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CHILDREN AND HATE SPEECH ON SOCIAL NETWORKS

Zoran PAVLOVIĆ, PhD¹

Measures against discrimination at the international and national level, as well as the conditions for the use of social networks, cannot, however completely prevent the spread of hate speech. The debate on tightening sanctions against those who spread hate speech on social networks, and where children appear, should be led, but the right to freedom of speech and privacy, the standard of effective protection of children's rights and more, should not be forgotten. Everyone is responsible, including social networks. The rights of the child are inviolable, as are the right to development or dignity. The ban on access to children's social networks is not a preventive measure, but a form of violence against them, additional victimization and not a positive educational mechanism. A responsible approach to the topic in the triangle of hate speech, children and social networks will not show its solutions through repressive measures of criminal law, but through prevention and creating zero tolerance for hate speech on social networks, regardless of whether it is posted by adults or children.

KEY WORDS: hate speech / social networks / strategy for the protection of children's rights / prevention / zero tolerance.

1. INTRODUCTION

Modern technological development accompanied by the development of the Internet takes on great importance in communicating, information and influenc-

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ing all of us, but also on the realization of the rights of all. Traditional media still have a role to play in all this, but there is a growing number of social networks and platforms that shows the growing presence of various forms of discrimination, and thus hate speech in communication, and often unforeseeable consequences of such expression. However, the reason for the availability of the Internet emphasizes the need to talk more about hate speech *online*, because it is different from *offline* hate speech. Spreading of hate speech through social networks and platforms does not have the time dimension as in the real world, where much more action must be taken to distribute it/expand it (hate speech), than writing graffiti, posters, printing books and similar.

Internet users have a special dimension of not being afraid of responsibility for the use of hate speech and its often inconceivable consequences. “False” anonymity of social networks and platforms, in the presence of another misconception that the usual rules of conduct and respect for the rights of others are not needed in *online speech* gives that dimension. This often results in content that shows the worst among people. The presence of children (of all ages) on social networks is the rule today, which then makes the consequences of “unarticulated” speech even more difficult, even more dangerous. Parts of the *online* identity can meet the *offline* world, so the consequences can spread indefinitely that way. Spreading hate speech through social networks, when the speaker is invisible to most users, makes such speech even more dangerous, but also the responsibility of those who maintain such media greater. Following the allegations of the United Nations Convention on the Rights of the Child, this is a speech that endangers the child’s right to life, survival and development.

All those, who spread hate speech, in this way cannot see the result of their words, but they also do not know what damage they inflict on the victims. Online communication includes written text as well as audio-video recordings, which means that it almost completely overlaps with the spread of *live hate speech* (face to face). Posting on a social network has the possibility of reaching a known or unknown number of users almost simultaneously, which results in a (spontaneous) reaction to such discriminatory communications, which can lead to *circulus inextricabilis*. From these characteristics of hate speech committed on social networks, we see that hate speech on the Internet has peculiarities and differences in relation to hate speech performed face to face. An additional feature of the phenomenon of hate speech on social networks is that there are special addresses where such behaviors are supported.

Hate speech is any oral or written statement of the will or thought of a person (speech) that is intended, directed, addressed to the public based on hatred or intolerance, regardless of how legal theory or individual legislation determines

them.² Hate speech committed through social networks, i.e. *online*, as well as hate speech committed face to face, i.e. *offline*, is subject to regulation by international treaties, national regulations and codes of conduct. The constitutionalisation of human rights, indirectly put the prohibition of hate speech on the level of a constitutional principle, which, along with the provisions of criminal law, regulations of electronic media, prohibition of discrimination, etc., makes the protection system almost complete. However, there are a large number of examples from media practice and on the available content of social networks that contain hate speech, where children are often found as subjects or objects.

Thus, hate speech (especially) towards children appears as a problem on a global level, because more developed technological solutions have more and more possibilities for spreading and inciting hatred and discrimination.

This type of speech is prohibited not only by constitutional acts, but also by numerous media or anti-discrimination laws which, based on relevant international standards, lay the groundwork for preventing the spread of hate speech towards all ages, where children are a particularly vulnerable category, and where an inadequate application of laws or not applying them at all, result in a criminal legal reaction.

