



## **ONLINE ACTIONS, OFFLINE HARMS:**

Case studies on Gender  
and Cybersecurity in the  
Western Balkans

**By the Western Balkans Cybersecurity Research Network**

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# INTRODUCTION

## Framing gender and cybersecurity in six Western Balkan economies

By Ena Bavčić  
DCAF

Good governance in cybersecurity is much like any other aspect of security sector governance, in that it must centre human security as a core guiding principle.<sup>1</sup> This holistic approach to cybersecurity governance opens space to deepen understandings of cybersecurity systems and their effects on states and citizens. Security sector reform (SSR) has also come to include the mainstreaming of gender in all areas of security governance, as awareness grows about how experiences of security impact people of different genders differently, as well as how women, girls, and people in the LGBTQ+ community have historically been excluded from playing significant roles in security and peace processes. Hence, organizations that address security on an international level, such as the UN, the OSCE, and others, including DCAF, have developed educational programmes and toolkits to support the mainstreaming of gender in national SSR agendas.<sup>2</sup>

This re-definition of security sector governance that has emerged by incorporating gender and acknowledging gender inequality in the traditional security sector pertains just the same to cybersecurity spaces. In fact, “[g]endered experiences of insecurity, gendered assumptions about security, and gender parity in participation in security governance – are all relevant to cybersecurity.”<sup>3</sup> The challenge, however, is that no real consensus exists as to what cybersecurity is and to whom cybersecurity governance mechanisms apply.<sup>4</sup>

The European Union Agency for Cybersecurity (ENISA) has adopted a very broad definition of cybersecurity, as “security of cyberspace,” where cyberspace itself refers to the set of links and relationships between objects that are accessible through a generalised telecommunications network, and to the set of objects themselves.<sup>5</sup> But as it is humans who inhabit this space, it is important to apply human-centric approaches within it and human-centric definitions to it. Sociologist PJ Rey has called cyberspace “the ‘place’... [t]he indefinite place out there, where... two human beings, actually meet and communicate.”<sup>6</sup> And Mitra and Schwartz have noted that “the constructs of place and space are being reshaped as [people] are compelled to spend time in cyberspace.”<sup>7</sup> This means that we should not aim for the security of cyberspace but security in cyberspace. We must also mainstream gender into cybersecurity, so as not to “reflect and reinforce pre-existing patterns of (intersectional) gender inequality, including GBV, and have the potential to create new ones.”<sup>8</sup>

1 Franziska Klopfer, *Cyber Violence against Women and Girls in the Western Balkans: Selected Case Studies and a Cybersecurity Governance Approach* (Geneva: DCAF, 2021).

2 One example is the *Gender and Security Toolkit* developed by DCAF, OSCE, and UN Women (available at: <https://www.dcaf.ch/gender-and-security-toolkit>). Many initiatives of the Toolkit have been implemented, and some are discussed in coming chapters.

3 Katharine Millar, James Shires, and Tatiana Tropina, *Gender Equality, Cybersecurity, and Security Sector Governance: Understanding the role of gender in cybersecurity governance* (Geneva: DCAF, 2023), 3.

4 In 2015, the European Union Agency for Cybersecurity (then, the European Union Agency for Network and Information Security, or ENISA) published a report discussing various conceptions of cybersecurity. See: *ENISA, Definition of Cybersecurity – Gaps and overlaps in standardisation* (2015).

5 *Ibid.*, 30.

6 PJ Rey, “The Myth of Cyberspace,” *The New Inquiry*, 13 April 2012, <https://thenewinquiry.com/the-myth-of-cyberspace/>. Similarly, Britannica notes that, in the 1990s, cyberspace came to refer to a “location” in which people interacted with each other while using the Internet.” See: Jennifer Bussell, “cyberspace,” *Britannica*, 12 March 2013, <https://www.britannica.com/topic/cyberspace>.

7 Ananda Mitra and Rae Lynn Schwartz, “From Cyber Space to Cybernetic Space: Rethinking the Relationship between Real and Virtual Spaces,” *Journal of Computer-Mediated Communications* 7, no. 1 (2001).

8 Millar, Shires, and Tropina, *Gender Equality, Cybersecurity, and Security Sector Governance*.

Any lack of definitional clarity regarding cybersecurity represents an opportunity to further improve cybersecurity infrastructure, so that it works optimally not only for technology and networks but for the humans who act as its creators and users. But this ambiguity also presents greater openings for malicious uses of the internet, which affects different groups and individuals in society differently. And as research by DCAF on cybersecurity and human rights in the Western Balkans has demonstrated, violations to human rights in the online world can manifest as threats to security in the offline world, posing a fundamental challenge to democratic principles.<sup>9</sup>

This research has also found that specially designed cyberattacks, such as those resulting in data leaks for example, can directly impact citizen users by exposing their private information.<sup>10</sup> Even rudimentary malware can result in the exposure of private data, in violation of individual rights. But this kind of data exposure may produce different and specific physical and psychological outcomes for people and groups that already face discrimination, such as women and children, the LGBTQ+ community, Roma, and others. For example, in a society where bias against LGBTQ+ people is prevalent, there is a considerable risk that exposing their private information through digital means could translate into serious physical violence. Yet, because some groups in society, including women, are often more dependent on the internet for their income, it can be hard for them to avoid cyberspaces, and thus cyberviolence.<sup>11</sup>

In fact, women and girls face a range of consequences when they lack access to the internet, from decreased physical safety, to professional and economic constraints, to limitations on their educational advancement.<sup>12</sup> In other words, they cannot simply “disconnect” to steer clear of the abuse they face online. Efforts in gender mainstreaming must therefore go beyond addressing the “gender workforce gap” to consider how insecurity in cyberspace affects users of different genders, and other groups, as well as how online threats and violence spill over into the real world. One entry point for this is the Istanbul Convention. By committing to the Convention, states have opened space for discussion of gender-based violence (GBV) generally, including in online spaces, and its effects on women, girls, and members of the LGBTQ+ community. Thus, UN Women has undertaken efforts to highlight a range of technology-facilitated threats to different groups.<sup>13</sup> These include, but are not limited, to: non-consensual intimate image distribution (including the use of AI technology, such as deepfakes and virtual reality), cyber harassment and abuse, stalking and monitoring, device and app control, public disclosure of private information and doxing,<sup>14</sup> impersonation, threats of violence, hate speech, misinformation and disinformation, defamation, astroturfing,<sup>15</sup> and more.<sup>16</sup>

<sup>9</sup> Franziska Klopfer, Ena Bavic, and Laylo Merali, *Cybersecurity and Human Rights in the Western Balkans: Mapping governance and actors* (Geneva: DCAF, 2021), 129.

<sup>10</sup> *Ibid.*, 14–17, and 97.

<sup>11</sup> Deborah Brown and Allison Pytlak, *Why Gender Matters in International Cyber Security* (Women’s International League for Peace and Freedom and the Association for Progressive Communications, 2020), 6–7.

<sup>12</sup> *Ibid.*, 8–11.

<sup>13</sup> UN Women, “Frequently asked questions: Tech-facilitated gender-based violence,” <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/tech-facilitated-gender-based-violence>.

<sup>14</sup> Doxing refers to the practice of exposing previously private, personal information about an individual or organization.

<sup>15</sup> Astroturfing refers to the practice of masking opinions or comments that are published on the internet or in the media, to make it seem as though they come from everyday members of the public when they actually originate from a company or political group, to create the appearance of broad popular or “grassroots” support for or agreement with a message.

<sup>16</sup> The Global Partnership for Action on Gender-Based Online Harassment and Abuse, *Technology Facilitated Gender Based Violence: Preliminary Landscape Analysis* (Social Development Direct, 2023).

It is this threat environment that motivated this publication, which is aimed at contributing to a greater understanding of and providing a foundation for human-centric approaches to cybersecurity, and follows up on earlier research that was also undertaken by the Western Balkans Cybersecurity Research Network. The goal of the Network is to advance human-centric approaches to good cybersecurity governance. The first study in this series, *Cybersecurity and Human Rights in the Western Balkans*, published in 2021, sought to show how cybersecurity intersects with human rights in the region. It included recommendations as to how different economies may integrate human rights principles into their cybersecurity agendas, as well as how cybersecurity should be made more central in efforts to tackle human rights abuses.<sup>17</sup> Where that study concentrated more on mapping areas of concern and relevant stakeholders, though, this research on gender and cybersecurity brings a focus to some of the most disturbing issues identified in that mapping process.

Therefore, the primary objective in this second study is to identify how cyberspaces can be more safe and secure for women, girls, and the LGBTQ+ community. The starting point for this research was the premise that this requires a clear view of the main threats to these groups in online spaces, as well as what motivates perpetrators. Beyond this, researchers set out to explore how existing solutions and approaches can be adapted to the regional (Western Balkan) context, and the roles different stakeholders will need to play in implementing them. The result is six chapters, analysing gender and cybersecurity in six Western Balkan economies, which describe how women and LGBTQ+ people have been pushed out of online spaces by abuses that violate their rights.

Unavoidably, this research reflects on deeply embedded patriarchal norms in the Western Balkans and demonstrates the implication of these norms in cyberspaces, where they are evident in the treatment of women, girls, and LGBTQ+ people. In other words, these norms have the same effect online as they do offline; and as the boundary between these spaces grows more indistinct, gendered violations in each will cross over into the other. Hence, researchers in Albania, BiH, Kosovo\*, Montenegro, and North Macedonia explored the forms and effects of online violence on women and girls, in both cyberspace and the real world; while researchers in Serbia analysed how anti-LGBTQ+ narratives in online spaces are impacting the legal realization of LGBTQ+ rights in the country.

These researchers were given the option to explore the topics most relevant in their respective economies, and the fact that they all focused on similar concerns demonstrates how widely and systematically women, girls, and LGBTQ+ people are being pushed out of cyberspace. In every case presented here, this has constrained the online presence of these groups and has sometimes constrained their offline lives as well. Specifically, the papers produced by this research highlight the following issues:

\*This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence

<sup>17</sup> See: Klopfer, Bavcic, and Merali, *Cybersecurity and Human Rights in the Western Balkans*.

• In **Albania**, **Megi Reçi and Sara Kelmendi of the Institute for Democracy and Mediation (IDM)** discuss how the voices of women human rights defenders (WHRD) are being silenced by online abuse. They explore patterns of online violence by analysing survey responses, interviews, and focus group findings, including from the previous study in this series, to offer a vivid picture of the extent to which cyber-civic space is shrinking for WHRDs in this economy.

• In **BiH**, **Aida Mahmutović and Aida Trepanić of the Balkan Investigative Reporting Network (BIRN BiH)** highlight the case of a young woman who has been subjected to non-consensual intimate image distribution (NCIID). Her case underscores how such abuse can persist even when there has been a judicial response, and the long-term psychological effects of this violation on survivors; demonstrating the need for a more systematic approach to online GBV.

• In **Kosovo**, **Lulzim Peci, Valdrin Ukshini and Viola Kastrati of Kosovar Institute for Policy and Research and Development (KIPRED)** draw attention to the response of domestic judicial institutions to cases of non-consensual intimate image (NCII) abuse, analysing the legislative basis to prosecute these cases in Kosovo and how the judiciary has responded, to date. They also examine the causes of NCII abuse within the Kosovar social context, and the effects of this abuse on survivors.

• In **Montenegro**, **Milica Kovačević and Darvin Murić of the Center for Democratic Transition (CDT)** articulate how online spaces are being used to silence the voices of women in public life. Their study expands on what we know about the online abuse of female politicians in this economy by also exploring violations against female activists and journalists, and all women in the public domain. They describe different kinds of online abuse, and demonstrate that no woman is immune to online GBV.

• In **North Macedonia**, **Mila Josifovska Danilovska, Vesna Radinovska, and Despina Kovachevska** outline the gendered components of online hate speech, and examine discrepancies between the treatment of online hate speech and other forms of hate speech by authorities in North Macedonia. They found that women, girls, and members of the LGBTQ+ community have low levels of trust in these authorities, and in state institutions, to properly handle cases of online hate speech, and they call for stronger protections for these groups.

• In **Serbia**, **Maja Bjeloš and Ivana Ranković of the Belgrade Centre for Security Policy (BCSP)** analyse the emergence and development of discriminatory narratives LGBTQ+ Pride events in Serbia, and how cyberspace has provided them fertile ground, affecting the rights of LGBTQ+ people both online and offline. Using the example of EuroPride, which took place in Belgrade in 2022, the authors demonstrate how digital spaces are being used as mobilizing tools by various anti-rights movements in this economy.





Together, these separate research endeavours complement each other by taking different perspectives on the matter of gender and cybersecurity. Though they capture findings in specific contexts, many of the conclusions drawn in the chapters that follow are universal and can be read as a part of a general analysis of how online GBV affects the degree to which women, girls, and people of non-conforming gender identities experience safety and security in cyberspace. Accordingly, many recommendations herein can also be universalized and applied across contexts.

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# CHAPTER 1

## The freedom to defend rights in online spaces:

**Challenges for women human rights defenders in Albania**

**By Megi Reçi and Sara Kelmendi**

Institute for Democracy and Mediation (IDM)

## Introduction

Human rights defenders (HRDs) play a key role in promoting and protecting human rights, either alone or in collaboration with others, by engaging in peaceful advocacy. HRDs emerge from various groups, including activists, human rights lawyers, journalists who report on human rights abuses, advocates who work to end corruption and increase accountability, and service providers to victims of human rights violations.<sup>1</sup> This research focuses on women human rights defenders (WHRDs) specifically; meaning, women and girls who are actively involved in addressing human rights concerns, especially those related to women's rights and gender equality.<sup>2</sup> Taking an intersectional view, this study also examines the challenges faced by various other marginalized groups (e.g., sexual, ethnic, and other minorities) within the WHRD community, in the context of online engagement.

While the shrinking of civic space affects all civic actors by restricting their free expression, assembly, and association, WHRDs are disproportionately impacted by this as a result of their historically limited access to these spaces.<sup>3</sup> When the rights of WHRDs are violated, it not only harms the individuals affected but also has implications for democracy, as it discourages the participation of WHRDs in public life, stifles debate, and leads to (self-)censorship. Yet, research indicates that WHRDs are frequently the targets of online harassment and hate speech, prompted by their gender, their public presence, and their work to advance specific causes. Indeed, WHRDs encounter mounting violations in digital spaces, including sexist speech, smear campaigns, sexual harassment, reputational attacks, and even threats of sexual assault, rape, or death.<sup>4</sup> This indicates that the gender norms and gendered violence which exist in the physical world extend into the digital realm as well. Cybersecurity governance mechanisms must therefore consider the diverse experiences of all members of society in cyberspace and meet the security needs of all citizens, to enable inclusivity, equal participation, and adherence to the principles of good governance.<sup>5</sup>

Studies in Western Balkan countries show that WHRDs across the region work in a “hostile environment.”<sup>6</sup> In Albania, research has found that the highest risks are faced by WHRDs who support victims of human trafficking or domestic violence, are active in the feminist or LGBTQ+ movements, or work as investigative journalists.<sup>7</sup> And, while human rights are universal and applicable in physical and online spaces equally, online violations are often treated as less serious, resulting in a high level of impunity for these violations.<sup>8</sup> Previous studies have determined that

1 For a definition of HRDs, see: United Nations Special Rapporteur on Human Rights Defenders, “Who is a Human Rights Defender?,” <https://srdefenders.org/who-is-an-hrd/who-is-a-human-rights-defender/>. Also see: United Nations General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, 8 March 1999.

2 For a definition of WHRDs, see: Office of the UN High Commissioner for Human Rights, “Women human rights defenders,” <https://www.ohchr.org/en/women/women-human-rights-defenders>. Also see: United Nations General Assembly, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders, A/RES/68/181, 18 December 2013.

3 Office of the UN High Commissioner for Human Rights, “Human rights and civic space in the UN system: supporting women human rights defenders,” 27 October 2021.

4 Ibid.

5 Katharine Millar, James Shires, and Tatiana Tropina, *Gender Equality, Cybersecurity, and Security Sector Governance: Understanding the role of gender in cybersecurity governance* (Geneva: DCAF, 2023).

6 Stana Tadić, Violeta Anđelković, and Sofija Vrbaški, *Women's Rights in the Western Balkans* (Kvinna till Kvinna Foundation, 2018), <https://kvinнатillkvinna.org/publications/womens-rights-in-western-balkans-2022/>

7 Armela Xhaho, *Human Rights Defenders in the Western Balkans: Intimidation instead of recognition* (Civil Rights Defenders, 2020), 6.

8 See: Vasilika Laci and Hvale Vale, “Case Study 1 – Albania: Understanding gendered cyberviolence and discrimination: ‘Who’s Tabu?’” in *Cyber Violence against Women*

cybersecurity governance in Albania fails to adequately address human rights and gender concerns in the context of digitalization, particularly for marginalized groups such as women and minorities.<sup>9</sup> Therefore, it is crucial that Albania adopt a more human-centric approach to cybersecurity governance, to ensure these groups have equitable access to and a presence in cyberspace.

The aim of this study is to examine the types of abuses faced by Albanian WHRDs in cyberspace, applying a gendered lens in analysing how WHRDs perceive these violations, the motives behind such abuse, its impact, and the effectiveness of response mechanisms. It also explores which online behaviours are considered threatening by WHRDs, and how they assess the gravity of online threats when deciding whether to report them. This is particularly important because gendered beliefs and assumptions about security influence how security risks are perceived and prioritized, and how security resources are allocated.<sup>10</sup> Indeed, there is evidence that the normalization of online violence against women who participate in public discourse has contributed to an under-reporting of these crimes. This research investigates how these violations impact women's engagement in cyberspace, and potential solutions to increase their participation. To identify areas for intervention, researchers also measured awareness among WHRDs of their digital rights and online safety.

This study is aimed at addressing existing gaps in the data regarding online violations against WHRDs in Albania and providing a snapshot of the current context, to inform public decision-making and promote greater accountability for and awareness about these violations. Along with desk research and inquiries into the measures implemented by Albania in the framework of the UN Resolution on Human Rights Defenders, it draws on a quantitative survey that gathered information about the types of violations faced by WHRDs in cyberspace, what they believe drives these abuses, what impact they have, and how they are viewed by victims. The survey sample was 109, but the response rate for the bulk of the questions – including most of those presented here – is 96, unless otherwise indicated. Findings of this survey were validated in focus group discussions and interviews with various experts, survey respondents, and prominent WHRDs (see the Appendix for details on the methodology used in this study).

## **How human rights violations in cyberspace are perceived by WHRDs in Albania**

Often, the design of digital platforms not only reflects the pre-existing sexism and biases that women confront as prevailing social norms in the public sphere, but also increases women's exposure to them. For example, harmful narratives are boosted and amplified through social media algorithms that make such content sticky and often viral, serving the commercial interests of

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and Girls in the Western Balkans: *Selected Case Studies and a Cybersecurity Governance Approach*, edited by Franziska Klopfer (Geneva: DCAF, 2021).

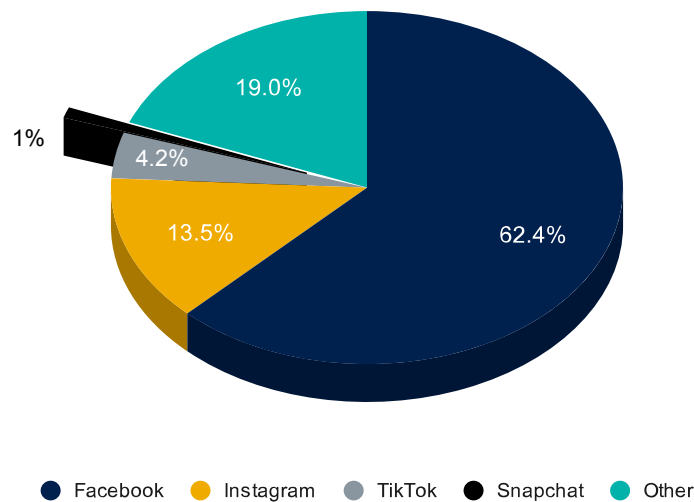
<sup>9</sup> See: Megi Reçi and Sara Kelmendi, "Albania: Bridging the Gap Between Cyber Policy Fragmentation and Human Rights," in *Cybersecurity and Human Rights in the Western Balkans: Mapping governance and actors*, edited by Franziska Klopfer, Ena Bavcic, and Laylo Merali (Geneva: DCAF, 2021).

<sup>10</sup> Millar, Shires, and Tropina, *Gender Equality, Cybersecurity, and Security Sector Governance*.

corporations at the expense of women's rights and society's progress toward gender equality.<sup>11</sup> To understand the extent to which WHRDs in Albania are subject to human rights violations on various digital platforms, they were asked in the survey for this research to identify the platforms on which these violations occur most frequently. Nearly two-thirds (63 percent) of respondents identified Facebook, while far fewer answered Instagram (14 percent) or TikTok (4 percent). Only a small number (3 percent) mentioned having faced violations on more than one platform, and the same rate noted that they had also experienced abuse via e-mail.

While none of these respondents reported experiencing abuse on Twitter, this must be contextualized by the popularity of various digital platforms among social media users in Albania. Facebook and Instagram dominate with 1.10 million and 1.03 million users respectively, whereas Twitter has only 137,000 users.<sup>12</sup> Reliable statistics on the number of Snapchat and TikTok users in the country are lacking, though both are believed to have become increasingly popular among youth but are not as likely to be used by activists or those who target them.

Figure No.1. The platforms on which survey respondents believe the most violations occur (N=96)



Despite the much higher rate of abuse experienced by WHRDs on Facebook, when survey respondents were asked which platform they perceive as most problematic, roughly the same number identified Facebook (37 percent) and TikTok (33 percent), followed by Instagram (17 percent), and then Snapchat (3 percent). Among WHRDs who participated in focus groups for this study, however, Instagram and TikTok were perceived as the most problematic.<sup>13</sup> These WHRDs shared examples of abuses directed at the TikTok and Instagram accounts of LGBTQ+ organizations, including malicious reporting campaigns that have succeeded in shutting down the TikTok accounts of a prominent feminist

<sup>11</sup> Lucina de Meco and Alcy MacKay, "Social media, violence, and gender norms: The need for a new digital social contract," ALiGN (blog), 19 January 2022, <https://www.alignplatform.org/resources/blog/social-media-violence-and-gender-norms-need-new-digital-social-contract>.

<sup>12</sup> See: Simon Kemp, "Digital 2023: Albania," *DataReportal*, 13 February 2023, <https://datareportal.com/reports/digital-2023-albania>.

<sup>13</sup> In-person focus group, with WHRDs28 April 2023.

activist and sex education blogger, and a transgender activist.<sup>14</sup> Violations that occur in Snapchat were viewed by WHRDs as most difficult to track, given that content on the platform is perpetually deleted. Yet, representatives from law-enforcement institutions in Albania informed researchers that it is in fact most difficult for them to identify perpetrators on TikTok, due to the company's limited responsiveness.

The real-world effect of online abuse was especially clear in direct interactions with WHRDs, such as during a focus group discussion when one activist explained that “continuous attacks” had led her to shut down multiple social media accounts. She added, *“I have been carrying out my online activity in a state of alertness and self-defence for years... [which] can lead to self-censorship. I have now disabled direct messaging and comments. This is the only way for me to be in my right mind.”*

An interviewee with expertise in digital marketing and communications suggested that WHRDs should set their own rules in online spaces by filtering or muting certain words and phrases. This expert also recommended disabling private messaging, outsourcing comment management to a third (impartial) party, and reporting attacks to relevant authorities, and said targets should not respond to attacks.<sup>15</sup> Still, these strategies may help WHRDs manage the intensity of attacks but do not provide real solutions that address the core problem – a proliferation of digital violence.

Participants in focus groups and interviews highlighted the responsibility of online media outlets to develop better comment moderation and called for more restraint regarding the sensationalizing of content that incites or provokes violent reactions. These platforms must also acknowledge the ways that disinformation can be used by malicious actors to target WHRDs and limit their speech.<sup>16</sup> For instance, when the statements of a prominent LGBTQ+ activist on the need to recognize parental rights for same-sex couples in Albania were maliciously distorted with the goal of generating online backlash against the LGBTQ+ community, this disinformation was amplified by online media, religious leaders, and other public figures, who all claimed that the LGBTQ+ community seeks to destroy the traditional family and remove the words “mother” and “father” from the Albanian vocabulary.

According to the Commissioner for Protection from Discrimination, the large scale of this campaign and the public attention it received led to multiple reports of online threats against LGBTQ+ activists, and manifested in real-world violence against a member of the LGBTQ+ community who was physically assaulted.<sup>17</sup> Yet, there are very few media outlets in Albania that moderate online comments. In one case, a popular outlet did temporarily disabled comments on its social media accounts in response to a large volume of violent comments, but the measure was implemented

<sup>14</sup> For more on this and other incidents, see the SHARE Monitoring Platform, at: <https://al.bird.tools/sq/data?case=295>.

