the dissemination of online hate speech.

The largest barrier to effectively pursuing online hate speech cases stems from procedural and evidence-gathering hurdles. National equality bodies like the Commission don't have the ability to gather evidence across international borders. This poses issues for gathering sufficient evidence to establish the identity of a perpetrator of online hate speech, as the Commission cannot require international social media companies to provide information.⁹⁷ In pursuing one case involving online hate speech, the BHC argued that the Commission can bypass this hurdle through establishing the perpetrator's identity through a police inquiry. The Supreme Administrative Court agreed with this argument, confirming that the Commission can ask police forces to provide a professional opinion of the perpetrator's identity based on public information on their social media profiles, which can be submitted as evidence to establish their identity. The Court instructed the Commission to re-open the case and to undertake all necessary measures to collect missing information.⁹⁸ However, the Commission continuously refuses to abide by this ruling and does not gather information confirming the perpetrator's identity through the police.⁹⁹ In order for online hate speech cases to be meaningfully resolved, the Commission must implement the Court's orders. They must be required to follow the Court's binding authority.

Public Perception Issues

Out of all protected groups under PADA, the Commission has received the lowest amount of complaints on the basis of sexual orientation. The BHC reasons that this disproportionality in reporting is caused by the Bulgarian LGBTQ+ community's fear and hesitation to come forward in the face of homophobia, as well as general distrust in the Commission with low awareness for the possibility of protection.¹⁰⁰ This same phenomenon occurs when other minority communities fall victim to hate speech. 86% of Roma in Bulgaria do not report cases of discrimination and 72% of Roma do not know if there is a law prohibiting discrimination.¹⁰¹

Overall, there exists a significant gap in hate speech reporting, as well as a knowledge of the resources and avenues available to access help. The Commission's decisions are not made publicly accessible,¹⁰² which hinders public awareness of their procedures and prevents victims from making an enlightened decision as to whether they want to come forward with a claim. Further, Bulgaria does not have any online reporting portal to allow victims to come forward comfortably, without fear of potential further discrimination or disbelief by public authorities. An array of other European countries, including Germany, Ireland, the Netherlands, Belgium, and Hungary all have such mechanisms in place and have been established as a good practice through an EU report.¹⁰³

⁹⁷ See *ibid* at lines 135-231.

⁹⁸ See *Bulgarian Fundamental Rights Report*, *supra* note 6 at 4.

⁹⁹ See *BHC 2021 Report*, *supra* note 22 at 155.

¹⁰⁰ See *ibid* at 154.

¹⁰¹ See Amalipe, "86% of Roma do not report cases of discrimination" (8 November 2021), online: *Amalipe* <<https://amalipe.bg/en/86-of-roma-do-not-report-cases-of-discrimination/>>.

¹⁰² See *Deystvie Interview*, *supra* note 77 at line 107.

¹⁰³ See Konrad Rudnicki & Stefan Steiger, "Online Hate Speech" (2020) at 47-59, online (pdf): *Detect Then Act* <https://dtct.eu/wp-content/uploads/2020/11/DTCT_Online-Hate-Speech.pdf>.

Contributing to the reporting issue is the widespread lack of diversity among Bulgarian police forces. Repeated international criticism along with ECtHR judgements have led the police to introduce reforms aimed at improving their treatment of minorities.¹⁰⁴ Nonetheless, cases of police abuse of power remain, notably among the Roma community.¹⁰⁵ Negative attitudes persist despite the presence of some human rights training classes. Police respondents continue to refer to the Roma as “lazy” and “irresponsible,” and did not seem to be able to discuss human rights concepts and principles, nor seem to remember much of the content of courses they attended.¹⁰⁶ Although increased diversity in law enforcement is vital to building trust and openness with vulnerable communities, Bulgaria does not meet the EU recommendation for police composition to be representative of the population they serve.¹⁰⁷

Finally, the most widespread issue is the general failure to address the root causes of hate speech across Bulgarian society – notably ignorance, fear, myths and stereotypes. An interviewed sociologist attributed many of the State’s failures surrounding hate speech to a general lack of societal modernization, which is necessary to “promote tolerant education, to promote critical thinking, and to promote education in school.”¹⁰⁸ At a minimum, NGOs and other educational groups must be allowed into classrooms to teach students about combatting stereotypes and discrimination while promulgating diversity and social inclusion. IOA has already been doing this work, but emphasizes the need for institutions to “engage children from a very early age to understand what is tolerance and diversity so that appreciating that from an early age, eventually they grow up to become aware of a freedom of expression, hate speech.”¹⁰⁹ Ideally, this human rights education would be adopted by the Minister of Education and part of the official educational curriculum for primary and secondary students. This would provide the necessary foundation for students to think critically about common stereotypes and hate, and to favour diversity and inclusion. Moreover, it must be a requisite part of the preparation program for teachers across Bulgaria in order to give them the knowledge and tools to properly teach students on these issues. These long-term goals are important to enable individuals to not only recognize hate speech when it happens, but also to prevent hate speech from happening in the first place through increased tolerance.

Conclusion

Hate speech in Bulgaria is widespread and commonplace, affecting the daily lives of vulnerable group members – notably the Roma and LGBTQ+ communities. Despite the existence of legislation protecting both freedom of expression as well as individuals from hate speech,

¹⁰⁴ See Open Society Institute, “‘I Can Stop and Search Whoever I Want’ Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain” (2007) at 74, online (pdf): *Justice Initiative* <https://www.justiceinitiative.org/uploads/05bcf06c-d963-498c-9dff-3026774847c8/profiling_20070419.pdf>.

¹⁰⁵ See *ibid.*

¹⁰⁶ See *ibid.*

¹⁰⁷ See European Union Agency for Fundamental Rights, “Encouraging Hate Crime Reporting – the Role of Law Enforcement and Other Authorities” (2021) at 45, online (pdf): *FRA* <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-hate-crime-reporting_en.pdf>.

¹⁰⁸ See *Sociologist Interview*, *supra* note 3 at lines 332-334.

¹⁰⁹ See *IOA Interview*, *supra* note 2 at lines 600-605.

Bulgaria's treatment of hate speech falls short of protecting all vulnerable groups equally and is riddled with implementation discrepancies. Some of the groups most vulnerable to hate speech and related crimes are left unprotected by criminal law. Actors across the justice system are unequipped to recognize, address, and counteract hate speech, with internal issues within the police force contributing to and worsening the spread of hate. Procedural and evidence-gathering hurdles halt online hate speech claims in their tracks. Avenues for recourse remain largely inaccessible or unknown to victims, contributing to hate speech remaining notoriously underreported and under-prosecuted. Finally, the lack of education on tolerance and diversity perpetuates the root causes of hate – ignorance, fear, myths, and stereotypes.

Bulgaria must implement a variety of legal and social reforms in order to better enshrine its international obligations, as well as to shift towards a broader culture of inclusion and tolerance.

List of Recommendations

1. Amend the Criminal Code to explicitly include race, colour, language, religion or belief, nationality or national or ethnic origin, descent, age, disability, sex, gender, gender identity and sexual orientation as hate motives and grounds of discrimination;
2. Ensure that any advocacy of ethnic or racial hatred that constitutes incitement to discrimination, hostility or violence is prohibited in law and in practice, and that persons responsible for such behaviour towards minority groups are held accountable, including State officials;¹¹⁰
3. Effectively enforce criminal provisions against hate crimes and hate speech by ensuring that such crimes are reported, investigated, prosecuted and punished with appropriate sanctions, and that victims receive full reparation;¹¹¹
4. Implement mandatory educational and sensitivity trainings for all actors in the justice system;
5. Require the Commission to abide by the binding decisions of the courts in relation to evidence-gathering procedures for online hate speech;
6. Render all Commission decisions accessible to the public through an online database;
7. Create a State-funded hate-speech reporting portal, monitored by the State, prosecutors, and the police department in order to effectively pursue cases;
8. Increase diversity and sensitivity of the Bulgarian police forces to be representative of the population it serves;
9. Implement educational reforms to prioritize the integration of human rights, social inclusion, and diversity education into student as well as teacher training curriculums.

¹¹⁰ See UNHRC, "Information received from Bulgaria on follow-up to the concluding observations on its fourth periodic report" UN Doc CCPR/C/BGR/FCO/4, (10 March 2021), online: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskh%2Bqy5CyN8D%2FZ%2BBzREl4JH0k6Gi7MNDLB0MRw0%2FTwKHMn4Vpvy9gG1Kv%2F5qTnK7j2odZlZNIWty4aCquJddlUgVwx9PxsHII4L5LgoEVOeL>.>>.

¹¹¹ See *ibid*.

Appendix A: Interview with IOA

INTERVIEWEE 1

We had an online workshop on hate speech, which was hosted by Multiculti, another NGO as well. Right. They do many things and they did a workshop on hate speech and more specifically on getting to know more about hate speech and how to combat it specifically, especially online. So we had two evenings from 6 to 9 ish, something like that. And yeah, we got to learn about more like about hate speech in general, microaggressions. They tried and touched on the different participants because we were a very international group as well, to see who already had experienced hate speech or who knew someone who already experienced hate speech, giving examples from different countries. And then the conclusion of the whole workshop was to actually come up with a sort of campaign that you could implement yourself online to combat hate speech in the form of even making memes, for example, making posters, raising awareness and all that.

ALIYA

Okay, very cool. And this was last week?

INTERVIEWEE 1

Yes, last week, two weeks ago.

INTERVIEWEE 2

So maybe they have some information.

ALIYA

Yeah, for sure.

[...]

ALIYA

Okay. So I just have a short list of questions and little prompts that can sort of guide this conversation. And the first one is it's kind of from what I've understood like a very contentious question, because there's no set definition of hate speech, none created by the UN, none created by the EU. And so, to both of you, I guess, what is hate speech? How would you define it personally? And then what would you say are like the biggest influences on how Bulgaria defines hate speech?

INTERVIEWEE 2

Okay. In our work and what we do as people working in education, we use a lot things that come from Council of Europe, like not the European Union, but the Council of Europe, like the book I gave you, BOOKMARKS, that is fighting against hate speech. The organization was organizing the big no hate speech movement that was a big campaign all over Europe. So our organization was coordinating that. And we go a bit in line with what Council of Europe says hate speech is. I don't remember the exact definition right now, but hate speech personally [...] it's like a speech that can be found normally publicly, that is intended to or not intended, but it hurts certain groups of people or certain minorities always having into account power relations and that these groups that are attacked, let's say, are coming from a disadvantaged position towards or compared to other groups of people. That would be more or less for me, the definition, let's say.

ALIYA

And what about you?

INTERVIEWEE 1

Yeah, I think my personal approach is to be just, like, quite aligned with that. Maybe the only thing I would add to that is saying that for me, hate speech always also incites some sort of action, take action against certain groups of people, incites violence.

INTERVIEWEE 2

Definitely. Regarding Bulgaria, I don't really feel entitled to answer the question on how Bulgaria as a country or Bulgarian society understand that. I don't know if there's a Bulgarian definition, let's say, but these kind of concepts many times come a bit from abroad also. So I think that whoever talks about hate speech as a concept, it's going to be aligned with European or more universal definitions. So I would say it normally comes from abroad and I don't know if the term hates speech as such, it's very used in Bulgaria.

ALIYA

From my research, it's not explicit, but in the Penal code of Bulgaria, there's one article, I think Article 162, that basically criminalizes certain forms of speech. I don't have it on hand right now, but I can find it for you and it basically says something about inciting violence towards particular groups due to their only three criteria. I think it was due to their religion, due to their political conviction, and due to their [...] sex? But yeah, the criteria are pretty limited at least. And so through your experience, who would you say are the main target groups of hate speech in Bulgaria?

INTERVIEWEE 2

You can answer that first if you want.

INTERVIEWEE 1

I think the most target groups for sure are Roma people here in Bulgaria. And then I think people belonging to the LGBTQ community very much as well. And those are the first two groups that definitely come into mind.

INTERVIEWEE 2

Definitely Roma, definitely LGBT. It's very different from one to the other because the whole approach to hating these groups is completely different. And also, I would say in certain situations, the Turkish minority too. There's a Turkish minority, they are Turks, ethnically speaking, but they are Bulgarians nationally speaking. When the Ottoman Empire was here, a lot of Turkish people were in Bulgaria and then they stayed. So there are a lot of villages in which they are mainly Muslim from Turkish origin. So these groups are also receiving, they are not in the best situation, socially speaking.

ALIYA

Okay. And would you say that hate speech towards these groups is common and what do most occurrences look like?

INTERVIEWEE 2

Very common, very very common. Prejudice against the Roma, it's normally typical [stereotypes about] Roma people. They don't want to work. They don't send the children to school. They still always like criminals or not good for society. And I think that both of us can tell from when we have been to schools talking to young children, it's not something that 60 year olds, 70 year olds are saying, like children are repeating this and it's very common. And for LGBT, it's more that [there is a] drag queen that is going to make your children be gay kind of discourse. Like I always tell the same example, because last year we had an international training with young people from many countries. And we made an activity in which we were talking about the far-right movements, and here in Bulgaria, far right is something that is quite popular, let's say. And in the afternoon, we gave them the free afternoon to go to Sofia. And they were in Vitosha street, the main street of the city, and suddenly a group of people came to them and they gave them some leaflets. And the leaflet was like a very weirdly dressed kind of drag queen that looked a mix between a drag queen and someone from an evil character from a Disney movie in a school with some children around. And these people were saying, like, this is what happens if I don't know what LGBT law [I don't know what it was last year, this LGBT law] if we allow LGBT people to adopt or something like that. They were in the center of Sofia, even one of them

with a Neo-Nazi swastika I think, so this is the kind of discourse against LGBT from the very radical [...].

INTERVIEWEE 1

That's something that quite shocked me when I came here to Bulgaria, like how normalized, like far-right wing ideologies are here in a sense, like aesthetics. And how they're like putting out leaflets like that. Just like in public in the center of the city. Like while things like that also exist in Belgium, you're never going to see them out in public. It would be illegal or they would be stopped by the police at one point or whatever, and here it's very normalized. For example, when I arrived here, it was just after that attack on that LGBTQ NGO as well. And that was also like quite a shocking experience for me, like as a culture shock. It was one of the leaders of the far right-wing party that led the attack.

ALIYA

What was the attack?

INTERVIEWEE 1

They went to their offices and basically destroyed their offices.

INTERVIEWEE 2

There's a place called the Rainbow Hub, which is kind of a community center [...], some offices where different LGBT organizations meet and prepare their campaigns. Last year, there were the presidential elections in Bulgaria, and there was this guy, Boyan Rasate he was called, that was ruling for president. In his electoral campaign, his great idea was to go to this Rainbow Hub, enter it with a lot of far-right nationalists, and destroy it. So they destroyed it with the people inside, all the wardrobes to the floor, everything was destroyed. And then he was not allowed to continue going for president, there was a trial but I don't know what happened, I think it's still going on. But this was last year, it was really known. A person that was ruling for president felt in a position of doing that so [...]

ALIYA

[...] The leaflets are a big shock. Is it because there's no implementation? Because clearly there's hate speech as a crime, but are people not scared of being prosecuted for it?

INTERVIEWEE 2

I mean, things like the leaflets, as you said, there are not a lot, and sexual orientation [...] and other notions of gender are not going to be punished, that's not going to happen. It has happened many times, there was an organization in Pernik, near here, they were doing something like

sexual education but [...] also talking about LGBT communities and stuff in schools, and they were forbidden to ever go back to Pernik. And for us, it has happened as well, schools telling like, ok you can talk about whatever you want in our classes, racism, sexism, but you cannot mention LGBT. If you mention it, you don't come back. This has happened to me personally one time or two, and I had heard it from before as well. So it's not super uncommon.

ALIYA

So it's very taboo here, I guess. Which is surprising because, I mean, in Sofia, being the city center, with BCNL, the event that we had was hosted at an LGBTQ+ organization headquarters. It seems like there's a fairly decent LGBTQ+ community here.