That is why it is extremely important to approach this phenomenon differently than before, in order to protect the rights of the child, with increased attention and responsibility of all subjects, whether they are in the real or virtual world. In case of violation of (children's) rights on the Internet and through social networks, we now have two important tasks ahead of us: building a system of prevention and protection of children's rights on social networks and work on sensitizing all entities involved in repressive protection. For something like that, it is necessary to continuously work on the education of everyone who works with children, no matter if they are in education, police, judiciary or employees in other institutions of society. But let's go in order.

2. TWO EXAMPLES AND A FEW QUESTIONS

The attention of the professional and general public is occupied by cases in which children appear either as victims or as perpetrators. The specificity of the topic of hate speech on social networks only complicates this attention. The question is whether (without going into the technical aspects of this issue) to some in-

² Jovašević, D. (2022), Criminal responsibility and punishment for hate speech, Zbornik Govor Mržnje, PZGO - IKSI, p.109. The author talks about several people who may be affected by the consequences of hate speech.

dividuals access to social networks can be denied and if can on what basis, in cases of spreading hate speech, and not only if they are prominent politicians and issues related to electoral processes. Social networks when it comes to protecting children's rights, something that must be given special attention to. In such a case, we could include a case concerning specialized pages, which shows exactly how the protection system has its shortcomings, marked through the regulations on the protection of personal data, but not limited to them.

Namely, in the case of *CG v. Facebook* before the Court of Appeals in Northern Ireland³, the subject of the lawsuit was not hate speech, but a case of abuse of social networks and all the shortcomings of legal regulations. CG was sentenced in 2007 to unconditional imprisonment for committing several crimes against sexual freedoms. J. McCloskey, who was released from serving his prison sentence that year, wrote about this in 2013 on the specialized page "Let's protect children from predators2" on Facebook. His publication was related to articles in which CG, with a photograph, was described as the perpetrator of crimes against sexual freedoms. Other FB users immediately continued to supplement the page with data on CG, with the address where he lives or could live after his release from serving his prison sentence.

The proxies of CG demanded from FB that the disputed content on the specialized page be removed. And, after that was done, one of the family members of the victim published the previously downloaded content of the page "Let's protect children from predators2" on his personal FB account, emphasizing that CG is a danger to children. This page was also removed by Facebook. Defendant McCloskey was previously known in the *XY versus Facebook* case, because he had created a FB page "Let's keep children from predators", which was removed based on the decision of the High Court, so that he could immediately create a new page "Let's keep children from predators2". In this case, the Court of Appeals in Northern Ireland (2016) / NICA / stated that McCloskey endangered the privacy of CG, and that both McCloskey and Facebook are responsible for the misuse of personal data. In relation to FB, the High Court found that FB, as someone who maintains and manages the network, was obliged to follow the content of the specialized site "Let's keep children away from predators2", having in mind the fact that it was clear from the previous proceedings (*XY v. FB*) what McCloskey's activities are about on Facebook, and are responsible for the content of that page. FB appealed to the Court of Appeals, which found in the appeal proceedings that the fact of the earlier *XY* verdict could not be the basis for monitoring the activities of the "Keep children away from predators 2" page, because in that case Facebook would have

³ <https://globalfreedomofexpression.columbia.edu/cases/cg-v-facebook-ireland-ltd/>
Decision of 19 January 2017

to monitor, contrary to the Directive, on e-commerce from 2002. The XY case was about harassment (which in the law of the Republic of Serbia would partially correspond to the criminal offense of Persecution), and not about the misuse of personal data. The court found that the misuse of personal data, as a result of which Facebook has not been fully informed of this possibility. However, in a letter from CG sent on November 23rd, 2013, Facebook was clearly and unequivocally informed about the abusive data of CG, and the page was removed on December 4th, 2013. The court therefore found Facebook responsible for the misuse of personal data only in a short period of less than a month at the end of 2013, because it did not remove the user's page in a timely manner after it was made clear. Finally, the Court found that Facebook Ireland is a "data controller" under the provisions of the UK Data Protection Act and is liable under the provisions of that regulation for the unlawful processing of personal data.