<sup>15</sup> V.B., expert in digital marketing and communications, interview by authors, 15 May 2023.

<sup>16</sup> In-person focus group with WHRDs, 28 April 2023.

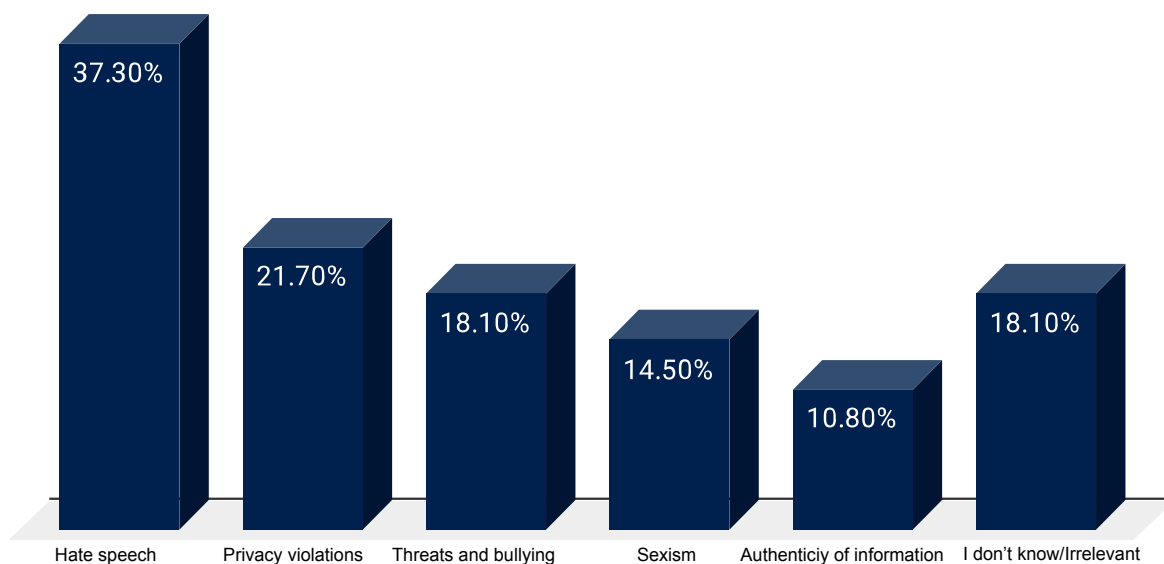
<sup>17</sup> See (in local language): Erisa Kryeziu, “Pastori Akil Pano nuk fitoi ndaj çështjes ‘Prindi 1 dhe 2’, por u rrëzua masa e vendosur për diskriminim,” Citizens Channel, 26 May 2023, <https://citizens-channel.com/2023/05/26/pastori-akil-pano-nuk-fitoi-ndaj-ceshtjes-prindi-1-dhe-2-por-rrzoi-vendimin-per-diskriminim/>.

for only two weeks and did not result in any change in the behaviour of users. In the view of the expert in digital marketing and communications mentioned above, this example demonstrates how much media companies “*need that sort of (negative) engagement... and cannot afford to lose it.*”<sup>18</sup>

This has been fertile ground for gender-motivated hate speech, which is on the rise in Albania. In fact, monitoring of online media by CSOs in the country revealed in 2020 that 70 percent of the hate speech recorded in digital spaces was aimed at women.<sup>19</sup> Moreover, research indicates that women are particularly targeted when they engage in activism and other public discourse. One study on HRDs in Albania found that WHRDs are the second most at-risk group after LGBTQ+ activists.<sup>20</sup> Of course, this puts women LGBTQ+ activists in Albania at particular risk. WHRDs working with victims of human trafficking or domestic violence, feminists, and journalists are most likely to be targeted for abuse.<sup>21</sup>

These findings were confirmed by the survey responses of WHRDs who participated in this study as well. On the question of what worries them most when interacting online, respondents (totalling 87) cited hate speech, sexism, misogyny, racism, bullying, violent language, violations of their privacy, and misuse of their data. WHRDs also reported concerns about fake news, misinformation, organized campaigns designed to smear activists and promote discrimination against minority groups, fake profiles and the anonymity they confer, and the mass reporting of content that is critical of the government by pro-government actors.

Figure No.2. What survey respondents said most concerns them about engaging in online spaces (N=87)



Some respondents underscored that media platforms tend to sensationalize sexism with the explicit goal of increasing user traffic and the reach of stories and posts, such as through the reduc-

<sup>18</sup> V.B., expert in digital marketing and communications, interview by authors, 15 May 2023.

<sup>19</sup> See (in local language): Entenela Ndrevataj, “Monitorim: Rreth 70% e gjuhës së urrejtjes dhe diskriminimit në median online prek vajzat dhe gratë,” *Citizens Channel*, 26 October 2020, <https://citizens-channel.com/2020/10/26/monitorim-rreth-70-e-gjuhes-se-urrejtjes-dhe-diskriminimit-ne-median-online-prek-vajzat-dhe-grate/>.

<sup>20</sup> Xhaho, *Human Rights Defenders in the Western Balkans*.

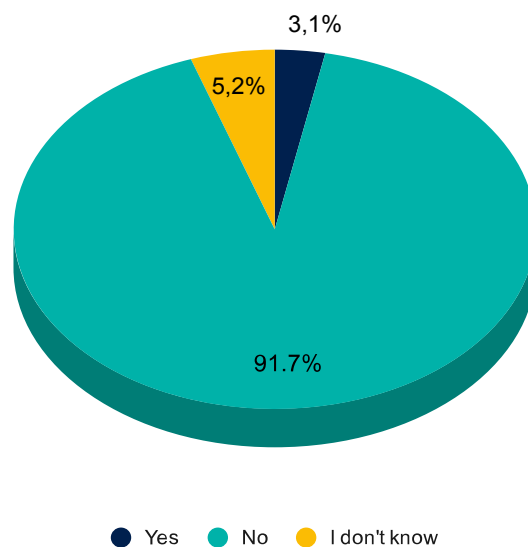
<sup>21</sup> *Ibid.*



tive and stereotypical portrayal of women, including victims of violence and minors. In one illustrative case, media outlets chose to use private photos taken at the beach to accompany articles about the arrest of a political activist for taking part in a protest. This activist reasoned that the choice to use this photo was purposeful, explaining, *“the majority of the public is very conservative and seeing a semi-clad girl on the beach would impact their perception of me as someone that is not to be taken too seriously.”*<sup>22</sup>

Notably, an overwhelming 92 percent of WHRDs respondents do not believe human rights enjoy equal protection both online and offline, largely because they see online abuses, which are already underreported, treated with less seriousness than violations that take place offline. Indeed, a greater proportion of respondents (5 percent) answered “I don’t know” than those (3 percent) who said that human rights enjoy equal protection in the online and offline realms.

Figure No.3. Respondents who believe human rights enjoy equal protection online and offline (N=96)



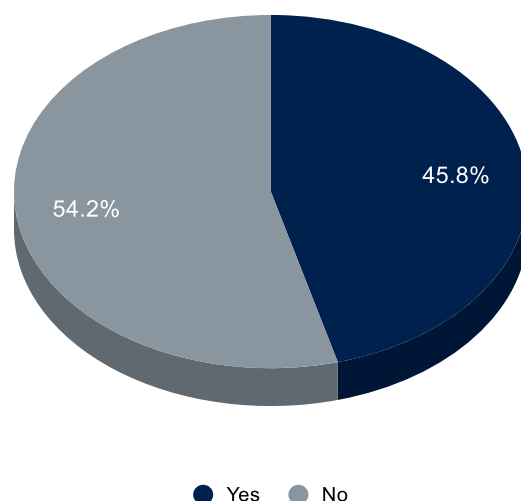
## Digital literacy among WHRDs in Albania

Analysing the digital literacy of WHRDs is crucial not only to understanding the challenges they face in cyber-civic spaces, but to effectively tailoring interventions that will help to empower them in these spaces. Asked to assess their own digital skills and training, nearly half (46 percent) of respondents said they had taken courses to enhance these skills.

These included courses discussing how to protect various devices, identify suspicious e-mails, and secure an internet connection. However, a majority of respondents (54 percent) had not participated in any training of this nature.

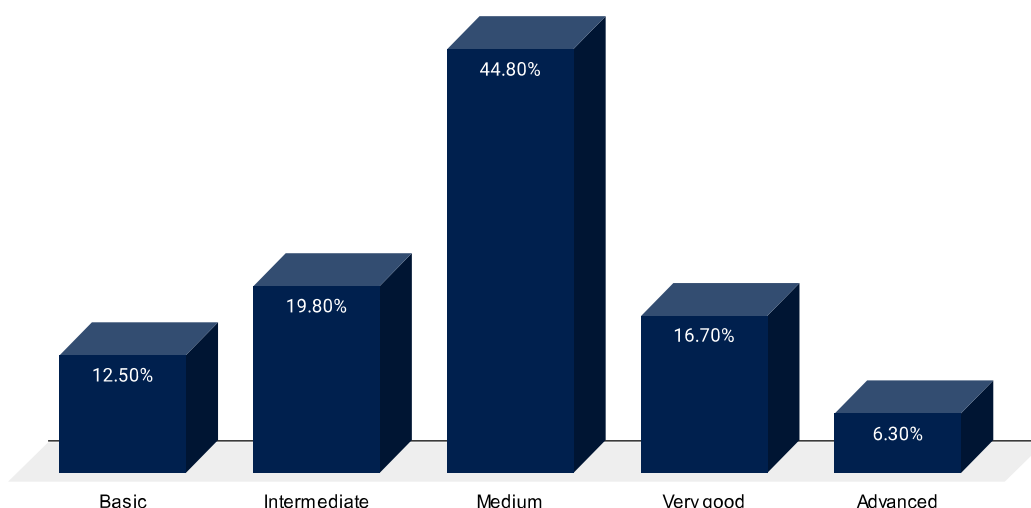
22 Reçi and Kelmendi, “Albania: Bridging the Gap Between Cyber Policy Fragmentation and Human Rights,”18.

Figure 4. Respondents who have taken courses/trainings to enhance their digital skills (N=96)



Quite a few WHRDs (45 percent) also indicated in survey responses that their understanding of online safety is intermediate. But nearly one-third (32 percent) felt their knowledge was merely basic/intermediate; meaning that less than one-quarter (23 percent) reported having a very good/advanced understanding of how to remain safe in online spaces. In an interview, a cybersecurity expert suggested that WHRDs could be empowered in this sense by several existing online resources.<sup>23</sup> Tactical Tech offers a variety of resources on topics such as Gender and Tech, Data and Political influence, Holistic and Digital influence, and more, all of which may be useful to WHRDs.<sup>24</sup> And applications like Circulo provide a means for small groups to engage inside a safe digital space.<sup>25</sup>

Figure 5. Self-assessment by respondents of their level of understanding of online safety (N=96)



There was consensus among study participants that capacity building in this area is a necessity. For example, a lawyer who works for a women’s rights organization that supports victims of

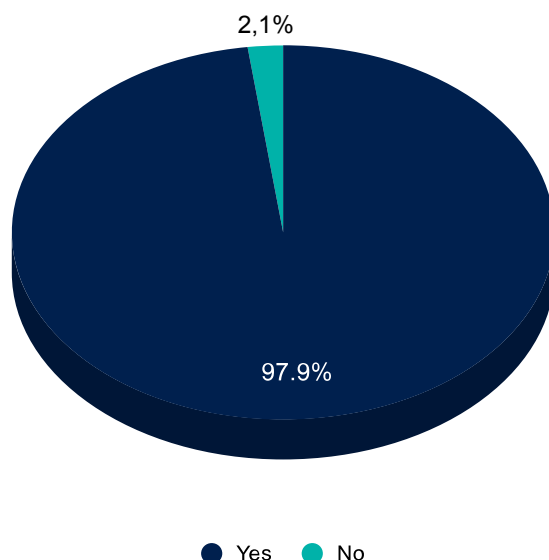
<sup>23</sup> K.C., expert in cybersecurity, interview by authors, 23 June 2023

<sup>24</sup> Tactical Tech provides valuable resources in an array of languages, including Albanian. See: <https://tacticaltech.org/>.

<sup>25</sup> For more about Circulo, see: <https://encirculo.org/en/>.

violence and trafficking highlighted the need “for training on how to report violations and how to protect ourselves online,” asking, “*If we cannot protect ourselves, how can we protect others?*”<sup>26</sup> It is promising that nearly every respondent (98 percent) expressed an interest in learning more about the practices and tools they can use to keep themselves safe in digital spaces.

Figure 6. Respondents interested in learning more about how to keep themselves safe online (N=96)



In one focus group, a media expert shared that digital literacy is often weakest among those who are often targeted online and need it the most, including journalists and women engaged in the public sphere and politics. This expert brought attention to a lack of relevant curricula in this area at public universities, including in faculties of journalism and communication. According to her, “*It is of utmost importance for women to be digitally literate, in order not to self-censor and withdraw from the online sphere as a form of self-protection. Their online presence is important, among other reasons, to counter gendered disinformation, which is on the rise.*”<sup>27</sup> While acknowledging the importance of digital literacy, some WHRDs who participated in the same discussion highlighted that this approach may serve as a solution to the repercussions of online violence but does not tackle the issue of violence at its source.

## Awareness among WHRDs in Albania of the institutional framework for their protection

While Albania has not adopted any legally binding documents guaranteeing the protection of HRDs, the Constitution and national laws do provide protection for certain activities and rights of HRDs in provisions aimed at ensuring the independent work of civil society.<sup>28</sup> The country has also adopted a dedicated but non-legally binding document relating to the protection of HRDs on a national level, the Parliamentary Resolution on Human Rights Defenders in Albania, approved

<sup>26</sup> Online focus group with survey respondents, 28 April 2023.

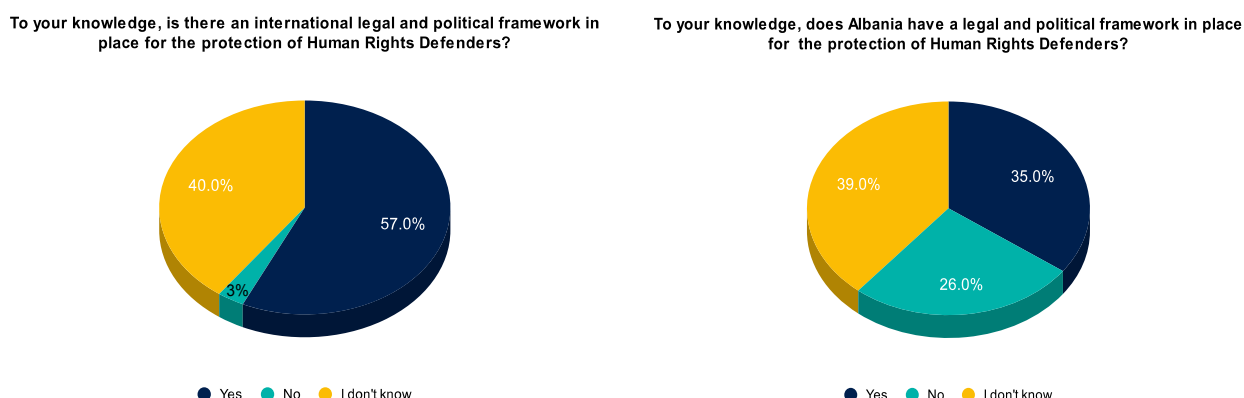
<sup>27</sup> V.S., media expert, in-person focus group with WHRDs, 28 April 2023.

<sup>28</sup> The national framework includes, *inter alia*, the Constitution of Albania, the Criminal Code, the Code of Criminal Procedure, Law No. 8773/2001 on Assemblies, Law No. 80/2021 on the Registration of Nonprofit Organizations, Law No. 10221/2010 on Protection from Discrimination, Law No. 9970/2008 on Gender Equality in Society, Law No. 96/2017 on Protection of National Minorities, Law No. 111/2017 on Free Legal Aid, Law No. 10173/2009 on the Protection of Witnesses and Accomplices of Justice, and Law No. 60/2016 on Whistleblowing and Protection of Whistleblowers.

in 2019. This Resolution builds on United Nations and Council of Europe documents that stipulate protections for HRDs and recognize the role they play in strengthening the rule of law and consolidating democracy, as well as the challenges and risks associated with their work. The Resolution additionally acknowledges the particular challenges of HRDs who advocate for the rights of marginalized groups – especially the rights of women, children, persons with disabilities, victims of violence and trafficking, national minorities, and the LGBTQ+ population – and/or belong to these groups, or who work to support refugees, migrants, and populations on the move.<sup>29</sup>

The Resolution represents the commitment of the Albanian Parliament to improve parliamentary oversight of violations of the rights of HRDs, and encourages the government, independent bodies, and law enforcement agencies to duly support and protect HRDs.<sup>30</sup> Yet, it also calls on the Parliament to draft a report on the risks facing HRDs in Albania, as well as an action plan for implementation of the Resolution, within nine months after its approval; and as this has not been drafted to date, the Resolution remains largely unimplemented.<sup>31</sup> For this reason, only about one-third (35 percent) of survey respondents were aware that any national legal and policy framework exists in Albania to protect HRDs, while the majority either did not know (39 percent) if such a framework exists or were sure it does not (26 percent). On the other hand, a majority of respondents (57 percent) were aware of the international legal and policy framework for the protection of HRDs. And though about the same proportion (40 percent) did not know if such an international framework exists, only a small minority (3 percent) answered that this framework definitely does not exist. In other words, WHRDs in Albania appear to have a lower level of awareness of the national framework regulating the protection of HRDs than of the comparable international framework.

Figure 7. Awareness among respondents of the international and Albanian legal and political frameworks for the protection of HRDs (N=96)



<sup>29</sup> Parliament of Albania, Resolution for the Recognition and Support of the Activity of Human Rights Defenders in Promoting, Encouraging and Protecting Human Rights and Fundamental Freedoms, Strengthening of the Rule of Law and the Consolidation of Democracy, 3 March 2019.

<sup>30</sup> Ibid.

<sup>31</sup> Information provided by the Parliament of Albania through a Freedom of Information Request, 16 December 2022.

When asked to name relevant institutions at the national level that are tasked specifically with protecting HRDs, most respondents mentioned independent human rights institutions such as the Commissioner for Protection from Discrimination, the Ombudsperson, and the Information and Data Protection Commissioner. Many also mentioned the Parliament, the Prosecution, the State Police, the Ministry of Health and Social Protection, the Audiovisual Media Authority, and the courts. Some WHRDs were familiar with legal and policy documents, such as relevant international conventions, the Albanian Constitution, and national laws regulating protection from discrimination, data theft, and retaliation for “whistleblowers”. But only a single respondent cited the Parliamentary Resolution on Human Rights Defenders as a relevant policy text.

A majority of respondents (58 percent) believe that a special status or legal protection should be provided to HRDs due to the specific risks they face. However, another third (30 percent) do not view this approach as sufficient, because they do not believe the current framework provides effective protection. A relatively small proportion of respondents either did not know if special status or legal protection for HRDs is needed (5 percent) or considered the existing framework to be adequate (6 percent). But the absence of comprehensive and dedicated regulations to protect HRDs, and specifically WHRDs, means in practice that the threats and violence experienced by certain groups in response to their public presence, and/or gender or other characteristics, will be adjudicated by general regulations that draw no distinction based on their engagement as HRDs.<sup>32</sup> Providing legal recognition and protection to HRDs is therefore crucial to ensuring they can work in a safe environment, free from attacks, reprisals, and unreasonable restrictions.

The formulation of such regulations should take into account the particularities and vulnerabilities of specific groups of HRDs, with the aim of enabling substantive equality while addressing discrimination. WHRDs are among the groups that should be given particular attention, as they face different pressures than those confronted by men, especially in the form of gender-specific threats.<sup>33</sup> For example, it is common for violence and threats directed towards WHRDs to have sexual undertones. Moreover, WHRDs in Albania are already restricted in many ways, including in their work, as a result of their gender.<sup>34</sup> The fact that these patriarchal norms persist in Albanian society and across the world only underscores the need for states to offer special consideration to WHRDs.<sup>35</sup>

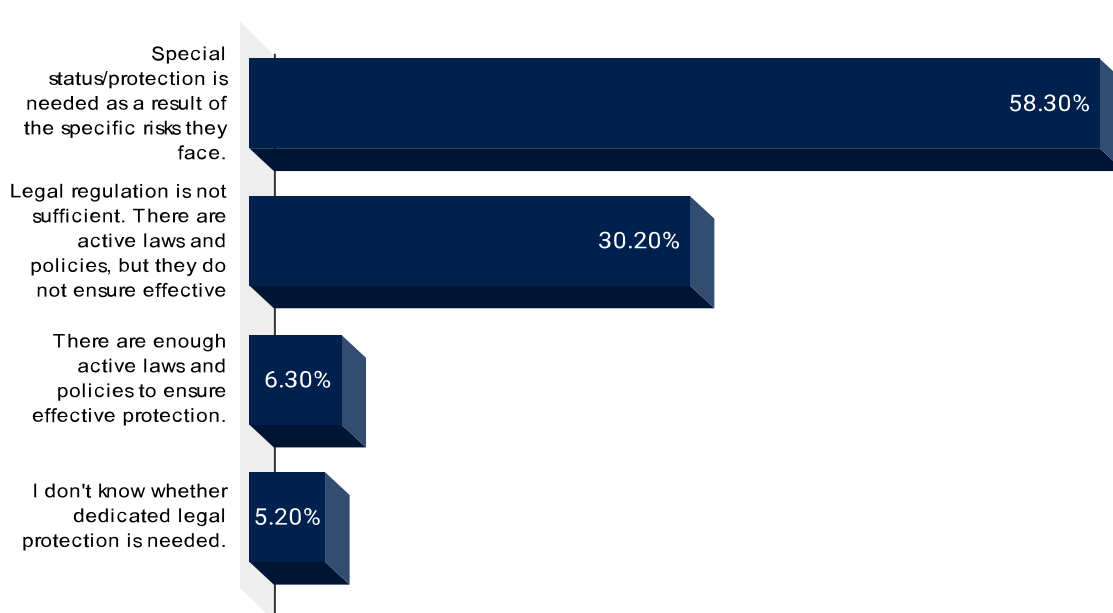
<sup>32</sup> Niken Savitri and Dyan Franciska Dumaris Sitanggang, “Legal Status and Protection for Women Human Rights Defenders in Indonesia,” *Fiat Justia* 16, no. 4 (2022): 297–320.

<sup>33</sup> *Ibid.*

<sup>34</sup> Asia Pacific Forum on Women, Law and Development, *Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders* (Chiangmai, 2007), 16.

<sup>35</sup> *Ibid.*

Figure 8. Views of respondents on the need for a special status or legal protection for HRDs (N=96)

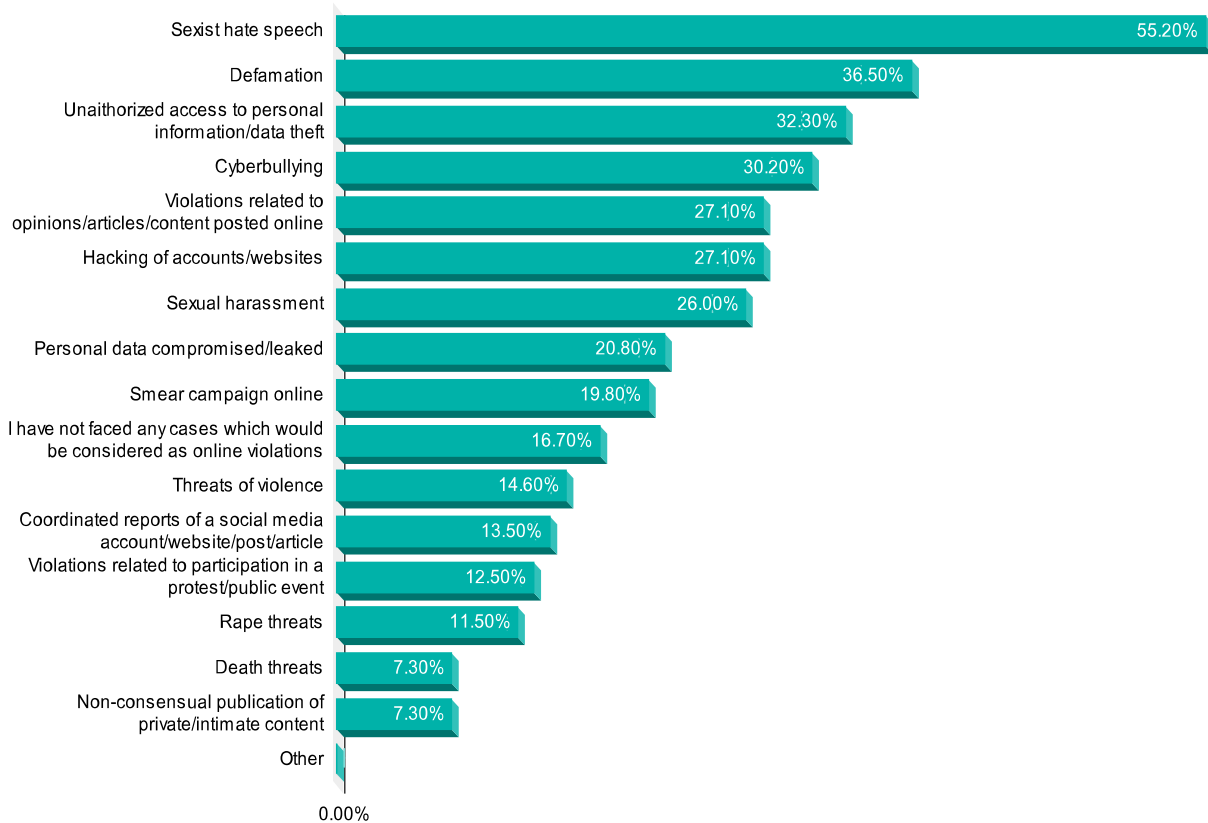


## The type and frequency of online violations experienced by WHRDs in Albania

A significant majority (83 percent) of the 96 WHRDs who responded the greater part of the survey questions for this research have experienced some kind of online rights violation, and many have faced these incidents multiple times. When asked to flag one or more of the types of violations to which they had been subject, respondents most commonly cited sexist hate speech (55 percent), but also: defamation and the spread of disinformation (37 percent), unauthorized access to personal information and data theft (32 percent), cyberbullying (30 percent), hacking of personal accounts and/or websites (27 percent), abuses in response to content they posted (27 percent), sexual harassment (26 percent), the release of personal data (20 percent), and targeting by on-line smear campaigns (20 percent).