INTERVIEWEE 1

They definitely have a presence for sure. Like you have The Steps and all that, as a club itself at night it's also very inclusive. You also have Sofia Pride which is a public event where a lot of people gather. But I don't know, in my experience, outside of those safe spaces that they have created, I think it's very difficult to openly discuss that. But that is my view as a foreigner, as well.

INTERVIEWEE 2

And I think that the center of Sofia doesn't represent Sofia, and Sofia doesn't represent Bulgaria. So the center of Sofia is the very small, completely different environment to compare to the rest of the city, and also the rest of the country in that sense. As we perceive it as foreigners, but it's something pretty objective in this sense. [...] But I don't think anyone is afraid of being prosecuted for hate speech here. I mean, as an example, the Prime Minister with the Ukrainian refugees, he said that we can host them because they are "like us", educated and white. He said that, the prime minister, so how can you expect that people would be afraid of being prosecuted for saying that the Roma people are poor and criminals.

INTERVIEWEE 1

I really feel like Bulgarians also look at hate speech more as a form of freedom of speech, and see freedom of speech as more of an absolute right than a relative right. Therefore, whenever there's something said about the Ukrainian refugees, they say yes, but this is an expression of opinion which is protected by freedom of speech, and so it should be said.

ALIYA

I see. I think that there's also a fairly large fear of censorship, especially maybe because of the previous communist regime. A fear of, like, if you infringe on my freedom of speech here, where else will you draw the line. That's something that maybe I've noticed.

INTERVIEWEE 2

I don't know if they're afraid of being censored or anything, I don't see it that much I would say. The thing with Bulgaria after communism, of course being a post-communist country and many people that lived under the communist regime, influences a lot nowadays society. But also like, if you look at the world freedom of media ranking, Bulgaria is something like the 60-something 80-something of countries in the world. So there's a common mistrust of people towards the government, towards politics, and towards the elite, lets say. Like if you see the percentage of vote in Bulgaria, it's very low. People are not very involved in civil society, civil society is really small. The NGOs in Bulgaria are really small, you go to an NGO event in Bulgaria and you almost know [all] the people there. So I wouldn't say that people are afraid, it's just a lack of, I don't know.

ALIYA

And so aside from that one, for me, I just got here, I'm still getting acquainted with history and what's been going on in Bulgaria in general. And so, you mentioned that one attack on the LGBT organization, are there any other big situations of hate speech or incidents that you can think of in recent years?

INTERVIEWEE 2

I think one that needs to be mentioned is called Lukov March. This is a yearly Neo-Nazi march that happens in the center of Sofia. The story is like they are remembering Hristo Lukov, Hristo Lukov was a general from the Bulgarian army in World War 2 that supported the Nazis. So, the excuse is that they support this Hristo Lukov because hew as a great general, minister of war, whatever the position was. The reality is that for the last years, Neo-Nazis from all over Europe are coming to Sofia to celebrate this. So, Neo-Nazis from different countries come to Sofia with Nazi signs, they march in the night with torches, which is honestly really scary [...].

ALIYA

When does this happen, in the summertime?

INTERVIEWEE 2

No, February. It happens in February. The thing is that the last years, it's been a bit different, there were two years with COVID where the thing got cancelled. And this year, it kind of happened but I don't think international people are coming anymore.

INTERVIEWEE 1

It wasn't as big. [...]

INTERVIEWEE 2

There was a counterprotest from the anti-fascists. But for the last years, international people haven't been coming, but still the Bulgarian Nazis are gathering. And this year kind of happened, but then they prohibited it but only after it happened, so it was super weird. So no one did anything about it actually, there were some people but it's not as a massive fight as it used to be like 3-4 years ago. This is the main thing that happens every year, and then hate crimes, they happen.

I have a friend that was Turkish that got beaten in a kebab [shop] because he was speaking Turkish, for no reason. Or entering a bar with a guy that was Black and a bunch of people wanted to kick us [out]. It didn't happen to me personally, but these are two stories that I know personally.

INTERVIEWEE 1

Or like the video you sent me the other time about that guy in a pink sweater being harassed on the metro for wearing a pink sweater as a man.

INTERVIEWEE 2

Yes, some few months ago.

INTERVIEWEE 1

Just even like more extreme.

INTERVIEWEE 2

Yeah, Spanish dude. I think he was recording some Instagram live on the phone and suddenly a guy was heading over and he got harrassed.

ALIYA

OK, so it's pretty usual - whether it's like a [...] one-on-one incident or like a big government group storming and ruining a headquarters.

INTERVIEWEE 2

I wouldn't say it's uncommon.

ALIYA

OK. And this next question I think maybe you might know less about, but what in your experience, or if you know at all, are the relevant legal authorities for hate speech in Bulgaria?

INTERVIEWEE 2

I don't think I can answer that. I also don't think there are many people that you can go to when this happens, so I cannot answer that well. [...] You can ask INTERVIEWEE 3.

ALIYA

OK.

INTERVIEWEE 1

We also talked about that in our workshop, like for legal reasons, and they also said themselves unless like you go to an NGO or an organization for victim support or anything, there's not really a legal like [recourse] to like actually get help on that level or like get supported in like filing complaints and all that.

INTERVIEWEE 2

Or even like for example, there was a case of domestic violence that we knew of and I asked INTERVIEWEE 3. She gave me the contacts of two organizations so she didn't even give me a national Bulgarian [phone number] from the government, and so when there was a case of domestic violence, she didn't mention any government structure, so that's also surprising.

ALIYA

OK, yeah, very surprising.

INTERVIEWEE 2

But maybe there are or they work worse. [...]

ALIYA

Another small question was aside from legislation, do you know of any recent legal cases that have happened with hate speech in Bulgaria?

INTERVIEWEE 2

With only speech you will find less because I think those cases don't make it to court. Like hate crimes, hate crimes yes, but hate speech, I have never heard about any case here, that didn't imply action or physical violence.

ALIYA

OK, perfect. And this you [...] definitely know about. So for a part of my project I want to have a section on recommendations for change in Bulgaria, both like from a legislation point of view as well as general policies, prevention, awareness and so, what do you think are the best ways to combat hate speech [in Bulgaria]?

INTERVIEWEE 2

To combat hate speech in in Bulgaria. That's a very big question. I mean, from our organization's perspective, we work in education. So for us, like the main thing is education. Working with young people, especially because right now we are seeing an increase of online hate speech, it's something that changes the game a little bit because when hate speech needs to be in person, you are saying it [yourself]. If you do it online, anyone can say anything, anonymous profiles, and so for me personally, and I think more or less from our organization, the younger the people are when they know what hate speech is, when they know their consequences, when they know what they are doing, the [greater] the impact [is]. So in that sense it's education. As an NGO we are doing the job that the government should do normally, like we're going to schools to talk about things that should be included in the curriculum. So, either there should be more pressure and more advocacy to introduce these things in the educational system, or more access or more easier ways [for NGOs] to access young people that should be provided from the ministry or from the government. Any of these two approaches, because we know that they are not going to put it in the curriculum, but at least let us go and talk to young people. From the legislative perspective, there needs to be a definition of what hate speech is, there needs to be a framework, there needs to be actual cases in which people are using hate speech and they are punished for that. Someone needs to set an example that certain things are not OK. From my organization's perspective, everything goes into education.

ALIYA

OK and how do you educate young people on hate speech? [...] Practically speaking, what are the main components of an anti-hate speech training?

INTERVIEWEE 2

Hate speech always goes a bit next to what we do. We haven't done training only on hate speech, but on discrimination or human rights or the things that are close. As we do it in organization, we always start from the point of stereotypes and prejudices like, making young people understand what stereotypes are, what prejudices are how ourselves we have all this inside us, even if we don't want to have them, we all have stereotypes. And we really go from the very easy stereotypes, "Spanish people like paella", kind of things. And we normally take them slowly to what's hate, what's hate speech, what are the characteristics of hate speech? Why is this hurting certain people? And we normally take it all the way to radicalization and talk about young people that have been radicalized and that have committed hate crimes. We want to take this journey from stereotypes to prejudice to discrimination, hate speech, hate crime, and see how a small stereotype can become something like that. So we normally try to tackle all these small issues but trying to show this connected path. There are a lot of non-formal education activities regarding hate speech, we put people together to compare different sentences that had been said that are

clearly hate speech and we put people to debate why is it wrong? What makes this not acceptable? We promote a lot of debate and discussion among the young people that we work with, but it's always in a non-formal way. Normally targeting these things stereotypes, prejudice, discrimination, hate speech, hate crimes.

ALIYA

Thank you, that's really helpful.

INTERVIEWEE 1

One thing that I, for example, take away from the workshop that I had is that the Multiculti organization was working on a reporting tool for online hate speech and it's something that is not online yet, but like it's for example included in the PowerPoint presentation I'll send to you and it's basically a way for people to report tweets, Facebook comments, whatever, and there will be multiple categories to say what sort of hate speech it is specifically. And I know for example that's something we have in Belgium, we have some sort of reporting tool but it's from the government, and the government, when they get reports they can choose themselves to go further and actually go and prosecute the person behind these comments. So I feel like something like that can be very helpful if the government is actually willing to fight hate speech, for the public to be able to be like, hey government, these are like some comments that are hate speech and this is not OK, and the government being like, instead of having to put all their funds into actually locating and trying to find hate speech they can like, facilitate this reporting tool.

ALIYA

Yeah, for sure that's actually a big problem in Bulgaria. From the research that I've done already, there's really a lack of reporting and especially now that hate speech is growing online, aside from reporting it to Instagram or reporting it to Facebook which is kind of a problem because then it puts all the regulation and punishment in the hands of Instagram or Facebook instead of a government body.

INTERVIEWEE 2

And you see what's happening now that they are, like, erasing all comments that are hate speech, but if you are against a Russian one, they leave it. There is a new policy from Instagram like you can criticize only Russian people. You can tell like I want to kill a Russian, that's fine, if you say I want to kill a whatever, it gets kicked out. So this is what happens when private companies are owning.

INTERVIEWEE 1

They get to choose what is hate speech and what's not. [...]

INTERVIEWEE 2

Which there's another debate if you should be able to say something against Russia right now, or not. I'm not going to enter there. But the fact that the power towards this is in private hands means that they don't need to do anything to change it, it's just their decision. So they are controlling a lot of what we think and what we say and it's scary.

ALIYA

For sure, I mean even just from like a philosophical perspective like hate speech and hate within a country is a State problem. And so, why should we leave it to the hands of these private corporations who have their own agendas, we don't know what they are, instead of tackling it from within government.

INTERVIEWEE 2

The problem is when the government has been as it's been, and if they are the first ones to use hate speech in their campaigns, then how are they going to fight against it? Which I'm not saying is the case of this current government in Bulgaria. In general, in the history here.

ALIYA

[...] If politicians are acting a certain way that influences also how people are going to act who look up to these people. So, like you said, if people in government or people running for office are using hate speech to get into positions of power, well then other people will just continue using those same sorts of messages and ideologies. So, this is, I guess, more of a niche question, but are there any regulations on what politicians can or can't say in campaigns?

INTERVIEWEE 2

I don't think hate speech wise there's anything. The only restrictions I guess they will have is anything related to more electoral things. For example, in Spain, no political party can use the Spanish flag in their campaign because it's like the way of owning the Spanish identity. Like these kind of things, I guess there are in Bulgaria, you cannot, I don't know, use a Neo-Nazi symbol or these kind of things for sure, but nothing close to [...].

INTERVIEWEE 1

If anything, I feel like politicians are even more protected from prosecution of hate speech than normal citizens because of their ideologies [...].

INTERVIEWEE 2

But I don't think it's even in the debate, like should we allow politicians to say certain things, I don't think it's even on the agenda.

ALIYA

OK, I mean at the end of the day politicians are regular people. So if we punish a regular person for using hate speech, we should also be able to punish a politician for it.

INTERVIEWEE 2

Yes yes yes. That's completely right.

ALIYA

And then, just as a last wrap up question, do you have any other resources, either online or other organizations who are working with hate speech, that could facilitate my research?

INTERVIEWEE 2

In terms of resources, you need to check the Council of Europe manuals, that's all for education like, because it's our field. [...] They have many manuals and different things. The only one that is directly for hate speech and education is this one they gave you, which is for hate speech online. They have manuals on human rights. They have manuals on discrimination and intercultural learning. There might be some things related directly to hate speech cases, that I would need to search, but there are certainly like manuals that you can use from them for sure. And this is kind of like the most complete at a European level, not only Europe, because Council of Europe takes caucuses. Then, for organizations, here you have Multiculti, they work with refugees mainly and with migrants. They will know about hate speech. There is Amnesty Bulgaria but they are not that big [...]. There are some LGBT organizations that have things about hate speech too. There is an organization that INTERVIEWEE 3 works with called Deystvie [...] they are working in litigation, they take cases to the European Court of Human Rights. So for your research they would be great. There is this organization CBS, they also work with refugees and they do a lot of trainings and are into education too. Then I will also send you, there is a tool from Council of Europe or a program, it's called Enter program, they set some guidelines to produce counternarratives against hate speech [...] there is a tool in which you take a case that you might consider hate speech, they make you go through different steps to qualify the hate speech and to see what would be the best strategies to counter it. And there's a whole program of the Council of Europe on that [...].

ALIYA

OK OK, perfect, thank you, that's really helpful.

INTERVIEWEE 2

But recommendations from Council of Europe as well because they work on hate speech and they are, this year, renewing the definition of the Council of Europe about hate speech, so they are coming with a new hate speech definition and with a series of recommendations for the

Member States to apply this to their national [...] there are going to be some resources that I can find.

ALIYA

OK, perfect and I think that's all the questions that I had.

[Continuation]

ALIYA

OK, so basically the main questions that I had were answered very well, so thank you, but I had a couple more questions with regard to the legal authorities for hate speech in Bulgaria. So what would you say are the legal, like the laws in place against hate speech, particularly if there are any against online hate speech. I know that there's one article in the Penal Code. I think it's 162, but from what I understand, it's relatively limited in scope, so maybe you can talk a bit about that. Both legislation and particularly relevant case law on the subject.

INTERVIEWEE 3

But are you interested in whether there is a law, or whether anyone is actually using it because they're actually different things?

ALIYA

Both.

INTERVIEWEE 3

Yes, you have that one article in the penal code. True, but that's it, and this is where the story begins and ends. There is nothing more. We don't have a definition. We don't have an authority that works with special emphasis on that. You can refer to the Commission for protection discrimination. The problem with them is that the majority of the cases that are not like gender-based job related discrimination, they are not quite willing to actually rule against whoever, be it the company or a private individual. And the thing here in Bulgaria with hate speech and hate crime is that it's blurred like it's not a clear concept. It's not a familiar topic for the authorities and I would say that there are very very few cases of successful [cases]. You will find examples if you talk to the Helsinki Committee [...] there were a couple of cases on hate speech by politicians and journalists, but if there are any court cases decisions relevant to that, it would be with regard to public space and somebody said something somewhere. But because of a private individual having the claim, not because it's a well regulated, structured process and anyone is actually paying attention to it. We've been working on the topic since 2013 with a focus on education and training and I can say that although it's been what like 9 years, almost 10, it's like a drop in the ocean. It's not part of the curriculum. It's very difficult to address the issue because especially here in Bulgaria since three or five years ago when the whole thing with

Istanbul Convention happened, we were about to ratify this single conventional domestic gender-based violence, and just before it was introduced into the Parliament for voting, this kind of online trolls and disinformation campaigns made such a big thing about this. So in the end Bulgaria did not ratify the Convention, because the definition of gender supposedly referred to same-sex marriages. Which has nothing to do. But the rhetoric and the online trolling and everything pushed the convention into LGBT, and people jumped, nobody has read or paid any attention to it, but this kind of wave of disapproval, and the problem with it is, however, is that this started the process which afterwards resulted with the government was also proposing a strategy for social work and for child protection and they were both also not passed through the Parliament because that same trolling went into the narrative that the child protection strategy was empowering NGOs that were supposedly helping Norwegians take children, like it's a nonsense story. But the thing being, is that here in Bulgaria in the last five years, because of this online trolling, the general public is very, very sensitive [and reluctant] to issues related to tolerance and inclusion. Because somehow no matter whether you talk about an ethnic minority or women or children, refugees, whatever the vulnerable group, the whole discussion ends up into this gender propaganda and the protection of traditional values – whatever traditional values might be. So that being said, in the context of hate speech, I want to draw your attention to the fact that the structure of the authorities is not very friendly because the overall public opinion is not very friendly, but it's not [like this] because they have genuine something against it, but [rather] because of this narrative that goes on and on, and the things that are online and, you know, everybody is a Facebook expert. [...] Then when you say hate speech and hate crimes, they immediately react to something that is like Western influence and that immediately is in contraposition to the traditional values, whatever our traditional values are, and also here hate speech is widespread with regards to Roma, for example with regards to LGBT, with regards to refugees, in 2013 the Syrian peak happened. Now you have the peak with the Ukraine and this narrative that they are not to be supported because supposedly these are rich people who are coming here with their big jeeps with a lot of money, and then actually, this is again like a nonsense story, but this is what the majority of the people believe about Ukrainian refugees. But there is this kind of constant new target of hate speech, so I would say it's widely spread. Very few people legally address the issue because our court system is also not functioning. That's another problem, like when you go to court, your case could take forever for a variety of reasons, and then again, you don't really know whether you can expect a fair judgment. So people don't, in general, they don't believe the judiciary. So if you have an issue with that, you have to be an activist, you know like an NGO person or supported by somebody to go claim your rights. Sometimes some people might make it a public issue, or if it is somehow involving a public person, or at least the public attention. But in general we are way, way way behind everything, even including education. Because we've been, as I said, nine years working on that, we've been delivering training of trainers, training of multipliers, there is the translation of the handbooks of Council of Europe of all the manuals, there have been people who've been trained, and then

again. It is something that I would say is fashionable sometimes for some people, some groups, and in general a problem that is not addressed at all.