This case would open many questions related to the rights of the child and hate speech on social networks, although the court did not deal with that issue at all, starting from the lawsuit as it was formulated. But, after the case of *Spain versus Facebook*, the issue of the responsibility of the service provider on the social network and the content that is on it was finally defined. Many of the questions have still not been answered by the European Court of Justice at the European Union level, although it is indisputable that a service provider answers only if it intentionally endangers the rights of others. The responsibility set in this way does not exclude responsibility according to general legal principles, and especially in the light of the principle of the best interests of the child.

Another example, which has not yet fully received its epilogue, is in connection to social networks, but also to electronic and written media combined. In the Republic of Serbia, many preventive activities have been started in recent years to raise digital literacy, but this has not yet led to a reduction in hate speech and discrimination in which children appear as victims or perpetrators. Violence, including verbal violence (hate speech) that used to take place behind the school or in the yard of a house or building, is now increasingly happening on social networks.

Namely, at the beginning of December 2021, a 20-year-old girl KĐ passed away in Belgrade, whom newspaper articles and electronic media wrote that she had previously been a victim from her age of 16, of permanent discrimination and hate speech. Respecting the rule that cases that are ongoing, or that do not have their own court epilogue, are not commented on, we will, in principle, only present the data presented in public space. KĐ⁴ was a popular, young influencer who gathered hundreds of thousands of young people on various social channels, so

⁴ <https://www.euronews.rs/srbija/drustvo/28590/smrt-mlade-jutjuberke-kike-razotkri-la-stravican-svet-pretnji-i-vredanja-medu-mladima-na-internetu/vest>

she had more than 360,000 followers on Instagram. Among her audience, she became famous by playing Minecraft on YouTube and Twitch - a site for gamers. According to the media, the life violence suffered by the victim of KĐ was combined with violence on social networks, but no one read her calls for help, so the hate speech against KĐ was without an adequate social reaction. KĐ became additionally known when she got into a verbal conflict with BI, with whom she also discussed in the morning program of one of the TV networks with a national frequency, after which she stated in the daily Blic⁵ that she received various threats on the networks. “

But, with the death of KĐ, the hate speech on the occasion of that event did not end, because the rule was shown that one violence very often creates another violence. In this specific case, after the death of KĐ, BI, who was in a previous conflict with her, appeared as a new victim of hate speech. Some kind of persecution has started on social networks, with negative comments and discriminatory behavior towards BI; in which he was invoked responsible for the death of KĐ. ⁶That is how it came about, that hate speech continued on social networks, which consequently led to the death of KĐ.

Some children are obviously more exposed to public court and hate speech, and go through digital violence or cyber bullying. Given that, we often do not have feedback from children on the types of violence to which they are exposed, this raises the question of the responsibility of service providers - social networks. In a real or offline environment, hate speech is still easier to identify and it can be reacted to it faster. That is why the issues of violence in the virtual world, including hate speech, must be legally resolved in any public space, including social networks.

This especially calls for social reaction and the creation of a protection system, because according to UNICEF Global kids online research conducted in Serbia, 94% of primary school students and 99% of high school students have a mobile phone, 89% of primary school students and 92% of high school students have access to the Internet and 84% of high school students exposed themselves to some of the risks on the Internet. According to that research, as many as 37% of elementary school students and 66% of high school students were exposed to violence on social networks, i.e. hate speech, while about a third of them heard that their friends suffered the consequences of discrimination on social networks.⁷

⁵ <https://www.blic.rs/slobodno-vreme/vesti/ubila-se-srpska-lepotica-a-njen-poslednji-stori-je-najtuznija-prica/18jj40k>

⁶ <https://www.alo.rs/zabava/estrada/574820/baka-prase-kristina-kika-djukic-bullying-sajber-nasilje-jutjuberka-izvesila-samoubistvo/vest>

⁷ Popadić, D., Pavlović, Z., Petrović, D. and Kuzmanović, D. (2016) *Global kids online Serbia: Balancing between Opportunities and Risks. Results from the Pilot Study*, Belgrade: University of Belgrade, at: www.globalkidsonline.org/serbia

The rhetorical question we will ask here is, what kind of legislative framework is needed, which would be hate speech with the consequences shown in these two examples and children at risk of hate speech on social networks, in order to complete the social reaction in the system of protection against hate speech in general, and especially towards children.

