



# EDF Recommendations on EU initiatives on hate speech and hate crime

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## About the European Disability Forum

The European Disability Forum (EDF) is an umbrella organisation of persons with disabilities that defends the interests of over 100 million persons with disabilities in the European Union. We are a unique platform which brings together representative organisations of persons with disabilities from across Europe. We are run by persons with disabilities and their families, and as such represent a strong, united voice of persons with disabilities in Europe.

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## Summary

The European Disability Forum welcomes the [commitment of the European Commission to protect the rights of victims in the European Union](#) (EU) and the initiative to extend the list of EU crimes in Article 83(1) of the Treaty on the Functioning of the European Union (TFEU) to hate speech and hate crime.

Similar to other discriminated persons in the EU, persons with disabilities are at higher risk of being victims of hate speech and hate crime. In general, persons with disabilities, including women with disabilities, and persons with intellectual and psychosocial disabilities, are at higher risk of harassment, violence and crime, including within the digital world. According to data published by the Fundamental Rights Agency of the European Union (FRA), 50% of persons with disabilities have reported being harassed over a 5-year period, comparing to 37% of persons without disabilities.

Yet, disability related hate speech and hate crime are not recognised and sanctioned as such by all EU Member States. In addition, persons with disabilities continue to face barriers in reporting offences due to a multitude of barriers in the justice system. This leads to lower reporting

and limited data on hate crimes and hate speech faced by persons with disabilities in the EU.

In this submission, EDF calls on the EU to extend the list of EU crimes to cover hate speech and hate crime beyond the grounds covered by [Framework Decision 2008/913/JHA](#). The list of EU crimes and EU legislation and initiatives to combat hate speech and hate crime should cover the grounds of disability, age, gender and sexual orientation (in line with list of discrimination grounds under [Article 19 TFEU](#)).

This will contribute to the implementation of the **UN Convention on the Rights of Persons with Disabilities** (CRPD) ratified by the EU and all its member states and the [Disability Rights Strategy 2021-2030](#)<sup>1</sup> and [Victims' Rights Strategy 2020-2025](#). Article 16 of the CRPD requires parties to the Convention “to take all legislative, administrative, social, education and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.”

## Hate speech and hate crimes against persons with disabilities

There are over 100 million persons with disabilities in the European Union, 60 million of them being women and girls with disabilities. Persons with disabilities are more at risk of being victims of violent crimes, **including hate crimes**, than other persons,<sup>2</sup> and to face **harassment, hate speech and ableist** comments in their daily life. For example:

- 50% of persons with disabilities report experience of harassment, comparing to 37% of persons without disabilities (over a 5 year period)<sup>3</sup>
- 17% of persons with disabilities experience physical violence, comparing to 8% of persons without disabilities<sup>4</sup>

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<sup>1</sup> In the Disability Rights Strategy 2021-2030, the EU committed to ensure the safety and protection of persons with disabilities, including through guidance to Member States and practitioners.

<sup>2</sup> [EU Strategy on victims' rights \(2020-2025\)](#)

<sup>3</sup> FRA, [Fundamental Rights Survey: CRIME, SAFETY AND VICTIMS' RIGHTS](#) (2021), page 22.

<sup>4</sup> Ibid, page 18.

- Women with disabilities are two to five times more likely to face violence than other women, and 34 % of women with a health problem or a disability have experienced physical or sexual violence by a partner in their lifetime.<sup>5</sup>

## Legislation and policies addressing hate crimes on the grounds of disability

Not all EU Member States have legislation addressing disability based bias motivation in hate crime. In 2014, **only 13 EU Member States explicitly addressed bias based on disability in their criminal code.**<sup>6</sup> Of these, only a few separate the hate motivation from the basic offence by using enhanced penalties to stress the severity of bias-related offences.<sup>7</sup>

Official statistics on disability-related hate crime are not available in most EU Member States. Where such statistics do exist, they are not always disaggregated according to bias motivation, type of crime, gender or age of the victim.<sup>8</sup> Data from 2016-2017, show that **only 5 EU Member States disaggregated data on hate crime by disability as a bias motivation.**<sup>9</sup>

## Examples of hate crimes against persons with disabilities in EU Member States

The Organisation for Security and Co-operation in Europe (OSCE)'s [collection of hate crime data](#) gives an overview of the multiple forms of hate crime and hate speech faced by persons with disabilities in the EU. For example, in 2019, 21 hate crimes against persons with disabilities were reported.<sup>10</sup> The figure may appear small but may be

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<sup>5</sup> European Parliament resolution on the situation of women with disabilities (2018/2685(RSP)).

