

**Internet Governance Forum, fifth edition  
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Joint OSCE/CoE Open Forum

**Balancing the governance of hate speech and freedom of  
expression / the free flow of information on the Internet**

(15 September, 11:30 to 13:30, Room 1)

**Speech by Ms Maud de Boer-Buquicchio,  
Deputy Secretary General of the Council of Europe**

Ladies and gentlemen,

The Universal Declaration of Human Rights starts by stating that "All human beings are born free and equal in dignity and rights".

Freedom and Equality are indeed two fundamental values that nurture our identity as individuals and as members of a group.

It is not by accident that the worst pages of our history are the result of people's refusal to accept the difference. The fear of the difference is sometimes cultivated create the anxiety that will ultimately justify the domination and even elimination of the other as a self-defence act.

Hate speech is a direct attack to the right to be and to think differently. It does not stop at rhetoric, as it has the potential to shape minds and attitudes of individuals who will believe they have the right to undermine other people's rights. It can encourage people to enrol terrorist groups, to alienate a minority, to exterminate the difference. For the Council of Europe, hate speech is something to be monitored and eliminated, including on-line. This statement may offend, shock or disturb those who prefer preserving a boundless freedom of expression. But our society cannot afford the freedom to oppress. Instead, we have to strike the adequate balance between rights and freedoms.

With internet, hate speech has acquired a huge potential outreach “without interference and regardless of frontiers”. International cooperation and common minimum human rights standards must be our starting point in balancing the governance of hate speech and freedom of expression on the Internet.

In 2009, the Council of Europe marked 60 years of defining the boundaries of the rights and freedoms spelled out in the [European Convention on Human Rights](#).

Already in 1997, the 47 member states of the Council of Europe agreed that hate speech – on and off the Internet - should be “understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism 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”.

The European Court of Human Rights has since applied this term in its judgments.

In 2003, the Council of Europe adopted the Protocol<sup>1</sup> to the Convention on Cyber Crime<sup>2</sup> which criminalises the dissemination of racist and xenophobic material via the Internet, as well as of racist and xenophobic-motivated threats and insults.

In 2007, the Council of Europe’s Parliamentary Assembly proposed the criminalisation of statements which incite hate, discrimination or violence against individuals or groups for religious or other reasons. The Venice Commission concluded that in a democracy religious groups must, as any

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<sup>1</sup> 18 ratifications and 16 signatures.

<sup>2</sup> 30 ratifications and 16 signatures.

other groups, tolerate criticisms in public statements and debates related to their activities, teachings and beliefs, as long as the criticisms do not constitute deliberate and gratuitous insults or hate speech, an incitement to disturb public order, violence or discrimination towards people who adhere to specific religions. Also in 2007, the European Commission against Racism and Intolerance recommended criminalising expressions which can be considered racist speech, notably when it intentionally and publicly incites to violence, to hatred, or discrimination on grounds of race, colour, language, religion, nationality or national or ethnic origin.

In 2010, the 47 member states of the Council of Europe adopted a common position to combat expression likely to incite, spread or promote hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. They stated that such "hate speech" should be prohibited and publicly disavowed whenever it occurs.

So we can see that freedom of expression is not an absolute right for the Council of Europe.

We are certainly convinced that freedom of speech and expression protects freedom in Europe. It is the very essence of our European identity. Our liberal and secular cultures demand discussion of differences. Freedom of speech and expression is the means by which we are able to integrate the different cultures, traditions, religions and beliefs into a common European home; but at the same time, we cannot allow incitement to violence and hatred.

I vigorously defend both the right to criticise governments, political leaders, religions, their myths and their ideas, as much as the right of people to protest – peacefully – against such free expression, whether in articles, television programmes, art or cartoons, or even on the Internet.

As a watchdog for our democracies in Europe, it is the business of the Council of Europe to make sure that the Internet is a space in which we can work, learn and play with confidence and trust; a space where people are not threatened or discriminated.

So in striking a balance in governing hate speech and freedom of expression on the Internet let me leave you with a few questions to consider:

What responsibilities do private sector Internet intermediaries have in the provision of communication services, such as social networking sites?

Do we need a code of ethics for private sector Internet intermediaries, just like we have for the traditional media?

Is the Protocol to the Convention on Cyber Crime which criminalises the dissemination via the Internet of racist and xenophobic material the focal point for a global benchmark and, if not, what do we need to do to make it so?

And a last question: Are we doing enough to educate children and adults alike to use internet in a responsible way and to identify and combat hate speech?

Ladies and gentlemen,

The first Article of the Universal Declaration of Human Rights states that all human beings are "endowed with reason and conscience and should act towards one another in a spirit of brotherhood". Let's use our reason and our conscience to make Internet the space we need: a platform for a universal brotherhood that guarantees both freedom and equality for all.