3. LEGAL REGULATIONS ON HATE SPEECH IN THE REPUBLIC OF SERBIA

In the Republic of Serbia, the constitutional text nowhere directly mentions hate speech, but through the constitutionalised right to freedom of speech, which has its positive limitations, we can conclude that the constitutional framework has been established. The constitution, in its article 21, defines according to the principle of prohibiting discrimination, that any kind of discrimination, direct or indirect, or on any ground, in particular, race, sex, nationality, social origin, birth, religion, political or other opinion, property, culture, language, age and mental or physical disability is prohibited. Within the framework of “Human Rights and Freedoms”, it was proclaimed: “Prohibition of inciting racial, national and religious hatred”. Any incitement and incitement to racial, national, religious or other inequality, hatred and intolerance is prohibited and punishable.

Along with the strategic documents, we can say that there are several specific legal mechanisms for protection against hate speech, which are based on two legal frameworks: the Law on Protection against Discrimination and the Law on Information and Media.

If it is a matter of protection of the rights of the child on the basis of Article 16, paragraph 2 of the Constitution of the RS, we can also apply the Law on Ratification of the UN Convention on the Rights of the Child.

If hate speech incites violence and hatred, the Criminal Code applies. However, the relatively modest jurisprudence in the field of hate speech (especially on social networks) also points to the fact that it is still necessary to work on creating a protection system in this area and that many available mechanisms are not effective, proportionate and dissuasive. In future amendments to the relevant regulations, a strict distinction should be made between hate speech and harassment and degrading treatment, which overlap in practice. Also, prosecutors very often do not recognize hate speech and do not act on criminal charges. In any case, at the level of statistical error, there are cases in which public prosecutor's offices acted on their own initiative, if they heard about the consequences of hate speech on social networks.

Judicial practice is also very problematic, as judges in some cases have not recognized hate speech, and often recognize freedom of expression as an inviolable value. The right to freedom of expression is an element of any democracy and is protected even if information can be shocking and disturbing, it must be limited when a speech is considered hate speech. This is of particular importance in multicultural societies, which are in transition, with a difficult past and which have an underdeveloped level of human rights culture and media literacy. That is why we must work, similar to zero tolerance for violence, and the rule of zero tolerance for hate speech. This justification makes sense if it is a speech in which both the subject and the object of hate speech are adults, but the situation can be viewed differently if children appear as victims of hate speech, when the consequences are more frequent and severe, so society's reaction is mandatory. .

Hate speech itself was introduced for the first time in our legislation in the Law on Prohibition of Discrimination, which prohibits hate speech, and can be called an example of good practice and providing legal protection to particularly vulnerable groups and individuals in society, although it does not specifically mention children, except in a broader interpretation.

The advanced solutions from this law (Article 11) are commendable, due to the definition of hate speech, but we must emphasize that it is not fully in line with the definition from the ECRI Recommendation no. 15, and second, does not differentiate between harassment and degrading treatment. Hate speech defined as *the expression of ideas, information and opinions that incite discrimination, hatred or violence against a person or group of persons because of their personal characteristics, in public media and other publications , at gatherings and places accessible to the public, writing and displaying messages or symbols and in another way, for the purpose of acting towards third parties, and is encouraged by expressing ideas and opinions that lead to discrimination, hatred or violence .*

The very definition of hate speech lacked social networks, which was certainly not noticeable at the time of writing, and the examples given, as well as other real-life examples, show the need to either set a more general definition or introduce social networks as places of execution.