ALIYA

OK, I see, so let's just say I'm a victim of hate speech in Bulgaria. What recourses do I have, if any?

INTERVIEWEE 3

You can file a complaint with the Commission for protection against discrimination, but you have to prove your case.

ALIYA

Which I'm sure is difficult.

INTERVIEWEE 3

Yes, and then you can probably have the civil case. You can claim damages in a court case that will take you forever. You have the right to go and follow this article in the penal court and claim damages, but then again, this is a very blurred area.

ALIYA

And for the criminal cases, for larger scale online propaganda, it's just not used at all and not implemented?

INTERVIEWEE 3

Not at all, no one is interested in this. Not at all, like 0. And there is actually another phenomenon, I received a message inviting me to if I'm interested in the part time job online, which is actually these so-called Russian trolls propaganda. They are recruiting people with the offer for quite reasonable amounts of money to only post on a daily basis with certain targets. You have to have let's say 300 comments and 25 discussions under specific profiles. These profiles are of liberal activists, NGO's, politicians etc. Yeah and people see this message and the majority of the people, especially in the countryside and in areas where you have high unemployment, if your one and only option to find job is to move to the biggest city, and somebody sends you a message like this in front of a computer and just click and bullshit anyone on any topic and then they give you 100, 200, 300 euros, whatever the fee is, that's easy money. And the only thing you need to do is just to spread hate, to whoever on whatever topic. So here, I think because of the socio-economic situation and because of these remote places in the countryside [...] But I would also kind of assume that it's not only a rural issue, you know, because it is easy money. [...]

ALIYA

So there's a problem with the law as it stands, there's a problem with implementation and that's the biggest issue, from what I understand, and also education and awareness on hate speech and what hate speech is. I know that your organization does a lot on education, so both with regards to that and more generally, what recommendations would you have to propose on the topic of hate speech to prevent it while also ensuring freedom of expression. Do you have any particular recommendations?

INTERVIEWEE 3

Well, it depends who I am supposed to address, you know, if I am addressing here, the Ministry of Education and the rest of the authorities that are regulating the sector, then definitely it's about curriculum and introducing the topic because we have this for example [...] every class from the 5th grade to the 12th grade, they have the one teacher that is responsible for that class. Doesn't matter if it's the music, English, French, whatever mathematics. So each class has the class leader being a teacher and on a weekly basis they have one session every week where they discuss supposedly various topics like road safety, prevention of sexually transmitted diseases, democracy, whatever you want. So hate speech and freedom of expression could be introduced as a topic there, but only introducing it is not enough because the teachers themselves aren't prepared to address this. So it has to be, I would say, into the curriculum for teacher preparation program. That means it goes to universities. But then universities are autonomous, they are not within the Ministry of Education. So if we want to prevent and provide solutions, we have to play with the multi-sector perspective, because the ministry is the one that can structure it as a topic of the curriculum. But then the academia preparing teachers because it's a formalized profession. You have to have the degree to work. And last but not least, it has to be introduced into the youth sector because the youth sector here is everything that happens outside school, and then you have unlimited opportunities to actually engage children from a very early age to understand what is tolerance and diversity so that appreciating that from an early age, eventually they grow up to become aware of a freedom of expression, hate speech, and probably in the long run supporters. But this is like, you know the best case scenario, and we've been doing this for nine years, we have an online platform, we have resources, we have the game, we've been delivering trainings. So as I said, translating manuals. For example, in the last three years we are doing mostly teacher trainings on diversity and inclusion. For example, the first year it was about Roma children in mainstream kindergarten school inclusion, now it is children with disabilities, mental disabilities in mainstream schooling. And no matter the target group and three years of work, we still have teachers that, having spent two days in a training on that topic, end up the final session by saying that in the old days when those children were separated from the normal ones, it was better for everybody. So this is with regards to perception, and especially for the people that are like 50 plus, I wouldn't argue that they are necessarily like 100% racist or sexist or whatever, but it is so deeply into their perception of the world that they don't actually see it as problematic to say that

it's better to keep the special children in a special school because they need special care, you know.

ALIYA

Well, it's really difficult to change these, such deeply ingrained biases against certain groups, especially like you know kids, it's one thing because they have their whole lives, it's easier to educate them about certain things because they're more malleable, easier to, easier to educate. But when you've grown up with a certain understanding of the world and a certain understanding of what's right and what's wrong, it's really challenging to break those.

INTERVIEWEE 3

And it's those years of experience that you have behind you that prove you're right. And it's really difficult to actually convince them that there is a different perspective. And here we also have this problem of the aging population teachers because the majority of the teachers, and especially now during the COVID, what happened is after the first wave of COVID, those that were about to retire or were postponing retirement, they retired. And then there was this gap with the new cohorts coming from university. And people were not interested in actually working as teachers because it's not a very well paid job and it's also not prestigious job, societally speaking, so you have this problem that the majority of the teachers are 50 plus, old school, certain values. Now they are challenged with this digital transformation, they are challenged with the all those social issues, including the war in Ukraine, to actually perceive it as a violation of human rights. Because their life, memories, and experiences from those days that are completely different where there was no freedom of speech. I also remember my childhood and my parents that were telling each other jokes in their companies and friends and all those jokes were not supposed to be told outside the friends circle, you know, because you are joking about things that are officially not allowed. So these are the people that have been teaching our children for, what, the last 20 years and another 10 maybe. So if we go back to the issue of proposing changes, I would also support a lot the development of teacher training programs for the new cohorts. The more is introduced, the earlier it is introduced, the better it will be. I am for example right now involved with another organization into delivering training on hate crimes against LGBT people into the police Academy. Because we've been delivering for three years training to police officers, and my main argument is that I mean I don't mind working with police officers because they are the one working in the field. But when you have, again, a 40 or 50 year old person with established values and opinions about the world, how do you change his or her perceptions compared to an 18 year old first year cadet at the police Academy who doesn't actually know what's going on, you know. And it's much easier to talk about LGBT issues with an 18 year old than with a 50 year old. So the more work is done with the cadets at the police Academy, the better in the long term the police service will be. But we have to invest now and hopefully see the results in, what, like 10 years minimum. It requires a lot of time, and somebody needs to be planning really long

term, something that I don't know if it's possible given the political situation here where last year we had like three times elections.

ALIYA

I heard about that. Well these are very interesting and good recommendations that are different from anyone else that I've spoken to, so thank you for your perspective.

INTERVIEWEE 3

You've chosen a difficult topic in a difficult country.

ALIYA

Definitely, but I'm up for the challenge. I'm very interested in it.

INTERVIEWEE 3

You know that we are also parties to those international treaties and documents, so supposedly the definitions are applicable here in Bulgaria. So if you want to approach it from a legal perspective, you can also check all the recommendations of Council of Europe because you know, Council of Europe has this recommendation about hate speech. There is an attempt to give a definition, although even Council of Europe is not applying a universal definition because different Member States have different opinions on freedom of speech and expression.

ALIYA

Yeah, it's difficult to draw that line. A lot of definitions rely on the incitement of violence. But, do you really need to only incite violence to be hateful in your speech? So it's difficult.

INTERVIEWEE 3

And when you add the component of online hate speech, then it becomes impossible, impossible to kind of absorb. But you can also, because here in Bulgaria, except for that article in the penal code, you won't find many references. If the Helsinki Committee can give you a couple of concrete cases in concrete case, at least one of the activists and the lawyers that do this kind of cases they could be a good reference point. But if you want the legal framework, go Council of Europe [...].

ALIYA

Yeah, the international recommendations suggest that the article in the Penal Code isn't expansive enough because I think it only includes like 3 criteria [...] it doesn't include, obviously, gender, sexual orientation, a bunch of other categories of people who are especially prone to being victims of hate speech.

INTERVIEWEE 3

But the same is with hate crimes. You know, the only definition we have is based on origin, religion, and race. And you don't have, for example, the LGBT component, which is like 99.9% of the cases. And this is what the LGBT NGOs here have been fighting for I don't know since when. And they still haven't managed. The closest they were was like 5-6 years ago when they managed to introduce a proposal for an amendment, he went to Parliament to the responsible committee, they had a discussion, but it never went into the plenary for voting. This was the closest they got. And here we have a very topical case that was the case of Mihail Stoyanov, they took the case to the European Court of Human Rights, the court ruled, and even here also in Bulgaria judge actually ruled. [...] I think it was the first instance court ruled that the guy who killed – because it's a murder case. So there's this young man that goes through Borisova Garden, it's one of the biggest parks here in Sofia, and a bunch of neo-Nazi skinheads, or whatever the group, beat him to death because – and they confessed this during the police investigation – they were regularly cleaning the parks from gays. So he supposedly was gay for them, [...] the guy was just passing through this area in the park were supposedly gay men meet. And these guys were regularly “cleaning” the park from them, so they beat him to death, they killed him, they murdered him. And the case, I think the first instance did not find [...] I mean they were they were sentenced for hooliganism or vandalism, something like this. And then the NGO appealed. And then the second instance court said that this is pure hate crime with discrimination biased motives, and it's basically because of his assumed, presumed sexual orientation and it's in the ruling. It's the Bulgarian case, and that case is what we are using with the police officers to give them a reference when they come across another case of somebody who is harassed or somehow injured, violated, whatever, with a presumed LGBT kind of motive. And I mean everybody knows about the case of Mihail Stoyanov, and yet nothing happens. And just I think a couple of months ago, another popular, kind of a celebrity, gay man was severely beaten in his house, taken into the hospital and he was unconscious. Never woke up, passed away, and I think the investigation was that he was either attacked in the street, like mugged, you know. Something like a pretty crime, you know, not a hate crime. And then the doctors said, and it went into the public attention, that he was so severely beaten, that you don't do it. Like a regular criminal would not beat you that much, just to mug you. There has to be something either personal or something deeply hateful so that you do so much harm. And this is another case where [...] the fact that the guy is publicly gay, the fact that he has been so severely beaten that he has spent so much time in hospital, all the kind of the situation, and the fact that nobody is actually investigating it, raises questions.

ALIYA

For sure. And you were mentioning also that hate speech online is a growing problem, do you have any particular recommendations to minimize online hate speech?

INTERVIEWEE 3

I would say that, in that respect, I mean, education and training is one domain but at the same time this has to be done in a coordinated effort with the providers. Reporting, blocking, deleting, whatever action the providers are offering in order to stop them has to be done in a coordinated effort. There has to be a clear procedure. If anyone for whatever reason reports, there has to be this procedure, the review, the clear definition of what is and what is not hate crime, and immediate action. Be it a suspension, be it deletion of accounts or whatever. But the only way to actually stop it is by containing it. And this is where the big challenge is, because how do you contain hundreds and thousands of profiles of people? And like anyone can register and start, especially with these online trolling that are recruiting people with the SMS.

ALIYA

For sure. It's a big problem and a big challenge that's super complicated because especially when you have private actors involved like Facebook and Instagram and all these private companies who want to decide for themselves what's appropriate on their apps. And then you have a lack of government action to take part in regulating these things, it becomes very complicated to learn how to stop online hate speech from spreading.

INTERVIEWEE 3

In the ideal case, there has to be somebody who goes to court, makes a big thing of that court case, the court also rules accordingly, and then the court decision is implemented. Because here in Bulgaria we also have the issue with the implementation of court decisions, because what usually happens is that the ones that had been found guilty and have to pay damages or whatever, they are either bankrupt or they do whatever they can so that no property is on their name, etc. [...] But imagine if there is this kind of a case with the ruling with implementation, it is a sign for the rest of the society. [...] There is this kind of dual aim of the prevention and the punishment. You have committed a crime, you are punished, but at the same time it sends this message of prevention for others. And unfortunately, our political narrative allows for people to be openly hateful, including this [...] party of Vazrazhdane that is pro-Russia, the kind of nationalists that are in Parliament right now. [...] It's a revival, they're proud patriots, but they are also pro-Russia. And right now their leader is going across the country, traveling back and forth, saying that soon, the government will have to resign and they will be the new ruling party and once they get into power they will punish all these anti-Bulgarians, supposedly liberal democratic oriented people. And that guy is openly hateful towards Roma, towards refugees, you name it, and nobody sanctions him. Maybe in Parliament from time to time the chair silences his microphone when he's speaking, but that's the maximum that happens.

ALIYA

Wow. Yeah, when you have politicians that big who are spreading these hateful messages, it's –

INTERVIEWEE 3

Yeah, this is not something new, maybe less than 10 years ago, I remember also the then Minister of Health, because there was this case about an ambulance going into a Roma neighborhood and the paramedics were beaten because supposedly the ambulance was too late. We have this problem here in Sofia, that because of the size, I mean Bulgaria is 6 million [people] in which 2 million live in Sofia. So, if you think of scalability, then one-third of the country is in this town and sometimes when you call for an ambulance, it doesn't come for hours. So I think in the case, they called for an ambulance, came whatever 40 minutes late, one hour late, whatever, and when the ambulance came, the people jumped on the paramedics and they beat them. But this is again Roma versus Bulgarians, so you immediately have the ethnic minority. So that Minister of Health going to Parliament to answer questions said that he will not allow a single ambulance to go into a Roma community. And if the Minister of Health says this from Parliament speaking points straight in primetime TV, then what do you say about the rest? It validates it, you know? And in that case it's no longer hate speech because people validate it by saying that these Roma have hurt paramedics, and the paramedics have not done nothing to them and this is kind of fueling the hatred. Proving that they are violent, proving that they have criminal intent, proving that they are intentionally lazy, not willing to work and you get this kind of stereotypical narrative reinforced. This happened 10 years ago in the Parliament and we have this kind of vicious circle of again, another new political subject that is exploiting patriotism, nationalism, pride.

ALIYA

And it's hard, especially when hate speech is barely ever sanctioned, and especially when you have politicians who are spreading this hate speech who face no repercussions whatsoever.

INTERVIEWEE 3

No, they validate. This is the thing about the definition, it's not only about incitement to crime, but it's also validating stereotypical perceptions. Because when, I being a public person with all those followers, say this out loud and nobody penalize me for this, I am saying "the truth", you know, I am the brave one [...] I will say the truth and the truth is that they are criminal. So I don't know what the results of your of your research will be, but this is not something only here for Bulgarians, it is a cultural mentality in central/Eastern Europe. There's so much hatred that has been validated throughout the years that especially for the older generations is very, very difficult to combat.

ALIYA

For sure.