<sup>6</sup> Austria, Belgium, Croatia, Finland, France, Greece, Hungary, Lithuania, the Netherlands, Romania, Slovenia, Spain, and the United Kingdom

<sup>7</sup> FRA, [Violence against children with disabilities: legislation, policies and programmes in the EU](#) (2015), pages 9 and 38.

<sup>8</sup> Ibid, page 39.

<sup>9</sup> Denmark, Finland, Hungary, Netherlands and Spain. See FRA, [Hate crime recording and data collection practice across the EU](#) (2018), pages 24-25.

<sup>10</sup> OSCE, [2019 Hate Crime Data Now Available!](#)

explained by the low reporting of persons with disabilities and the lack of disaggregated data gathering.

Some of the examples below come from the OSCE covering the period 2016-2019 and others are information provided by EDF members.

They include threats and attacks against persons with disabilities, and attacks against properties used by persons with disabilities. Several examples show that the crimes may have been based on more than one bias, such as disability and ethnic origin, migratory status, religion and sexual orientation.

## Austria

- An Afghan man with disabilities was subjected to racist insults and physically assaulted by police at a police station (2018).

## Belgium

- Five men, between 18 and 23 years old, were charged guilty for the murder of Valentin – a 18 years old boy with intellectual disability. The victim was abducted, raped and tortured.<sup>11</sup>

## France

- A French blogger with a cerebral-motor disability, on the international day of people with disabilities, received threatening messages like “Kill yourself”, “We should gas you” and “Warning: retarded”. (2019)<sup>12</sup>
- Nine to thirteen persons, aged 15 to 19, were arrested for the kidnapping and torture of a young man with intellectual disability. (2018)<sup>13</sup>

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<sup>11</sup> <https://france3-regions.francetvinfo.fr/hauts-de-france/belgique-cinq-jeunes-reconnus-coupables-torture-viol-meurtre-valentin-deficient-mental-1687504.html>

<sup>12</sup> <https://www.ladepeche.fr/article/2015/12/04/2231275-suicide-svp-faut-gazer-alerte-debile-mental-youtubeur-handicape-face.html>).

<sup>13</sup> [https://www.infonormandie.com/Un-jeune-handicape-victime-d-actes-de-torture-et-de-barbarie-13-suspects-en-garde-a-vue-a-Bolbec\\_a19022.html](https://www.infonormandie.com/Un-jeune-handicape-victime-d-actes-de-torture-et-de-barbarie-13-suspects-en-garde-a-vue-a-Bolbec_a19022.html))

- An autistic boy was harassed by two of his classmates. (2021)<sup>14</sup>
- A young man with intellectual disabilities was humiliated and beaten. It was filmed and put on Snapchat. He was beaten on the face, burnt with cigarettes and forced to drink urine. (2021)<sup>15</sup>

## Greece

- Facilities enabling beach access for people with disabilities were destroyed. (2016)
- A person with Down syndrome was physically assaulted in a residence for people with disabilities. (2016)
- A man with disabilities was insulted and physically assaulted while requesting access to a dedicated parking space. (2017)
- A school for children with visual and hearing impairments was vandalised and burglarised, causing damage that was disproportionate to the theft. Children's lockers and television sets for people with hearing impairments were destroyed, door locks were broken and equipment was stolen. (2019)