Several WHRDs described facing other types of abuses that were clearly and directly related to their work or activism, such as coordinated reporting of social media accounts or blog posts (14 percent) as well as violations in response to participation in a protest or public event (13 percent). A number of respondents also reported having been the target of sextortion (12 percent), meaning they were threatened with the publication of private or intimate content, and some (6 percent) were in fact victims of the non-consensual distribution of this kind of content. Some of the gravest violations experienced by WHRDs in this study included death threats (7 percent), threats of rape (7 percent), and threats of physical violence (15 percent).

Figure 9. Types of human rights violations faced online by WHRDs (N=96)



During focus groups, WHRDs shared their personal stories of online abuse, but also recounted threats received by organizations that support women’s rights, victims of domestic violence and trafficking, and the LGBTQ+ community.<sup>36</sup> For instance, an online counselling platform for LG-BTQ+ people was targeted by a cyberattack aimed at shutting down the website. And representatives of women’s rights groups described receiving endless threats, often from perpetrators of domestic violence or former partners of the women they support or legally represent. Sometimes, organizations that offer services to women in crisis also experience violations perpetrated by media outlets, as in the case of a safe shelter for victims of violence and trafficking that was referred to in a major Albanian newspaper as a “disguised brothel” and its director as a “pimp.”<sup>37</sup>

Some WHRDs believe that attacks against them and their organizations are due to the work they do and the communities they support, as causes with which they engage remain widely stigmatized in Albanian society.<sup>38</sup> But WHRDs are also aware that their gender, and gender norms and expectations, play a considerable role in they experience such high levels of abuse in cyber-civic spaces. For example, a feminist activist and sex education blogger said during focus group discussions that the public perceives her as too “aggressive” or “emotional” due to strong stand against violence. She shared having faced serious threats, including rape and death threats, none of which resulted in criminal prosecution, though several were reported to the police.<sup>39</sup>

<sup>36</sup> Also see: Emma Janke and Charlotte Pruthi, eds., *Fem Defenders: The hatred against women human rights defenders – online and offline* (Kvinna till Kvinna, 2020).

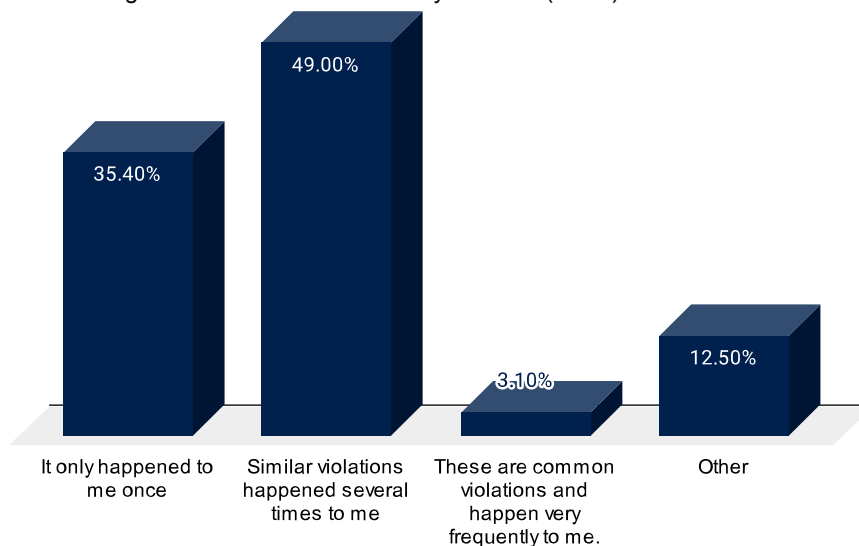
<sup>37</sup> Ibid.

<sup>38</sup> Online focus group with survey respondents, 28 April 2023.

<sup>39</sup> Also see: Laci and Vale, “Case Study 1 – Albania: Understanding gendered cyberviolence and discrimination.”

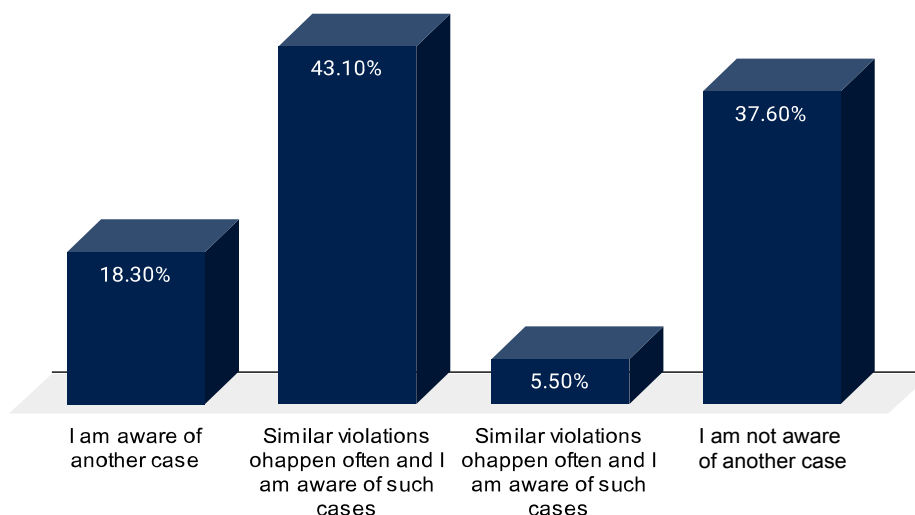
Concerningly, over half of respondents said they had faced such abuses either several times (49 percent) or very frequently (3 percent). And while one-third of respondents (35 percent) reported only having been targeted by online abuse one time, WHRDs belonging to the LGBTQ+ community were more likely to be among those who experience these violations with regularity.

Figure 10. Frequency of human rights violations faced online by WHRDs (N=96)



Asked whether they were aware of similar online violations committed against other WHRDs, 43 percent of the total sample of 109 respondents indicated that they knew of several cases like their own, and a smaller but significant number (14 percent) said they knew of at least one similar violation. Still, over one-third (38 percent) were unaware of other cases, and a small minority (6 percent) not only expressed the belief that these violations are rare but said they did not know any WHRDs who have experienced such abuse. Among the cases mentioned by WHRDs in this context included that of the director of a women's rights organization who is regularly targeted in offensive comments on Facebook, as well as the case of a journalist and sex education blogger and activist who has faced extensive online violence and who participated in a focus group held to validate the findings of the survey.

Figure 11. Awareness among WHRDs of online human rights violations against other WHRDs (N=109)





## **Motives behind online violations against WHRDs**

Online violations against WHRDs are rooted in misogyny, which gives men license to dominate women, including in the context of important discourse. This alone has a chilling effect on women in public spaces and impacts how they navigate their online presence, but it is further amplified by social norms that dictate women should remain calm and courteous, even in the face of violence, offering little tolerance for expressions of women's distress. When respondents in this research contemplated the drivers behind this abuse, they contended that patriarchal norms, a sense of impunity online, the normalization of hate and misinformation, poor education, personal frustrations, conservatism, and prejudices about the work of women's rights organizations all contribute to creating an enabling environment for the threats they face. During a focus group discussion, participants shared views about what motivates gendered attacks against WHRDs, such as:

*“Society is misogynist. This should be accepted, to begin with, and is the root of the problem. Men are the ones having the important conversations and sometimes they are invited (on television) to speak about gender-based violence, even on behalf of women.”*

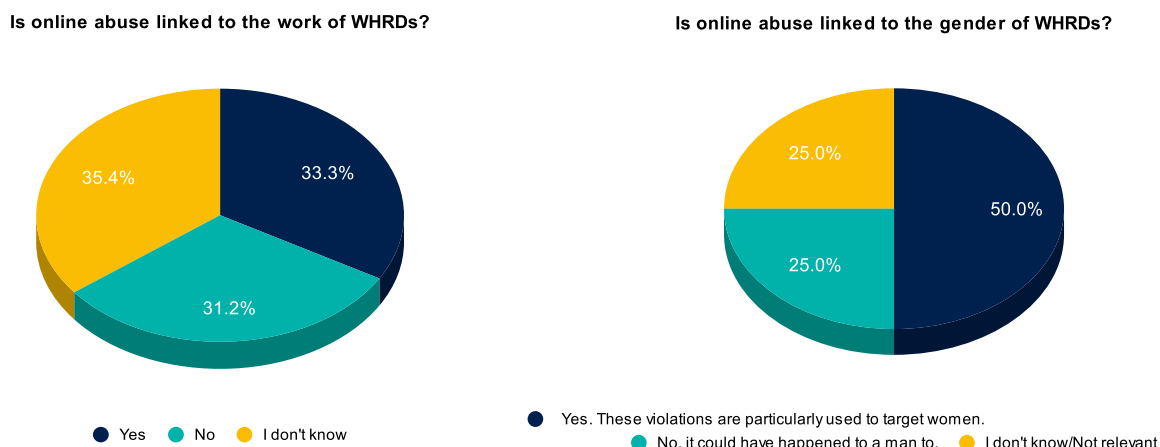
*“Women are not present in public spaces. Or if they are... the expectation is for you to remain calm, even when you are attacked, or they wish death upon you.”*

*“There is no space in the Albanian public sphere for angry women.... The few who dare to be vocal, such as journalists and WHRDs, are attacked.”<sup>40</sup>*

One-third (33 percent) of WHRDs who responded to this question felt that the online violations they experience are prompted in many instances merely by their engagement in specific work or activism, or by the political views they express, their reactions to issues of public interest, and critical publications or articles they have authored. However, approximately another third (31 percent) did not agree that this is what motivates such abuse, and the remaining respondents (35 percent) said they did not know if these violations are related to their activity as a WHRD or not. There was greater agreement that these abuses are motivated by gender, with half (50 percent) of respondents replying that they are targeted for gendered reasons, though a quarter (25 percent) did not know or think their gender was relevant and another quarter (25 percent) believed these violations could be experienced by men, too. Women belonging to minority communities, such as LGBTQ+ people, Roma, or Egyptians, were more likely to believe that these abuses are particularly aimed at women.

<sup>40</sup> In-person focus group with WHRDs, 28 April 2023.

Figure 12. Views of WHRDs regarding whether online abuse is related to their work or gender (N=96)



One-fifth (21 percent) of respondents attributed the fact that they had experienced online abuse to their belonging in a minority group, but most respondents either did not know this to be true (33 percent) or believed it was definitely not true in their case (46 percent). This finding must be contextualized, though, as there were very few respondents (7 percent) who identified themselves as part of a minority group; specifically, as LGBTQ+ (5 percent), Roma (1 percent), and Egyptian (1 percent). When this question was externalized and respondents were asked if the abuses they faced online were related to their defence and support of a minority group, over one-third (35 percent) believed this was true.

An expert on media and human rights who was interviewed for this research offered some further analysis of what motivates the online abuses directed against WHRDs in Albania:

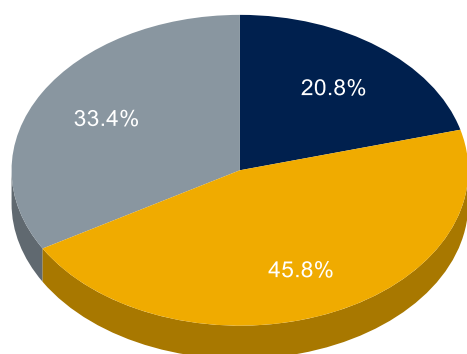
*The general sentiment against women, LGBTQ+, Roma, Egyptians, etc. that is present in society tends to be reflected and amplified online. People who have this attitude are given the opportunity to express themselves online without consequences. So, what makes some groups vulnerable online is simply the general sentiments present in society. Even being an activist is a reason for being targeted. In Albania, activism is a relatively new concept, and an activist is seen as someone who does not belong to this country and its traditions; as a former communist, collectivist country, where going against the grain was not an option. In Albania, people do not take activism very seriously, especially when related to human rights. Therefore, both elements – being a woman (or a member of a minority) and being an activist – can make someone an easy target.<sup>41</sup>*

41 E.K., expert on human rights and media, interview by authors, 9 May 2023.

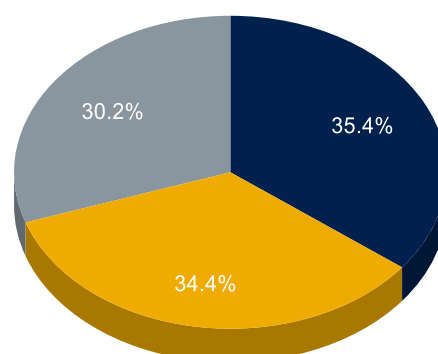
Figure 13. Views of WHRDs regarding whether online abuse is linked to the community to which they belong or the community for which they advocate (N=96)

Is online abuse linked to the community which WHRDs belong?

Is online abuse linked to the community which WHRDs defend and support?



● Yes ● No ● I don't know/Not relevant



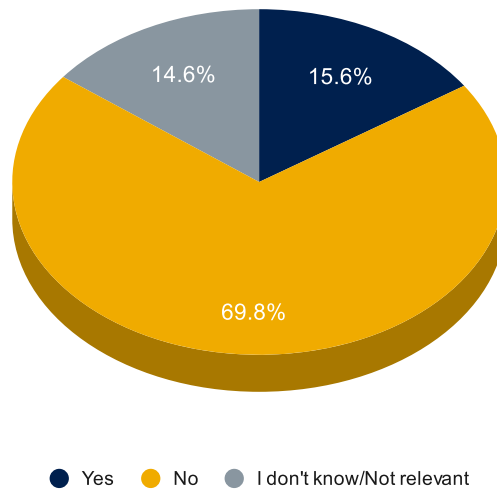
● Yes ● No ● I don't know/Not relevant

## The impact of online violations on engagement by WHRDs

As for whether their engagement as WHRDs has been impacted by online abuse, a majority (70 percent) of respondents said it has not. Notably, 5 percent said that these violations actually made them more active and motivated, and even more aware of the importance of continuing to be engaged on matters of gender equality and persisting in efforts to bring about change in society. It is not insignificant, however, that 16 percent of respondents reported their engagement as a WHRD has in fact been affected by their experiences in digital space, leading some to increase their vigilance regarding personal data protection, feel restrained or discouraged in their work, and suffer consequences to their mental health and wellbeing. In one focus group, WHRDs suggested that a strategy of “fighting back” is preferable to “shutting everything down,” because otherwise, perpetrators who target WHRDs online will achieve their aim of silencing important voices. They acknowledged that this comes with personal costs and risks, though, particularly given that some online threats materialize in the real world, and there have already been such cases.<sup>42</sup>

<sup>42</sup> In-person focus group with WHRDs, 28 April 2023.

Figure 14. Have online violations impacted the engagement of WHRDs (N=96)



There were also some WHRDs who chose to shut down accounts on social media, or were fired from their jobs, after being targeted by online abuse. One focus group participant, who faced frequent threats and required security on some occasions, commented:

*I don't know how I'm still in my right mind. I have been going to therapy for years to deal with the trauma. People tell me, you should have gotten used to this by now; you have to get used to these things. This seems absurd to me. How can you get used to violence? Does there ever come a moment when one gets used to violence? I can't accept it.*

Discussions that developed in focus groups also added nuance to the finding that 70 percent of respondents felt their engagement was not affected by online attacks. A prominent LGBTQ+ activist noted, for example, that many WHRDs “are just used to the [abuse] and have normalized it. This does not indicate that the violence is not a problem, it indicates that the problem is normalized. I see this happening to myself too.”<sup>43</sup> A feminist activist added that, “Even though 70 percent say they have not been influenced, it is probably impossible to truly know how much one is really restrained.” She argued that it had become second nature for some of the most vocal activists to face online abuse, and that they “have found inner strength or have chosen to endure it, but at great personal cost.” This problem of online violations having been normalized means that many women simply assume they will face these abuses in cyber-civic spaces, and no longer consider them very serious. WHRDs may even associate them with their work and view online violations as something they must learn to cope with in order to engage in activism or public discourse. This is part of the reason many WHRDs do not report the abuses they experience to relevant institutions.

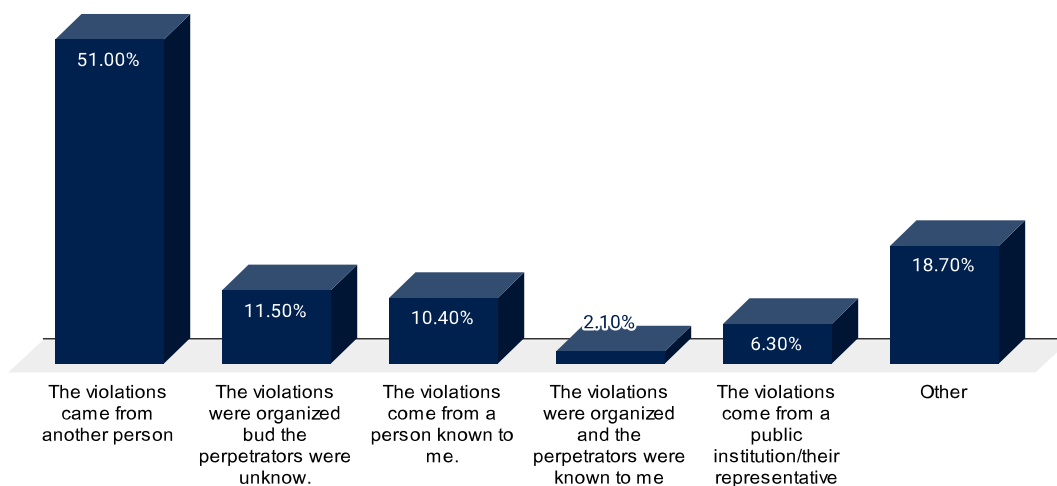
## Perpetrators of online abuses against WHRDs in Albania

In most cases, online violations targeting WHRDs in Albania are not carried out by perpetrators

43 Ibid.

known to the victims. About half the time (51 percent), these abuses are committed by a single unknown individual, and in 12 percent of cases, by an anonymous but organized group. Few respondents reported knowing the identity of the perpetrator (10 percent) or group of perpetrators (2 percent) who had subjected them to online abuse. WHRDs reported that these perpetrators had intended to intimidate them, harass them sexually, or morally discredit them, or hurt the cause of women's empowerment or of marginalized groups such as the LGBTQ+ community and shrink the space for consideration of these causes in the public sphere.

Figure 15. Whether perpetrators of online abuse are known or unknown to WHRDs (N=96)



One feminist activist said during a focus group discussion that the nature of her work means she has “faced attacks coming from several groups including religious groups, misogynists, as well as pseudo-feminists, who criticize me if I criticize another woman.” While all the WHRDs who participated in focus groups stressed that the perpetrators of online abuse were mainly men, some said they had also faced attacks from women, as in the example this feminist activist offered of being attacked by women who practice a “selective feminism”. Respondents also highlighted a lack of solidarity among their women colleagues, who are sometimes unwilling to offer their support in the public sphere or media when WHRDs are facing online abuses, even when they are comfortable providing that support in private. The reluctance of some women to voice their support publicly could be seen as a form of self-censorship, resulting from a fear of personal exposure to attacks. As one WHRD said in a focus group, “Patriarchal women can be as dangerous as men. They translate the lack of freedom within themselves into conformism.”<sup>44</sup>

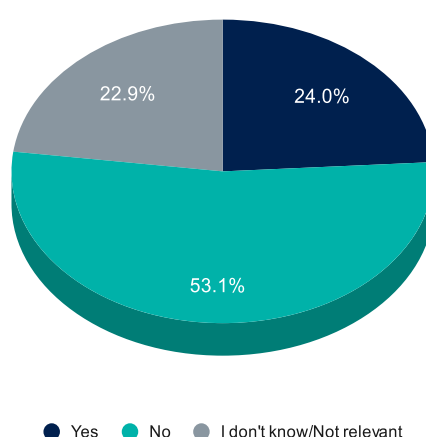
## Reporting of online violations, the responsiveness of Albanian institutions, and outcomes

Depending on the nature of the online abuse in question, the protection of WHRDs is the responsibility of independent human rights institutions in Albania such as the Ombudsperson, the Com-

44 In-person focus group with WHRDs , 28 April 2023.

missioner for Protection from Discrimination, and the Information and Data Protection Commissioner, or state law enforcement agencies such as the Police and the Prosecutor's Office. There is also an important role for digital platforms to play in addressing reports of violations on media platforms, which requires greater gender sensitivity in their community standards. While more than half of the respondents (53 percent) in this research indicated that they had not reported the online violations they have experienced, those who had (24 percent), reported them to the digital platforms on which they occurred (19 percent) and the State Police (7 percent). Very few respondents reported these violations to the Information and Data Protection Commissioner's Office (4 percent), the Commissioner for Protection from Discrimination (3 percent), or the Ombudsperson (2 percent).

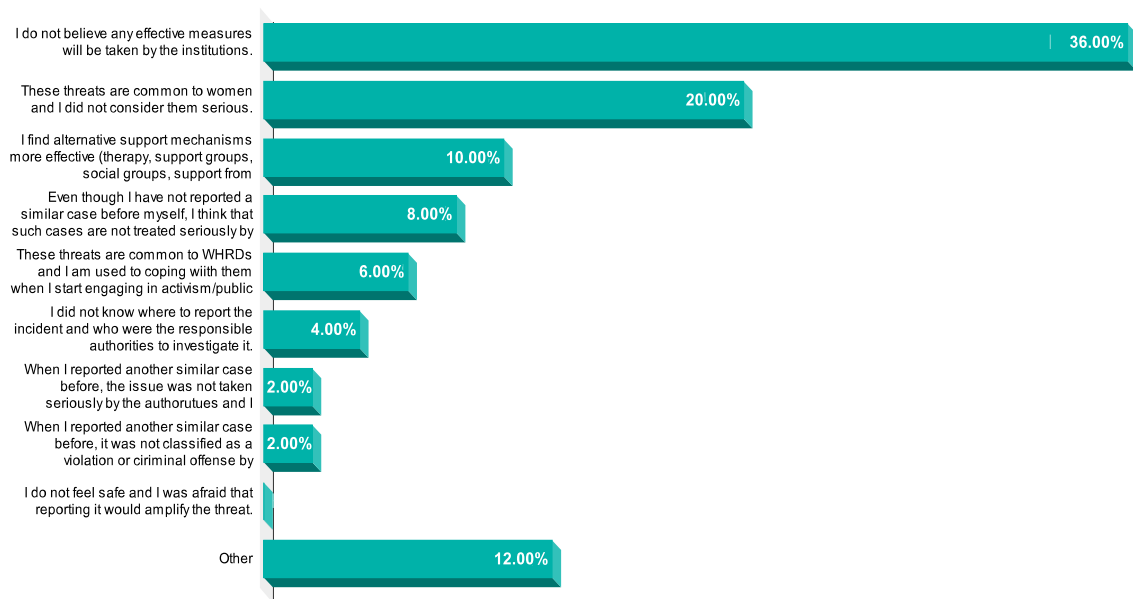
Figure 16. Proportion of WHRDs who reported online violations (N=96)



WHRDs who have chosen not to report online violations to the authorities (a total of 50 respondents) were asked to share their reasons, and quite a few (36 percent) said it was because they had no faith that effective measures would be taken in response to their report. Perhaps even more concerningly, one-fifth of respondents (20 percent) perceived the violations they experienced as such common threats to women that they did not consider them problematic enough to report, and some (6 percent) indicated that these threats are so tied to their work as WHRDs that they are accustomed to coping with them. A reluctance to report violations is also associated in some cases with a fear of victim blaming or public denigration.