INTERVIEWEE 3

But multi-actor response, including the companies, the providers, has to be the solution. And no justification like it's private business should be applicable here because social media are too big. They consume and because of their strategy for development, it encompasses every single aspect of life. And if people are like 20% daily, every day in the network, that network becomes part of life. And if it's part of life, then it has to adhere to the norms. How that will be, in the long term, implemented... Maybe, here in Bulgaria, the solution could be from an external international pressure. If it comes from a European Union legal base, or another international, but if we have to ratify something new, given all those things that happened in the last five years, most probably that will never happen, so only something that doesn't come with ratification, like the European Union. And we are automatically supposed to implement it. Because also everything that I'm doing right now, with regards to the police, LGBT hate crimes etc, it happens with the support of embassies here. It's the embassy pushing the minister to allow the NGO to deliver the training. Because it's not part of the political agenda of the government.

ALIYA

Yeah, that's what we were talking about before. How the government provides no support for NGO's.

INTERVIEWEE 3

The previous one for sure, the new ones, they're trying at least to restart. There is this new consultation committee like an umbrella committee, that has the NGO and government sitting together and talking about civil society. So the previous government, they completely, because of the nationalists, they killed it so there was not a single meeting of that committee. But this new one, they started the process, so hopefully, because they have a different perspective, things might go into the right direction, but up until a year ago, it was dead.

ALIYA

OK, well thank you.

Appendix B: Interview with Sociologist

ALIYA

So just to tell you a bit more about my report that I'm planning on producing, so my report will hopefully assess Bulgaria's treatment of hate speech and respond to a couple questions. Those questions being, firstly, how does Bulgaria balance freedom of speech and expression with hate speech?

INTERVIEWEE

But you focus just in Bulgaria, you're not comparing Bulgaria with Serbia, Macedonia or something?

ALIYA

No, no, just in Bulgaria exactly. I will be analyzing, where does Bulgaria draw this line and is it in accordance with international standards? So like the UN, the EU, European Commission, all of those, but I won't be comparing Bulgaria to other countries. And then really importantly, how can Bulgaria improve its treatment of hate speech? And so that's really been a big point in speaking with the LGBTQ organizations and hopefully with you to get some recommendations. And so I know that you're actively involved with the Roma community here, and I'm a foreigner, so before I get into my hate speech questions, could you tell me a bit about the Roma community and the history?

INTERVIEWEE

Yeah, yeah, absolutely sure. Well, it's an issue with the Roma community and it has been an issue for many, many years because we have seven types of Roma minorities here in Bulgaria and they started to move here in the Balkans mid 18 and during the 19th century and they have been settled in different places in the country and there are also tensions among all these Roma communities or these Roma tribes. And they speak very similar language, but their language differs, there's an internal hierarchy among them. So during the communist regime here in Bulgaria, this is the ideology of the communism that we are all workers, working class, and they try to assimilate them. But they were not allowed to have property in the country, so they went to school, even in my school there were a lot of people from Roma neighborhoods. But you know, they lived in these small neighborhoods and there were very close neighborhoods and it was very hard for people from the Roma neighborhood to get to the university to become a teacher or police officer, let's say a lawyer, and so on. So it was hard, and in the situation of crisis, we had such a crisis in the mid 80s, and in situations of crisis, the communist ideology always focused their anger to Roma and to Turkish neighborhoods and to Roma and Turkish people. And maybe you know there was movement and these kind of tensions between Bulgaria and Turkey in the 80s, and it was part of these attempts to cope with the internal social and economical problems,

and so it was part of the official agenda. So this hate speech started then, and it was very popular. I was let's say 10 or 15 years old. And I remember how people from my neighborhood, boys from my neighborhood prepared to go and to beat the guys from the Roma neighborhood because they were "responsible for our problems". So I mean that it's a long-lasting trend, it's not something that is very new. But now society has this kind of reflection when there is an internal problem in the Bulgarian society, always we are looking for enemy, and the easiest enemies are the refugees, our Roma neighborhoods and our Turkish neighborhoods and so on, and so on. So that's actually the pre history of the current situation now. And now you know, during the last, let's say 10-12 years, because of this rise of new nationalistic parties, this rise of new conservative parties, and yeah, you know the victims are LGBT people, all different people, people with disabilities, people from the Roma neighborhoods. And yeah, I think that these are the roots of this wave of hate speech that we face now.

ALIYA

OK, I understand and so, from speaking with different organizations, I've come to understand that the main targets of hate speech in Bulgaria are LGBT people, people with disabilities, but mainly the Roma community. How would you characterize hate speech directed to the Roma community. Is it very common? Is it based in stereotypes? Is it based in history?

INTERVIEWEE

Well, all of this. Because, you know, in the in the everyday language level there are a lot of expressions related to the Roma neighborhoods. For instance, when something is very stupid and we say "OK, it's a gypsy work". Originally, the original expression comes from the beginning of 20th century, it was the "Bulgarian work" and it's a Bulgarian author who said that, but after that it [...] it's in in every day or language every day. It's focused on LGBT people, it's focused on Roma neighborhoods and so on. So that's from one hand, and people are blind to these kind of expressions, because when you live around you, there's just people from the mainstream Bulgarians, and you never meet with people from the Roma neighborhood, you're not sensitive to this kind of language. These ways of neo-nationalism, these new conservative waves, I think it's done by purpose, and there are small groups, some of them organized in our NGOs, and they protect the family, they protect traditional values [...] so they started to build these expressions and these ideologies focused on Roma neighborhoods, and "these stupid dirty gypsies are responsible for everything. They are lazy, and these people don't want go to work. They would want to ruin our society and they have a lot of children and they're going to melt our society. And there were some two or three percent and now they have 20% of the society" - this kind of stupid stuff. And, you know, the Internet and Facebook and all this social media, it's a very powerful wave, and even talking to my children, they're 12 and 15 now. Ah, and going to to school [...] in the center of the city, they have a couple of Roma children there and they know them personally, but in their everyday language it became something that's normal, it's OK, to talk about these

“dirty gypsies and these stupid gypsies and these lazy gypsies” and I tried to talk to them and to go together to the Roma neighborhood to meet real people from the Roma neighborhood and they changed their opinion, but it's very massive wave and it's very influential wave, I think, in this society. And I believe that the problems are in this new nationalism, because people here are very afraid of what's going on in the world and during Trump it was very legitimate because this kind of speech, people say “OK if the President of the USA can speak this way, it's OK to speak, we are telling the truth and this is the truth, we are honest, we have to speak frankly about these dirty gypsies if we would like to cope with the issue, but it's not frankly speaking, it's based on lies, it's based on stereotypes, and it's based on these attitudes in the society and these cleavages in the society because most of these people can't imagine how difficult it is for children from Roma neighborhood to go to school because they don't speak the Bulgarian language and there are no attempts to try to involve these children in all these activities in the school and in the community, and there are a lot of barriers, a lot of invisible barriers in front of these people. So of course, there is another issue, another problem. There are some, I have many friends from the Roma neighborhood who went to universities and who are very very well educated and they say, “I'm not Roma anymore because to be Roma means to be with low education, to be a poor, and they say I'm not Roma anymore because I'm educated and have that wonderful work and I don't want to go back to this Roma neighborhood” because I very often asked them, and I said “let's go in to talk to the children from the kindergarten to say OK, I started here and I work there. That's my salary. That's my business. That's my family.” But yeah, most of them say “OK, I'm not Roma anymore” So that that's another issue, but yeah, that's that's another story.

ALIYA

OK. And so something like you said was that now it's much easier for hate speech to be spread online, especially for the Roma community. Would you say that there's more hate speech because of how easy it is to say things online behind a screen, or like how do you characterize how different online hate speech towards the Roma community is versus in person?

INTERVIEWEE

Well, you know, you need research to say this, but it's just my personal observation, and so in the Internet, there are different groups and there are a lot of these closed groups where it's tons of hate speech and it's very easy because, you know, in this bubble there are people that think the same way and it's very easy to spread this kind of hate speech. Comparing to in person, I think people who live close to Roma neighborhoods or people that live in small, small villages, small towns, and they know their neighbors, they go to the same school, they know the people, so there, they talk to each other and there are not these kind of tensions. But in bigger cities and in these bigger cities where usually Roma neighborhoods are somewhere near to the city, but not in the city, and it's hard to get there and people from the Roma neighborhood, especially young children, especially girls, are afraid to go to the center of the city. So these kind of mid size

towns in the city, they're full with this hate speech because they live separately, it's kind of the same place, they're nearby, but they're not allowed to come to our place, to come to the center of the city because you know "they're dirty, they ugly, etc".

ALIYA

And something else that you mentioned that I've kind of been seeing a trend of people saying is that, not only is hate speech coming from regular people, but it's coming and it's worse when it comes from people in power and there's almost no accountability, there's no way to punish politicians, for example, who incite violence or incite hatred. Is it very common here for politicians to be inciting hatred and violence towards the Roma community?

INTERVIEWEE

Yeah, yeah. It's a huge problem because, you know, there are always some, let's say, marginal politicians that talk about with this hate speech and talk about Roma people in terms of they're dirty etc. But you know the nationalist parties in Bulgaria, Ataka, their leader from the National Assembly, he said they're not people anymore. These people are so poor, so they are animals. They act like animals and they must be treated like animals, and there are no reactions. It became something like OK, it's fine, it's OK and even very influential observers and opinion makers and said, OK, there's really something wrong, but it's part of their culture because they live in tribes and they are not mature enough to live in our society. And there are not public reactions because it's something that [they say] OK, this hate speech is just for these stupid people and they're some 10% these nationalists and new conservatives. But with the rest we're smart and we don't trust these politicians. But they're presented in the Parliament, and that is a huge problem. So this hate speech became something that's absolutely OK, it's fine to talk in this way. So, yeah, you're right and I told you, especially during the Trump period it was extremely popular and they said OK. And it comes from the right and also from the left, because even on the left, there is a very famous Bulgarian journalist who said we have to speak frankly about these issues and the truth is that there are problems with the Roma neighborhood. They started to use this, you know, neo-fascist way of talking about a "Roma Issue", you know, back "Jewish Issue" is translated directly. So "they are an issue we have to cope with the issue".

ALIYA

OK, I understand and so would you say that there's even a problem with recognition. Like to recognize that what you're saying or what people say is actual hate and not just a fact?

INTERVIEWEE

Well, let me say that there are a lot of internal problems within the Roma neighborhoods. And these internal problems, because for most of these neighborhoods, it's very popular this traditional way of living, and you know, after 2007, and especially during the last 10 years, a lot

of these poor Roma people started to travel to Western Europe and to work there and they earned a lot of money there and they came back and continue to come back and to buy property, to buy cars, and stuff like that and they go work for six or seven months and come here. And there are a lot of tensions in these traditional communities there, and these tensions are related because very often the children stay here in the country and their grandparents are working for them and the parents got to work there. But because they earn money and this traditional hierarchy is not so strong anymore, these traditional social regulators are not so strong anymore, these kind of internal problems related to the modernization, related to many, many girls and women from the Roma neighborhoods. They want to go to work. They want to go to study and they earn money. They started to open their own businesses. And it's very hard to be accepted from the male perspective, so these kind of tensions exist there and these kind of tensions are very often related to some kind of crimes. Because in these neighborhoods, it's a problem with the police of course, but in these neighborhoods their internal regulations and very often it's very easy to sell drugs and to organize some illegal businesses. So there is something like that, but it doesn't mean that these attitudes from the Bulgarian mainstream groups are something that's useful, something that's helpful to cope and overcome these kind of problems. Because these are problems not related to the Roma neighborhoods and ethnicity, they're related to all these small towns and small cities somewhere in the country, and it's very often the same situation for these small Bulgarian close neighborhoods, and Turkish neighborhoods and some Egyptian neighborhoods, the Russian neighborhoods, and so on.

ALIYA

And are people, for example judges or police officers, would you say that they're educated or competent to deal with the Roma community?

INTERVIEWEE

No, just the opposite. Talking about the police officers, because my mum worked in these kind of services, she was a nurse actually but yeah, I went to the police station very often. And they share these nationalistic attitudes, this is the way of education, they hate these black gypsy dirty gypsies, and this is part of their socialization. So I believe that in their professional groups and their professional culture, they're not at all interested in how to be educated to deal with such problems. I was, let's say, maybe 15 and my younger brother had some issues with gambling, he was, let's say 13. My mom said OK, at this night we're going with the police officers with our neighborhood to see what's going on if you continue this way. And he came back in the morning, he said, OK, we were here and there with the police car but nothing happened and they were so bored and we decided to go to the Roma neighborhood to beat all these gypsies there. But I said, why? Was there a scandal or something or a fight? "No, no, because it was boring and they decided to go there because they're police officers and they are always guilty, these people who are there". And it happened. It was, let's say, 30 years ago. But I still believe, talking to these

police officers, that this is part of their socialization. The judges are different because some of them are very sensitive. They've got many cases. Some of them are responsible, but it's up to them to go to the Roma neighborhood. It's not part of their duty, it's not part of the system to be educated, but especially some of the young judges, they just want to, for them, to be sure what is going on and go and talk to the community leaders and they meet with the people because they need to understand the way of thinking of the people they're dealing with, but it's not part of the system. There's some people who are extra active and very involved and like to do their job and are very responsible. But there may be 5, 6, 7, I know all of them who are interested in the issue.

ALIYA

Yeah, there was this one instance in an interview I had with someone, and we were discussing the Roma community and that there are a lot of cases that go to court and someone, at one point it was either a judge or a lawyer, who said, "oh, this person clearly committed a crime because they're a Roma person and that's just what they do and they committed crimes" and the judge was agreeing like, "yeah, yeah, it's a fact".

INTERVIEWEE

Yeah, yeah, absolutely yeah. We did a research focused on the issue and they speak this way, there is Bulgarian crime and there is Roma crime, and it's different kind of crime. And so it's part of the language of the police officers and mayors and even judges talking this way. There's a lawyer from a Roma neighborhood, Mariana, if you're interested, I can ask her to meet with her because she's from the very poorest region, and she's from this very conservative Roma group Kaldarashi, and now she is a lawyer and she's a very famous lawyer and I believe that she is very sensitive and will be useful to talk to her about her career and the barriers and her work now, because as far as I know, she refuses to deal with Roma issues and cases, because she is Roma and she's good, but is not responsible for the community.

ALIYA

OK yeah, that would be very helpful to just get a contact or something. And so I know that there are legal recourses that exist to counter hate speech. In particular, there's, I think it's article 162 of the Penal Code, but is that used by members of the Roma community when they're victims of hate speech? Or are there any avenues, legal or otherwise, that members of the Roma community use when they are targets of hate speech?

INTERVIEWEE

What works is publicity, the media, and the scandals because people who react, usually are young people and very often they're students and university students, and you know, there are so many different ways to promote this hate speech, and very often when they start to look for

support, usually if there is a scandal and in this scandal is involved, for instance, Sofia University, because there was a case in Sofia University or a big sport Co-op or something like that, this is something that is useful because there is a media scandal and if young people are involved, usually the media is interested in the issue. But I'm not sure that these young people would go to NGO to ask for support or would ask for a lawyer to present their case. They usually organize among themselves, they share the case and there is a wave of public interest focused on this case, but this is always case by case. It's not, you know, the background. The background is the same. These ugly dirty stupid lazy gypsies. And there's something, OK there is a case, but this case is different from, you know the rule. We're not working for systematic approach for coping with the problem longer, it's just because there is an active young girl or young boy.

ALIYA

And are you aware of any legal cases that went to court for hate speech against the Roma community?

INTERVIEWEE

Yeah yeah, probably hundreds. Because you know, very often even there were media publications and all this related to these kind of neo-nationalist, neo-conservative, conservative groups, so there are a lot of cases even against politicians.

ALIYA

OK. And were they successful?

INTERVIEWEE

It takes, you know, in Bulgaria a long time, some of them were successful, but I don't think that this is something that, because even this guy, Valeri Simeonov, he said OK I'm going to pay, but I would continue to tell you the truth. So, this is the bad judge and this is the bad community and this is the bad law, but for my people it's important to be informed and I'm going to tell you the truth and I will pay again and again.