## Germany

- A Muslim woman's two young children were physically assaulted when the perpetrator pushed a wheelchair user into them because their mother was wearing a headscarf. (2019)
- A male Libyan asylum seeker who uses a wheelchair was subjected to anti-Arab insults, repeatedly punched in the face and, after falling out of his wheelchair, was repeatedly kicked while lying on the ground by a group. The victim sustained injuries. The main perpetrator, who has a far-right background and had been implicated in previous racist attacks, was prosecuted for a racist and disablist hate crime. (2019)

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<sup>14</sup>[https://actu.fr/ile-de-france/provins\\_77379/provins-un-lyceen-handicape-victimede-harcelement-scolaire\\_39960065.html](https://actu.fr/ile-de-france/provins_77379/provins-un-lyceen-handicape-victimede-harcelement-scolaire_39960065.html)

<sup>15</sup><https://www.leparisien.fr/faits-divers/territoire-de-belfort-un-handicape-humilie-frappe-et-violente-par-ses-bourreaux-01-02-2021-8422501.php>

## Italy

- Two girls, one disabled and one of African descent, were subjected to threats and bullying by a group at school. (2017)
- A male LGBTI activist was subjected to homophobic and anti-disability insults and physically assaulted in the street. The victim was hospitalized. (2018)
- A Moroccan man with disabilities was subjected to racist and disablist insults by a group while dining with his family in a restaurant. The perpetrators then threw bottles at him and another Moroccan man. Both victims sustained injuries, including nasal and cheekbone fractures and a head injury, and were hospitalised. (2019)
- A family of foreign nationals was subjected to racist and disablist insults, threatened and harassed by their neighbours, who tried to make them move home. Police opened an investigation into a potential hate crime. (2019)
- A woman was subjected to racist and disablist insults and run over by a motorbike while standing in a parking lot with her children, one of whom has autism. The female victim was hospitalised. (2019)
- A man of Moroccan descent who uses a wheelchair was subjected to racist, xenophobic and disablist insults and spat at by other passengers on a tram. The perpetrators accused the victim of delaying the tram's departure while he fixed his wheelchair in place, as required by law. (2019)
- A 22-years old girl with intellectual disabilities was raped. The police arrested two men and a woman charged with sexual violence, kidnapping, injuries, revenge porn and stalking. (2021)<sup>16</sup>

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<sup>16</sup> [https://www.ilmattino.it/caserta/violenza\\_sessuale\\_di\\_gruppo\\_a\\_maddaloni\\_oggi\\_arresti\\_ultime\\_notizie-5723415.html](https://www.ilmattino.it/caserta/violenza_sessuale_di_gruppo_a_maddaloni_oggi_arresti_ultime_notizie-5723415.html)

- Three young men were arrested for torture on people with disabilities. The victims were filmed while they were tortured, and the images spread on social media. (2021)<sup>17</sup>

## Ireland

- A man of Chinese descent, who has a disability, was subjected to racist insults and had his medication stolen by colleagues at work. (2019)

## Poland

- A girl with Asperger's syndrome was threatened and humiliated when the headteacher at her school subjected her to insults, took off his belt, used it to repeatedly hit a chair and pulled the victim to the floor. The incident occurred in a locked room in the presence of a teacher, who was laughing. The girl was continuously subjected to disablist insults and threats by the headteacher, a teacher, classmates and parents at the school. (2019)

## Spain

- A school for students with disabilities was covered in racist and disablist graffiti (2016).
- A man with an intellectual disability was kept prisoner in a building and was victim of several humiliations following a challenge on social media. (2021)<sup>18</sup>
- Two men of 20 and 23 years old have offered money for doing push-ups to a 58-years old man with a 60% degree of intellectual disability. The two men filmed him and published it on Instagram.<sup>19</sup>

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<sup>17</sup><https://www.agrigentonotizie.it/cronaca/disabili-torturati-arresti-licata.html>

<sup>18</sup> <https://www.mallorcadiario.com/detenidos-tortura-discapacitado-manacor> -

<https://elpais.com/sociedad/2021-03-09/siete-detenidos-por-secuestrar-y-vejar-durante-dos-dias-a-un-chico-discapacitado-en-mallorca.html>