There was a small set of respondents (10 percent) who reported turning to alternative support mechanisms (therapy, support groups, social groups, and friends or family) after experiencing online abuse, and believed this to be more useful than reporting these violations. These respondents assumed their cases would not be treated seriously by authorities, and in fact, there is a prevailing belief among WHRDs and LGBTQ+ activists that online threats are not taken seriously by police or prosecutors in Albania. This is surely informed in part by the experiences of WHRDs who have not found authorities receptive, such as a respondent who previously reported a case of online abuse and said she received no response or follow up, and another who was told by authorities that her abuse did not qualify as a criminal offence.

Figure 17. Why respondents chose not to report violations to public authorities (N=50)



This lack of responsiveness and concern by legal and judicial actors in Albania to cases of gender-based violence in cyber-civic spaces was also observed in Albania in earlier research by DCAF, which found that several such incidents were reported but no action was taken by authorities; prompting one LGBTQ+ activist to note that “*the sensitivity of authorities towards cyber-attacks is almost non-existent.*”<sup>45</sup> For instance, in one case reported by a feminist activist, the cybercrime unit within the state police played only an advisory role and failed to provide effective protection, and the prosecutor chose not to initiate a criminal investigation because the abuse experienced by this activist was not deemed a threat. The same experience was shared by the director of an LGBTQ+ organization, who said their reports of abuse had never resulted in a prosecution “*as the authorities either failed to identify the individuals hiding behind fake profiles, or the evidence was not deemed sufficient for the reported threat to reach the threshold of illegality and be classified as a criminal offence.*”<sup>46</sup>

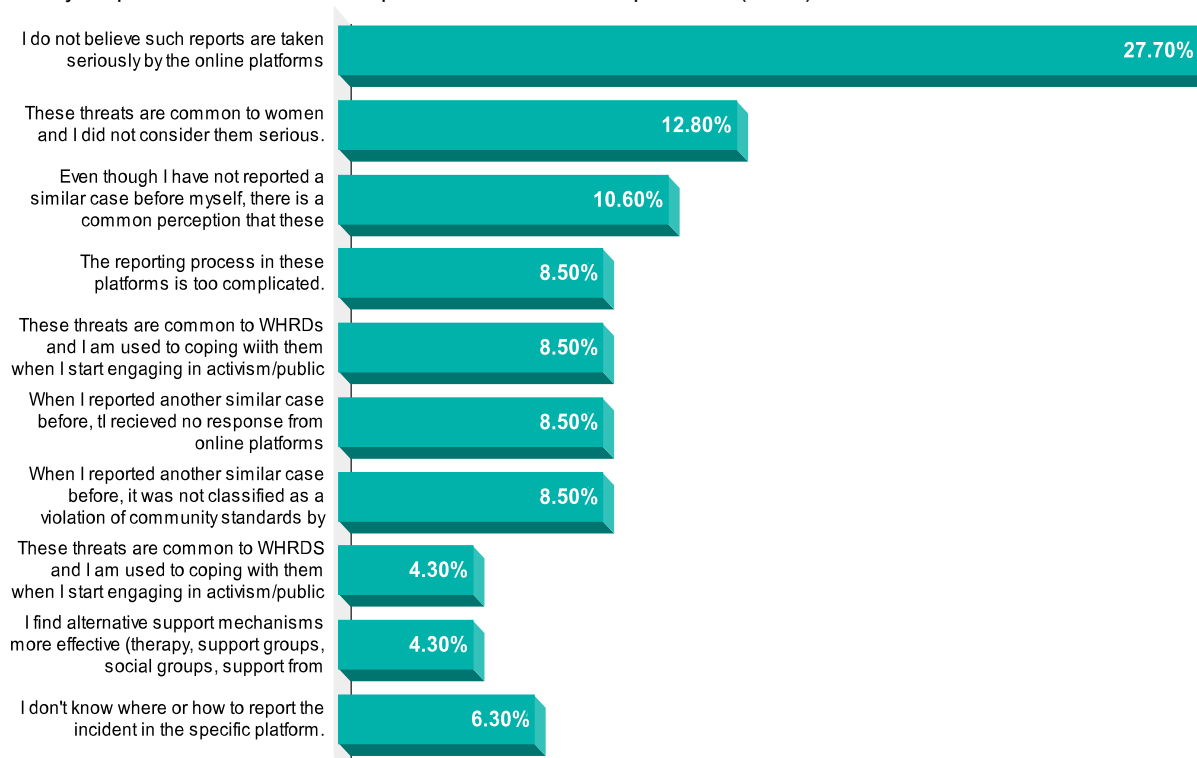
Respondents who chose not to report abuses to the digital platforms on which they occurred (in this case, 47) were also asked to indicate why, and once again, their reasoning was often (28 percent) linked to a lack of trust that these reports would be taken seriously. There were also some respondents (11 percent) who assumed digital platforms would be slow to respond to reports, even though they had never reported threats in the past; some (9 percent) who found the reporting process too complicated; and some (9 percent) who had previously reported another similar case and had not received a response or were informed that the incident they reported was not classified as a violation of community standards by the platform. It is notable, though, that 13 percent of the WHRDs who responded to this question downplayed the severity of the abuse they have experienced, framing it as a common part of being a woman or activist in online spaces;

45 Reçi and Kelmendi, “Albania: Bridging the Gap Between Cyber Policy Fragmentation and Human Rights,” 28.

46 Ibid.

a concerning trend that may contribute rather substantially to the underreporting of these violations.

Figure 18. Why respondents chose not to report violations to online platforms (N=47)



These questions to survey respondents about why they chose to report a violation or not, and the outcome of the reporting process if they did, helped researchers assess how WHRDs perceive the effectiveness of the current mechanisms in place on digital platforms and in Albanian institutions, as well as their accessibility and responsiveness. For example, journalists who have attempted to appeal Facebook bans described the process as untransparent and noted that the timeline for review is often unclear.<sup>47</sup> And while a majority of these respondents indicated that some measures were eventually taken in their cases, instances of coordinated inauthentic behaviour (CIB) are commonly reported by Albanian journalists who rely on Facebook and other social media to distribute their work. Despite this, a pilot study conducted by the Albanian Media Council on the Facebook pages of online media outlets suggests that the platform tends to censor investigative reports and op-eds, in most cases citing ethical standards.<sup>48</sup> A representative of the Council, who was interviewed for previous research, explained that CIB can pose a particular problem for users in a country like Albania, which “has no contacts, whatsoever,” within a company like Facebook: “The entire interaction is based on Facebook’s algorithms, and this produces a unilateral relationship. Facebook blocks sharing of the content time after time or they ban an entire page – and some of the reasons they cite for doing that relate to the article not complying with Facebook’s regulation.”<sup>49</sup>

47 Ibid.

48 Albanian Media Council, “Pilot Project: Censorship of the Albanian media from the Facebook Platform in 2021,” <https://kshm.al/en/2022/02/25/the-albanian-media-council-presents-the-pilot-study-problems-with-ethical-regulation-of-the-albanian-media-from-the-facebook-platform/>.

49 E.K., expert on human rights and media, interview by authors, 9 May 2023.



Some WHRDs who participated in this study also highlighted that their interactions with online platforms have made it evident that these companies lack sufficient Albanian-speaking staff to handle complaints and avoid algorithmic decision-making and/or delays. In their experience, it has been more effective to contact platforms in English, which often results in a swifter response. One WHRD said she has been targeted by such frequent attacks that she has developed a workaround, describing in a focus group how she has established contact with Albanian-speaking staff at TikTok and Instagram to ensure timely support when her accounts are shut down as the result of organized reporting campaigns.

When survey respondents were asked to indicate if their cases have been investigated by state authorities or digital platforms, most were unaware of any investigations that had taken place. One respondent also noted that, even when investigations led by state authorities have collected data from social media companies, inadequacies in the legal framework have prevented those authorities from taking further measures. For example, Balkan Insight detailed the story of one journalist who received death threats on Facebook and did her own investigative work to find information that could identify the perpetrator, but was still met by inaction on the part of the police.<sup>50</sup> And in the case of one respondent in this research, state law enforcement authorities never made any contact to follow up on her report of violations, which was processed only by the Commissioner for Protection from Discrimination. WHRDs who responded to the survey found that online platforms were slightly more responsive, however, noting that reports of violations had in some instances led these platforms to block the accounts of perpetrators spreading hate speech.

The experiences of WHRDs who joined in focus group discussions were very similar to those reported by survey respondents. Indeed, none of the focus group participants, or any of the experts who were interviewed for this research, had any knowledge of cases of online abuse that had been effectively investigated and prosecuted in Albania. A lawyer working for a women's rights organization said for example that there had been no case in which her clients faced online violations that police had properly responded. The police cybercrime unit was described as “almost non-existent” and WHRDs said they had expected the capacities of these institutions would improve after the COVID-19 pandemic but have found instead that their online exposure and risk has only grown.

These WHRDs felt the few cases that had received any effective follow up were those processed by the Commissioner for Protection from Discrimination and involved online hate speech or harassment. This reflected the comments of an expert on human rights and media, who noted that the Commissioner appears to be more accessible and proactive than other institutions. This expert echoed the experiences of respondents, explaining that online violations “*are not taken very seriously by Albanian institutions,*” which “*do not prioritize women's rights, [and] also lack the proper capacities to deal with these matters,*” adding:

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50 “Women as a liability,” Balkan Insight, 14 January 2022, <https://balkaninsight.com/2022/01/14/women-as-a-liability/>.

*This can also be seen in the way women are treated in decision-making, which reflects the prevailing mindset. That's why I find cooperation with institutions to be difficult.... [I]nstitutions "use" women or women's rights organizations to gain attention, but without delving into the problems. On the other hand, human rights groups and organizations need this attention for their work, the increased visibility, relations with donors, and partners, and they agree to make these small compromises to be the focus of attention for a while.<sup>51</sup>*

To create online social spaces that truly centre safety, a combination of law, trust, and community norms is essential.<sup>52</sup> Accessible, safe, and specialized mechanisms must be in place to guarantee that all victims of online abuses – including women – can report these violations easily and can expect that harmful content will be removed.<sup>53</sup>

## Conclusions and recommendations

The overwhelming majority (83 percent) of the 96 WHRDs who answered the greater part of the survey questions for this research reported having experienced various types of rights violations in digital space. The most common of these was sexist hate speech (55 percent), but respondents also faced defamation, unauthorized access to and distribution of personal data, cyberbullying, smear campaigns, and more. In some cases, this abuse was directed not just at individuals, but also at organizations that support victims of domestic violence and trafficking or the LGBTQ+ community. While graver violations, such as threats of death, rape, or violence, were a less common occurrence, their prevalence is nonetheless concerning; particularly because there have been occasions when online threats have materialized as physical attacks in the real world.

Half of the respondents in this research believed the abuse they face online is related to their gender, as well as the type of work they do and the communities they support. According to WHRDs, this is largely a consequence of the prevailing social norms in the country – which are embedded with biases against women, minorities, and activism itself. Among the drivers that WHRDs identified as contributing to this problem in Albania are patriarchal norms, impunity, misinformation, poor education, personal grievances, conservatism, and deeply held prejudices about the work of women's rights organizations. These manifest and are amplified online, where users benefit from an anonymity that gives them a sense of impunity. Indeed, in many cases, the perpetrators of violations against WHRDs are anonymous.

It is men who are most likely to commit these abuses, by far, though there have been cases involving women perpetrators. Some WHRDs also reported having been the target of public officials or organized attacks. But no matter who the perpetrator is, WHRDs said the aim is almost always to intimidate and cause them fear, sexually harass them, discredit them morally,

<sup>51</sup> E.K., expert on human rights and media, interview by authors, 9 May 2023.

<sup>52</sup> See: Ari Ezra Waldman, "Safe Social Spaces," *Washington University Law Review* 96, no. 6 (2019): 1537–1579.

<sup>53</sup> Council of Europe Commissioner for Human Rights "No space for violence against women and girls in the digital world," *The Commissioner's Human Rights Comments* (blog), 15 March 2022, <https://www.coe.int/en/web/commissioner/-/no-space-for-violence-against-women-and-girls-in-the-digital-world>.

or harm the cause(s) they support and minimize space for these issues in the public sphere. In this context, many respondents feel there is little room for vocal women in Albanian cyber-civic space. Albanian social norms dictate that women behave in certain ways and adhere to certain frameworks, particularly in public spaces, and behaving contrary to these norms comes at a high personal cost.

Among WHRDs who said the abuse they have faced online has changed the level to which they engage in their work as HRDs, they reported withdrawing from social media or public activity, being fired from their jobs, self-censoring, and facing mental health consequences. In some cases, threats against them had advanced into stalking or physical attacks. That said, 70 percent of the WHRDs who responded to a survey question about whether online abuse had affected their level of engagement, said it had not. Many of these respondents have chosen a “strategy of fighting back” which runs contrary to societal expectations that they accept online violence and remain silent. Arguably, and importantly, this strategy also counters the normalization of online abuse that was evident in survey responses, as one-fifth of respondents considered the violations they confront online to be such a common experience for women that they did not deem them serious abuses. This normalization of online violence against women who engage in public discourse contributes to the underreporting of cases.

Some WHRDs have taken self-protective steps online, such as by filtering out keywords to enable the automatic deletion of harmful content, disabling direct messages and comments, applying comment moderation, or simply refusing to respond or react to perpetrators. In some instances, they have reported violations to relevant institutions or the digital platforms on which they occur. A small group of WHRDs has opted not to report abuses but has turned instead to alternative support mechanisms (therapy, support groups, friends and family, etc.). However, it should be noted that all of these strategies serve only to manage the intensity or consequences of attacks, but do not address the problem of online gender-based violence at its core, or its impact on the lives and work of WHRDs.

### ***A vicious circle of impunity and underreporting***

Many WHRDs do not believe institutions will take any effective measures if they report online violations, so a majority of the respondents in this research (53 percent) have not reported these abuses. Some also perceive the violations they face as a common threat to women and do not deem them serious. Even when abuses are reported, though, a lack of previous successful investigations means WHRDs have no expectation that their case will be effectively investigated or prosecuted. Respondents attributed this poor institutional responsiveness in Albania, at least in part, to limited human resources in the cybercrime units of state law enforcement bodies, but said it was also due to a failure by authorities to prioritize women's rights. On the other hand, independent institutions such as the Commissioner for Protection from Discrimination are perceived as more accessible and proactive.

**To improve conditions for Albanian WHRDs in cyber-civic spaces, meaningful cooperation between institutions and civil society is needed.** This must go beyond sporadic and superficial activities emphasizing women's rights, to include **capacity building for police officers, judges, and prosecutors** which mainstreams international standards that guarantee women's rights in digital spaces while also tackling the specific risks faced by women in the public sphere. **Adequate human and technical resources** should also be provided to the institutions tasked with addressing online violations. Moreover, **trust-building measures** – such as regular meetings, joint awareness campaigns, and collaborative initiatives to address online violence against WHRDs – should be carried out to strengthen the relationship between institutions and the groups which are particularly targeted by online abuses, to tackle the problem of underreporting. **Online violations against WHRDs must be treated with the same seriousness as cases of physical violence**, both by civic actors and public institutions, especially because these cybercrimes can lead in some cases to hate crimes committed in the real world. This threat environment also has a chilling effect on the activity of some WHRDs and civil society organizations, and can silence important voices.

### ***The legal/institutional and digital literacy of WHRDs***

The vast majority (92 percent) of respondents in this research do not believe that human rights enjoy equal protection in the online and offline realms. This view is shaped partly by an insufficient awareness of the existing framework, but also by the sense that online violations are not treated seriously. Notably, WHRDs in Albania were more knowledgeable about the international framework to protect HRDs (57 percent) than their own national framework (35 percent). At the same time, digital literacy among WHRDs is inadequate, and nearly every (98 percent) respondent expressed an interest in learning more about how to safely navigate online spaces. This is crucial to prevent WHRDs from self-censoring and withdrawing from the online sphere as a form of self-protection.

**Awareness must also be raised among WHRDs of the legal and institutional infrastructure in place to protect them, so that they can better utilize reporting and accountability mechanisms.** These efforts should include representatives of civil society organizations, activists, journalists, as well as other women engaged in the public sphere and politics, who are often subjected to job-related threats. The active online presence of these women is crucially important to democratic debate in Albanian society and to the advancement of women's rights.

### ***The role of digital platforms***

The sexism and biases that women face in the offline public sphere are often boosted and amplified in online spaces by algorithms that serve commercial interests at the expense of women's rights. The response of digital platforms to reports of these abuses is seen by some WHRDs as ineffective or inefficient, coming too long after violations occur. These platforms rely largely on algorithms to handle reports, instead of hiring enough staff members who are fluent in certain languages (e.g., Albanian) to undertake human moderation. This is a shortcoming, as human content moderators are much more capable of understanding context and nuance, especially in

languages where automated systems are likely to fall short.

Digital platforms must bear responsibility for addressing the broader social inequities that are reproduced and often exacerbated by their algorithms, which can lead to real-world harm and abuse against women. **When formulating their community standards and reporting infrastructures, these platforms should take into account existing gendered concerns to develop user-friendly and responsive reporting mechanisms that are accessible, safe, and specialized, enabling women victims to easily report abuse and ensure the removal of harmful content.** They should also **invest in more advanced algorithms, along with allocating sufficient human resources to content moderation**, to better identify and remove abusive content and respond to reports. Human moderators are better equipped to understand linguistic subtleties, and to possess the cultural competence necessary to assess the suitability of content across diverse regions and user groups. In parallel, digital platforms should **ensure algorithmic transparency and accountability**, conducting regular audits to identify and address biases in their algorithms that amplify sexist or discriminatory content. These platforms should also provide feedback to state authorities, independent (local) organizations, and experts on combatting online violence, to identify areas for intervention and in support of research initiatives.

### ***(Un)ethical media reporting***

Online media outlets sometimes play a role in the spread and amplification of gender-biased content in Albania, including through the way they portray women victims of violence. This contributes to the problem of disinformation, but worse, untruthful and sensational content often incites violent reactions on social media, which this and other studies have shown, are directed overwhelmingly at women. These outlets also fail to provide equal space to women, leading to unbalanced reporting of their perceptions and needs, and further shrinking the public space held by women.

**The capacities and awareness of journalists should be enhanced regarding ethical and gender-sensitive reporting.** Meanwhile, **newsrooms ought to adopt a gender-sensitive approach that avoids reinforcing stereotypes or perpetuating discrimination, while highlighting women's perspectives and experiences in a fair and balanced manner.** To address harmful comments generated in response to media content, the establishment of **internal moderation teams and reporting mechanisms should be considered.** Additionally, journalists themselves can play a key role in the documenting and reporting of online rights violations, raising awareness, identifying patterns, and advocating for stronger measures to combat cyberviolence. This can be done in cooperation with partners, including independent organizations and experts. Above all, it is crucial that **media self-regulation mechanisms** are promoted to enable a fair balance between journalistic accountability and freedom from censorship.

### ***The need for a dedicated legal and policy response***

The lack of comprehensive and specific regulations for safeguarding HRDs implies that the challenges and acts of violence they face as a result of their public engagement or personal

characteristics are treated without any recognition of the unique part they play in advancing democracy, and the particular risks this generates. The 2019 Parliamentary Resolution on Human Rights Defenders is Albania's only dedicated document on the protection of HRDs in the country, but it is non-legally binding and remains unimplemented to date. For that reason, few of the WHRDs who participated in this study were aware of it. While there is a body of national laws aimed at ensuring the independent work of civil society actors in Albania, which do protect various activities and rights of HRDs, a majority (58 percent) of respondents in this research said a special legal status or protection for WHRDs specifically was necessary, due to the gender-specific threats this group faces and their important role in society. Granting legal status and protection to HRDs would allow them to engage in their work with greater security and fewer obstacles, by guaranteeing stronger safeguards against attacks or abuses (including online).

**When regulating the status and protection of HRDs, the needs and particularities of different sub-groups of defenders should be taken into account** – including those who advocate for women, the rights of minorities such as Roma and Egyptians, the LGBTQ+ community, migrants, and people with disabilities – as well as HRDs who identify with or belong to these groups themselves, especially those facing intersectional discrimination.

In response to the need for specific legal regulations to protect HRDs, the International Service for Human Rights developed A Model National Law on the Recognition and Protection of Human Rights Defenders, published in 2017.<sup>54</sup> It provides a (non-binding) framework to help countries formulate and adapt legislation to protect HRDs and ensure they can carry out their work without fear of reprisal. In the case of Albania, parts of this Model Law deemed feasible for implementation in the country could be incorporated into a unique document or into amendments to existing legislation and policies.

## APPENDIX: About the Research

### Methodology

This study is based on the explanatory-sequential model, applying a mixed-method approach to assess the gendered impact of human rights violations in cyberspace, with a focus on Women Human Rights Defenders (WHRDs). It builds on earlier research conducted by the Western Balkans Cybersecurity Research Network.<sup>55</sup> That research constituted the first phase of this project;<sup>56</sup> and it produced a report that presented findings, among others, that also shed light on some of the violations of privacy and discrimination faced by women engaged in the public sphere.<sup>57</sup>

For this study, a detailed desk review of the legal, institutional, and regulatory infrastructure that

<sup>54</sup> International Service for Human Rights, *A Model Law for the Recognition and Protection of Human Rights Defenders* (2017).

<sup>55</sup> The Western Balkans Cybersecurity Research Network consists of six CSOs: the Institute for Democracy and Mediation (IDM) in Albania; the Balkan Investigative Reporting Network (BIRN) in Bosnia and Herzegovina; the Kosovar Institute for Policy and Research (KIPRED) in Kosovo; the Centre for Democratic Transition (CDT) in Montenegro; the Metamorphosis Foundation in North Macedonia; and the Belgrade Centre for Security Policy (BCSP) in Serbia.

<sup>56</sup> The project is an initiative of DCAF – Geneva Centre for Security Sector Governance, in the context of its Good Governance in Cybersecurity in the Western Balkans initiative, supported by the UK's Foreign, Commonwealth and Development Office (FCDO).

<sup>57</sup> Franziska Klopfer, Ena Bavic, and Laylo Merali, *Cybersecurity and Human Rights in the Western Balkans: Mapping governance and actors* (Geneva: DCAF, 2021).

provides protection to WHRDs was undertaken. The Resolution on Human Rights Defenders approved by the Albanian Parliament in 2019 and relevant community standards on digital platforms were a particular focus. In addition, a request for information was sent to the Albanian Parliament concerning the measures and activities implemented in the framework of the Resolution on Human Rights Defenders. A quantitative survey was also used to collect information on the types of violations faced by Albanian WHRDs in cyber-civic space, and to determine how WHRDs themselves assessed the motives behind these abuses, their impact, and the effectiveness of response mechanisms. Lastly, to validate the findings of the survey and gain a better insight into the experiences of WHRDs who have faced online violations, focus group discussions and interviews were organized with experts, survey respondents, and prominent WHRDs.

## Research instruments

### *The quantitative instrument*

The research team designed a semi-structured questionnaire, with the main objective of mapping the types of human rights violations directed at WHRDs in online spaces, determining the impact of these violations on their daily work and public engagement, and identifying the potential motives of perpetrators. This survey also allowed researchers to map out the digital platforms where these violations most often occur and enabled survey respondents to provide an overview of their experiences with reporting these abuses to digital platforms and public institutions, and to offer their reasoning if they have chosen not to report them. Some survey questions also measured the general knowledge among WHRDs of cybersecurity and the legal and institutional framework that protects them, to assess capacity-building or awareness-raising needs.

A voluntary response sampling approach was used, in which potential respondents were invited to take the survey based on their willingness to participate in the study. For the purpose of this study, a broad definition of Human Rights Defenders (HRDs) was applied, to include anyone who, individually or with others, acts peacefully to promote or protect human rights, from individual activists or groups, to representatives of civil society and other independent organizations, to human rights lawyers, to investigative journalists who report on human rights violations, corruption, and public accountability matters. Within these parameters, anyone considered a WHRD was welcome to contribute to the survey.

Data were collected between 16 January and 15 February 2023, and the survey was distributed via the website of the Institute for Democracy and Mediation (IDM), as well as its social media platforms (including Facebook, LinkedIn, Twitter, and Instagram). On top of this, the survey was shared via e-mail with IDM's network, which includes activists, representatives of women's rights organizations and organizations working with vulnerable groups and minorities, journalists, and researchers. Umbrella groups working on women's rights in different parts of Albania also supported the distribution of the survey within their networks and communities, to allow for better geographical distribution of the sample. The final sample frame for the online survey included **109**

## respondents.

### *The qualitative instrument*

Survey findings informed the development of a semi-structured questionnaire that guided focus group discussions. Employing intensity sampling, two focus groups, each composed of 5-7 participants, were organized to validate the survey findings, as well as three in-depth interviews with experts in media/communications, cybersecurity, and human rights. Previous interviews conducted with WHRDs for earlier research carried out by the same authors, within the same project, were also utilized.<sup>58</sup> This allowed the authors to include illustrative examples without repeating interviews, thus avoiding the risk of triggering victims. The focus group discussions for this study explored how the online violations experienced by WHRDs affect their engagement in cyber-civic space, and contemplated what can be done to mitigate the impact of these violations. Participants in these focus groups included survey respondents who had reported being particularly affected by online abuse and consented to be contacted to share further in-depth insights about their experience, and prominent Albanian WHRDs who face cyber-violence due to their public engagement.