ALIYA

So that that would be like, oh, I'll just pay because it's an administrative, it's through the administrative court, but what about criminal cases under the criminal code? Or is that really rare?

INTERVIEWEE

Yeah, I think is really rare, I'm not sure about cases according to Criminal Court with politicians so some famous people let's say, opinion makers.

ALIYA

Would you happen to know off the top of your head any headlining cases or major landmark cases about hate speech and the Roma community that I could use for my research?

INTERVIEWEE

Uh, you mean something related to the Roma issue, because yeah, it's not about the Roma community usually, you know the hate speech is about Romas and gypsies and blah blah blah. So, let's say with this Valeri Simeonov [...] Krasimir Karakachanov, all these are cases with this kind of hate speech focused on [...] it was very popular during the pandemic, it was every single day, and you know the first information was that the COVID was spread among the Roma communities so they closed the Roma neighborhoods, the first lockdowns were the Roma neighborhoods, and it was part of the governmental policy.

ALIYA

Yeah, that's very dangerous to say.

INTERVIEWEE

Even the Prime Minister was the same. He said OK, we're very responsible, so we're going to lock them down.

ALIYA

Wow, OK. What about for online hate speech? Do you know of any cases that went to court that were successful for online hate speech?

INTERVIEWEE

I know about cases, I'm not sure about exactly what happened. But I know that there were such cases and I know that a lot of organizations initiated cases related to this hate speech online.

ALIYA

Would you know where I would be able to find these cases, like copies of the decisions?

INTERVIEWEE

What about Open Society Foundation? Do you know them? So they're very active and Open Society Foundation there over there, very close you can talk to [...] there, [...] knows them very well [...] I'm sure that they will be very helpful with this tracking the cases and the results of the cases.

ALIYA

OK, perfect, perfect and what sorts of recommendations would you make to Bulgaria's framework for hate speech? Or just treatment of hate speech in general? In particular with regards to the Roma community.

INTERVIEWEE

I'm a sociologist, you know, so I would start with the modernization of the of the society because our problems here are these waves of new conservative values and this hate speech, the issue of this hate speech is related to these new conservative values and this neo-nationalism. We did research, let's say, 10 years ago and we studied all textbooks from the 1st to 3rd grade and there was a lot of hate speech in these textbooks. For instance, there was a black guy near the coast, the sea and this black guy is the lazy guy and the white guys are very active and very responsible guys. And there was a guy with disabilities and this boy with disabilities is depicted there making troubles and some tensions within the classroom. And there were, let's say, maybe hundreds of short stories and pictures and all this kind of education actually promotes these attitudes that is the basis for this hate speech. We went to the Ministry of Education to show all this and they said OK, but it's not our responsibility because they're authors and it's up to the authors to say what they want. So I mean that it's, these new conservative waves in the society, this new nationalism is something that encourages hate speech and encourages these values and we are right and we have to protect our culture and our traditions. And you know, the enemies are all these refugees, and LGBT and Roma people and Turkish people and Egyptians and blah blah blah so. I mean that we need to work for the modernization of the society in order to cope with this kind of values and to promote tolerant education, to promote critical thinking, and to promote education in school. And this is very hard. [name] from the World Health Organization and he said that a couple of days ago, the Ministry of Education decided not to allow the WHO questionnaire form to be filled by students because there were questions related to LGBT and these were very sensitive issues, or for minority groups and so on and so on. So I believe that it's part of the culture and the institutions of this country and the situation now, the political crisis and the war in Ukraine is not coming, let's say, a good environment, social environment to cope with these problems. The contrary.

ALIYA

Yeah for sure, especially because of all the political instability in the past year, two years, I'm sure that it doesn't help.

INTERVIEWEE

Yeah, yeah, and they're focused on you know these everyday problems with their very urgent problems like the budget and this culture and blah blah tolerant education is something that's yeah, not important.

ALIYA

So how do you, you know, we want to encourage critical thinking and tolerance, but how do you implement that sort of thing? Are there like actionable points?

INTERVIEWEE

I believe that working in a local level, grassroots level, it's something that works. If you work with children. If you work with the local communities. If you work with teachers. If you have this kind of local advocacy campaigns. That is something that works, but it's not very sustainable. It must be part of the official policy of the Ministry of Education and we work against the Ministry of Education, we don't support the efforts of Ministry of Education, so that's very hard because the non-governmental organizations and these local communities and these grassroots organizations, they have to cope with all these issues without any kind of support.

For instance during the COVID crisis, Ministry of Education, there was a campaign, every children - they meant Roma children - must go to school. And what they did, they asked police officers with their uniforms and they went through homes, knocking the door, say OK, you have to be in school and it is horrible. You can imagine you're six or seven or eight years old, and uniformed people with arms come and say OK, we love you, come to our school and you need to study and it was, you know, part of the campaign of the current Minister of Education. It's horrible. They're not sensitive enough to see what's going on, what the real effect of their work is. So I believe in these community organizations, in these local campaigns, in these advocacy campaigns, and I believe that in local level it's easier and the results are sustainable. Because all of this organization, all these national campaigns, it's yeah. You know, what, it's just for couple of days and there's nothing else.

ALIYA

Well, I spoke with the organization, IOA, they're a grassroots organization, and they go into small Bulgarian communities and villages and they discuss discrimination and human rights and hate speech. And treating people with tolerance and kindness. [...]

INTERVIEWEE

We're going tomorrow to [Bulgarian city] it's a city nearby with the same issue, and gathering all these people together and talking with them about current cases, real cases and certain issues. And our approach is to encourage them to find the solution and how to work together and what to do and what kind of materials they need and what kind of courses or education for their teachers they need. And that's something that's sustainable because there are networks among all these teachers involved in these kind of campaigns.

ALIYA

For sure, but I also, when I spoke with them, I know that a lot of the teachers in Bulgaria are older and if something is not included in the curriculum, and you know, I spoke with the organization and they were telling me how they would discuss with teachers before speaking to a class and the teacher would say “you can talk about anything you want, you can't talk about LGBT issues.” So there are certain things that are off the table, it's very challenging to raise awareness and to make people more tolerant when you can't talk about vulnerable groups.

INTERVIEWEE

It was the same, our teacher, a history teacher, because these kind of people, especially people who are teachers in history and Bulgarian language you know, they promote nationalism, so it's very hard to change their mindset and they share the same culture with the police officers in Bulgaria. And they believe in our clear, a white nation and blah blah blah. And he was very active talking in front of the class about the problems related to Roma people, to refugees, to Ukrainians and blah blah blah. And a couple of weeks ago, a boy from Ukraine came to the class and he changed his opinion immediately because he saw a real boy and his attitudes were, you know, very pro-Russian because we, Bulgarian nationalists, we love Russians and you know these Ukrainians, it was their fault, the war, because they were so brutal to the Russian minorities in Ukraine blah blah. And I mean that even these old style teachers, it's not about ideology, you can't change their ideology. They believe in this ideology, but if they meet real people, if they talk, if they face these faces of young people, of Roma people, their families, if they are aware of their culture, they change their attitudes. And I've seen this many times. The problem is the dominance of this ideology in this society via the Internet and via social media. You know, it's all about ideology and it's not about real relations and interactions, and these everyday interactions are something that actually changes the society and the attitudes of the society. So that's why I believe that these advocacy campaigns at the local level, are very, very effective.

ALIYA

And then eventually I guess the goal would be for some sort of curriculum change.

INTERVIEWEE

Yeah, yeah, absolutely. But yeah, not now. But actually there are a lot of programs and projects and they're ready for health education, for sexual education, for LGBT education, for these kind of tensions, for tolerant education, they're ready. But you know, we're not interested because, yeah, they're not very important political problems.

ALIYA

For sure. And so then I guess my last main question would, be do you have any particular resources that I should consult on hate speech and Roma issues, websites or ...

INTERVIEWEE

I have thinking there's something in English, but talk to Open Society Institute because I'm sure they have something translated. I will check if some of our reports are translated in English and I'll send them to you. I'm not sure that they're focused exactly on the hate speech issue, but they're focused on these kind of tensions among different Roma neighborhoods and Roma communities, internal tensions and these tensions with the mainstream Bulgarians. So is it background, but talk to Open Society because they have a lot of studies focused on the hate speech.

ALIYA

OK I see. And can I just ask you, outside of my project, I'm really interested because in Canada at least, we don't really have a large Roma community at all, and so I'm really unfamiliar with the tensions within their own community. What like, at the risk of coming across as very ignorant, just like where does the Roma community originate? Could you tell me a bit about their culture?

INTERVIEWEE

Yeah, yeah, absolutely sure. We have a project now and our friends are from Norway and there's a very small Roma community there. They are actually an LGBT organization, they're very active, and because our project is focused on empowering Roma women, they were very active. But trying to talk to people from the Roma neighborhood and it was very, very difficult, very hard for them and even here in Bulgaria it was very hard because we decided to collect personal stories and to publish these personal stories of some famous Roma celebrities. Some musicians, some university professors, and some successful business leaders and so on. And we've collected these stories and during the interviews during the recordings they were very honest and the stories were very powerful, very meaningful and we sent the stories back to them and all they edited everything related to these kind of tensions and to this internal hierarchy, and it became, you know, very pure and like saying nothing. So it's kind of these internal barriers and it's very hard to overcome these kinds of internal barriers. And about the history, there is a lot of information in the Internet, but they come from India and they moved from India to Europe and here in Bulgaria, because they were related to some kind of crafts and that's why they moved from place to place and they never settled to a certain city and that's why they were very popular. People loved them as musicians and some craftsman, but always they've been perceived as you know, second hand people and they are "very, very poor and they're stupid and they're lazy" and yeah, stuff like that. With some of our volunteers from the city of Kyustendil, we went to Poland and in Poland they met some different kind of tribes of Roma people because Roma people here in Bulgaria they're dark skinned, in Poland they were so white and blonde and they said "it's impossible. These people are white and they're poor how it's possible White people to be poor?" You can imagine the shock here because they think that because they're Roma, their skin is dark, they have to be poor, they have to be stupid. Some of these stories, this lady, and now she's very

active in the NGO sector and she said every single day the teacher came to our classroom and said “you Roma people, you're stupid. You're not going to do something, but just be quiet, please, because I'm so nervous and I'm so bored of you, you're so stupid” and she said it was every single day. She'd say “the Bulgarians down in the city, they're so smart and you can't compare with them” and this happened, you can imagine this kind of socialization. Now she has two wonderful daughters, both of them are teachers and very successful teachers. But it was very hard to cope with all these prejudice and all these negatives around you.

ALIYA

Are there particular schools in Roma communities? Or do they have to leave?

INTERVIEWEE

Yeah, that the problem. Well, some of them, there are schools within the Roma neighborhoods, but going to this school, it's different kind of tasks and different kind of curriculum. It's not official, but it's in practice, so it's the, you know, if you're lazy, even Bulgarians go to these kind of schools if they don't want to study or to work hard. During the communism, they used to move all these children to some school not in their settlement, but the neighboring city or village, because they believed that it's bad for the rest of the school if Roma people go there, and so it's it was horrible. It was actually really very horrible. Now it's not formal, but it's part of the reality, actually.

ALIYA

What are your current projects that you're working on?

INTERVIEWEE

Ah, yeah, many. This this one is about uninsured pregnant women, because very often people from the Roma neighborhoods are very poor and during the pregnancy, they're not insured, they haven't access to medical care. So we're trying to change this, and it's an ordinance related to these people. And now, according to the current ordinance, they have just one visit to a doctor before giving birth, but it's not enough. And that's why there are so many problems with children and so many babies with disabilities and stuff like that, so we're trying to change and the new ordinance is ready and it's in the Ministry of Health and we are waiting for the budget [...]. The other project is, I mentioned this project, empowering young women from the Roma neighborhoods and to work with them. And we organize such clubs, female clubs, they're for advocacy and they gather together and they develop their own advocacy campaigns focused on education, healthcare, kindergardens, access to pharmacies and stuff like that. And they're really very active and work hard. We've got another project focused on, not hate speech, but the best practices, good examples. We just started this project but we would like to make short videos with some very basic expressions in Roma language and in Bulgarian language, for teachers and

for classmates who work and live with Roma students to be able to say some very basic words in Roma language. We believe that it's important just to show that they respect the culture they're interested in, the culture. But we'll see, because yeah, there's a lot of hate speech against the people with this initiative, so yeah.

ALIYA

And are Roma communities very separate from Bulgarian cities and communities? Like I don't know where there would be around Sofia, I've heard that there's a distinct section or distinct community where there's a Roma village.

INTERVIEWEE

OK, we can go and I'll show you what they look like. In Sofia, there is the so-called Fakulteta, it's very close from here it takes some 10 minutes by car. There are some small houses there and people live there, but these people, they are very well integrated into society. They go to work but the community is small and becoming smaller and smaller because they move. But there is another neighborhood, you can't say how many people live there, it's you see, it's like somewhere in Argentina or Brazil, it's this like of communities and a lot of illegal houses and a lot of people who are coming and going. So it's a very colorful way of life, it's a very cozy world because they know each other, they know their parents and their friends, and it's very safe environment to live in these communities. But yeah, Bulgarians are afraid to go there because they think that yeah.

ALIYA

How do you get there, through a bus?

INTERVIEWEE

Uh, are you really interested in it? We can go now.

Appendix C: Interview with the BHC

INTERVIEWEE

When it's up to hate speech, there are three things a person could do. First of all, and this is the least, it's a civil case. As a European Union member, we are obliged to transpose into Bulgarian law the European directives that are handling discrimination. And these are several directives, I think 4 currently. The anti-discrimination provisions in the EU law are very old, they are from 20 years ago, some of them, some of them are more recent. But they are quite old, the framework is not really updated, although there are some recent additions. And it's really scattered, it's weird, because on different grounds there is different scope of protection, which is a big issue. Also it's limited in terms of spheres, like spheres of life where protection of discrimination applies. And it's usually the spheres of access to goods and services, housing, education, and of course employment. These are the fields where protection of discrimination is covered in the European directives. And again, with different grounds, like if your discrimination is on the ground of sexual orientation, you will get one scope of protection. If it's on the grounds of race or ethnicity, it will be another slightly different. So it depends. Sex and gender of course are also included, etc. There are six basic grounds, and Bulgaria, as a member of the of the European Union, is supposed to transpose these. So, this is why we have anti-discrimination legislation since 2004. We didn't have any before that except of course the general provisions of the Constitution. So in the in these directives, although their scope is limited, there is also protection against the so-called harassment and incitement to discrimination. Both of these, possibly, the conduct could be a speech in both those cases. Of course we can argue that direct discrimination in general could also be in the form of speech, like for example a sign banning someone from entering certain premises etc. But yeah, specifically harassment and of course, also sexual harassment and incitement to discrimination are, especially the last one, are usually something that happens through speech or non-verbal signs. That's very often the case. So this is a venue we tend to use, we file civil cases in the court based on those provisions of the law.

Then we have the administrative route. Under the international human rights standards, but also, because these international human rights standards are soft law, but under the directives we are obliged with binding provisions that every Member State of the European Union should have a national equality body. I don't know how aware you are of the European law but the highest legal acts that are issued by the European Union are regulations and directives. The regulations have direct effects in the national systems, but the directives only tell you what you need to achieve, they don't tell you how exactly. So the directives, anti-Discrimination Directive, says every Member State should have an equality body. And different countries have different kind of equality bodies. Some of them have the ombudsperson to be responsible for this. But in Bulgaria's case, although we do have an ombudsperson does not deal directly with this, although they are competent to review complaints on that matter, but not to actually issue any binding decisions. So this is why we have a special equality body. It's called the Commission for

Protection against discrimination and it is a quasi-judicial body. It is hearing cases. It has adversarial procedure. So basically two sides go there, one of them, the complainant, and they apply for issuing a binding decision which does not grant any financial compensation because it's not a court, but it does issue binding decisions in terms of finding/establishing the facts of discrimination. So then, although it is mostly administrative body, still it issues a binding decision with which you can go to the court, the court cannot decide a second time on this matter. The court can only determine what kind of compensation you need to have for what you sustained, the decisions of the Commission are subject to appeal before the administrative courts. Although once it's a final decision, you go with it to the civil court in order to get a decision/a judgment about the compensation.

