

Commission includes LGBTI people in initiative to tackle hate crime and hate speech across the European Union

[News](#), [Safety](#), [Bias-motivated Speech](#), [Bias-motivated Violence](#), [European Commission](#)

The European Commission has put forward a legal initiative to extend the list of EU crimes to include hate speech, both online and offline, and hate crime, with clear understanding that LGBTI people must be protected.

Today, with its initiative to tackle hate crime and hate speech across the European Union, the EU Commission has recognised ever-growing violence and hate speech against LGBTI people by including sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) as protected grounds in the second step of the initiative.

By naming SOGIESC explicitly in the hate crime and hate speech initiative, the Commission has drawn attention to the prevalence of bias motivated violence and incitement against LGBTI people due to historical and structural discrimination and oppression, and sends a signal to the criminal justice system, potential perpetrators and victims of hate crime or hate speech that hate crime and hate speech against LGBTI people should be taken seriously.

On 16 September this year, the European Commission President, Ursula von der Leyen [announced](#), in her State of the Union Address at the European Parliament a new initiative on extending the list of EU crimes to all forms of hate crime and hate speech – whether because of race, religion, gender or sexuality. It was further mentioned in the Commission Work Programme 2021 and in February 2021, the Commission [published](#) a roadmap on the initiative, scheduled for the fourth quarter of 2021.

As it is [noted in a letter](#) sent by the ILGA-Europe, OII Europe and TGEU to President von der Leyen, only by the explicit inclusion can existing protection gaps be closed across the EU and LGBTI phobic hate crime be tackled effectively. A number of reports show that in places where discrimination against LGBTI people prevails, the provision of a general legal protection often leads to disadvantageous application of the law against this group.

Welcoming the explicit inclusion of SOGIESC in the initiative, Akram Kubanychbekov, Senior Advocacy Officer with ILGA-Europe said: “Considering the prevalence of hate speech and hate crime against LGBTI people in the EU, it is critical that the EU finally recognises bias-motivated violence and speech against LGBTI people.

“This will establish a legislative framework to work towards real change in society, where right of LGBTI people are fully respected on equal footing with others. It will also allow to develop policies at the EU and national levels on preventing bias motivated violence, advance support services for victims of such crimes and training staff of the criminal justice system among others.”

Background information:

Article 83(1) TFEU [provides](#) for an exhaustive list of areas of particularly serious crime with a cross-border

dimension (known as 'list of EU crimes') for which the European Parliament and the Council may establish minimum rules concerning the definition of criminal offences and sanctions. Under Article 83(1), third subparagraph, based on 'developments in crime', the Council may adopt unanimously a decision (subject to the consent of the Parliament) extending this list by adding other areas of crime. The Commission presented this initiative to trigger such Council decision, through a Communication to the European Parliament and the Council.

Adoption of the decision of the Council to identify hate speech and hate crime as "other areas of crime" will serve as a legal basis for the next step: adoption of a directive or regulation setting standards for the prosecution of such crimes, recognition of the protected characteristics, and the protection of victims of the bias motivated violence or incitement to discrimination across the EU. Second step will go through the ordinary legislative procedure.

This initiative will complement the work on a legislative proposal on preventing and combatting gender-based violence against women and domestic violence to be presented at the beginning of 2022 and the proposal for a Digital Services Act.

ILGA-Europe have provided input to numerous open and targeted consultations on the topic this year and closely supported the Commission's work on this initiative.

The full text of the Communication to the European Parliament and the Council can be read [here](#).