### ***Ethical considerations and limitations***

Data collected in the framework of this study are stored on the premises of the Institute for Democracy and Mediation (IDM), and any personal data are stored and processed in compliance with Law Nr. 9887 on the Protection of Personal Data, of 10 March 2008. This study also followed ethical standards applied in research design and implementation such as:

- i. Informed consent: All participants were informed about the aim of the study at the start of the survey, and were informed of their right to withdraw from the research at any time even after they had given their consent.
- ii. Voluntary participation and harmlessness: The informed consent for this research clearly stated that the participation of respondents was voluntary and that they would not be harmed in any way due to their choice to participate in the study or not.
- iii. Anonymity and confidentiality: Participants were informed that they would not be identified by name, or in any other way, in this study; as well as that all the information they provided would be kept confidential, the data gathered would be used only for cumulative (not individual) analysis, and that the findings would be used only for research purposes. The survey instrument provided respondents the option to provide contact information and consent to be contacted for further research purposes, and some respondents chose to do so.

<sup>58</sup> Megi Reçi and Sara Kelmendi, "Albania: Bridging the Gap Between Cyber Policy Fragmentation and Human Rights," in Klopfer and Merali, *Cybersecurity and Human Rights in the Western Balkans*.



## Limitations

When considering the findings of the study, it should be borne in mind that this research is limited by the sampling approach (volunteer response sampling), which does not allow for the generalization of findings to a whole population. Though the research is based on a quantitative methodology, the results apply only to participants in the research. However, this meets the research aim to explore the gendered impact of human rights violations in cyberspace, rather than generate findings representative of WHRDs as a whole.

This research is subject to other limitations as well:

- i. Because a self-administered questionnaire was used, it may be limited by the degree to which respondents feel comfortable with self-disclosure. Despite the fact that data were collected with assurances of anonymity and confidentiality, it is possible or even likely that respondents who have experienced online violations were triggered by some survey questions. As a consequence, their responses may have been affected.
- ii. Volunteer participation in the research, and convenient selection of the study participants, may have led to a non-response bias.
- iii. Online data collection may have impacted the results, specifically by biasing them towards individuals with regular internet access, thus excluding the perspectives of WHRDs working in more remote areas with limited access.
- iv. A lack of official statistical data on WHRDs rendered the identification of a target group difficult, preventing researchers from quantifying the sample. WHRDs are a diverse group and include women engaged in various activities in the public sphere (including informal activists, people who work in civil society, lawyers, journalists, and more). The survey's disclaimer provided respondents with the working definition of WHRDs for this study and asked them to self-identify as WHRDs or not.

## A profile of survey respondents

A majority of respondents (88 percent) identified themselves as WHRDs; meaning that 12 percent of respondents did not identify as women or as HRDs, even though the survey was designed to explore the challenges faced by WHRDs in cyber-civic space. There were no age restrictions set for the survey, to encourage younger WHRDs to share their experiences, and 14 percent of respondents indicated they were under 25 years old. Another 30 percent were between 26 and 35, but more than half (56 percent) were over 35 years old.

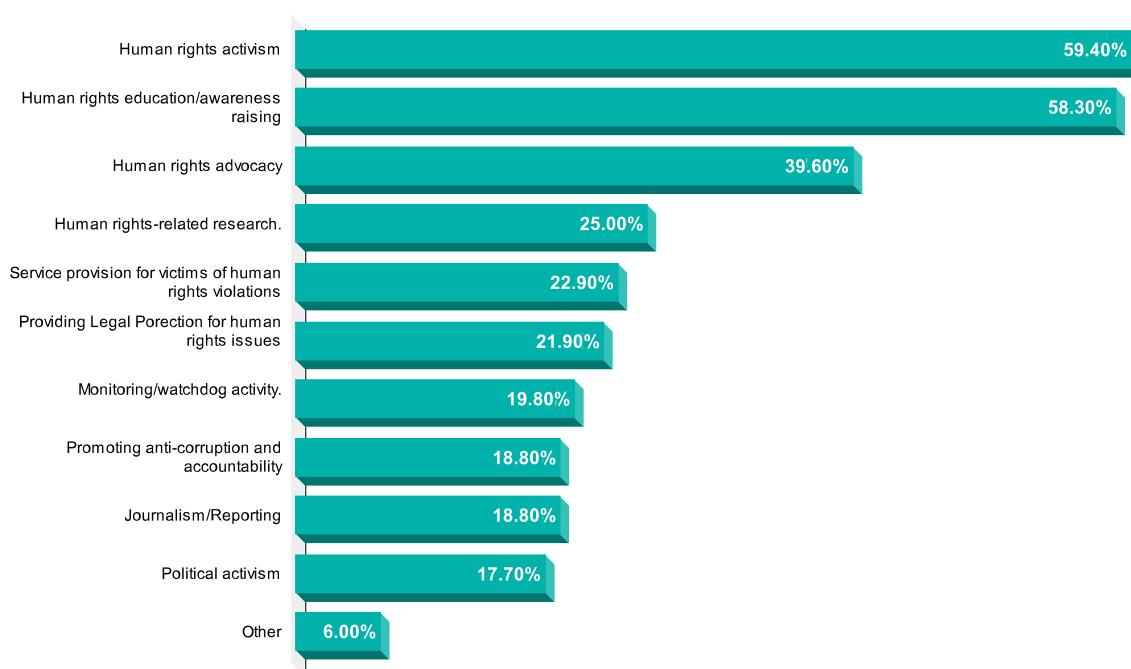
While the geographical distribution of respondents was irrelevant in this study, it may be important in the sampling for other research. Most respondents reported that they lived in Tirana (54 percent), Vlora (11 percent), and Shkodra (9 percent). Beyond this, only a few respondents each, or in some cases only a single respondent, indicated that they lived in: Durrës, Elbasan, Gjirokastër,

Poliçan, Fier, Korçë, Pogradec, Fushë-Arrëz, Kavajë, Laç, Lezhë, Rrëshen, and Vau i Dejës. There was also one respondent who is a member of the Albanian diaspora and lives outside the country.

Most respondents (91 percent) did not identify as belonging to any minority group. However, five respondents said they are part of the LGBTQ+ community; one, a member of the Roma minority; and another, Egyptian. At least one respondent identified herself as a victim of domestic violence.

When asked about the main activities they engage in as WHRDs, respondents were able to choose more than one answer. A majority indicated that they are engaged in human rights activism (59 percent) or human rights education/awareness raising (58 percent), advocacy (40 percent) and research (25 percent) related to human rights, or that they provide services to victims of human rights violations (23 percent), offer legal protection (22 percent), and engage in human rights monitoring and watchdog activities (20 percent). Journalists who promote good governance and accountability made up 19 percent of respondents, and WHRDs engaged in political activism accounted for 18 percent of the survey sample.

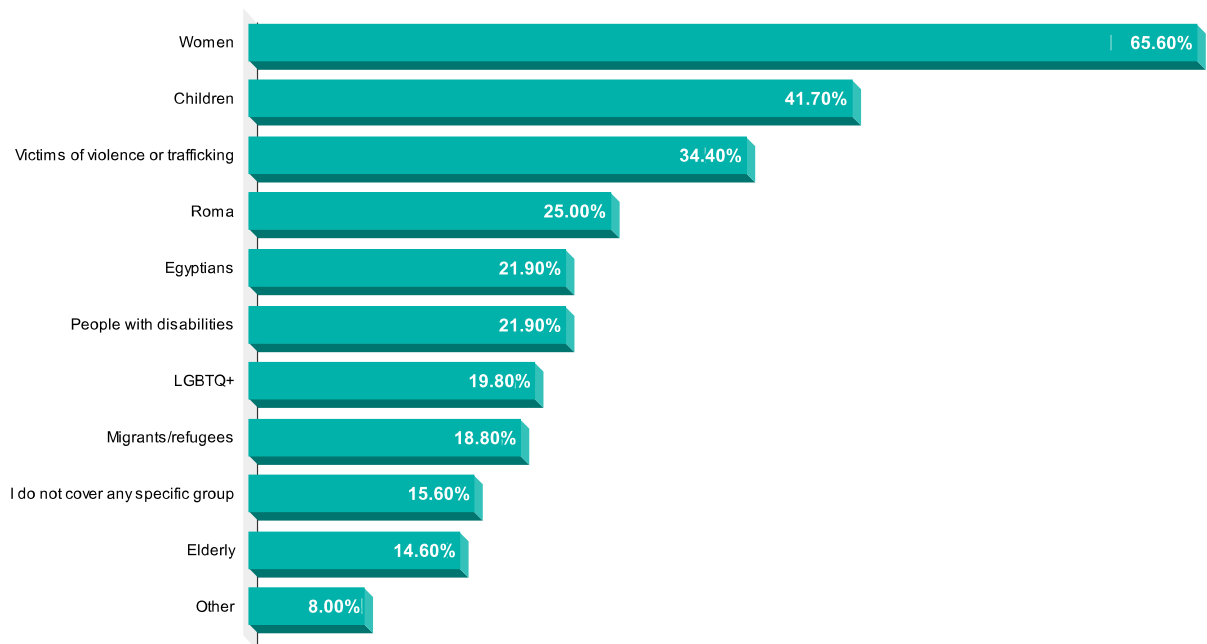
The main activity of respondents in their work as WHRDs (N=96)



The majority of survey respondents said their work addresses the rights of women (66 percent) and children (42 percent). Over one-third (34 percent) are focused on the rights of victims of violence or trafficking, and roughly one-quarter reported working to protect the rights of Roma (25 percent) or Egyptians (22 percent), or the rights of people with disabilities (22 percent). One-fifth (20 percent) indicated that they are engaged in advocating for the rights of the LGBTQ+ community or migrants and refugees (19 percent). WHRDs who work to protect the rights of the elderly made up only 15 percent of respondents, and 16 percent said they identify as WHRDs but that their work is not focused on any specific group. Other issues addressed by the WHRDs who

participated in this study include freedom of information, freedom of expression, labour rights, the right to liberty and security of persons, minority rights, the right to equality between men and women, and the right to education.

Rights addressed in the work of respondents (N=96)



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# CHAPTER 2

## What is private is not pornographic:

**Non-consensual intimate image distribution  
as gender-based violence in Bosnia and Herzegovina**

**By Aida Mahmutović and Aida Trepanić**

Balkan Investigative Reporting Network Bosnia and Herzegovina  
(BIRN BiH), Detektor

## Introduction

Our physical and online lives are more merged today than ever before. In almost every way, the real and digital are intertwined. Hence, gender-based violence and its impacts cross between physical and digital spaces, too. This has created new opportunities for perpetrators, because while digital spaces and digital tools offer many benefits, they also present new means by which the human rights of victims can be violated, particularly women, girls, members of the LGBTQ+ community, and other minorities. Indeed, as the importance of information and communication technologies and the internet grows, a new digitally enhanced form of gender-based abuse is flourishing. In some cases, this abuse involves the non-consensual distribution of private images or videos.

Victims of non-consensual intimate image distribution (NCIID) are often failed by the response of government institutions, due to loopholes in the system; and even when that system works in all the ways it should, this violence sometimes persists in online spaces. This research thus explores online gender-based violence (GBV) in Bosnia and Herzegovina (BiH) with a focus on NCIID. It addresses misleading terminology (such as “revenge porn”) commonly used to describe this online abuse, and it discusses the different kinds of gender-based violence seen online and how these intersect with various rights. It also provides an overview of the international and national legal frameworks, and the ways social media companies are attempting to address this growing problem.

This analysis is meant to support action on a local level to prevent and mitigate these disturbing online violations of Bosnian citizens’ rights, and uses the case study of a young woman who was victimized by NCIID to shine more light on this serious issue. It is meant for professionals in state institutions (police, prosecutors, judges, shelter workers), the private sector, civil society organizations, media, and intergovernmental organizations. But it is also intended for the public at large, especially people who spend time engaging with and distributing non-consensual images in online spaces without understanding the physical and emotional harm this causes to victims.

The challenges of addressing online GBV are certainly not unique to BiH, as the internet and GBV are both global phenomena. And notably, each of these phenomena is quite complex and layered: the internet, built from physical, data, network, transport, translation, and application layers; and GBV, a mechanism of control that deploys physical, sexual, psychological, and economic layers of abuse. All these layers represent weak points that perpetrators seek to exploit in any society lacking systematic responses and an institutional focus on confronting these emerging issues, and in BiH, this is why online GBV such as NCIID is occurring far too frequently.

## Terminology matters

Most human rights experts agree that some of the terminology used to discuss NCIID is inaccurate and misleading, particularly the widespread use of the term “revenge porn”

NCIID is a breach of trust and an infringement of privacy, and as Nyamishana Prudence has argued, it is “absurd that the laws have classified women’s bodies broadly as pornography.”<sup>1</sup> In fact, an early example of what would now be referred to by many people as “revenge porn” occurred offline in 1953, when an image of a naked Marilyn Monroe was published in the first edition of *Playboy magazine*.<sup>2</sup> She never posed for the magazine directly, and the photo *Playboy* used was taken years earlier, at the beginning of her career, raising serious questions about consent. While she had apparently signed a legal release for the images, she reportedly signed it as “Mona Monroe,” explaining later: “I may have wanted to protect myself.... I did not want my name to appear on that model release.”<sup>3</sup>

Similarly, in 1980, when *Hustler* magazine began publishing naked images of “nonprofessional female ‘models’” – which were sent in by readers and often shared the “model’s” hobbies, sexual fantasies, and occasionally their name – it turned out that some of the women featured in the magazine had not submitted their own photos. They sued *Hustler* for publishing these photographs and personal details without their consent, alleging a violation of privacy, and won.<sup>4</sup> However, in what is perhaps the most famous case of the publication of sexually explicit content shared without consent, still images of a video of Pamela Anderson and Tommy Lee were shared by *Penthouse* magazine in 1996; and when the couple sued on the grounds that this was an invasion of privacy, their case was thrown out by a judge who ruled that earlier leaks of the images meant they were no longer private and that the couple’s fame made their publication newsworthy.<sup>5</sup>

The video at the centre of the case involving Anderson and Lee was stolen out of a safe in their home, but with advancements in technology, most of us now save private and personal images in digital spaces. This private content exists not only on our phone or camera, but may also be available to many applications, or we may share it on social media or to “the cloud,” and this can make it hard not to lose control over content. The consequences of this can be tragic, such as in Brazil in 2013, when the attention of much of the world became focused on NCIID after two teenage girls took their own lives in the span of less than a week in response to having been targeted by perpetrators who shared intimate images and videos of them via WhatsApp groups.<sup>6</sup>

The deaths of these girls occurred months before the Brazilian Congress was set to discuss the Brazilian Internet Civil Rights Framework (BICRF), known as the Marco Civil Law of the Internet, which governs internet use in Brazil by laying out principles, guarantees, rights, and obligations for users. The bill, developed collaboratively by the Brazilian government and civil society, includes

1 Nyamishana Prudence, “Non-consensual dissemination of intimate images and unfair laws: Ugandan women caught in between,” *Feminist Talk* (blog), GenderIT, 29 July 2019, <https://www.genderit.org/feminist-talk/non-consensual-dissemination-intimate-images-and-unfair-laws-ugandan-women-caught>.

2 Elahe Izadi, “Marilyn Monroe helped launch Hugh Hefner’s career. But they never even met,” *The Washington Post*, 28 September 2017, <https://www.washingtonpost.com/news/arts-and-entertainment/wp/2017/09/28/marilyn-monroe-helped-launch-hugh-hefners-career-but-they-never-even-met/>.

3 Brad Witter, “Marilyn Monroe Didn’t Actually Pose for the First Issue of ‘Playboy,’” *Biography.com*, 8 September 2020, <https://www.biography.com/actors/marilyn-monroe-playboy-first-issue-didnt-pose>.

4 United States Court of Appeals (5th Circuit), *Wood v. Hustler Magazine Inc.*, No. 83-2280 (23 July 1984), 736 F.2d 1084. See: <https://www.leagle.com/decision/19841820736f2d108411634.xml>.

5 Matt Brennan, “Timeline: Pamela Anderson and Tommy Lee’s sex tape saga, as it happened,” *Los Angeles Times*, 2 February 2022, <https://www.latimes.com/entertainment-arts/tv/story/2022-02-02/timeline-pamela-anderson-tommy-lee-sex-tape-marriage-divorce-hulu>.

6 Natália Neris, Juliana Pacetta Ruiz, and Mariana Giorgetti Valente, *Fighting the Dissemination of Non-Consensual Intimate Images: A comparative analysis* (InternetLab, 2018). Available at: [http://www.internetlab.org.br/wp-content/uploads/2018/11/Fighting\\_the\\_Dissemination\\_of\\_Non.pdf](http://www.internetlab.org.br/wp-content/uploads/2018/11/Fighting_the_Dissemination_of_Non.pdf). Also see: Ana Luiza Araujo, “How do countries fight the non-consensual dissemination of intimate images?” *InternetLab*, 25 May 2018, <https://internetlab.org.br/en/news/how-do-countries-fight-the-non-consensual-dissemination-of-intimate-images/>.

a special provision added to create accountability for cases of the NCIID. Article 21 stipulates that internet application providers can be held liable for “breaches of privacy arising from the disclosure of images, videos and other materials containing nudity or sexual activities of a private nature, without the authorization of the participants.”<sup>7</sup> This language could be a model for changes or additions to legislation in BiH.

### ***Recognizing online abuse and defining NCIID***

The nature of intimacy differs in physical and digital spaces, but whether a person enjoys this intimacy in the real world or online, they are entitled to a right to privacy and free expression. Still, in the context of structural discrimination, inequality, and patriarchy, women and LGBTQ+ people are particularly vulnerable to cyber stalking, online sexual harassment, and NCIID. And because online GBV occurs in the digital sphere via digital means, it makes geographic location irrelevant, as perpetrators can access and target a victim from anywhere. This also makes it challenging for victims to escape this abuse, unless they can completely disconnect from online networks, which is increasingly difficult as our lives only grow more dependent on the internet. It is therefore imperative that the wider public is aware of online GBV, and that national judicial systems have the capacity to address it. Currently, services such as safe houses and free legal or psychological support are often inaccessible to the victims of online GBV, including NCIID, which can force them to face a hyper-public form of abuse alone, as it multiplies across seemingly infinite internet platforms.

Recognizing and addressing NCIID, and online GBV in general, is complicated in BiH by the fact that a deeply rooted patriarchy still sets the tone of public discourse, especially politically. In the spring of 2023, for example, both President of the Republika Srpska Milorad Dodik and Mayor of Banja Luka Draško Stanivuković publicly asserted their support for “traditional family values,” argued that a woman’s role is to be a mother, and incited hatred against the LGBTQ+ community after police banned an event organized by LGBTQ+ activists.<sup>8</sup> In the aftermath, these activists were physically attacked, highlighting the real world impact of this kind of speech; which follows a long history of similarly inciteful speech by local leaders in BiH, not only on the basis of ethnicity, but on the basis of gender.<sup>9</sup>

That said, BiH is a party to the Convention on the Elimination of all forms of Discrimination against Women, which obliges the government to address and eliminate discrimination in all its forms, including through “legal protection of the rights of women on an equal basis with men” and efforts to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the

<sup>7</sup> Government of Brazil, Marco Civil Law of the Internet, Law No. 12.965, 23 April 2014. Available in English at: <https://www.cgi.br/pagina/marco-civil-law-of-the-internet-in-brazil/180>.

<sup>8</sup> These activists have filed criminal charges against Dodik and Stanivuković for inciting violence. See: “BiH Pride march organization to file charges against Dodik and Stanivukovic,” *N1*, 20 March 2023, <https://n1info.ba/english/news/bih-pride-marg-organization-to-file-charges-against-dodik-and-stanivukovic/>; and “BH Journalists: Dodik and Stanivukovic responsible for attack on activists,” *N1*, 19 March 2023, <https://n1info.ba/english/news/bh-journalists-dodik-and-stanivukovic-responsible-for-attack-on-activists/>.

<sup>9</sup> For example, see: “Eight injured as Sarajevo Queer Festival attacked,” Amnesty International, 26 September 2008, <https://www.amnesty.org/en/latest/news/2008/09/eight-injured-sarajevo-queer-festival-attacked-20080926/>; and Lamija Grebo, “Bosnian Religious Group to Protest Against Sarajevo LGBT Pride,” *Balkan Insight*, 10 August 2021, <https://balkaninsight.com/2021/08/10/bosnian-religious-group-to-protest-against-sarajevo-lgbt-pride/>.



idea of the inferiority of the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>10</sup> Moreover, the UN Declaration on the Elimination of Violence against Women defines violence against women (VAW) as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>11</sup> Increasingly, technology-mediated VAW (i.e., by phone, internet, or social media) is becoming a regular experience for women and LGBTQ+ people, and for some, is a routine aspect of their online engagement.<sup>12</sup>

The problem of terminology presents one of the biggest difficulties when it comes to regulating NCIID and other online abuse, as there is no single universal term used to describe these violations, which has complicated the formulation of laws. And as Sophie Maddocks has observed, “it is the catchiest terms that are embraced by the media and enter common parlance.” She argues that the term “revenge porn” has thus emerged, despite the fact that it “fails to communicate the scope and severity of this harm” and “is a victim blaming term that risks misdirecting government policy and misinforming the public.”<sup>13</sup> In her research, no jurisdiction she studied had fully addressed “the true extent of gender-based violence” or had fully acknowledged the “networked nature of this violence.” An activist she interviewed noted that “people know what a bank robbery or murder is, ‘but when it comes to crimes against women they’re conceptually unclear’.”<sup>14</sup>

Recognizing this, organizations like the Association for Progressive Communications have advocated for use of the term we employ here – non-consensual intimate image distribution (NCIID) – and have tried to raise awareness that “the term ‘revenge porn’ oversimplifies a complex array of harms.” By definition, private material is not pornography, as it is not meant for public consumption, and conflating the two concepts “turns victims into seemingly consenting porn actors.” But NCIID should also be separated from the notion of revenge, which suggests that victims have committed an “original harm” and plays to social norms that enable the victim blaming and “outing” of women.<sup>15</sup>

<sup>10</sup> United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination against Women, resolution 34/180, 18 December 1979. Articles 2 and 5.

<sup>11</sup> United Nations General Assembly, Declaration on the Elimination of Violence against Women, resolution 48/104, 20 December 1993, Article 1.

<sup>12</sup> See: Namita Malhotra, “Good Questions on Technology-Related Violence,” Association for Progressive Communications, 2014.

<sup>13</sup> Sophie Maddocks, “From Non-consensual Pornography to Image-based Sexual Abuse: Charting the Course of a Problem with Many Names,” *Australian Feminist Studies* 33, no. 97 (2018), 345.

<sup>14</sup> *Ibid.*, 355.

<sup>15</sup> Sophie Maddocks, “Revenge Porn: 5 Important Reasons Why We Should Not Call It By That Name,” GenderIT, 16 January 2019, <https://www.genderit.org/node/5232/>.

**Pornography** is a representation of sexual behaviour in books, pictures, statues, films, and other media that is intended to cause sexual excitement in a mass audience. The word pornography, derived from the Greek porni (“prostitute”) and graphein (“to write”), and was originally defined as any work of art or literature depicting the life of prostitutes.

**Private** visual material is just that: private. It is not meant for mass consumption and is not intended to cause sexual excitement in a large audience. Even when it is shared with another person, there is no implied permission or consent that private material may be shared further, by any means. And if private material is obtained without the knowledge or permission of the owner, this represents a breach of that person’s privacy.

No one is permitted to photograph or video record sexually explicit private content of another person without their knowledge and permission (consent).

Creating, disseminating, sharing, commenting and even liking such content turns a harmful act into a form of unsolicited entertainment.

There is no justification for NCIID, or for stealing sexually explicit private content, no matter the relationship of a perpetrator to a victim.

**Revenge** implies a harm done to someone as a punishment for harm they have done first. Yet, hurt feelings over a breakup, jealousy, fear, anxiety, feelings of sexual inadequacy, and a sense of entitlement do not necessarily arise in response to an “original harm” but often in response to prevailing social norms that link control over women to power more broadly.

## The case of E: From NCIID to an online campaign of persecution

Five years ago, 16-year-old E fell deeply in love with a boy for the first time in her life. He was a few years older, and as E described it, much more sexually experienced. At one point, the boy asked to film their lovemaking and E declined, but she would eventually learn that he had done so anyway.