And of course the third and last route that you could use is the criminal route. It's the Criminal Code, of course. Ever since the 60s but also before that, late 19th century, there were certain provisions for crimes on the grounds of religion. But what we might call a hate speech law is very developed and specifically defined in the current Penal Code from the 60s which was amended again, it was amended many times, of course, but it was amended again in 70s or 80s when Bulgaria ratified the Convention against Racial Discrimination (UN) and we actually criminalized apartheid, genocide, crimes against humanity, and stuff like that. Unfortunately in the Criminal Code, it's a very old one, of course, as you can imagine, we don't have the same grounds that are covered by the anti discrimination model, so it's only it's only race/ethnicity of course, and religion that is covered by the criminal law in terms of hate crimes, where under hate crimes we also include some cases of hate speech. Sexual orientation is not covered, disability is not covered, sex or gender are not covered, nationality I think is covered, age is not covered, so it's not all the same grounds as in the anti discrimination law.

So yeah, this is the framework. In our organization we have used all these routes, not all of them successful enough. But this is what we do, so we have experience and we have a specific case law that we can provide you with.

ALIYA

OK, that's very helpful and just so that I completely understand, because I've done research into the criminal route, I know that it's Article 162 I think of the Penal Code.

I know that the administrative route, or, I guess I'm just trying to differentiate the difference between the civil route and the administrative route. So just to make sure that it's clear, the administrative route, you go to the Commission for protection against discrimination.

INTERVIEWEE

Or the Court. It's up to you to choose which route you will it take. You can file a civil case or you can apply to the Commission. Both of those are available to you, where the idea of the Commission is that it's supposed to be less like, formal and much more accessible to people. And that the Commission itself is supposed to actually help people bring their case, but lately in the

past few years this is not happening, it's very formalized and very, like it became a very formal procedure, unfortunately, and this is up to the members of the Commission to decide on that, and they went for actually complicating the procedure, making it more formal unfortunately.

ALIYA

OK, so just to be sure, what is the difference between pursuing a civil case in court and pursuing the administrative route? Because if I understand correctly, you're using the same grounds like it's the Anti Discrimination Act, right?

INTERVIEWEE

Well, there are minor differences, but depending on your specific case in what are you trying to achieve it could be important for you, like, if you go to the court, you don't need to apply then separately for the compensation. You just encapsulate all of this in your claim, you make your claim, you want discrimination to be established, you want a court order, you want compensation, all this goes in one procedure and then you can appeal. And then only if a serious issue arises in purely legal matters, no matter if in material law or in procedural law, you can appeal on points of law before the Supreme Court of Cassation, which is a third instance already, the third instance court. Also, most often you would need a lawyer to go. You're not obliged to, but most people, because the procedure in the court is very formal, most people do go to a lawyer, they use lawyer, while the Commission are, again, the Commission is supposed to actually help the victims of discrimination, so it's not that mandatory. Like you could go and handle the case yourself mostly. So this is an important thing, and although the Commission is supposed to be faster in terms of procedure, lately in the past few years, it turns out that the court in some cases might be actually much faster. Also there are very specific procedural things, because when you go to the court, you follow the specific procedure of the Protection Against Discrimination Act. But in all matters that are not covered specifically in it, you should apply the general Civil Procedure and it's a very formal Civil Procedure where the burden of proof in some areas might be entirely on you. So you should know the procedure very well, this is why you would need a lawyer, of course, and this is the main difference. While, if you go to the Commission, as a formally administrative body, the Commission has a lot of ex officio powers. So although you might not explicitly ask for certain evidence or might not explicitly make a certain point, the Commission, ex officio, on their own motion, could, for example, request certain evidence to be gathered, or decide to ask the other party to give a certain explanation in writing or in speaking. And even afterwards, the administrative court does not follow that tightly, the Civil Procedure, the Administrative Court has to follow first and foremost the protection against discrimination law, then the administrative code, and only then, if something is not covered in there, they should apply the Civil Procedure and these are usually issues around subpoenas and stuff like that. While, the procedure in the courtroom is covered in the administrative code and there, if the responding party appeals, it is not you who is the other party

before the administrative court, it is the Commission for protection against discrimination because what the other party is attacking here is the decision of the administrative body. So it is the administrative body that steps in to defend their own decision and you are also part of the proceedings, but you're not the direct respondent of the appeal. Which is helpful because you have the Commission on your side in the courtroom, so you, again, might go without a lawyer here, although it is a court procedure. These are some minor differences, but if you are supposed to be pleading a case, etc, they might be of importance.

ALIYA

OK, OK, perfect and so, this all has to do with hate speech and I'm assuming that it's majoritarily like verbal hate speech. What about online hate speech and how if anything, like, does Bulgaria have any specific legislation or specific procedures that people can follow to handle claims of online hate speech? Because in my research I've really found nothing and I think, from what I understand, I think that it's the same procedure, but oftentimes it doesn't really work, because of the particularities of online hate speech and the groups that post it, but I wanted to hear your perspective.

INTERVIEWEE

Uh, yeah, it's the same procedure. Those three procedures that we just went through are the same, the same procedures that you should use. Um, it is a complicated issue, especially with Facebook for several reasons. Now if you go to like the main issue would be the cross-border gathering of evidence. This is the main most prominent issue. If you go to the Commission for protection against discrimination, you will be very, very limited and this is actually something that we are now exploring in two cases. Exactly for Facebook hate speech. These are not very severe cases of hate speech but we have picked them up and kind of forced them in order to exactly explore what will happen? How will things go when we complain of online hate speech, especially Facebook a speech? Why? Because the headquarters of Facebook is in the United States. It's not even on the territory of the European Union. And it's very curious to us how will institutions gather evidence, so we have one case that went through the prosecutor's office, the criminal route. It didn't went at all well, the prosecutor's office didn't find any reason to prosecute anything, so now the case is pending before the European Court of Human Rights, we exhausted all remedies on domestic level so we went to the European Court of Human Rights so let's see what happens there. If they will actually find the case, the application admissible. And then we have two cases for Facebook hate speech in the European Court already. But before the civil court, I'm not sure if we have such a case before the civil court. Now we have two or three cases before the civil court about online hate speech but not cross border hate speech. It's in Bulgarian websites. I should carefully check again if we have any Facebook or other cross border hate speech case in the civil courts, but I don't think we do. And then we have two cases of Facebook online hate speech before the Commission for protection against discrimination. Now, it's clear

that as an administrative body, the Commission does not have any powers to gather any evidence outside of Bulgaria. Any cross border, even on the territory of the European Union, any cross border gathering of evidence from the Commission would not be possible, which is already a big issue and this is the case with all equality bodies. It depends on the national legislation, on the national framework, but I don't think there is any equality body, even in the European Union that has the powers to gather evidence cross border. And this is a huge issue because it stems from the old EU framework. Because if you look in the more recent framework for example, the data protection bodies, especially after GDPR entered into force, I don't know if you know what GDPR is. [...] This is the general Data protection regulation of the European Union, so couple of years ago, European Union adopted this regulation. Again, regulations are those parts of the European Union legislation that have direct effect, mandatory, they are acting like national laws basically, you don't have to transpose them in the national legislation because they have direct effect. So they covered this for all European Union in the general data protection, so they expanded the competency, the mandates of the powers of the national data protection bodies. So for example, if you complain for some data protection issue that stems in another European Union country, your national data protection body is obliged to contact the national protection body in the other European Union country and gather through it all the evidence they need and also some other actions, some other procedural things they could do. This is not the case with the national equality bodies. No such protection or a mandate exists in the directives so this is an issue already. So we are trying to push the Commission for protection against discrimination to bypass this, to find other ways to obtain this evidence, through the police, through any other possible way, because most of the cases are of course of anonymous hate speech and we try to establish who the perpetrators are. So you need to gather data, you need to gather evidence on that matter and we are exploring this now. And the other route would be the courts, either the civil or the criminal, even if you go through the prosecutors office. And this is another issue, because you need to go through the international judicial cooperation. Now, international judicial cooperation are usually some kind of bilateral treaty signed between countries where there are there are provisions on obtaining evidence from abroad. This could be evidence in civil cases or criminal cases. But in any way, it is the national court that should fulfill a special request form, send it to the foreign court. The foreign court then should establish whether such evidence could be gathered, or if it violates the Constitutional rights of their citizens. Because Facebook again is a company based in the United States. So in this case the Bulgarian court would request a US based court to gather evidence from Facebook about, I don't know, IP address or e-mail address or whatever, so you can imagine how complicated and slow this procedure is.

ALIYA

Yeah, I think that was what I was going to ask you about because I wasn't, I'm really not familiar with these procedures for gathering evidence internationally and like, you would think that, yes, Facebook is based in the US, but if the perpetrator who's writing it is supposedly based in

Bulgaria and it's affecting Bulgaria, then you would think that there would be some sort of simplified procedure to obtain their IP address, their identity, but I guess there isn't. So you said like the GDPR, there are specific provisions or ways to get around this, but they haven't created a similar framework for the national equality bodies.

INTERVIEWEE

Yes

ALIYA

OK, that's interesting. I would think that it would be a good idea for that to be, if it already exists, if it's already accepted that in certain cases with regards to data protection, countries can request information from other countries, then I wouldn't see why it wouldn't be a good idea to extend it to hate speech or to extend it to the equality bodies.

INTERVIEWEE

Well, international framework on hate speech is actually pretty scarce if you carefully looked at it. And this is where the issue actually starts from. Like you don't have any international law that obliges countries to provide such information to other countries, a lot of it depends on whether the same thing is a crime in the responsive country. Or actually, many cases of hate speech are not crimes at all, but you could cover them in a civil claim or as an administrative violation. But then, once you go to this route, it becomes even more complicated because it is you that should actually request it from the court. The court then should do them by themselves. Like the court can't just pick up the phone, call someone in the other country, and say hey, give me this information. This is not how it happens. It needs to be very formal. So the Bulgarian court should actually give a resume of the case, explain what exactly in terms of information they want, so this is also a technical issue, the court should have the technical knowledge of what information are they looking for? Is it an IP address? If they give me the IP address, would this be enough? Do I need something else, what else could I need? Where should I ask this from? Like they should know, for example, that Facebook is keeping this data, that they keep data about from which IP did the users log in in a certain day, or from which address did they post? But this is what I know as a technically competent person, but would the judge know that? Especially if it's an older generation person, would they know these things? How IP addresses work? What IP address is at all? So then as an applicant or as someone who turns to the court, you might need to explain all of this to the court in order for the Court to understand why they need to do this and in order to give them the wording on what they need to ask from the other court. It's complicated. Like, there are so, so many obstacles before you actually are able to achieve any kind of success in the case.

ALIYA

OK, this is just more generally less to do with the court, but who are the main targets of hate speech, would you say, in Bulgaria, and are there gaps in the legislation for those people to somehow pursue, like get either damages or pursue a criminal claim?

INTERVIEWEE

Well, the group that is mostly affected by hate speech, these are the Roma people. There are not any gaps in relation to them because both race and ethnicity are covered in both the anti discrimination law and in the Criminal Code. The gap here is in the institutionalized discrimination, the lack of recognition of this speech as hate speech from the authorities, because like when saying hey Roma are criminals, these are things that most prosecutors or even some judges would agree with, and they wouldn't recognize this as hate speech. They would recognize this as just general statement of a fact because there is a lot of unethical reporting of crime in Bulgaria, so there is a clear tendency to report, to give ethnic typification of crime in Bulgaria. Like if a Roma person perpetrates a crime, it is very likely in 95% of the cases, that their ethnicity will be mentioned, most cases, in the headline, even of the news publication. But even if not, it will be mentioned somewhere in the text down. This is very clear, and of course if it's an ethnic Bulgarian, nobody mentions that because nobody thinks of it as an ethnicity at all. It's something that is by default. So when you when you read the news, somehow the Roma ethnicity stands out in in the articles. And although the statistics doesn't show that there is a high Roma criminality, this is not the perception of the people. The media creates different perception and from this comes also the perception that when there is a hate speech against Roma people, this is usually not hate speech, but just some statement of fact, because these are statements that magistrates would mostly agree with, unfortunately. The other group that is quite often a target of hate speech are of course LGBTI people, non heterosexual, trans, and intersex persons, mostly gay and trans people. Now this is mostly hate speech online, that is happening online. Threats, of course, insults, humiliations, personal attacks, things like that. Any kind of bullying, et cetera, et cetera. This happens, again, mostly online or around Sofia pride from politicians. And unlike the previous group, here, there is a gap in the law. There is a provision in the anti discrimination law, but there is no criminal law provision. So, for example, we had a case where a prominent Bulgarian right-wing activist a couple of years ago has published a Facebook post openly and specifically instructing people on how should they attack participants in Sofia pride. Like he was giving hints, "hey people don't do anything bad during the Pride, wait for the Pride to be over because this is when they walk alone in the streets, it's already dark, they are alone on the bus stop". Like he openly, openly gave instructions to how and advices on how people should do better attacks on gay people after the Pride and the prosecutor's office didn't find this a crime. Like they called him, he went to the police station, he gave some statement that he did not post this, that many of his friends or other people have the passwords of his Facebook account and he doesn't know who posted this on his Facebook account, and this was it. The prosecutor's office said that this is not a crime, and unfortunately, we went with this case to the European Court and

the European Court of Human Rights decided in a one judge panel that this is an inadmissible application. I don't know if you are familiar with the procedure before the European Court of Human Rights, but there are two stages basic stages. The first filter is for manifestly ill-founded applications. So basically there is a single judge who is reviewing your application, and [...] and this judge single-handedly decides whether there is a violation of the Convention in your case or not. And if they find there is no violation, they just send you a blank letter which doesn't give any reasons, it doesn't give any motivation on why they decided. They just tell you, oh, there was no violation under the convention so we dismiss your case as manifestly ill-founded. And unfortunately we got this letter for this case, and we don't know why exactly did they think that there is no violation here. And then if the case goes through the first filter at the European court, then you might also receive a decision that the application is ill-founded, inadmissible, but then there will be at least a decision with reasons so you can see why they decided so. But in this case, we don't know why. These are the true groups that are most affected and the third group that is sometimes affected are the Muslim people. This was very strong around the refugees and migrants crisis in 2014 when there were a lot of refugees and migrants from Middle East, and Africa, mostly from Syria, but not only. Also people from Afghanistan and from Africa, and unfortunately there was a huge campaign against Muslim, also African ground based, but mostly Muslim ground based hate speech. But now, lately this is not that much an issue anymore, so it's not that strong now.

ALIYA

OK, thank you. I think it's important for me to at least read some of these decisions and have access to them. Are there any in particular that I should be paying attention to, for example, the case that you had just mentioned about the online hate speech, and the prosecutor not finding it to constitute hate speech even though it was explicit. These are all anecdotes and cases that are important that I mention in my report. So are there specific names of big cases that you know that you feel are important for me to be aware of? If not, you can just hold off and you can send me some references and resources afterwards.

INTERVIEWEE

All the cases that I will send to you are, in my opinion, big cases. Of course, some of them, you will see that they are not, but they are still strategically interesting. Like for example the Facebook ones. We have one case that is obviously not important, and I believe that if it goes to the European Court, it will be found manifestly unfounded because it's not severe enough. Basically, there was this exhibition in 2019 in in the City of Plovdiv, and there were some Facebook postings like actually comments under a post saying, "oh, we should gather and do whatever we can to stop this exhibition from happening". It's an exhibition from Pride parades around the world with pictures, like a photographic exhibition. So there were people, several, but two of them were more standing out. They were saying, "oh, we should do whatever we can to

stop this from happening, even if it's with violence.” So it was not openly calling to violence, it was just stupid hateful comments, but they were alluding, they were suggesting that some kind of violence would be proper, so we filed this case in the Commission for protection against discrimination, and we tried to claim that the Commission could establish the identity of those two persons through the police. That they have enough information in their profiles, the names, the cities they live in or the villages they live in, that are specific enough for the police to identify them. We don't need to go to an American court, to Facebook, to ask them for any kind of data, first of all, because the Commission doesn't have these powers, and second of all, because we don't need that, we don't need that complication. There is the police, we have enough data of these persons, we can just ask the police, “Hey is this data enough for you to establish the identity of those people or not?” And the Commission is not doing that, since 2019 they are not doing this. Although the court twice already returned the case to them and said, “hey this is correct, you should do that.” But they don't. It's just very bad. The people who are there now, they are not very competent and honestly not very keen to like fighting discrimination. So this is not a big case in terms of like, it's not a big politician, it's not very severe hate speech, nothing like that, but it's strategic in terms of what we need to establish as a case law in order to successfully also tackle some cases of hate speech in Facebook or online in general.