Incriminations of certain behaviors in the Criminal Code, ⁸directly or indirectly hate speech, include criminal offenses against freedoms and rights of man and citizen, criminal offenses against parts and reputations, criminal offenses against the constitutional order and security of the Republic of Serbia, criminal

⁸ Criminal Code of the Republic of Serbia "Official Gazette of the RS", No. 85/2005, 88/2005 (correction), 107/2005 (correction), 72/2009, 111/2009, 121/2012, 104/2013, 108 / 2014, 94/2016, 35/2019)

offenses against public order and peace, criminal offenses against humanity and other goods protected by international law.

This does not end the catalog of criminal acts in which criminal acts with elements of hate speech are found, but these are the ones in which it most often appears as a possible act of execution. We must draw attention to the fact that these are not criminal acts - hate crimes, but criminal acts resulting from hate speech. The difference is discrete, but it exists. Namely, the phenomenology of hate speech requires us to have mechanisms that enable an adequate social reaction to hate speech, especially when it is done through social networks. Prosecuting social networks, as well as individuals for hate speech, is therefore not an easy task, and implies appropriate changes in legislation, but also a change in the attitudes of prosecutors and courts in the prosecution and trial of such crimes. Only as an example, will we single out the acts of execution from Article 387 (racial discrimination) of the Criminal Code. Disseminating and making publicly available texts, images or any other representation of ideas or theories advocating or inciting hatred, discrimination or violence against any person or group of persons based on race, colour, religion, nationality, ethnic origin or to some other personal trait (which extends the notion of victim to other forms beyond racial discrimination).

Penal provisions on hate speech are contained in regulations other than the Criminal Code, the Law on Prohibition of Discrimination and the Law on Public Information and Media, as well as in other media laws that contain penal provisions.

Regardless of the legal framework for sanctioning hate speech, there is still no unified data on which crimes would be dealt with and which courts will be tried at, but a number of cases can be identified through reports on the work of independent institutions. However, the relatively small number of processed reports or verdicts shows not just that there was no hate speech, but that the authorized persons still have not shown a sufficient level of sensitivity for this act of execution, and then they also have not done anything in connection to these life events.⁹

4. CONCLUDING CONSIDERATIONS

We will repeat that the rights of the child are inviolable, as well as the right to develop or to dignity. These rights need to be appreciated in each specific case, al-

⁹ Pavlović, Z. (2022), Hate speech, violence and disseminating of false news on the global social networking highway, p. 159, Hate speech, Proceedings, PZGO - IKSI, Belgrade

ways keeping in mind the best public, and above all the best interests of the child.¹⁰ We can freely state that these rights are threatened especially on social networks, through hate speech. Therefore, in the part of the academic community, the child's rights issues have been conducted in the last two decades, in the last two decades of social responses to hate speech, especially children and hate speech on social networks. Pluralism of attempts to systemically approach this topic, due to its specificity, but both of constant and quick changes and modalities of hate speech, has not yet led to a satisfactory result. The consequences of hate speech can be large and worrying, not violating the rights of those who are on social networks, but also those not their users. Special reason for processing the topic of children and speech hate on social networks is the fact that domestic violence does not report or apply very rarely, and that hate speech is not experiencing in this type of violence Competent) Subjects in general as violence and crime.

Most children do not report violence because they are afraid that they will be confiscated a computer or mobile phone, which is a special form of violence against children today, not a way of solving problems. Children are ashamed to say what is happening to them and do not want to confide to their parents or someone older, which is to be expected if we take into account that we are talking about children or young people.

As it is about children and a younger population, which suffers violence often from their peers, but also from adults, beside constant education and encouragement to report the incident, victims need to be pointed at the fact that, although violence occurs in a virtual rather than real space, it, the violence, should not be ignored and be silent about it. Threats of violence (whose overture are insulting and discriminatory messages) are the use of hate speech or potential violence in real life that the victim is put into appearance. The children victims should be encouraged to talk about violence experiencing, to report threats and, in accordance with particular violence, seek appropriate legal protection.¹¹

This protection can be realized in different ways, through the strengthening of the existing legal framework, raising responsibility of the service provider on social networks, digital literacy and building and strengthening the awareness of the affirmative role of speech, not in its altruistic sense, but in a counter - narrative relations to hate speech.