Three years later, E was enjoying law school and had become active in the student union. She was dating a new boyfriend, had a new group of friends, and had started attending student parties. At one of these parties, she had an altercation with a girl she had recently met, about a stolen item. The girl, who knew the current girlfriend of E’s first boyfriend, learned that he had filmed his intercourse with E, without her knowledge, and still had the recording. She dug into E’s personal life, finding her full name and address, and identifying her friends and new boyfriend, and made a hobby of “doxing” E.<sup>16</sup>

<sup>16</sup> Doxing (from the verb, “to dox”) refers to the publication of private information, especially as a form of punishment or revenge.

The girl then threatened E before publishing screenshots and video excerpts on her social media.

E woke one morning to a torrent of messages on her phone and social media accounts, after the video – which she was unaware had been filmed – was shared among dozens of people she knew. She was confronted online by insults, threats, and hate speech for months, and was scared to tell anyone in her family about what she was experiencing. She wanted to protect them, and also felt a strong sense of shame. Thoughts of self-harm became an everyday occurrence as she began to think the only way to escape the abuse was to “disappear.” E stopped going out in public with her friends, stopped attending lectures, and her new boyfriend broke up with her; but it was at this critical moment that a good friend approached her parents and explained to them what was happening. E was grateful to find that both her parents stood up for her, despite social stigmas, and showed her nothing but love and understanding. They also provided her the emotional and legal support to bring her case before a court in BiH.

Several people, including E’s first boyfriend and others involved in distributing the video, received suspended prison sentences for the crime of “unauthorized optical recording.” The verdict in the case established that her boyfriend had intentionally possessed and displayed private audiovisual material in which the subject was a minor, and that others had intentionally possessed and published that material.<sup>17</sup> When the sentence was delivered, a family member of E called it “one of the luckiest days of our lives,” and was confident that “the online attacks, threats and bullying will finally stop.” But in fact, nothing changed. One of the perpetrators even made a new profile on a different social media platform in order to continue directing hate and harassment toward E.

Because the judgment against E’s abusers has not stopped them from committing cyberviolence against her, she feels the verdict was useless. “Social media platforms allow these accounts to haunt me,” she said, and she believes they “will allow them to haunt me until the day I die.” Indeed, despite reports submitted by E and her mother to several social media platforms, these platforms have done nothing to intervene. And though E filed a request for a restraining order against the girl who first doxed her, this has meant little in the online world.

E has now graduated from university and enjoys her job, but still feels the weight of the cyberviolence she has experienced:

*Perhaps the most painful and frightening fact is that one day I will have kids, a daughter maybe. And this video might still exist, and someone will publish it. How will I explain this to my child? What did I do to deserve “revenge”? What porn? That is my body in that video. That is a video I never wanted and never consented to. I have the right to regain control over my private life, my data, and my body.*

As this report was being finalized, photos from E’s private social media accounts, as well as her

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<sup>17</sup> Criminal Code of the Federation of Bosnia and Herzegovina, Article 189, paragraph 3 criminalizes photographing or filming a child, or possessing the materials produced by photographing or filming a child.

private data, were still available on a social media profile that is engaged in defaming her. While the intimate video recorded by her first boyfriend, and photos extracted from that video, cannot currently be found via social media searches (i.e., on Facebook, Instagram, Twitter, YouTube, etc.), these companies have yet to remove or restrict the profiles of people who are sharing her personal data.

## **The psychological effects of NCIID**

According to Tanja Tankosić-Girt, a psychologist and systemic-family psychotherapist, “NCIID is a type of violence that can be equated with sexual violence.” That is, the way a victim experiences NCIID, which involves manipulation, is psychologically and emotionally similar to sexual violence, even without a physical violation of the body. Victims often feel a loss of control or ownership over their body nonetheless, as it is objectified by perpetrators seeking to cause them harm. This is supported by qualitative research findings that this kind of abuse “has many of the same health consequences for victims as in-person sexual assault,” including “posttraumatic stress disorder, anxiety, depression, suicidal thoughts, [and] other negative mental health outcomes,” and may be linked to an increased prevalence among younger victims of “heavy drinking and risky sexual behaviour.”<sup>18</sup>

While anyone can be a victim of NCIID, women, girls, and members of the LGBTQ+ community are targeted most frequently by this kind of cyberviolence, which can leave victims feeling that their past, present, and future have all been appropriated from them in some way: it is typically past acts that are revived in the images distributed in such cases, the present in which victims must confront defamation and harassment, and a sense that the future will now be tainted by more of the same. For example, E feels that her future is bound to be affected by the NCIID she has experienced, in ways she cannot change or control. And that loss of control often undermines a victim’s sense of security more generally.

NCIID can also lead to feelings of shame, guilt, and embarrassment for victims, for a number of reasons. Not only are the physicality and sexuality (and representations of both) of women, girls, and sexual or gender minorities stigmatized in most societies, and certainly in Bosnian society, but in some cases, victims of NCIID must face the fact that a person they know or trusted has betrayed them; leaving some feeling they were “fooled” or should have known better. This kind of victim-blaming is a deeply rooted social norm, especially for women, and may mean that some victims fail to recognize they are even victims at all.

In fact, the Cyber Civil Rights Initiative – a US-based NGO established to combat online violations including NCIID, “sextortion”, deep fakes, and other forms of image-based sexual abuse – reports that 1 in 8 adult social media users in the US have been targets of abuse involving non-consensual intimate images. Yet, many victims have not heard the term “non-consensual intimate image”

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<sup>18</sup> Yanet Ruvalcaba and Asia A. Eaton, “Nonconsensual Pornography Among U.S. Adults: A Sexual Scripts Framework on Victimization, Perpetration, and Health Correlates for Women and Men,” *Psychology of Violence* 12, no. 1 (2020), 70.

and have little to no awareness of NCIID. Normalizing the use of this descriptive term is important, because it helps potential victims understand that they can be targeted even if they have never intentionally engaged in pornographic activity. As Tankosić-Girt puts it, “there are no expressions or phrases that would explain it any better. This is not pornography.” If anything, she adds, NCIID speaks to the need of a perpetrator to “keep the victim... under their control and manipulation.”

This dynamic of power and control is part of why NCIID can result in such long-lasting mental health consequences for victims, many of whom experience this abuse as a traumatic event. As with any trauma, victims may cope in ways that range from functional to dysfunctional, meaning they may seek support or seek escape, or may find themselves somewhere in between. Thus, in BiH and elsewhere, the various needs of these victims must be addressed systematically, through a comprehensive institutional response that includes sociologists, psychologists, educators, social protection centres, police, prosecutors, and the judiciary.

Moreover, the growing number of individuals who engage in cyberviolence must become the focus of a similar whole-of-society effort. Indeed, the Cyber Civil Rights Initiative estimates that 1 in 20 adult social media users have perpetrated online crimes involving non-consensual intimate images. But even more concerning is research on youth, which suggests that they share intimate images at very high rates, with at least 20 percent of participants in several studies reporting that they had received or shared these images from or with others.<sup>19</sup> This clearly calls for initiatives to educate the public, of all ages, about the gravity of cyberviolence, including the long-term impacts of NCIID and the mental health implications of online abuse more generally.

But BiH must also expand legislation that criminalizes these acts. Many perpetrators of cyberviolence, who exploit the anonymity of online spaces to generate real-world harm, “have the profile of a bully... [and] have some narcissistic disorder or personality disorder,” according to Tankosić-Girt. She emphasizes the need of these abusers “to manipulate and control.” Despite this, research has found that male perpetrators are especially able to downplay their criminality due to the pervasiveness of gendered myths that blame women for their own victimization in these cases. In one study, nearly three-quarters (73 percent) of respondents “were not opposed to blaming the victim” and over one-third (35 percent) “agreed that the victim was to blame.”<sup>20</sup> New legal mechanisms to address cyberviolence must therefore be developed through a gendered lens, must leave no room for doubt about who is to be held accountable for these crimes, and must account for the myriad impacts of online abuse on the lives and wellbeing of victims.

## **An overview of the international and domestic legal framework**

The online sphere presents an array of emerging forms of violence against women and girls, beyond NCIID, including doxing, sextortion, and trolling. Online users also face forms of violence that are not new but have been adapted to digital spaces, such as online mob-

<sup>19</sup> See: Vasileia Karasavva, Jessie Swaneek, Audrey Smodis, and Adelle Forth, “From myth to reality: sexual image abuse myth acceptance, the Dark Tetrad, and non-consensual intimate image dissemination proclivity,” *Journal of Sexual Aggression* 29, no. 1 (2023): 51–67.

<sup>20</sup> *Ibid.*, 61.

bing, stalking, and harassment. In this way, technology has transformed gender-based violence into a crime which can be perpetrated over distances, without physical contact, across borders, and behind the cover of anonymous profiles and accounts. In other words, violations that cause real-world harm now occur in mostly unregulated spaces, where many human and civil rights enjoy weaker protections than these crimes demand.

### ***The right to sexuality***

Among the human rights and fundamental freedoms all people enjoy under international human rights law are sexual rights. This means that all persons have the right to control and decide freely on matters related to their sexuality, free of violence, intimidation, and discrimination, and to access sexual and reproductive healthcare information and services. The UN Committee on Economic, Social and Cultural Rights has commented specifically on “the right to sexual and reproductive health,” affirming that this right, “combined with the right to education and the right to non-discrimination and equality between men and women, entails a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate and age appropriate.”<sup>21</sup>

### ***The right to privacy***

The right to privacy is recognized in Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights. This right is interwoven with the right to live free from gender-based violence, as GBV is considered to violate the right to privacy of women, girls, and LGBTQ+ people in a number of ways. In a 2018 report by Dubravka Šimović, the UN’s Special Rapporteur on violence against women and girls, she noted that “the Internet has become a site of diverse forms of violence against women and girls,” including breaches of privacy, and highlighted a 2016 General Assembly resolution (71/199) which said women are “particularly affected by violations of the right to privacy in the digital age.”<sup>22</sup> The report detailed the ways technology has facilitated a variety of gendered online abuses, and underscored that all these forms of violence “create a permanent digital record that can be distributed worldwide and cannot be easily deleted, which may result in further victimization of the victim.”<sup>23</sup>

Soon after the Special Rapporteur submitted her report, the Association for Progressive Communications contributed a paper to the Working Group on Business and Human Rights in the UN Office of the High Commissioner for Human Rights, entitled “Providing a gender lens in the digital age,” which discussed the need not only for greater legal protections at the national level but also for increased corporate accountability. It noted that data protection norms are “challenged by the increasingly massive collection and storage of data by intermediaries and other corporations,” making privacy protections even more critical, and pointed out that most social media companies require users to

<sup>21</sup> United Nations, Committee on Economic, Social and Cultural Rights, General comment No. 22 (2016) on the right to sexual and reproductive health, E/C.12/GC/22, 2 May 2016, 3.

<sup>22</sup> United Nations General Assembly, Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, 18 June 2018, 7 and 10.

<sup>23</sup> *Ibid.*, 10.

agree to terms of service, but that these terms do not explicitly mention human rights abuses per se.<sup>24</sup>

Meanwhile, the UN General Assembly has repeatedly declared that a right to privacy does exist in the digital age and has called on member states to take measures to end violations of privacy in digital spaces.<sup>25</sup> In fact, Special Rapporteur on the Right to Privacy Joseph Cannataci said in 2020 that the safety of the internet depends largely on political will. If the internet is to be “a safe space for privacy,” he said, it will have to be better regulated. As for best practices, he called attention to the approach of South Korea, where both non-governmental organizations and the government work in concert to assist victims of cyberviolence.<sup>26</sup>

### ***The right to free expression***

The question of whether behaviour is lawful or unlawful often hinges on the question of consent, especially in assessing a potential violation of the right to free expression involving the non-consensual distribution of private data. Consent may be “complicated and difficult to define” in online spaces, but as the Association for Progressive Communications has emphasized, it is the role of internet platforms “to emphasize the importance of consent in the dissemination of content and comply with international human rights standards in determining whether a violation of the right to expression has been committed.”<sup>27</sup> The existing guidelines used by these platforms to define consent “do not go far enough” and should be modified to recognize that users have a right to sexual expression, but do not have a right to violate the rights of others by engaging in the non-consensual distribution of intimate images, videos, or other data.

### ***The domestic legal framework***

While no law in BiH recognizes NCIID as such, the country was among the first to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence, which was adopted in May 2011 and was ratified by BiH in November 2013. Parties to the Convention are obliged to “take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.” States are thus expected to harmonize legislation and improve institutions in order to better prevent violence, and better protect victims by ensuring perpetrators face punishment that is “effective, proportionate and dissuasive.”<sup>28</sup> The Istanbul Convention also calls on states to:

...encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regula-

<sup>24</sup> Association for Progressive Communications, “Providing a gender lens in the digital age: APC Submission to the Office of the High Commissioner for Human Rights’ Working Group on Business and Human Rights,” November 2018, 6.

<sup>25</sup> See: United Nations General Assembly, “The right to privacy in the digital age,” A/C.3/71/L.39/Rev.1, 16 November 2016; and United Nations General Assembly, Resolution on the right to privacy in the digital age, A/RES/71/199, 19 December 2016.

<sup>26</sup> United Nations Office of the High Commissioner of Human Rights, “The Human Rights Council holds separate interactive dialogues on the right to privacy and the right to adequate housing,” media statement re: HRC/20/21, 5 March 2020, <https://www.ohchr.org/en/statements/2020/03/human-rights-council-holds-separate-interactive-dialogues-right-privacy-and>.

<sup>27</sup> Association for Progressive Communications, “Providing a gender lens in the digital age,” 11.

<sup>28</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, Istanbul, 11 May 2005.

tory standards to prevent violence against women and to enhance respect for their dignity.<sup>29</sup>

The Gender Equality Agency of BiH, which reports on the country's progress in implementing provisions of the Istanbul Convention, highlighted in 2020 that improvements have been made to the regulatory framework in BiH, and that this has gone hand-in-hand with a rising social rejection of family and gender-based violence, better responsiveness from institutions, and the development of a functioning multi-sector approach to protection and prevention.<sup>30</sup> In recent years, this has prompted the entity-level parliaments in BiH (in the Federation of BiH and the Republika Srpska) to begin harmonizing their criminal codes in this area, to criminalize abuse involving "sexually explicit content," including through the facilitation of computer systems and social media.

A proposed amendment to the Criminal Code of the Federation of BiH defines the act of "Abusing videos of sexually explicit content," and foresees that any person who:

Abuses a relationship of trust and without consent makes available to a third party a recording of sexually explicit content, which was filmed without a clear consent of the individual for private use and in that way violated the privacy of the person, will be punished by up to three years in prison.

The punishment from section (1) will be given to any individual who uses a computer system or any other means to make a new or amend an original recording of sexually explicit content and uses that video as a true representation and by doing so violates the right to privacy of an individual.

Any person found guilty of spreading recordings of sexually explicit content from sections (1) and (2) through a social media or computer system, and as a result it becomes available to larger populations, can be punished by up to three years in prison.

Recordings and special devices used to make the filming can be taken from perpetrators.<sup>31</sup>

And in the Republika Srpska, amendments to the Criminal Code were adopted during the writing of this text, introducing a new section, "Abuse of photographs and videos of sexually explicit content," stipulating that any person who:

Abuses a relationship of trust and without consent makes available to a third party a photograph or recording of sexually explicit content, which was filmed without a clear consent of the individual for private use and in that way violated the privacy of the person, will be punished by up to two years in prison.

The punishment from section (1) will be given to any individual who makes a new or amends an original photograph or recording of sexually explicit content and uses it as a true representation and by doing so violates the right to privacy of an individual.

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<sup>29</sup> Ibid., Article 17.

<sup>30</sup> Bosnia and Herzegovina Ministry for Human Rights and Refugees, *Bosnia and Herzegovina Report on Legislative and Other Measures Giving Effect to the Provisions of the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) (2020)*. Available in English at: [https://arsbih.gov.ba/wp-content/uploads/2020/06/200206-Bosnia-and-Herzegovina-GREVI0-REPORT\\_ENG.pdf](https://arsbih.gov.ba/wp-content/uploads/2020/06/200206-Bosnia-and-Herzegovina-GREVI0-REPORT_ENG.pdf)

<sup>31</sup> Obtained through direct communication with the Parliament



Any person found guilty of spreading recordings of sexually explicit content from sections (1) and (2) through a social media or computer system, and as a result it becomes available to larger populations, can be punished from one to three years in prison.

Recordings and special devices used to make the photograph or video will be taken from perpetrators.<sup>32</sup>

Although it is clear that the act of sexual harassment can be perpetrated online by distributing sexually explicit content without a victim's consent, it should be noted that the criminal codes in both Bosnian entities fail to state this explicitly. The Criminal Code of the Republika Srpska does stipulate that sexual harassment conducted via a computer network or other form of communication can be punished from six months to five years in prison, however, at the state level, the Law on Gender Equality in BiH condemns gender-based violence and clarifies, among other things, that sexual harassment "shall be considered every unwanted form of verbal, non-verbal or physical behaviour of a sexual nature that aims to harm the dignity of a person or group of persons... especially when this behaviour creates an intimidating, hostile, degrading, humiliating or offensive environment." The Law imposes a punishment of six months to five years in prison for an offence, committed "on the grounds of sex," and including "violence, harassment, or sexual harassment that endanger the serenity, mental health or bodily integrity" of a victim.<sup>33</sup> The Law on Prohibition of Discrimination defines sexual harassment in the same way, and identifies it as a form of discrimination, enabling victims the right to file for legal remedies.<sup>34</sup> Furthermore, BiH ratified the Budapest Convention on Cybercrime in 2006, which was adopted because Council of Europe member states were concerned about the risk that computer networks and electronic information could be used to commit crimes and that evidence relating to these crimes may be stored and transferred by those same networks, which includes a number of provisions that apply to NCIID and similar abuses.<sup>35</sup>

## The role of social media platforms

By now, every popular social media platform has tackled the issue of NCIID in company policies, though the terminology used to reference this abuse varies. Meta (Facebook, Instagram), Twitter, Google (YouTube), TikTok, Reddit, Tumblr, and Bing all have policies that prohibit NCIID, and each offers users clear steps to report cases when it occurs. There are also collaborative initiatives such as the globally accessible Take It Down tool, which was built in partnership with the National Center for Missing and Exploited Children in the US and funded by Meta, and relies on the participation of key online platforms.<sup>36</sup> Participating companies use the Take It Down hash list to scan for content on public or unencrypted platforms with the aim of removing sexually explicit

<sup>32</sup> National Assembly of Republika Srpska, Zakon o izmjenama i dopunama Krivičnog zakonika Republike Srpske (Law on Amendments to the Criminal Code of Republika Srpska), Official Gazette No. 73/23, 24 August 2023.

<sup>33</sup> Government of Bosnia and Herzegovina, Law on Gender Equality, Official Gazette No. 16/03 and 102/09, 25 March 2010. Available in English at: [https://arsbih.gov.ba/wp-content/uploads/2014/02/GEL\\_32\\_10\\_E.pdf](https://arsbih.gov.ba/wp-content/uploads/2014/02/GEL_32_10_E.pdf).

<sup>34</sup> Government of Bosnia and Herzegovina, Law on Prohibition of Discrimination, Official Gazette No. 59/09 and 66/16, 31 August 2016.

<sup>35</sup> Council of Europe Convention on Cybercrime, CETS 185, Budapest, 23 November 2001.

<sup>36</sup> See: <https://takeitdown.ncmec.org>. Participating platforms include Facebook, Instagram, Porn Hub, TikTok, Snap, Yubo, Clips4sale, and OnlyFans.

images or videos of minors (under 18 years old). Importantly, the Take It Down tool allows subjects in these images to remain anonymous while reporting NCIID. For adult victims (18 years and older), the reporting mechanism at StopNCII.org is available, and is also globally accessible. It is operated by the UK-based Revenge Porn Helpline and is supported by Meta, and much like Take It Down, requires the participation of platforms.<sup>37</sup>

Neither Google nor Twitter participate in Take It Down or StopNCII.org. Still, Google has its own protocols for removing explicit or intimate personal images and allows requests for content removal if that content depicts something sexual or intimate in nature and was used without the subject's consent.<sup>38</sup> Google also offers resources and reporting mechanisms specific to different types of personal content violations, including "involuntary fake pornography," images of minors, and personally identifiable information (typically shared in cases of doxing).<sup>39</sup>

Meanwhile, Twitter has two policies relevant to NCIID. Its private information and media policy prohibits the publication of "other people's private information without their express authorization and permission," along with threats to do so, as well as the distribution of "private media, such as images or videos of private individuals, without their consent."<sup>40</sup> And, while some consensual nudity and adult content is permitted on Twitter, the abuse and harassment policy defines unwanted sexual content and graphic objectification to include the unsolicited sharing of "adult media" and "content that otherwise sexualizes an individual without their consent."<sup>41</sup> Yet, since Elon Musk took control of the company in late 2022, questions have arisen about the degree to which Twitter (now X) has adhered to its own policies. An analysis by BBC Monitoring found in early 2023, for example, that hundreds of previously banned accounts have been reinstated under Musk's leadership, among them accounts "promoting hate and violence, including depictions of rape as well as abuse directed at women and the LGBT community," and "a small number of accounts... that appear to show child exploitation."<sup>42</sup>

## The response of Meta to the abuse of E

Even when companies appear to be committed to trying to prevent online abuse, individual cases reveal that they are sometimes falling short, as the story of E demonstrates. When her mother submitted a request to Meta accompanied by documentation of a court verdict against the girl who first doxed E, and asked that the offending content be removed, she received a reply (see Figure 1, below) explaining that it had not been removed because a "high volume of reports" meant it had not been reviewed.

37 See: <https://stopncii.org/>. Participating platforms include Facebook, TikTok, Reddit, Instagram, Bumble, and OnlyFans.

38 Google Help Center, "Support resources for removing explicit or intimate personal images," <https://support.google.com/websearch/answer/13650142>.

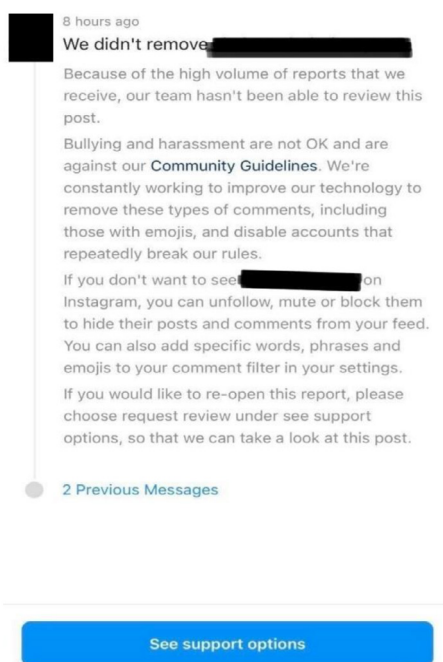
39 Google Help Center, "Personal Content and Product Policies, and Removal Requirements," [https://support.google.com/websearch/troubleshooter/3111061?hl=en&ref\\_topic=3285072&sjid=6832246858755328247-NA](https://support.google.com/websearch/troubleshooter/3111061?hl=en&ref_topic=3285072&sjid=6832246858755328247-NA).

40 X Help Center, "Private information and media policy" December, 2022 <https://help.twitter.com/en/rules-and-policies/personal-information>.

41 X Help Center, "Abuse and harassment," June 2023, <https://help.twitter.com/en/rules-and-policies/abusive-behavior>.

42 "The haters and conspiracy theorists back on Twitter," BBC News, 8 March 2023, <https://www.bbc.com/news/technology-64554381>.

Figure 1. Screenshot of response from Meta to E's mother regarding report of doxing and harassment



This response does not meet the promise of Meta's Bullying and Harassment policy, which says the company removes content "meant to degrade or shame, including, for example, claims about someone's sexual activity."<sup>43</sup> Moreover, Meta's Privacy Violations policy prohibits threats to release private contact information.<sup>44</sup>

That said, a good practice which Meta does employ is the involvement of an Oversight Board, "created to help Facebook answer some of the most difficult questions around freedom of expression online: what to take down, what to leave up, and why."<sup>45</sup> Members of the Board are drawn from across the globe and from diverse backgrounds and fields, and are tasked with reviewing select cases to determine if Facebook is making decisions about content that align with the company's stated values and policies. The Board can also issue policy recommendations. Importantly, the work of the Board is transparent, with each of its decisions published online, along with a rationale.<sup>46</sup>

Nighat Dad, a lawyer and founder of the Digital Rights Foundation in Pakistan, is a member of the Meta Oversight Board and spoke with the authors. She shared the experience of her Foundation in developing their approach to online violence against women, which has involved the establishment of a Cyber Harassment Helpline – the first "dedicated, toll-free Helpline for victims of online harassment and violence" in Pakistan. Helpline services, which include legal, psychological, and digital security support, are free of charge and confidential as well as "judgment-free, private and gender sensitive."<sup>47</sup> When asked about the case of E, Dad noted that, as a lawyer who handles

43 <https://transparency.fb.com/en-gb/policies/community-standards/bullying-harassment/>.