ALIYA

So, the court basically said, it went back to the court, the court said, “yes, this is something that the administrative body needs to do and should do,” but they just refuse to do it?

INTERVIEWEE

Yes, yes it's amazing. I will send you the decisions and the judgments and you will see, it's crazy. It's really bad. And this is not the first time the Commission just disregards what the court says, but in the end the court has the power to just disqualify the decision of the Commission entirely and just bring a decision on their own, a judgment on the merits, but you need to go through two courses of procedure, of appeal, before the Court can actually do that.

ALIYA

OK, so like you wouldn't be able to just go straight to the court with a complaint?

INTERVIEWEE

You would be able to go straight to the civil court and then the civil court could do it, but this is not what we need, we need the Commission to do it.

ALIYA

Right, because the Commission is the body that's supposed to be handling cases like these, and it's supposed to be making it easier for the population to handle cases.

INTERVIEWEE

Exactly, we try to force them to do their job. This is what we aim with these cases, yeah.

ALIYA

OK, I understand. So then, how else? If the Court has explicitly said, “this is what you have to do” and they don't do it... What are you supposed to do?

INTERVIEWEE

We just appeal it again before the Court. The Court again quashes this decision and returns the case to the Commission. This is it. So we, I think we went already twice through this, I don't remember it. This is since 2019. I already forget what happens in these cases because it takes so long. But outside of these, most of our other cases that we have are cases of political hate speech, things that politicians said publicly, so it is kind of important and interesting. Now because your topic is the balance between freedom of expression and hate speech, do not expect that you will often find explicit merits in the court judgments on these, like it's very rare thing when the court explicitly say, “hey, I need to balance between this and that.” This is what European Court says, but Bulgarian courts do not yet have this standard in mind. Now, they usually give some reasons in terms of why do they find or not find violation of the law, so they do some kind of balancing, although they do not explicitly call it that way. So yeah, you will see it. We used to have a lot of problematic decisions. Many years ago, 10 to 15 years ago, we had a period with very good, several very good hate speech decisions from the Commission and from the courts. And then, something happened, like the members of the Commission changed, something shifted in the courts, I don't know what happened, and for several years, in the past few years we had a series of bad decisions in terms of hate speech, where both the Commission and the courts were basically saying that politicians have unlimited free speech, that these are important social issues they are discussing, this is their freedom of expression. And then last year came the judgment at the European Court, judgment in two cases that we were litigating long time ago. Some of the bad cases, actually, that we had on a national level. One of the cases is about Roma hate speech and the other is about anti-Semitic hate speech. And those are very important cases in the European Court of Human Rights that we were successful in litigating with because they advanced a little bit the case law of the European Court in terms of hate speech. The European Court gave more specific standards, because up to that point the standards were a little bit abstract, but in those two cases, the court brought a little more specific standards on hate speech, so I will send you those. I will also send you an article that is doing an analysis of those judgments, a critical analysis though, because according to this analysis, the judgments of the European Court, those judgments, although we are very happy with them, are kind of limiting the scope of the protection that the Court was granting before that. It argues that the court is taking a different approach like, for example, when a person whose speech has been limited goes to the

court and complaints that his speech was limited, the court applies one kind of standard, but then when the victim complains, they apply a different kind of standard. You will read it, you will see. There is a point there, but still we're happy with those two judgments. So I will send these to you. And yeah, that's it. I will give you a brief review. Now you can imagine all the cases are in Bulgarian, but I'm sure you can use Google Translate or DeepL or something.

ALIYA

Yeah, exactly. OK, perfect. That's what I'll do, just if it's possible, maybe just like indicate which names of decisions or which files are [what].

INTERVIEWEE

Oh yeah, of course. But it will take me some time to organize the information for you.

ALIYA

No, no problem at all. I know that you're very busy, so really no pressure. Thank you again for all of your help. So I think that this is really my last big issue, I know that this is a big question, but what recommendations would you make with regards to Bulgaria's framework surrounding hate speech? Because clearly we've discussed a lot and there seems to be a lot of issues, but it's hard to come up with actionable solutions, especially when we were talking about before how a lot of hate speech is not even regarded as hate speech by the people in power, and so that's one thing, and also politicians and people in power are the ones who are circulating hate speech some of the time so.

INTERVIEWEE

Well, it's not hard actually at all. We have many actionable things that could be done. First of all, I should start with that, in the Constitution we do not have general anti-discrimination protection. Which is amazing. Now we do have one provision that some people claim is an anti-discrimination protection, but it's not. If you read it carefully, it's equality before law kind of provision. And although equality before law is overlapping partially with the concept of discrimination, they are not exactly the same thing. To be equal before the law does not necessarily mean that the State is obliged to provide you with protection from private persons from discrimination. It's kind of different. So this equality before law states that the State itself should treat you equally no matter who you are. It doesn't give an obligation on behalf of the State to protect you from someone or from something. So this is the first thing. Then we obviously should update the anti discrimination directives of the European Union. There was a concept of so-called horizontal directive because again now the framework is scattered in different directives depending on your grounds, it gives you different scope of protection. No. We need a horizontal directive that makes equal protection for all. Then we need probably a regulation, EU level regulation, of the equality bodies, giving them powers to gather evidence

cross border, which is important to make them more effective. Then we should update the Bulgarian Criminal Code, as well as there is a framework decision of the European Union dedicated to hate speech and actually, it's dedicated to hate crimes, but again, in our national legislation some hate speech is a hate crime. So this framework decision and the National Criminal Code should be updated to include sexual orientation, gender identity or expression, sex characteristics, sex or gender itself, age and disability. Then, we should improve our education in all levels, school education but also higher education because currently human rights are not taught in Bulgaria as a mandatory thing to lawyers. We should include this in the curriculum. We should include sensitivity training to policemen and prosecutors because even though they know the law very well, even if they tattoo the texts of the law on their forehead, this doesn't help them recognize discrimination and hate speech when they see it. They should have sensitivity in order to apply the law, the law itself is not enough. You should have the sensitivity to apply the law. And this is a very tricky part, and there should be training to policemen, prosecutors and judges and lawyers in order to make the law most effective. You can have a bad law, but if people are sensitive and they want to actually help the victims, if they want to actually prosecute the crime, or if they recognize the administrative violation, they will find a way under the existing framework, they will find a way. But if you have a very very good law and it's not applied, if it's a dead text, it doesn't matter actually. So these are my recommendations.

ALIYA

OK, thank you. Thank you for all of those recommendations. I had spoken to one NGO who specializes in education, particularly on hate speech, maybe you've heard of them, they're called IOA [...], I spoke with Deystvie [...] I've come to realize that the education component is very important, especially starting from a young age, even children in schools. It's just hard because I've spoken to a coworker of mine who has done reports and investigations on the education and on curriculum in Bulgaria and obviously this type of thing is very difficult to change, especially when a lot of topics are very taboo when you're talking about stereotypes and prejudices against the Roma community and the LGBT community, some of these issues are basically forbidden to be discussed in schools. So changing that culture is really challenging. But I think it's still very important. And yeah, definitely like updating the legislation to include other grounds is something that I've discussed and thought about too, but what I didn't know was the issue on cross border evidence, which is huge. So, thank you. I think that that's all of my questions for today. [...]

INTERVIEWEE

I will try to send you the things in a week or so, but also, Sofia Pride is coming which is a very bad period for me. I'm very busy with the pride and if something happens and I don't send you in a week the things, it will probably be after the Pride. It's a very interesting topic that you picked

up, good luck with it. I would love to see the result and also to learn about [...] actually are you going to publish this? Are you making it for the university or you're just you researching it?

ALIYA

So I'm producing a research report for BCNL, it doesn't really have to do with my university. So, BCNL will likely either publish it or publish sections of it, or use it for their internal purposes, but then when I get back to Canada, I'll also be taking a class this coming semester and writing a paper about hate speech, likely in Bulgaria and comparing the Canadian and Bulgarian frameworks. So I'll definitely send you anything that I produce.

INTERVIEWEE

I would like to see the result of that, and also to learn about the response that, did they like it or not. It will be interesting to me. I will also send you a book that I like, a very nice book. It's about political correctness. It's a historical review of the concept of political correctness and how it was seen through different periods of history to censor any kind of speech. Because, you know, political correctness is the kind of scarecrow that is oftentimes used against limitation of free speech, but it's a nice review that gives you good historical perspective, ideas, and knowledge about things that happened in the past that we wouldn't know about otherwise, so it might be useful for you to know it or two, keep it in mind.

ALIYA

Yeah, definitely. Thank you very much and I really appreciate all of your expertise on this subject.

Appendix D: Interview with Deystvie

INTERVIEWEE

OK so I went through your questions. If you'd like, we can start with the legal frame. It will be easier. So there are two legal acts. The first is the Criminal Code which you have already seen, the article 162. We don't use it because there is no crime based on sexual orientation. This is one of main things we are fighting for because, for example, if you murder someone, you get up to 10 years, but if you murder someone on religious grounds, you get up to 20 years for example. So this is a big problem, for LGBTI crimes, there is no criminal legal ground to pursue them. But we have the Anti Discrimination Act, it's in English.

ALIYA

Is it this, the Protection Against Discrimination Act?

INTERVIEWEE

Yeah OK yeah. So in Article 4, you can see all the grounds for discrimination and there is sexual orientation. But there isn't gender identity. So this is an administrative procedure, it's not a criminal one, and it's before the Commission for Prevention of Discrimination. They're like a quasi-court, they're not an official part of the court system. But you can appeal their act before the administrative law, so there are two instances. And people don't go to jail, for example they only get fined, they pay a bunch of money and that's it.

ALIYA

OK, OK, I understand and so when I was speaking with another organization about Article 162, I know that it doesn't apply to the LGBT community, but in general I heard that it's very difficult or very rare for cases under Article 162 to be pursued or to be successful. In general, is it more common for members of LGBT community to pursue someone under the Anti Discrimination Act and for that to be successful?

INTERVIEWEE

Yeah, because this is the only option for the LGBT community. But unfortunately the Commission is not working very well at the moment. Most of the people there don't know how to work with LGBTI issues, they're trying to be very supportive, officially they come to our seminars, but usually we get very negative court decisions from them. I don't know why but we are working towards it, we want to improve their knowledge and the cooperation between us and them.

ALIYA

OK, OK, I understand. You'd say that their biases influenced the decisions?

INTERVIEWEE

I really don't know. For example, two years ago, a couple of LGBT organizations made a billboard with two guys hugging or two girls hugging, like nothing sexual. And the caption was something like “don't be afraid, it's only love”. And a woman which is the chairperson of some Christian group, she went to the media and said that this is sexual harassment against children because this is not normal to show in public space, this is something personal. We went before the Commission to argue that this is not OK, this is discrimination, this is hate speech, and the Commission said “oh there is no problem, it's OK”. And then afterwards, we went to the administrative court, we appealed the decision and we had a positive decision.

ALIYA

OK, OK, well that's positive at least. Just to be clear, under the Protection Against Discrimination Act, it's Article 4 that provides for hate speech, does it ever mention hate speech explicitly?

INTERVIEWEE

No, actually there is no official, like the word hate speech doesn't exist in any legal document But we just use this act.

ALIYA

So it would be direct or indirect discrimination.

INTERVIEWEE

Yeah, and incitement of discrimination, but this includes hate speech.

ALIYA

OK, OK so it would really be Article 4.

INTERVIEWEE

So, if there is a hate speech case which is not criminal this is where we are going.

ALIYA

Thank you, and what about with regards to online hate speech in Bulgaria?

INTERVIEWEE

There isn't any legal framework for this. We just use this.

ALIYA

OK, so there's no separate legal legislation, you would just, if someone makes a discriminatory post online then you could use the Anti Discrimination Act to pursue that person?

INTERVIEWEE

Yeah, yeah, we used it for last year around pride. There is a very famous Bulgarian singer, she's called Milena and people think she's progressive because in 1989 we liberated from the communist regime and she was singing at the concerts and manifestations, she's been very modern. But during the last pride, she put a post on Facebook saying that that it's not OK, people are seeing this, this is very anti-traditional family values. Which is very weird because most of the LGBT community, especially those who are 30, 40, 50 years old, are very big supporters of her because she's a progressive. And now she's saying this, and we initiated a case under this Act, and we're waiting for a decision.

ALIYA

OK, and how long do decisions usually take to come out?

INTERVIEWEE

It depends because the Commission is working very slow. I submitted a complaint about a year ago a little bit after pride, and the case started, like they reached our document [...] about five months ago. So for a very basic thing like a post on Facebook, even this, the procedure is very slow.

ALIYA

OK, OK, I understand. That's a really interesting case, I'm sure that you've worked with a bunch of cases very similar to it. Is there any way for me to access these cases and look at the decisions?

INTERVIEWEE

No, the Commission doesn't post the decisions which is a big problem. But I can search if we have them somewhere here and I will ask our lawyer and forward them to you, but they're in Bulgarian.

ALIYA

I think it would be interesting to try to assess like how often cases, for example of online hate speech or of hate speech in person, are successful.

INTERVIEWEE

You can ask [...] for this. They have a lot of expertise on this [...]

ALIYA

OK, perfect, perfect. That'll be really helpful. And just like in your experience, without looking at the decisions, I know you've been working here and you're immersed in this environment, would you say that hate speech cases that are pursued through the Anti Discrimination Act are usually successful, or usually unsuccessful?

INTERVIEWEE

It depends on the on the grounds of discrimination. For example, for us like the LGBTI cases are like 50/50, I really can't decide if they're more positive or negative. Another concern is very interesting is, we have a Macedonian community in Bulgaria, I don't know if you're aware about the situation between Bulgaria and North Macedonia.

ALIYA

I've heard here and there.

INTERVIEWEE

Yeah, OK so, Macedonia is a relatively new country. Before its territories were part of Greece, Serbia, and Bulgaria. And Macedonia started claiming the history of the three countries and saying that it's their history, which is a very big issue. We have working groups on the state level, and there are a couple of North Macedonian groups who want to form like NGOs in Bulgaria, and the court doesn't want to register them, and they said that this is anti the Bulgarian order, which is basically discrimination. But like I understand there is prejudice, but there are no official grounds to deny such registration so these are the recent most negative decisions.

ALIYA

OK, OK, I understand. I guess I'm just wondering, then, because it seems like you guys are constantly filing under the Anti Discrimination Act and the results are 50/50 a lot of the time, if I understand correctly, because of the general hesitancy and lack of knowledge in the judges and decision makers about LGBTI issues, so, this is like kind of my main question, what recommendations would you make with regard to Bulgaria's framework for hate speech? Both, let's say the anti discrimination law and would you want to add other grounds to the criminal law? Would you think that that would be effectively implemented? How do we deal with judges or decision makers who are unaware of these issues?

INTERVIEWEE

Yeah, so one of our main goals as an organization is to include crimes based on sexual orientation and gender identity because, like Article 162 is the least of our problems. There is murder, violent crime. But we're hoping that this could be implemented soon, there are some

working groups with people from the NGOs and from the government, but things have been moving very slowly. Another problem that we have is that the Criminal Code and the Anti Discrimination Act includes only personal responsibility. So there must be a person who has said something and you prosecute them. But usually, for example during the election, or during the pride month, a lot of organizations and political parties use their, for example, Facebook profiles and say something discriminatory. For example, now we have Sofia Pride Film Fest, and one of the nationalist parties put on their page that there is going to be a movie about gay people, we should go there and boycott it and get inside and in the cinema when the movie was showed, a lot of people from the party came and people got scared, but you can't prosecute anyone because it's on the Facebook page of the party, the group. Under our law, in my experience, because I have participated in moot courts in International Criminal law, there you have the group and the person who is responsible for the group, for example, the party leader should be responsible for this, but this is not an option in any legal act. So there is this discriminatory post for incitement for some kind of violence and you can't do anything.