<sup>19</sup> <https://www.diariosur.es/sucesos/detenidos-subir-instagram-video-hombre-discapacidad-20210325134927-nt.html>

- Four people were arrested for hate crimes against a person with intellectual disabilities. The person was attacked and screamed at “abnormal, we are going to kill you”.<sup>20</sup>

## Hate speech and hate crime in digital environments

Persons with disabilities are also at higher risk of facing hate speech, violence and abuse online. According to recent research, the cases of online hate crimes against persons with disabilities are growing, according to research.<sup>21</sup>

This explains why in the Council of Europe report on children with disabilities in the digital environment,<sup>22</sup> all interviewed children were unanimous in saying that they did not disclose their disability online, because of fear that so doing would lead to discrimination or rejection. Moreover, for many children and young people with disabilities, cyber-bullying is an extension of face-to-face bullying that makes them afraid of using digital platforms.<sup>23</sup>

More concrete examples of abuses and hate speech can be found on the BeSafe project report,<sup>24</sup> which collects cases of persons with intellectual disabilities online, including unwanted publication of photos, privacy issues, harassment, money extortion, and cyber-bullying, among others.

## Barriers in reporting hate speech and hate crime

Persons with disabilities victims of crimes, including hate crime or hate speech, have difficulties to report the offence due to a variety of barriers that are not adequately addressed by EU Member States.<sup>25</sup> This can explain the level of underreporting and the limited data available on persons with disabilities who have been victims of hate speech and hate crimes.

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<sup>20</sup> <https://www.elmundo.es/madrid/2019/04/11/5cae1820fc6c83f0288b462b.html>).

<sup>21</sup> <https://www.leonardcheshire.org/about-us/our-news/press-releases/online-disability-hate-crimes-soar-33>

<sup>22</sup> <https://www.coe.int/en/web/portal/-/two-clicks-forward-and-one-click-back-children-with-disabilities-reveal-their-experiences-in-the-digital-environment>

<sup>23</sup> <https://www.anti-bullyingalliance.org.uk/sites/default/files/field/attachment/disabled-young-peoples-views-on-cyberbullying-report.pdf>

<sup>24</sup> <https://www.inclusion-europe.eu/be-safe/>

<sup>25</sup> See [EDF recommendations on the EU Strategy on Victims' Rights \(2020-2024\)](#) (2020)

## Lack of awareness of the victims

In some cases, victims with disabilities may not be aware of their rights and how to file a complaint, or believe that the crime may not be regarded as serious enough, or that the complaint would not be believed because of their disability.<sup>26</sup>

This specifically affects women with disabilities, children with disabilities and persons with intellectual or psychosocial disabilities, in particular those placed under guardianship and other regime depriving them of their legal capacity. They may also lack the adequate support in their daily life to report the offence, especially when the perpetrator is someone they know.

In addition, persons with intellectual disabilities do not always realise that they have been victims of hate crime, or have come to accept such incidents as part of their daily lives.<sup>27</sup>

## Segregation and exclusion

Persons with disabilities within segregative environments, such as institutions and group homes, can have difficulty in reporting crimes – particularly if the perpetrator is an employee of the institutional or group home. Often, incidents that occur within such environments lead to a bureaucratic/administrative response, such as moving the perpetrator to a different area of work.

## Physical and communication barriers

Inaccessibility of the built environment, such as inaccessible police station and courts, and of communication with people working of the justice system, create difficulties to report, investigate and sanction the offence. In addition, complaint procedures are not always accessible for persons with intellectual disabilities, Deaf, Blind or Deaf-Blind victims, where information is not available in Easy to Read, Braille and/or sign language.

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<sup>26</sup> FRA, [Equal protection for all victims of hate crime: The case of people with disabilities](#) (2015), page 3.

<sup>27</sup> Mencap, 1999; Joint Committee on Human Rights, 2008

First responders, such as police, are not trained in disability equality and are not prepared to carry out access audit to determine the accessibility of the police/prosecution/victim support process.