Given that the area of protection of the child's rights, in the digital age, is a topic that is still at the beginning, and not in precise frameworks or protection mech-

¹⁰ Pavlović, Z. (2018) Protection of Privacy and dignity of a child in media space, Zbornik Pravda po meri deteta, IKSI, Beograd, p. 91.

¹¹ Vilić, V. (2022) Vršnjačko nasilje kroz govor mržnje na društvenim mrežama, p.169, Zbornik Govor mržnje, PZGO IKSI, Beograd

anisms, the problem of speech of hate on social networks is the problem of society and affect children and young people. The development of modern technology and general internet availability made that hate speech becomes an exceptional problem at the international level. Based on its characteristics, social networks have become a big problem in efforts that hate speech is to be suppressed. The absolute control of putting on social networks does not exist as well as the possibility of absolute monitoring of the entire content that is available in virtual space, which makes the possibilities of promoting hatred, hostility, discrimination or intolerance increased.

Therefore, social networks call users to report inadequate content, for further reaction.

In hate speech, one of the most important tasks of theory and practice is delimitation to the basic human law - freedom of expression. If we have in mind that children and young people are especially vulnerable and sensitive even having in mind that they are the largest beneficiaries of social networks, this task looks very responsible. As an example of good practice, and watching things *de lege ferenda*, maybe the practice of some other countries should be also considered.

It starts from the point of view that a speech that can cause detriment to individual rights and lead to violence, discrimination or hostility, freedom of expression or freedom of speech can still be limited. In the Federal Republic of Germany, they have a very strict approach to sanctioning hate speech from the mid-20th century. Laws on preventing hate speech were created as a result of the experience of this country with Nazism and Holocaust. Today's Social Network Law (Netzwerkdurchsetzungsgesetz - Netzdg), was adopted in 2017 with the aim of preventing online hate speech and the spread of fake/false news. This law obliges social media platforms with more than 2 million users to remove content that is "obviously illegal" within 24 hours after notification done by users, i.e. to examine legality and remove suspicious content within 7 days. The law prescribes penalties for social networks in the amount of up to 50 million Euros. Such commitment and high punishments have influenced Germany at an extremely small rate of hate speech on social networks in general. Perhaps this way of regulating is a good example of harmonization of national and communitarian law, and modern tendencies.

Children and young people, although skilled in the use of new technologies, fact is that they do not have enough life experience or critical awareness to see all online and offline hazards. That is why modern education on digital culture is the basis of fighting hate speech on digital networks, with good regulations.

Traditional legislation in the Republic of Serbia written at a time when internet and social networks have not yet had this role in public and private life requires

adapting to new circumstances today. What does not necessarily involve the definition of hate speech in various legal documents of domestic and international rank, but also consideration of repressive nature, bearing in mind the fact that as a victim of hate speech on social networks is most commonly appears a child.

The phenomenology of the consequence of the speech of hate on social networks is correlated with the possibilities that social networks provide. So, if there is a criminal response to the consequences of hate speech, the issue of responsibility should not be concerned about only an individual executor, but also the platform provider. But to react to criminal law in such a situation, it is necessary to harmonize regulations that regulate the responsibility and level of social network responsibility in general. Because, what is a characteristic of criminal law is that without precise definition of social networking obligations for removing the content of hate speech, there can be no criminal responsibilities.

The users of social networks are expected to refrain from communicating hate speech, and social networks are responsible for the publication of the user's illegal content. The experience caused by the fight against some other phenomena, such as the fight against discrimination, indicates that the successful social reaction to hate speech and its consequences is only possible by creating protection systems in the world of multiple competencies, technological achievements and technical solutions, created using social networks.

It is undeniable the importance of social networks in the realization of the right to freedom of expression, but also the protection of the rights of individuals. In order to achieve preventively better results, it is necessary to unify the existing definition of hate speech and international standards and the Ekro number 15 recommendations, which would result in distinctness between hate speech and harassment and degrading treatment.