ALIYA

OK, yeah, that's a really big problem. You have more experience in this than I do, so in other countries that you said that there are party leaders sometimes who are responsible, is there a way also to just hold a group accountable? Like for example, if you're pursuing under the administrative court with the anti discrimination law, you're looking for money, could you pursue the political party as, like, a corporation?

INTERVIEWEE

No, it's only a personal responsibility.

ALIYA

OK.

INTERVIEWEE

This this huge problem because usually during the elections or during the Pride Month, a lot of parties incite violence and we can't do anything about it.

ALIYA

OK, yeah, that's a big problem. So you would say like a recommendation is to hold party leaders or individuals within parties responsible for these posts on social media. And these posts are on like the party page, not like individual pages.

INTERVIEWEE

Yeah, yeah.

ALIYA

OK, and aside from these more legislative changes, I know that education is a big component, even just the reporting of hate speech and hate crimes is very low. Are there any solutions or recommendations that you would propose to tackle that?

INTERVIEWEE

What we are doing is that we're organizing police trainings, we're trying to reach, for example judges or prosecutors, but it's harder to get into the system. But we're hoping that at least working with the police officers, they will know how to react when there is some situation and the community will trust the police officers more, because now the reporting is low and the reason for this is because the community doesn't trust the system.

ALIYA

OK.

INTERVIEWEE

So it's a whole thing, for example, a normal person who doesn't study law doesn't make a difference between police officer, prosecutor, or judge. They're just people of the State and we don't trust them, which is the issue.

ALIYA

And that's particular for like heightened for the LGBT community here?

INTERVIEWEE

Yeah, but I think for example, the refugees are afraid also to report and the Roma people. Because usually with the Roma people, there are some cases when a woman goes to the police officer and says [she] has been raped, and the police officers say I don't believe you, you just want to get money and that's it.

ALIYA

OK, OK. So these sorts of trainings, especially for police, because oftentimes police are like the first point of contact when there's a crime or when there's when something bad happens, so that would be really important. From what I understand, of course hate speech in person is a huge issue, but there are ways to tackle that, when political parties or groups online are the ones inciting violence and there's no way to hold them accountable, that's a big problem, because it also sends a message that saying these things, you know if a political party says this, then it's OK for anyone else to say it and act on it.

INTERVIEWEE

Yeah, and maybe there should be, because when a political leader says something discriminatory or something regarding hate speech, they should be held more accountable or bigger punishments, because the risk for the community is higher than some normal people in person on the street.

ALIYA

Yeah, definitely. It seems that the legislation, especially in Bulgaria, but I think it's a problem across the world, is that there's really no way, or it's very difficult to hold people accountable for online hate speech. A lot of the time we just leave it to Facebook or big corporations to be the ones to say OK, I'm going to take this post down, but then there's no real punishment for the people who've said it. So yeah, there has to be some sort of framework.

INTERVIEWEE

But on the other hand, it's easier to prove something which is posted online than something which is said verbally.

ALIYA

Right, because you can take a screenshot of it and show someone.

INTERVIEWEE

So, I will send you the PDF file of cases for online hate speech and see which pages you can read, and actually, which is not part of your research, but I was searching for cases and I found the name of one of my colleagues from university who is part of those nationalistic parties, [...] it turned out that that he was handling homophobic flyers to people. So it's very interesting, this person is a lawyer and he's doing this, so you can see this kind of hate speech in every aspect of the society.

ALIYA

Wow, wow. And was he punished for it?

INTERVIEWEE

I don't think so. I don't know if there is even a case for this.

ALIYA

Well, it seems like just in general, hate speech extremely common because I know, at least for me, it's an adjustment to understand that because in Canada, hate speech exists, but there are strict mechanisms in place to hold people accountable. [...] While I'm here, we might as well discuss, in general, the situation in Bulgaria with regards to LGBTI people. I hear it's not the

best, mostly with regard to public perception, but what are the biggest challenges that Deystvie handles?

INTERVIEWEE

First of all, you can come to our pride. So we're working like with hate speech, hate crimes, but mostly we work on a lot of trans cases, but actually most of them are very successful. Have you heard of the Istanbul convention?

ALIYA

I have heard of it.

INTERVIEWEE

Yeah, yeah, it's regarding domestic violence [...]. The word gender, like gender based violence is written in the Convention and our political parties, like the one who are [handing out] homophobic flyers, said with this word “gender” that Europe and the USA want to influence our legal system. So, for example, same sex marriage is to be allowed or something like this and a lot of people got scared.

ALIYA

Even though it has nothing to do with it.

INTERVIEWEE

Yeah. And there was a case before the Constitutional Court because our Constitutional law only interprets the law and says if a certain law is against an existing law. And the Constitutional Court said that the word gender could open the doors for same-sex marriages or to people changing their gender. So, the Constitutional Court is full of academics, but they are over 60-70 years old. So, it's understandable. And when this poor decision came in force, we started receiving more negative decisions regarding our trans cases. From the Istanbul convention, there came the term “gender”, like gender is a dirty word, and if somebody is from the LGBTI community, a lot of people call them “genders” like an insult, which I don't understand it, but people are just not aware of the terms and their meaning, and they just repeat what they see on Facebook for example. So, “genders” is an insult and also part of the hate speech.

ALIYA

So, you deal with more criminal cases?

INTERVIEWEE

No, more administrative and civil cases. And on the Anti Discrimination Act also, but our lawyer doesn't want to work with criminal cases because usually somebody said something, somebody

feels bad about it, and sometimes both of the parties are guilty and in the courtroom they're fighting – it's not a great experience. But we have some cases. We also have some cases for recognizing recognizing same-sex marriage. Currently, we have a case in front of the European Court of Human Rights of two girls which are called Lily and Dari, there are a lot of articles about them on the Internet, and we won a very big decision before the Court of the European Union regarding a baby with two mothers, so the baby will have a birth certificate, but now the municipality needs to change their orders, so the law will be changed and the baby would get the birth certificate finally. Because the baby is three years old and she doesn't have citizenship and she's in Spain and can't get out, she can't go to Kindergarten because officially she doesn't exist in the legal system. So, I actually came to Deystvie because I wanted to work in the criminal field, but it turns out there are many interesting things besides criminal law.

ALIYA

Yeah! And the trans cases that you deal with, do they have to do with changing pronouns on legal documents or discrimination?

INTERVIEWEE

No, it's about changing documents. We don't have pronouns in the documents, we are changing the name and we have a personal identification number [...] it's 8 numbers, and one of the numbers shows if they're a girl or a boy, so this is the reason we're changing it, and the sex in the document.

ALIYA

That's really interesting. So, are you guys advocating for any specific legal reforms and legal changes? I know that you're clearly advocating for the insertion of LGBT or sexual orientation and gender as grounds for different [hate] crimes.

INTERVIEWEE

Recognizing same sex marriage, the rights of same sex parents, because we have the court decision but nobody is making anything in the State. And with the trans law, there is no official procedure for how you can change your documents, but it's not forbidden by the law and it doesn't exist in the law so there is a lacuna there. And we are working around the law and mostly we get positive decisions, but after the Istanbul convention we have little problems, but we are working towards this. We want for the trans people [to have] a legal procedure [for] how they can change their gender.

ALIYA

How have you been doing it thus far?

INTERVIEWEE

It's very hard because the State doesn't want to work with us because mostly we have to work with the National Assembly, the Parliament, but the people from the Parliament don't want to interact with us or like they're interacting but not officially, they don't want to show their support for the LGBT community because they will lose votes. And nobody wants to introduce a bill in the Parliament.

ALIYA

So like if a trans person comes to you and says I want to change my legal documents, how do you get that to happen?

INTERVIEWEE

There is a legal act for civil registration [...], like what your documents contain. And they come here, and in the law, it's written if you want to change your name because you got married and you got your last name hyphenated for example, or some other grounds, you just go to the municipality, you submit your documents and they change your documents. But, gender identity or sex on the documents is not included on that list, so we say if it is not an administrative procedure then we go before the court. And it's not written that you go before the court in order to change your documents based on your sexual identity, but it's not forbidden by the law, so we go there.

ALIYA

And I guess after the Convention they've been a little more unsuccessful. Do you have to prove anything before the court?

INTERVIEWEE

Yeah, so the person who wants to change their documents has to undergo a psychological evaluation to see if they really feel like they're the other gender. And some courts want to prove that you have already started taking hormones, and, for example, if you're biologically a woman, you can't have kids because of the hormones, like your reproductive system has changed, which is, I think, against the rules set by the European Court of Human Rights, but they still do this. And the problem is that the court wants you to have started taking hormones. But officially, a doctor can prescribe hormones because the hormones harm your reproductive system, which is a crime. And it's like a vicious cycle and usually the patients make their own schedule, they take hormones how they like or if they have read something on the Internet, which is not good for their health, but they're still doing it because there is no other way.

ALIYA

How do they obtain this if it's not prescribed?

INTERVIEWEE

I don't know. I have no idea, the other girl who is working here deals with trans cases mostly, but usually when they come to us, they have already started their hormonal treatment so we just don't ask. There are some doctors who [provide hormones] under the table, but it's not official.

ALIYA

Wow, I didn't know any of this. That's really informative. Because in Canada we have like relatively strong same sex marriage frameworks, pride is really, really big and in general, there's a lot of public support for the LGBT community, so it's a very different culture.

INTERVIEWEE

How many cities do you have pride?

ALIYA

Oh my gosh, let me look it up.

INTERVIEWEE

So there are a lot, because here we have the one in Sofia [only]. Veneta, the chairperson of Deystvie, organized Pride in Plovdiv and Burgas, but there were about 20 people and there was an anti-protest which was 100 people, mostly guys with black hoodies who wanted to beat them and the police officers couldn't separate the two groups. There was a lot of fighting and violence happening in those Prides, but the one in Sofia is totally safe. Last year there were about 10,000 people.

ALIYA

Wow, very nice! [...]

INTERVIEWEE

A friend of mine, because I did my Erasmus in Italy, and a friend of mine shared a map of Italy, like the cities where they have Pride, and I was very surprised, because Italy is not very big but they have many.

[...]

INTERVIEWEE

Last month, our organization was in Berlin and we met the organizers of Berlin pride and they said that usually there about like thousands, thousands of people and they closed all the main streets and it's a big party, and here the Pride is just in the park. So, we have goals and I hope that

in a couple of years the pride will get bigger and bigger [...] but we have a relatively short history of Pride.

ALIYA

Exactly, when was the first pride in Sofia?

INTERVIEWEE

This year is the 15th edition.

[...]

ALIYA

I think the last question would really be [...] I know that there's no definition of hate speech, nowhere in the EU or in the European Council.

INTERVIEWEE

Actually there's an official definition in one recommendation, in recommendation R. 9720 given by the Committee of the Ministers of the Council of Europe.

ALIYA

But would you say that, [...] how would you define hate speech, and does it always need to be inciting violence or could it be just discriminatory?

INTERVIEWEE

It could be just this discriminatory because it's in the Anti Discrimination Act, so violence is not needed, it just needs to be connected to hatred or intolerance.

ALIYA

Yeah, I guess it's very different when you're suing under the administrative court versus in the Criminal Court because it would take a lot a lot more to criminally sanction someone for saying something.

INTERVIEWEE

Yeah, because they go to jail. In the administrative procedure, you just get money.

ALIYA

I'm just trying to assess how common hate speech is in Bulgaria, and especially how common it is towards the LGBT community. Are there a lot of cases and instances, [...] would you say that it's very common?

INTERVIEWEE

It's very hard because a lot of people just say something in the conversation and it maybe it happens very often because usually I can't even recognize it as hate speech [...] I think our society in general in Bulgaria is very closed-minded because some people are still living in the Communist period. People accept very hard people from the LGBTI community, the refugees, because there is this separation between us and them. For example, "why did the refugees need that much money, they take our pensions and salaries, it's it's better to give them to Bulgarian moms than Ukrainian moms". People are very angry and want everything for themselves, they don't hate the other communities, they just think that they're better than the other communities and they should get more.

ALIYA

Okay, that's a very fine line, between hating and thinking that you're better.

INTERVIEWEE

Maybe because they don't understand what do other communities need or for example, many people don't know that they have met an LGBTI person because many people are not open, and they're like "in my circle there are no such people, my kid won't be like this because I will teach him to be straight." People just don't know how the things work. But I think the new generation like our age and younger are going to be better. Because we have the Internet, TikTok, more education and awareness [...]

ALIYA

Ok, that's really insightful [...]. It just seems like there's a big divide between judges, and people in government [from reality]. Like you were saying, if a case goes to court and it's about discrimination that an LGBT person has faced, and a judge just doesn't know how to deal with it, it seems like there's a big problem with competence and knowing how to properly address these issues. So, you're starting with the police with your police trainings, but would you say that it has to be implemented somehow in like a judges education? It makes me think of when I was speaking with the other organization and they were saying how topics like discrimination and hate speech, and just in general, knowledge of other cultures is not part of the school curriculum. Not even like from a young age in elementary schools, so it's difficult when you get to the point of being a judge and you haven't learned anything about other communities. So like I guess my question is, how do you fix that gap in knowledge?

INTERVIEWEE

So, I don't know how this could be implemented in school, like for example in high school because we don't have trained teachers for this. Since last year, there is a subject called civic

education which is one year, and [...] we have this thing called philosophic cycle which in 8th grade to study psychology in 10th grade to study philosophy in 11th grade you study civil civic education, etc. These teachers who are teaching these subjects have diplomas from, like they studied philosophy, psychology, they are not very well educated on the legal system. I don't think that this thing could be implemented in schools because the schools don't have much funding to get more teachers. But in university when you study law, you have to have these kind of subjects. Because I have like one subject on human rights and it wasn't compulsory and there were like 20 people in the room and all the law students in my year, we are about 400. And there were twenty people studying this subject which is nothing. In University there should be a subject regarding human rights and what is discrimination like how our law works. And I think judges and people who work for the State should have more trainings during their years of work. Because the law develops, the needs of the society develop. So I think this is also a very good option.

Last year I don't know if you heard about what happened in the Community Center Rainbow Hub. [...] We had presidential elections, and one of the people who were running for president went to Rainbow Hub with a bunch of guys, destroyed everything, and hit one of the girls who was trying to stop them. Now there is a pending criminal case for the hearing, and I was in one of the hearings, and the judge wanted to help, like wanted to give a positive decision, we're still waiting for a decision the case is not closed, but he doesn't know what is happening in general. He asked the girl who was hit, "what were you wearing" and she was like "I don't know I wear jeans and shirts". And he's like, "I'm sorry, are you a lesbian?", and she's like "first of all, you don't ask such things, second of all, yes I am but this is not connected to the case", "OK but how do lesbians dress up?". Like, he's not mean, he's just interested in the topic in general, but he doesn't know how to put the questions out there so even if the person is good and he wants to help you, he just doesn't know how. Because I'm sure he was thinking this is the first time he's meeting a lesbian, and I'm sure that this is not true.

ALIYA

OK I understand. That's just really interesting, because I know where I'm from, there are mandatory, in our high school and even elementary school curriculum, we learn about these things, there's mandatory ethics classes [...] and for judges, I know there are specific trainings with regards to different target groups. But that's really interesting. See, that's the problem, because there are people who are good and who want to be helping and who are trying their best, but if you don't know what questions to ask, it's really difficult.

INTERVIEWEE

Yeah, everybody in the room understood the situation, the girl wasn't feeling insulted or anything, but it was very funny, I was sitting on the bench in front of him and I was like oh my god what is going on, I still have notes from that hearing. [...]

ALIYA

Is there any way I can access that?

INTERVIEWEE

They must, I have to check because usually the court is obliged to upload the minutes from the hearing, but usually they don't. But now I will try to find it.

ALIYA

It's OK, worst case I'll just use your testimony. Thank you so much. [...]