44 <https://transparency.fb.com/policies/community-standards/privacy-violations/>.

45 Oversight Board, <https://www.oversightboard.com>.

46 See: <https://www.oversightboard.com/decision/>.

47 Digital Rights Foundation, Cyber <https://digitalrightsfoundation.pk/cyber-harassment-helpline/>.

digital right violations, she feels this particular case calls for law enforcement to reach out directly to Meta, which she says “has to abide by the... written court order. If that court order says anything specific about certain online content, then Meta has to look into it.” It is this kind of advice that the Cyber Harassment Helpline can provide, helping empower victims, especially women and LGBTQ+ people, to understand the situation they face and use information to push for a more timely and complete resolution.

## Raising awareness of NCIID in BiH

There are no civil society organizations in BiH with a focus on digital rights or human rights violations in digital space. This has resulted in a lack of awareness raising initiatives, which means that many Bosnians do not understand these issues, much less the rules and policies that regulate online platforms or interactions. Moreover, there are few forums bringing together relevant actors in BiH who work to tackle such issues.

Even so, there are some regional efforts worth mentioning. One of the most notable, launched across the Western Balkans by the United Nations Population Fund (UNFPA), is the “bodyright: own your body online” project, which plays on the idea of a copyright for our bodies, on the premise that “tech companies and policymakers place greater value on protecting copyright than addressing online misogyny and violence.” The campaign calls on decision makers in corporate and government leadership positions to recognize the severity of technology-facilitated gender-based violence, and highlights that “infringing copyrights results in swift removal of content and legal penalties, while survivors of online violence face barriers and have few legal rights.”<sup>48</sup>

In Serbia, the UNFPA has also localized its glossary of terms relating to technology-mediated gender-based violence (Pojmovnik rodno zasnovanog nasilja posredstvom tehnologije).<sup>49</sup> But the UNFPA cannot improve internet literacy and safety in the region on its own. As John Kennedy Mosoti, the UNFPA Representative for BiH, Country Director for Serbia and the Republic of North Macedonia, and Director for Kosovo, explained in a conversation with the authors:

*Governments and policymakers need to step up their efforts to protect everyone online. Laws, and the responsibility to protect victims and survivors of online violence, lag behind advances in technology. This must change. Perpetrators must be held to account. Tech companies and other platforms need to be vigilant. Society needs to step up. Not only can men, boys and others refuse to commit digital violence, they can act and speak up against it when they see it, to stop it in its tracks. Information and accountability are key to ending online violence.*

48 UNFPA Bosnia and Herzegovina, “UNFPA in Western Balkans launches bodyright, a new ‘copyright’ for the human body,” 22 December 2022, <https://ba.unfpa.org/en/news/unfpa-western-balkans-launches-bodyright-new-‘copyright’-human-body>.

49 Hristina Cvetinčanin Knežević, Pojmovnik rodno zasnovanog nasilja posredstvom tehnologije (UNFPA Serbia, 2022).

## Recommendations

The following recommendations are meant for a wide range of stakeholders, from civil society organizations to elected policymakers, and include a number of actions that can and should be developed and/or implemented in a collaborative manner by stakeholders across various sectors and representing diverse experiences. To improve online safety, the digital literacy of users in BiH, and the responsiveness of institutions, the authors recommend:

- *Developing comprehensive toolkits* that include a localized glossary, to facilitate understanding of NCIID and other violations of human rights in the digital sphere.
- *Conducting awareness raising activities* across BiH, including in rural areas and schools, on digital rights violations and how to report them, and to discourage the use of inappropriate and misleading terminology (such as “revenge porn”).
- *Launching online campaigns for youth in BiH*, highlighting their digital rights and what violations of these rights may look like, with a focus on NCIID, in collaboration with educational institutions (both formal and informal).
- *Developing trainings for media professionals* on reporting on digital rights and detecting violations of these rights, especially for women and members of the LGBTQ+ community.
- *Establishing an escalation channel with Meta* (and other social media platforms) as a trusted partner, so that specific cases can be escalated for review if there is a risk of attack, self-harm, or similar.
- *Ensuring that police, prosecutors, and judges receive training* so that they can recognize, prove, and efficiently process cases of online GBV.
- *Using a cross-disciplinary approach* (engaging educators, psychologists, sociologists, etc.) to integrate digital rights-related topics into curricula at all grade levels.
- *Drawing on expertise within the Bosnian computer technology community*, such as at the Sarajevo-based Cyber Security Excellence Centre, to develop materials that can help make the general public and policymakers alike more aware of cyber-security threats, which can make a user more vulnerable to other cybercrimes.
- *Considering initiating an annual meeting at which key stakeholders can discuss internet governance in BiH*, and particularly how it intersects with human rights.

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# CHAPTER 3

## Accessing justice for online violence:

**The law and non-consensual intimate image  
distribution in Kosovo**

**By Lulzim Peci, Valdrin Ukshini and Viola Kastrati**

Kosovar Institute for Research and Development (KIPRED)



## Introduction

Taking or distributing intimate images without the subject's consent is nothing new, and has been happening since the camera was invented. But advancements in computer technology – the internet and search engines, peer-to-peer file sharing, social networking, smartphones and mobile apps, and artificial intelligence – have made the distribution of non-consensual intimate images (NCII), potentially to large numbers of people, a matter of considerable concern around the world.<sup>1</sup> And while every state addresses cases related to NCII according to their own national legal frameworks and institutions, many victims confront personal and legal challenges when seeking justice, often stemming from local social norms.<sup>2</sup> These include the various psychological effects that can result from the violation of NCII abuse.<sup>3</sup>

In Kosovo, state authorities are obliged to comply with the provisions of the Istanbul Convention.<sup>4</sup> These provisions require parties to the Convention to take essential measures to promote changes in the social and cultural patterns of both women and men to eliminate biases, customs, traditions, and other practices grounded in the concept of women's inferiority or in stereotypical gender roles. Additionally, acts of violence covered by the scope of this Convention cannot be justified based on culture, custom, religion, tradition, or “honour”.<sup>5</sup> Provisions of the Convention also oblige states to take measures to ensure that law enforcement and judicial authorities are properly trained to investigate and prosecute cases of violence against women, including cases involving NCII.<sup>6</sup>

This research examined the issue of NCII abuse in Kosovo through the lens of legal and social norms. It starts by reviewing the relevant legal framework, and identifies several deficiencies. Then, 55 verdicts handed down by Kosovo courts in cases involving non-consensual intimate images are analysed. These span from the first recorded case in 2016, to a case decided at the end of 2022. This is followed by a discussion of the ways that pervasive patriarchal norms in Kosovo hinder the fair treatment of victims of NCII abuse by law enforcement, contributing to the social and psychological distress these victims experience. Finally, the primary findings of this research are summarized, and specific recommendations are put forth for consideration by Kosovar institutions.

1 Nicola Henry, et al., *Image-Based Sexual Abuse: A Study on the Causes and Consequences of Non-Consensual Nude or Sexual Imagery* (Routledge, 2021), 1–2. The European Institute for Gender Equality defines Non-Consensual Intimate Image (NCII) abuse as the distribution or threat of distribution of “intimate, private and/or manipulated images/videos... without the consent of the subject,” and notes that NCII often coexists with intimate partner violence. In such cases, “revenge porn” is common, and involves an effort to “publicly shame and humiliate the victim.” See: European Institute for Gender Equality, “Cyber Violence against Women and Girls: Key Terms and Concepts,” 2022.

2 Social norms are the unwritten rules that guide human behavior and define acceptable and appropriate actions within a community. These norms are based on what people do, what they think others do, and what they believe others approve of and expect them to do. Social norms thus result from the interplay between behavior, beliefs, and expectations, and are learned and integrated from a very early age, often during infancy. They are enforced through social sanctions (punishments) for non-adherence, and social benefits (rewards) for adherence. When people conform to social norms, they expect to be rewarded; and when they violate norms, they expect to be punished. Social norms exist when people behave in certain ways either because they believe other people like them practice a behavior (descriptive norms) or because they believe those who matter to them approve of a behavior (injunctive norm). See: UNICEF, “Defining Social Norms and Related Concepts,” November 2021.

3 These may include symptoms of depressive or anxiety disorder, or of post-traumatic stress disorder. See: Vaslieia Karasava, “Personality, Attitudinal, and Demographic Predictors of Non-consensual Dissemination of Intimate Images,” *Journal of Interpersonal Violence* 37, no. 22-23 (2021): NP19265–NP19289.

4 Article 22 of Kosovo’s Constitution stipulates that the Istanbul Convention is directly applicable in the country.

5 Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, 11 May 2005, Article 12(1) and (5). Available at: <https://rm.coe.int/t168008482e>.

6 *Ibid.*, Article 15.

## An analysis of the legal framework in Kosovo

It must be underlined that NCII abuse is a criminal act, as well as a violation of the right to privacy.<sup>7</sup> In Kosovo, the right to privacy is guaranteed by Article 36 of the Constitution, which stipulates that “everyone enjoys the right to have her/his private and family life respected, the inviolability of residence, and the confidentiality of correspondence, telecommunication and other communication,” and that “every person enjoys the right of protection of personal data, which should be regulated by law”<sup>8</sup> However, the Law on Protection of Personal Data does not contain specific provisions that relate to NCII.<sup>9</sup>

It is problematic that criminal acts related to NCII are not explicitly regulated by Kosovo’s Criminal Code, as this affects how or whether these acts are reported, investigated, and adjudicated. Article 202 of the Code addresses the issue of NCII abuse in general terms, referring to unauthorized photographing and recording, and unauthorized distribution of images. The main deficiency of this Article is that it does not stipulate how “authorization” (i.e., consent) should be obtained, declined, or terminated. Paragraph 1 of the Article reads that, “whoever, without authorization, photographs, films, or videos or in any other way records another person in his or her personal premises or in any other place where a person has a reasonable expectation of privacy, and in that way fundamentally violates another’s privacy, shall be punished by a fine or by imprisonment of one (1) to three (3) years” And paragraph 2 applies the same test to distribution, stating that “whoever, without authorization, passes on, displays or grants access to a third person to a photograph, film, videotape or any other recording obtained in violation of paragraph 1... shall be punished by imprisonment of one (1) to three (3) years”.<sup>10</sup>

Moreover, perpetrators must personally take or record the intimate images in question to be charged under Article 202, as it does not apply in cases where these images are obtained through other means or a third party. Depending on how NCII are acquired by a perpetrator, Article 199 may be relevant, as it specifies sanctions (a fine, or imprisonment up to a year) if data is obtained by interference or intrusion into another person’s computer systems. But the scope of Article 199 is limited to criminal intrusion and interference in computer systems only, and does not pertain to smartphones and other communication technologies.

In cases where threats have been made to distribute or publish NCII, the legal basis for intervention is even more limited in Kosovo. Because no provisions of the Criminal Code apply specifically to cases involving NCII, perpetrators who threaten to release or distribute NCII face punishment of a fine or up to six (6) months imprisonment. These sanctions do not appear to have disincentivized perpetrators. However, in cases charged as blackmail – when a perpetrator intends to gain material benefit from distributing NCII – the Code does include provisions that implicitly address the harm of NCII abuse by referencing damages to honour and reputation. Acts of blackmail are regulated by Article 329 of the Code, which stipulates punishment of a fine and imprisonment of

<sup>7</sup> Meghan Sali, “Intimate Images and Authors’ Rights: Non-Consensual Disclosure and the Copyright Disconnect,” *Canadian Journal of Law and Technology* 19, no. 2 (2021): 333–369.

<sup>8</sup> Constitution of the Republic of Kosovo, 15 June 2008, Article 36.

<sup>9</sup> Law on Protection of Personal Data, Official Gazette of the Republic of Kosovo, No. 06/L-082, 25 February 2019.

<sup>10</sup> Criminal Code of the Republic of Kosovo, Official Gazette of the Republic of Kosovo, No. 06/L-074, 14 January 2019, Article 202.

six (6) months to five (5) years.<sup>11</sup> It should be noted that the issue of NCII abuse is not addressed directly by EU legislation either. While the General Data Protection Regulation (GDPR) sets out strict rules for the processing of personal data, including the protection of sensitive personal data, it does not define forms of cyber violence; though, it provides protection to victims of cyber violence and provides that sanctions may be imposed against individuals responsible for sharing non-consensual content and against those who publish such content.<sup>12</sup> Hence, several EU member states have adopted laws that criminalize NCII abuse

The most significant example of this is Ireland, which adopted the Harassment, Harmful Communications and Related Offences Act in December 2020, defining an intimate image as any visual representation, made by any film or digital means, which shows or purports to show: a person's genitals, buttocks, or anal region and, in the case of a woman, her breasts; the underwear covering the person's genitals, buttocks, or anal region and, in the case of a woman, her breasts; a person who is nude; or a person engaged in sexual activity.<sup>13</sup> The Act criminalizes the recording, distribution, publishing, or threat to distribute or publish intimate images without the consent of the subject, and sanctions this offense with a penalty up to seven (7) years imprisonment and/ or an unlimited fine. Importantly, this law applies regardless of whether the photos or recordings in question were taken personally by the perpetrator, were sent by the victim, or were obtained through other means; it is the distribution or threat to distribute NCII that is punishable. It also takes into consideration the psychological harm to the victim, which marks an enormous step forward in law in this area. Ireland's Harassment, Harmful Communications and Related Offences Act could thus serve as a valuable model for other countries seeking to ensure adequate protection for victims and adequate punishment for perpetrators in cases of NCII abuse.

## **An analysis of judicial practice in Kosovo**

The first verdict in a case involving NCII was issued by a Kosovo Court in 2016. Here, the 55 verdicts that have been delivered in these cases since then, through the last verdict published in 2022, are analysed to determine how the law is applied in practice to NCII abuse in Kosovo.<sup>14</sup> According to the Kosovo Police and Kosovo Judicial Council, these cases are adjudicated under Article 202 of the Criminal Code.<sup>15</sup> As noted above, this Article criminalizes unauthorized photographing and recording, as well as unauthorized distribution.

Information provided by the Kosovo Police indicates that, in 2022 alone, 45 cases of NCII distribution were reported and submitted to the respective Basic Courts of Kosovo, based on charges drawn from Article 202.<sup>16</sup> Meanwhile, the Kosovo Judicial Council recorded 32 cases of violations of Article 202 in 2022, 24 of which were resolved. Yet, the online database of the Council shows that only 3 of 14 verdicts issued in 2022 were in cases involving NCII distribution,

<sup>11</sup> Ibid, Article 329.

<sup>12</sup> European Institute for Gender Equality, *Combating Cyber Violence against Women and Girls* (Vilnius, 2022), 20.

<sup>13</sup> Government of Ireland, *Harassment, Harmful Communications and Related Offences Act 2020*, Irish Status Book No. 32 of 2020, 28 December 2020.

<sup>14</sup> Case information was extracted from the database of the Kosovo Judicial Council. See Annex 1 for a list of the cases analysed for this research.

<sup>15</sup> Kosovo Police, e-mail communication with authors, 31 January 2023; and Kosovo Judicial Council, e-mail communication with authors, 2 February 2023.

<sup>16</sup> Kosovo Police, e-mail communication with authors, 31 January 2023.

as other verdicts in which Article 202 was applied did not involve NCII.<sup>17</sup> Furthermore, research for this study revealed that NCII cases are not always addressed under Article 202, but also through other provisions of the Criminal Code. Therefore, the verdicts analysed here are categorized into two groups: distribution of NCII (28 cases), and possession of NCII used for other criminal purposes (27 cases). In addition, this section will address the Issue of compensation of emotional and psychological, and other damages.

### **Distribution of non-consensual intimate images**

The Kosovo Judicial Council lists 28 verdicts in cases involving the distribution of NCII (see Table.1). Courts in Prishtina and Peja had the highest number of these cases (6 each), followed by Prizren (5), Ferizaj and Gjak- ova (4 each), and Gjilan (3). Other courts, at the basic or appeals levels, have not issued any verdicts relating to the distribution of NCII.

Table 1. Verdicts in cases involving the distribution of NCII, per year

Year	Number of verdicts
2018	1
2019	11
2020	5
2021	5
2022	6
TOTAL	28

The earliest verdict in a case adjudicating the distribution of NCII in Kosovo was issued in 2018, and 2019 marked the year with the highest number of these verdicts (11). In the 28 such cases tried in Kosovo through 2022, there have been 29 victims and 29 perpetrators, divided along clear gender lines. In other words, nearly all (28) victims have been female, including three minor girls, and almost all (28) perpetrators have been male, whereas the single male plaintiff was victimized by a woman perpetrator.

It is clear that women are by far the most likely victims of crimes involving the distribution of NCII.<sup>18</sup> But this analysis also found, in all but two cases, that the perpetrators had some kind of previous or current relationship with their victims – whether prior intimate relationships(12), previous marriages (6), current marriages(3) previous engagement (2) ; or a history of dating (1) or living in the same neighbourhood (1). The declared motives of perpetrators varied, with some hoping to reunite with the victim, some seeking material gain, some aiming to harass and intimidate, and some intending to harm the victim’s reputation and honour. In a number of instances, the distribution of NCII was prompted by a disagreement between the victim and perpetrator.<sup>19</sup> While paragraph 2 of Article 202 of Kosovo’s Criminal Code provides a legal basis for addressing cases of NCII distribution, these cases are sometimes adjudicated under paragraph 1 of the

<sup>17</sup> Kosovo Judicial Council, e-mail communication with authors, 2 February 2023.

<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*

same article – which address- es the act of taking intimate images but not their distribution – or more often, under other articles of the Code altogether. The application of other articles suggests that some victims have not received fair treatment by the courts or full justice under the law, and that the legal burden on some perpetrators has been reduced. These charges have included: infringing privacy in correspondence and computer databases (6 cases), harassment (6 cases), unauthorized photographing and recording (5 cases), intrusion into computer systems (3 cases), domestic violence (3 cases), blackmail (2 cases), and sexual harassment (1 case).

Table 2. Number of cases of distribution of NCII charged under different articles of the Criminal Code

Distribution of NCII adjudicated under <b>Article 202, paragraph 2</b>	Distribution of NCII adjudicated under <b>Article 202, paragraph 1</b>	Distribution of NCII adjudicated <b>under other articles of the Criminal Code and Laws</b>
<b>9<sup>20</sup></b>	<b>2<sup>21</sup></b>	<b>17<sup>22</sup></b>
	Although Article 202 was used to judge these cases, instead of using paragraph 2, they were judged based on paragraph 1, which only highlights taking intimate images and not sharing them. In these 2 cases, the images were shared.	<ul style="list-style-type: none"> <li>- Infringing privacy in correspondence and computer databases (6 cases)</li> <li>- Unauthorized photographing and other recording (5 cases)</li> <li>- Harassment (6 cases)</li> <li>- Intrusion into computer systems (3 cases)</li> <li>- Domestic violence (3 cases)</li> <li>- Blackmail (2 cases)</li> <li>- Sexual Harassment (1 case)</li> <li>- Coercion (1 case)</li> <li>- Attempted blackmail (1 case)</li> <li>- Law on Protection Against Domestic Violence (03/L-182)(1 case)</li> </ul>

The sanctions imposed on the perpetrators in these 28 cases fall into four categories: fines, imprisonment, aggregated sentences, and imprisonment replaced by a fine (see Table 3). Yet, this research found that only 3 of 9 sentences of imprisonment resulted in effective imprisonment, as the others were conditional sentences, which are executed if the perpetrator does commit another criminal offence within a certain period of time. Similarly, only 2 of 9 aggregated sentences were effective; in 3 others, both imprisonment and a fine were conditional, and in 4 others, imprisonment was conditional but the fine was not.

<sup>20</sup> Case Numbers: 2018:067787, 2018:071422, 2018:063271, P.nr.173/18, 2019:166531, 2019:209803, 2019:084937, 2020:045537, and 2022:003671.

<sup>21</sup> Case Numbers: 2018:067797 and 2022:088189.

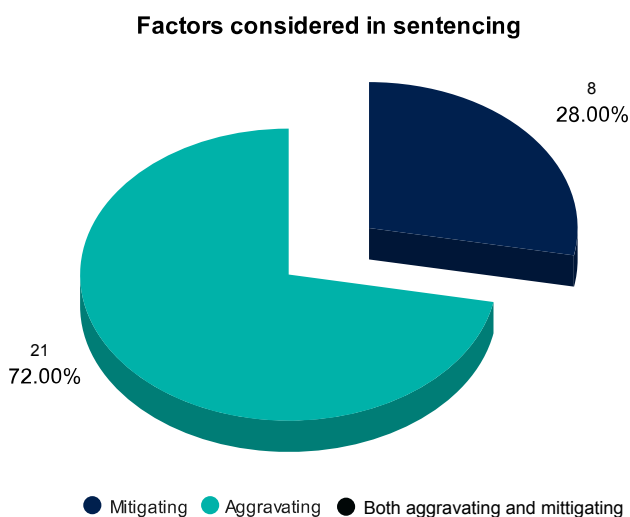
<sup>22</sup> Case Numbers: 2018:048285, 2018:046896, 2018:067386, 2019:155438, 2019:235747, 2019:116871, 2019:299173, 2019:240487, 2019:291634, 2019:293530, 2019:221265, 2020:097709, 2020:108437, 2021:092275, P.nr. 981/2021, 2021:169715, and 2022:136649.

Table 3. Sanctions in cases of distribution of NCII, by number of cases

Fine	Imprisonment	Aggregated	Imprisonment replaced by fine
7 <sup>23</sup>	9 <sup>24</sup>	9 <sup>25</sup>	3 <sup>26</sup>

In 25 of the 28 cases adjudicated for the distribution of NCII, sentencing decisions involved the consideration of mitigating and/or aggravating factors, based on relevant provisions in Kosovo's Criminal Code.<sup>27</sup> Both mitigating and aggravating factors were identified in 21 cases, while only mitigating factors were identified in 4 cases. But there were no cases in which only aggravating factors were identified.

Figure 1. Number of cases of distribution of NCII in which aggravating and mitigating factors were considered by the court during sentencing



These findings reveal a high degree of “legal sympathy” among judges for perpetrators of criminal acts involving the distribution of NCII. Indeed, Article 202 allows for sentencing of one (1) to three (3) years imprisonment for the unauthorized distribution of NCII, yet as Table 4 shows, the range of sentencing imposed in these cases in Kosovo has clearly leaned toward leniency. This does not serve the preventive purpose of discouraging future perpetrators, and may encourage the commission of these crimes if the perceived cost of committing them is not greater than their perceived benefit to the perpetrator.

23 Case Numbers: P.nr.173/18, 2018:046896, 2019:221265, 2019:293530, 2019:084937, P.nr.981/2021, and 2022:088189.

24 Case Numbers: 2018:071422, 2018:063271, 2019:235747, 2019:291634, 2019:209803, 2020:097709, 2020:045537, 2022:136649, and 2022:003671.

25 Case Numbers: 2018:067797, 2018:067386, 2018:048285, 2019:240487, 2019:155438, 2019:116871, 2019:166531, 2019:299173, and 2021:169715.

26 Case Numbers: 2018:067787, 2020:108437, and 2021:092275.

27 The most common mitigating factors cited in these verdicts were: good behaviour, lack of a criminal record, a guilty plea, the promise not to commit another crime, and remorse; the most common aggravating factors were: the degree of criminal liability, the extent of danger posed, the intensity of intent, specific motives, and the damage caused to the victim (i.e., causing fear, pain, torment, emotional distress, or damage to personal and moral integrity).

Table 4. Sentencing ranges in cases of distribution of NCII

	Fine <sup>28</sup>	Imprisonment <sup>29</sup>	Aggregated <sup>30</sup>	Imprisonment replaced by fine
Lowest	200€	6 months	3 months and 200€	30 days = 400€
Highest	1200€	1.5 years	1 year and 1200€	6 months = 2000€

### ***Possession of non-consensual intimate images for other criminal purposes***

In cases charged as possession of NCII for other criminal purposes, a perpetrator uses NCII to commit a criminal offence such as blackmail, coercion, or harassment against the subject depicted in the images. These cases are adjudicated under provisions of the Criminal Code that apply to these other criminal acts, as they do not fall under the scope of Article 202 of the Code – which only addresses the unauthorized photographing and recording of images without distinguishing between intimate and other types of images, and does not clarify the requirements for obtaining consent to record or possess photographs and recordings that include intimate images. There have been 27 cases in Kosovo that fall into this category, based on an analysis of verdicts published by the Kosovo Judicial Council. Prishtina has seen the highest number of these cases (8), followed by Prizren (6 cases), and then by Peja, Ferizaj, and Gjakova (3 each). The fewest number of these cases have been heard in Gjilan and Mitrovica (2 each).