## Bias, myths and stereotypes

Bias, myths and stereotypes on persons with disabilities led them to not always be believed by the justice system. Within the criminal justice system, the impairments/health conditions of the person may be used as a way to discredit their views and opinions. This is particularly relevant for individuals who are labelled or identify as persons with intellectual disabilities.<sup>28</sup>

## Impact of hate speech and hate crime

### Impact on persons with disabilities

Hate speech and hate crimes against persons with disabilities can create anxiety, fear and trauma and hinder their inclusion in society.<sup>29</sup>

If incidents are not reported, recognised as crime or offence, and perpetrators are not held accountable, victims are at a high risk of repeat victimisation and bias motivated harassment.<sup>30</sup> As illustrated in the cases collected by the OSCE this can take many forms, from name-calling in the street to mistreatment on public transport or at dedicated parking slots, theft and destruction of schools, threats of violence and physical attacks.

When repeated incidents do not receive attention by police or the criminal justice system, persons with disabilities may tend to internalise their oppression and marginalisation – concluding that they are responsible for the violence and injustice experienced.

There is a danger of imposing the label of vulnerable victim on persons with disabilities that can result in further exclusion and restrictions on their lives. The experience of persons with disabilities tend to be restricted to control due to labelling them as "vulnerable", and in need

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<sup>28</sup> [International Principles and Guidelines on access to justice for persons with disabilities](#), pages 7-8.

<sup>29</sup> Griffiths, M. 2014: [Disability Hate Crime: A guide for disabled people's organisations, law enforcement agencies, national human rights institutions, media and other stakeholders](#), Dublin: ENIL, pages 15 and 18.

<sup>30</sup> FRA, [Equal protection for all victims of hate crime: The case of people with disabilities](#) (2015), page 3.

of professional decision-making to “protect them”. This can be exacerbated by framing them as vulnerable in hate crime strategies.

## Cross-border impact

It is important to note that hate speech and hate crime can manifest themselves in cross border situations, involving a victim or perpetrator from different EU Member States for instance. This can directly impact the implementation of the [EU Strategy for the Rights of Persons with Disabilities 2021-2030](#) and the full implementation of the UN Convention on the Rights of Persons with Disabilities.

## Dichotomy of EU law

The lack of recognition of bias based on disability in criminal laws and policies at EU and national levels also creates a hierarchy between victims, and a sense of what, in the view of the State and the EU is “acceptable” or not. In light with the right to equality and non-discrimination enshrined in the EU Treaties and the EU Charter for Fundamental Rights, victims with disabilities should be granted the same recognition in cases of hate speech and hate crimes.

## Conclusion and recommendations

**Not enough is done to address and combat hate speech and hate crime faced by persons with disabilities.** The rights of persons with disabilities accessing the justice system are largely not sufficiently ensured by EU Member States. There is a lack of recognition of bias based on disability in criminal laws and policies at EU and national levels. Additionally, data on crimes is not consistently disaggregated by bias based on disability and by the victims’ disability, age and gender.

The European Disability Forum recommends that the EU:

- **Involve representative organisations of persons with disabilities**
  - In the design, development, implementation and monitoring of initiatives related to combatting hate speech and hate crime

- In the design, delivery, and monitoring of victim support services
- **Extend the list of EU crimes to cover hate speech and hate crime** and cover the **grounds of disability**, age, gender (in line with the list of discrimination grounds under Article 19 TFEU).
- **Ensure that minimum rules on the definition of criminal offences and sanctions in the areas of hate speech and hate crime take into account bias based on disability**, including the digital domain, and that the disability of the victims never allows for lighter sentences for the perpetrator.
- **Take measures to improve the rights of victims with disabilities**, including to ensure they can adequately report the offence or crime to national authorities (in light of [EDF recommendations on the EU Strategy on Victims' Rights 2020-2024](#)), and that they receive accessibility and inclusive support. Expansion of third-party reporting mechanisms could also be considered.
- **Support the creation by Member States of mandatory training on disability rights** for all law enforcement and criminal justice system officials.
- **Collect data on hate speech and hate crime**, including in online environments, disaggregated by the motivation bias (including disability-bias), and the victims' disability, gender and age.

## Contact person

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