In mandatory training programs, not only students of the Faculty of Law or Judicial Academy should be included but also acting judges and prosecutors – also should introduce education of those who work on hate speech, with special reference to social networks. In other words, in addition to drafting a national strategy for combating hate speech on the Internet and social networks, it is necessary to work on harmonizing legal texts based on such a strategy, which should use the experience gained by independent bodies in RS. Social reaction through the norms of criminal law would be and is only the last measure in preserving the rights of the child on social networks.

Citizens, and especially children who use both internet and social networks, have the right to enjoy full legal protection available, while being *online* as well as *offline*, which is also in line with the Council of Human Rights Council No. 20 / 08 in 2012, therefore protected from hate speech, violence and false news.

Responsible access to the topic of the child's rights and hate speech will be thus achieved mostly through the prevention and creation of zero tolerance regarding hate speech on social networks, regardless of whether growing adults or children are placing it on, and only after this, with the criminal law measures also.

REFERENCES

1. JOVAŠEVIĆ, D. (2022), Criminal Responsibility and Punishment for Hate Speech, Zbornik hate speech, Pzgo - Iksi,
2. Popadić, D., Pavlović, Z., Petrović, D. and Kuzmanović, D. (2016) Global Kids Online Serbia: Balancing Between Opportunities and RISKS. Results from the Pilot Study, Belgrade: University of Belgrade, at: [www.globalkidsonline / Serbia](http://www.globalkidsonline.org/Serbia)
3. Pavlović, Z. (2022), Hate Speech, Violence and Dissemination of False News on the Global Social Networking Highway, Hate speech, Zbornik, Pzgo - Iksi, Belgrade
4. Pavlović, Z. (2018) Protection of Privacy and Dignity of a Child in Media Space, Zbornik Pravda Po Mere Kijeta, Iksi, Beograd
5. Vilić, V. (2022) Peer violence through hate speech on social networks, P.169, collection hate speech, PZGO Iksi, Belgrade
6. [HTTPS://globalfreedomofexpression.columbia.edu/cases/cg-v-facebook-ireland-ltd/](https://globalfreedomofexpression.columbia.edu/cases/cg-v-facebook-ireland-ltd/) Decision of 19 January 2017.
7. <https://www.euronews.rs/srbija/Drustustvo/28590/smrt-mlade-jutjuberke-kike-razotkrila-stravacan-svetvetnji-i-vrevi-metu-mladima-na-interne-tu/vest>
8. <https://www.blic.rs/lisobodno-tra/vesti/ubila-se-srpska-lepetica-a-nim-jem-stiri-stori-je-nuzni-prica/l8jj40k>
9. <https://www.alo.rs/zabava/estrada/574820/Baka-prase-kristina-kika-djukic-buling-sajber-nasilje-jutjuberka-izvesila-samoubisto/vest>
10. Crime Code of the Republic of Serbia ("Official Gazette of RS", No. 85/2005, 88/2005 (correction), 107/2005 (Correction), 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019)

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DECA I GOVOR MRŽNJE NA DRUŠTVENIM MREŽAMA

Mere protiv diskriminacije na međunarodnom i nacionalnom nivou, kao i uslovi korišćenja društvenih mreža, ne mogu u potpunosti da spreče širenje govora mržnje. Debata o pooštavanju sankcija protiv onih koji šire govor mržnje na društvenim mrežama, a gde se pojavljuju deca, treba da se vodi, ali i da se ne zaboravi pravo na slobodu govora i privatnost, standard efektivne zaštite prava decei drugo. Odgovornost snose svi, uključujući tu i društvene mreže. Prava deteta su neprikosnoveni, kao i pravo na razvoj ili dostojanstvo. Zabrana pristupa društvenim mrežama deci nije preventivna mera, već vid nasilja nad njima, dodatna viktimizacija ne pozitivno-vaspitni mehanizam. Odgovoran pristup temi u trouglu govora mržnje, dece i društvenih mreža svoja rešenja neće se pokazivati kroz represivne mere kaznenog prava, već kroz prevenciju i stvaranje nulte tolerancije prema govoru mržnje na društvenim mrežama, bez obzira da li ga plasiraju odrasli ili deca.

KLJUČNE REČI: govor mržnje / društvene mreže / strategija zaštite prava dece / prevencija / nulta tolerancija

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