Table 5. Verdicts in cases involving possession of NCII for other criminal purposes, per year

Year	Number of verdicts
2016	1
2017	2
2018	0
2019	4
2020	6
2021	8
2022	6
Total	27

This research again, the majority of these victims were female (21), including a minor girl; but in this category, six of the victims were men. Still, nearly all the perpetrators were also men (26), with only two women accused of perpetrating these crimes. In 12 cases, the victims and perpetrators had some sort of relationship. In 8 cases, they had a past relationship; and in 4 cases, they were in a relationship at the time the crime was committed – including 2 in which the victim and perpetrator were married, and one case each in which the victim and perpetrator were dating or in an intimate relationship.

<sup>28</sup> Cases: 2019:084937 and 2018:046896

<sup>29</sup> Cases: 2019:235747 and 2020:045537

<sup>30</sup> Cases: 2018:067797 and 2019:299173

The declared motive of many of these perpetrators (21) was material gain. However, some hoped to reunite with a victim with whom they had a previous relationship (2), wanted to start dating the victim (2), aimed to continue dating the victim (1), sought to maintain an emotional hold on the victim (1), or intended to force the victim to perform sexual acts (1). In these 27 cases, the courts imposed 28 sentences on the 28 perpetrators, in the form of fines, imprisonment, aggregated imprisonment, and imprisonment replaced by a fine. Only 1 of 5 sentences of imprisonment for these crimes was effectively carried out, though, as the other 4 were conditional.

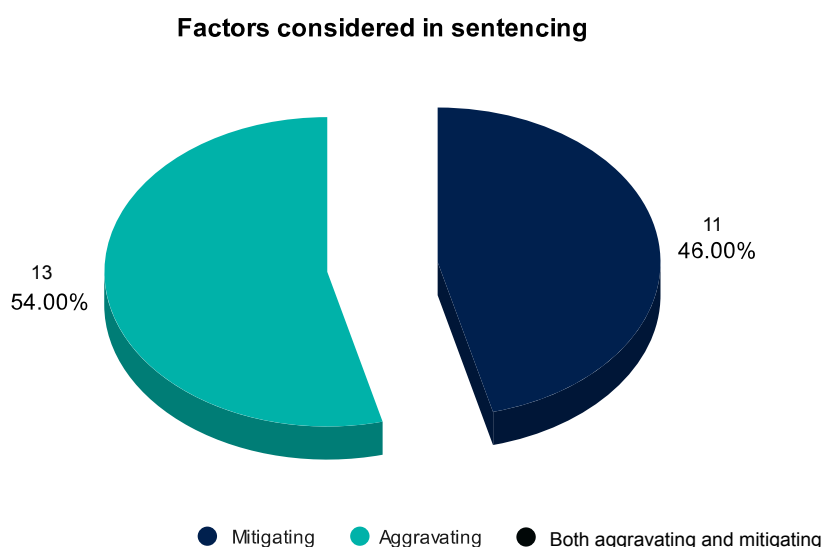
Moreover, only 2 of the 15 aggregated sentences were effectively implemented, with both imprisonment and fines conditional in 9 cases, and imprisonment (but not fines) conditional in the remaining 5 cases.

Table 6. Sanctions in cases of possession of NCII for other criminal purposes, by number of cases

Fine	Imprisonment	Aggregated	Imprisonment replaced by fine
<b>3<sup>31</sup></b>	<b>5<sup>32</sup></b>	<b>15<sup>33</sup></b>	<b>4<sup>34</sup></b>

In 24 of these 27 cases, mitigating and/or aggravating factors were considered in the sentencing phase. Both mitigating and aggravating factors were identified in 13 cases, while only mitigating factors were identified in 11 cases. There was no case related to the possession of NCII in which aggravating factors were identified.

Figure 2. Number of cases of possession of NCII for other criminal purposes in which aggravating and mitigating factors were considered by the court during sentencing



31 Case Numbers: P.nr.2975/14, P.nr.4660/17, and 2019:234703.

32 Case Numbers: 2019:195344, 2019:151671, 2019:219793, 2019:130615, and 2020:139384.

33 Case Numbers: 2018:055113, 2019:261332, 2021:256096, and 2022:051257.

34 Case Numbers: 2018:055113, 2019:261332, 2021:256096, and 2022:051257.



These findings echo those presented in the previous section on NCII distribution, and confirm that judges in Kosovo have again exhibited a notable “legal sympathy” towards perpetrators of NCII abuse. The range of sentencing in cases of NCII possession for other criminal purposes is depicted in Table 7, and exemplifies this point. Such leniency towards perpetrators fails to serve as a deterrent for future perpetrators and may, in fact, encourage the commission of these criminal acts.

Table 7. Sentencing ranges in cases of possession of NCII for other criminal purposes

	Fine <sup>35</sup>	Imprisonment <sup>36</sup>	Aggregated <sup>37</sup>	Imprisonment replaced by fine <sup>38</sup>
Lowest	200€	6 months	3 months and 200€	30 days = 400€
Highest	1200€	1.5 years	1 year and 1200€	6 months = 2000€

### Compensation to victims for emotional, psychological, and other damages

One of the biggest deficiencies in Kosovo when it comes to the judicial treatment of NCII abuse is the issue of financial compensation for victims, for the emotional and psychological damage caused by the offence as well as for any potential loss of income the victim may have experienced or will experience as a result of the offence and related court proceedings. The purpose of sentencing is in fact to provide compensation to victims or the community for losses or damages caused by criminal conduct, as stated in Article 38 of the Criminal Code. And Article 59 of the Code allows for the imposition of accessory sentences that require perpetrators to pay this compensation. However, an examination of verdicts issued in cases involving NCII reveals that almost every victim has been directed to pursue potential damage claims through civil litigation. This is an inadequate form of justice for victims, given that the civil procedural process can be extremely lengthy, dragging on for so many years that some civil cases in Kosovo have not reached a final judgment even after two decades.<sup>39</sup>

Further, while the World Justice Project’s (WJP) Rule of Law Index indicates that Kosovo has made significant progress in strengthening rule of law institutions, with an overall ranking of 57 out of 140 countries and jurisdictions worldwide – which surpasses all neighbouring states – Kosovo’s ranking in the area of civil justice is much lower, at 84.<sup>40</sup> Specifically, it is a high rate of unreasonable delays that pushes Kosovo down the scale; as the country ranks 128 out of 140 countries and jurisdictions on this particular metric.<sup>41</sup> This can leave victims who are forced to turn to the civil system for appropriate compensation feeling hopeless.

<sup>35</sup> Cases: 2019:084937 and 2018:046896

<sup>36</sup> Cases: 2019:235747 and 2020:045537

<sup>37</sup> Cases: 2018:067797 and 2019:299173

<sup>38</sup> Cases: P.nr.1223/16 and 2020:032012.

<sup>39</sup> Driton Nocaj, *Drejtësia Civile në Kosovë: Ligji vs Praktika* (Prishtina: IKD, 2019), 4–5.

<sup>40</sup> World Justice Project, *WJP Rule of Law Index 2022* (Washington, D.C., 2022), 108. An interactive WJP Rule of Law Index for 2022 can be accessed online at: <https://worldjusticeproject.org/rule-of-law-index/global>.

<sup>41</sup> See the scores for each sub-factor weighed by the WJP in determining the civil justice ranking, at: <https://worldjusticeproject.org/rule-of-law-index/factors/2022/Kosovo/Civil%20Justice>

## How social norms and psychological effects impact victims of NCII abuse

In Kosovo, where closely interconnected family structures and a focus on collective responsibility and honour are norms, family and community hold considerable sway. These norms create social pressure to conform to certain standards and can make it a challenge to break with tradition or speak out against harmful community practices, and also tend to position women as the “face of honor.” As sociology professor Linda Gusia explained to researchers, in Kosovo’s social context, this means that cases involving NCII are often perceived as a failure of women to preserve their own integrity; which makes it very difficult for victims to ask for help or even articulate what has happened to them. And worse, the norms internalized by these victims make them feel a sense of guilt and responsibility for the crimes perpetrated against them. Gusia notes that, in Kosovo, there is “a tendency to blame the victim.”<sup>42</sup>

There are certain communities within Kosovo where the stronger influence of conservative or fundamentalist interpretations of religion has manifested in even more stringent social norms for women. According to Professor Gusia, these religious practices often translate patriarchal norms to extremes, designating very specific roles to women and men, and instrumentalizing notions of stigma and shame. In such contexts, it may be even more difficult for victims of NCII abuse to come forward and seek justice than women in other parts of Kosovo, as they may have a reasonable fear of facing considerable social stigma, ostracism, or even violence for speaking out. Victims may also face pressure from their families or communities to keep quiet, or to resolve the matter privately, instead of seeking help from rule of law institutions.

On the topic of consent, Professor Gusia contends that citizens in Kosovo are informed only to a certain extent about the concept, and have not internalized its meaning; whether in the field of research, in art and culture, or in the private sphere. She emphasizes that NCII abuse, the victims of which are overwhelmingly women, frequently serves to victimize women in Kosovo twice: once when the perpetrator commits the offence, and again when women face the significant stigma attached to reporting that offence. In her view, many of the judicial processes carried out in recent years in an effort to address severe forms of gender-based violence have ended in total failure by re-victimizing and re-traumatizing victims. This is because legal systems are simply made up of people who adhere to the value systems to which they have been socialized.

Activist Arbër Nuhiu also underscored that the concept of consent in the context of the publication of private information or personal data is not well-understood in Kosovar society, so that many victims are unaware that the unauthorized publication of their data or information is a criminal act.<sup>43</sup> At the same time, psychology professor Linda Hoxha notes, social norms often have the power to normalize behaviours that violate personal space, and consequently individual rights

<sup>42</sup> Dr. Linda Gusia, Professor of Sociology, University of Prishtina, interview by authors, 31 January 2023.

<sup>43</sup> Arbër Nuhiu, Activist and advocate for the LGBTQ+ community, Prishtina, interview by authors, 6 February 2023.

making it even more unlikely that victims report these violations.<sup>44</sup> A similar point was made by Besarta Breznica of the Women’s Network of Kosovo, who claims that the patriarchal nature of Kosovar society is such that the notion of consent is entirely neglected in many of these cases. She alleges that the reason a perpetrator engages in NCII abuse is never contemplated in Kosovo, as the focus is always on why the victim sent the photo in question, or allowed themselves to be recorded or photographed; and while this responsibility of victims is a regular topic of discussion, the sharing of NCII is not widely perceived as criminal.<sup>45</sup>

In these social conditions, many individuals who have been subjected to NCII abuse have trouble moving forward. Theirs becomes an experience, like quite a few in Kosovo, that remains taboo and is not discussed. This does not protect victims from being judged and stereotyped, however, and sometimes rather harshly, and they often find it hard to access the support they need, even from relevant institutions. Hence, many victims lack sufficient confidence to report their case, much less endure the investigative and judicial processes. Furthermore, as Breznica explains, many police officers, attorneys, social work centre officials, prosecutors, and judges operate from a patriarchal mindset that impacts their implementation of the law and leads justice and police institutions in Kosovo to protect male abusers. Nuhiu, who is part of the LGBTQ+ community in Kosovo, agrees that culture and tradition play a significant role in the underreporting of cases in which the privacy of girls and women is violated, as it is these women who are framed as “shameful” while male perpetrators are not. Indeed, Kosovo remains a society in which it is still largely seen as appropriate for a woman to confront a man.<sup>46</sup>

Considering this, Edi Gusia, head of the Agency for Gender Equality, has worked to draw attention to the ways in which social norms can affect both rule of law institutions and victims of crimes involving NCII. She stressed to researchers that certain problematic cultural norms continue to prevail in the institutions tasked with handling these cases, which means that some of the people mandated to offer help to victims of violence take a deeply misogynistic approach to doing so. For example, Gusia recounted cases in which officials have applied their own concept of the law, such as by justifying the violation of a woman’s rights by her male partner because they were in a long-term relationship. When institutions lack the capacity or gender competence to respond adequately to victims, and cultural norms act as a barrier to women seeking access to justice and support services, some victims will inevitably face secondary victimization. On top of this, delays in the judicial process inflict further harm.<sup>47</sup>

The opinions and data provided to researchers by these experts in interviews were confirmed by the personal experiences of two victims of NCII crimes, each of whom chose not to report this abuse to authorities but were willing to be interviewed for this study. One victim shared that she had been forced to take two months off from school due to the social difficulties she faced, but

44 Dr. Linda Hoxha, Professor of Psychology, University of Prishtina, interview by authors, 6 February 2023.

45 Besarta Breznica, Kosovo Women’s Network, Prishtina, interview by authors, 26 January 2023.

46 Nuhiu, interview by authors.

47 Edi Gusia, Chief Executive, Agency for Gender Equality, Prishtina, interview by authors, 31 January 2023.

was too afraid to tell her parents what she was going through. During this time, she was harassed by male classmates who made sexually explicit comments about her body, and when she and a friend tried to confront the individuals responsible for distributing images of the victim, they responded dismissively and behaved inappropriately. As a result, the victim began worrying about her own safety and developed mental health issues. Though she considered reporting the incident to authorities, she ultimately decided against it, due to the prevalence of a patriarchal mentality in the community and her lack of trust in law enforcement institutions. She was aware that other women had reported similar violations and had not received fair treatment, which undermined her confidence in the system.<sup>54</sup>

Another victim of NCII abuse described feeling distressed, exposed, and out of control of her personal image and reputation after a group of young women spread an image of her around their school without her consent. This victim's biggest fear was that the image might reach her parents, family members, or professors and negatively impact her future. The experience has had a continued effect on her mental health over time, manifesting in symptoms of PTSD and issues of trust even when she is asked to appear in non-intimate photographs. Although she has received love and support from people close to her, this victim also chose not to report the incident to authorities due to prevailing social norms. Looking back, she regrets not having taken action and wishes she had overcome the lack of courage she felt in order to present her case to officials.<sup>48</sup>

Edi Gusia contends that the emotional consequences of this kind of psychological violence have received far too little attention in Kosovo. This makes it more difficult to document, and also means the country does not have the human capacity necessary to investigate these crimes and provide an adequate institutional response. There are few clinical psychologists in Kosovo with the competence to support victims of this type of abuse.<sup>49</sup> Yet, Professor Hoxha believes that the consequences for victims who have had personal photos, videos, or other information distributed without their consent can be serious and far-reaching. And the prejudice, judgment, and stereotype that can emerge in the context of cases of NCII abuse can worsen the impact on victims, and even lead to fatal outcomes.<sup>50</sup>

In this sense, the social context experienced by victims is crucial, as it can increase or decrease their susceptibility to mental health complications. A strong social support system thus plays an important protective role in these cases. While Hoxha notes that the responses and experiences of every victim are unique, scientific evidence indicates rather clearly that threats such as those often associated with NCII abuse can contribute to various mental health outcomes, including trust issues, anxiety, depression, and in some cases, suicidal ideation. If crimes involving NCII are also connected to a traumatic event, they can serve as a trigger for post-traumatic stress disorder as well.

<sup>51</sup>

To address deficiencies in Kosovar institutions and systems, Edi Gusia proposes that a more

<sup>48</sup> From an interview with the victim, 1 February 2023.

<sup>49</sup> From an interview with the victim, 2 December 2022.

<sup>50</sup> Edi Gusia, interview by authors.

<sup>51</sup> Hoxha, interview by authors.

holistic approach must be taken to capacity building, including through consistent and continuous training for police officers, legal professionals, and members of the judiciary. She believes there is also a need to train educators at all levels, as they are in the best position to inform and engage with students – both boys and girls – from an early age, to help them understand various forms of violence and abuse. Of course, this abuse does not discriminate by age, and many adult women are ill-prepared to protect themselves or respond if they are victimized. According to Gusia, it is therefore important to clarify that this type of abuse is a form of gendered violence.

That said, there are very few resources or educational programmes currently available to professionals in Kosovo who seek the training required to offer appropriate support to victims of NCII abuse or other forms of gendered violence, which will be a necessity if victims are to receive more adequate and more dignified justice. Professor Linda Gusia suggests that the only way to intervene in the sexist and patriarchal values systems to which most prosecutors, judges, and police officers are socialized in Kosovo is to impose strict protocols that must be adhered to across all rule of law institutions. She argues that these protocols ought to be drafted through a process that deeply considers the social context and incorporates the feedback of experts and other key stakeholders. Furthermore, she believes the sanctions for crimes involving NCII should be tougher, considering the destructive impact these offences can have on victims.<sup>52</sup>

## Conclusions and recommendations

As this analysis has shown, the Criminal Code of Kosovo lacks provisions that explicitly criminalize abuses related to NCII, which hinders the reporting, investigation, and prosecution of these offences. While Article 202 of the Code addresses the unauthorized photographing, recording, and distribution of images in general terms, it does not stipulate what it means to obtain, refuse, or terminate authorization (i.e., consent). As a result, only about one-third of cases involving the distribution of NCII in Kosovo have been charged under Article 202, and in others, a lesser charge has been applied. Another significant deficiency in Kosovo's Criminal Code is that it does not govern the unauthorized possession of personal images, including intimate ones. In the 27 cases of unauthorized possession of NCII that have been tried in Kosovo, intimate images were used for criminal purposes including blackmail, coercion, or harassment; crimes that fall outside the scope of paragraph 1 of Article 202.

The findings of this research also highlight the considerable leniency displayed by judges in Kosovo towards perpetrators of NCII abuse, the vast majority of whom are men. Indeed, in many cases, mitigating factors have been generously applied to reduce sentences or replace them with fines. At the same time, it is an uphill battle for victims to secure adequate compensation for the emotional, psychological, and other damages they have suffered as a result of these crimes. Although the Criminal Code provides that compensation be paid to victims and that an accessory sentence can require a convicted perpetrator to pay this compensation, victims are typically directed by authorities to pursue potential damage claims through civil litigation – a process that

<sup>52</sup> Linda Gusia, interview by authors.

can be an extremely lengthy, lasting years or even decades.

This research was strengthened by the perspectives of various experts, all of whom discussed the role that Kosovo's patriarchal social norms play in the context of NCII abuse. These norms offer perpetrators a sense of impunity or entitlement and have profound effects on the experience of victims, who frequently feel a sense of guilt or shame for having "allowed themselves" to be victimized. These feelings are only magnified by the treatment victims often receive from officials in rule of law institutions, who have also internalized these prevailing norms. Despite this leniency for perpetrators, as this study demonstrates, the unauthorized distribution and possession of NCII can have severe costs for victims, ranging from social consequences such as stigma and stereotyping, to mental health consequences such as anxiety, depression, and in some cases, contemplations of suicide.

Based on the findings of this research and provisions of the Istanbul Convention, relevant stakeholders in Kosovo should thus consider implementing the following measures:

- Adopt a criminal offence specific to non-consensual intimate images (NCII): The Criminal Code of Kosovo should be amended to criminalize various acts involving NCII and to facilitate the reporting, investigation, and prosecution of these crimes.
- Launch education and awareness-raising campaigns: Public awareness campaigns should be organized to educate the public, especially young people, about the dangers of NCII and the harm NCII abuse causes to victims, and should simultaneously aim to combat patriarchal norms and the objectification of women and girls.
- Ensure that legal procedures and decisions in cases involving NCII adhere to provisions of the Criminal Code and the Istanbul Convention: The courts must treat crimes related to NCII seriously and must hold perpetrators fully accountable for their actions, and should therefore refrain from applying mitigating factors to lower sentences or replace them with fines – which sends a message to perpetrators that these crimes are not considered serious – and instead impose harsher penalties to deter individuals from committing these crimes in the future.
- Train law enforcement and judicial officials: Law enforcement and judicial professionals should be provided with specialized training to help them identify and handle cases involving NCII, with a focus on the legal and ethical considerations involved in investigating and prosecuting these cases, as well as best practices for providing appropriate support to victims.
- Train judges: It is crucial that awareness is raised among judges about the issue of NCII abuse and its impact on victims, to sensitize the judiciary to the fact that these victims can be re-victimized by the leniency demonstrated to perpetrators.
- Establish victim support services: All victims of NCII abuse should have access to victim support services that provide emotional and psychological resources and help victims access legal aid.
- Strengthen legal provisions related to victim compensation: The Criminal Code of Kosovo should be strengthened to better provide for compensation to victims of crimes involving NCII, including through measures that ensure victims are compensated for both material and non-material damages.

## Appendix - Verdicts in cases involving NCII found in the database of the Kosovo Judicial Council

### Distribution of NCII

Case Numbers	Verdict Date
2018:048285	19.11.2018
2018:071422	01.10.2019
P.nr.173/18	15.02.2019
2018:046896	21.02.2019
2018:067386	07.02.2019
2018:067797	16.09.2019
2018:067787	24.09.2019
2019:209803	13.11.2019
2019:155438	18.11.2019
2019:235747	28.11.2019
2019:116871	24.12.2019
2019:299173	04.02.2020
2019:084937	21.04.2020
2019:240487	06.03.2020
2020:097709	09.09.2020
2019:291634	11.01.2020
2020:045537	01.03.2021
2020:108437	04.08.2021
2021:092275	18.06.2021
2019:293530	07.07.2021
P.nr. 981/2021	15.12.2021
2022:136649	03.08.2022
2022:003671	23.03.2022
2022:088189	23.05.2022
2021:169715	25.05.2022
2019:166531	08.04.2022
2019:221265	11.02.2022
2018:063271	19.09.2019

### Possession of NCII

Case Numbers	Verdict Date
2020:136745	06.04.2022
2019:095468	26.11.2020
2021:288879	15.07.2022
2022:051257	29.04.2022
2019:195344	16.03.2020
P.nr. 64/18	20.05.2019
P.nr. 1223/16	18.10.2016
2018:048989	25.06.2019
P.nr. 37/20	09.03.2020
2019:261332	10.07.2020
2018:018829	01.07.2019
2020:139384	23.03.2021
P.nr. 2975/14	07.09.2017
P.nr. 4660/17	20.12.2017
P.nr. 106/17	22.10.2021
2019:151671	17.08.2021
2019:234703	24.02.2020
2020:171691	26.01.2022
2019:219793	06.11.2020
2020:032012	10.11.2021
NR 2546/20	22.04.2021
2018:055113	26.02.2021
2019:130615	14.12.2021
2019:190168	25.10.2019
2021:129119	28.06.2022
2021:256097	13.12.2021
2021:051987	24.05.2022

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# CHAPTER 4

## Online suppression and online implications:

**The online silencing of Women in Montenegro**

**By Milica Kovačević and Darvin Murić**  
Centre for Democratic Transition (CDT)

## Introduction

Montenegro, a small country with a deeply rooted patriarchy, is not a place where women thrive easily in public space. Female activists, politicians, and journalists are often the prime targets of online smear campaigns when they speak on any matters of social importance, and they “take more heat” than their male colleagues for sharing their views on the same issues. These women are usually targeted first in cyberspace, where they are threatened on social media, humiliated by vulgar illustrations shared online, and insulted in the comment sections of news websites. But in some cases, these abuses move from the cyberworld to the real world, leaving many women in the public eye feeling unsafe and leading some to practice self-censorship. Indeed, female activists, politicians, and journalists in Montenegro increasingly receive security from the police because of the real-world danger of these threats.

To gain more insight into how online abuses affect women in the public sphere in Montenegro, the Center for Democratic Transition (CDT) carried out research aimed at providing a basis for the discussion of cybersecurity for female activists, politicians, and journalists in the country. The CDT team conducted interviews with victims of online abuse, as well as with representatives of women’s rights organizations – who are often targeted online and are also pushing for changes that will keep women safer in cyberspace. The team also analysed news articles about threats made to female activists and politicians, gathered data on these incidents from public institutions, and undertook desk research involving dozens of relevant publications and research papers, and all relevant laws.

## Silencing women’s voices

A series of cyberattacks on Montenegrin government servers in 2022, in which official e-mails and public data were ransomed, revealed the significant inadequacies of the country’s cybersecurity infrastructure.<sup>1</sup> Given this, the challenges for women in online spaces are manifold, as digital spaces already replicate the inequities and abuses they experience offline; and in Montenegro, as one female member of parliament wrote, “the patriarchy is more alive than ever.”<sup>2</sup> When combined, these two problems – of poor cybersecurity and patriarchal norms – produce a threat environment that fosters a constant stream of online attacks, campaigns of slander, and harassment against female politicians and activists.

Numerous examples from Montenegro demonstrate that women are not protected in digital spaces, and that they face cyberbullying, the non-consensual distribution of intimate images, and other forms of digital violence, on a daily basis. And according to research by the Balkan Investigative Reporting Network (BIRN), online abuse has become commonplace for female journalists across

1 “Dukaj: Crna Gora nije bila spremna za sajber napad, uspjeli smo da zaštitimo primarna dokumenta,” *Vijesti online*, 28 September 2022, <https://www.vijesti.me/vijesti/drustvo/623594/dukaj-crna-gora-nije-bila-spremna-za-sajber-napad-uspjeli-smo-da-zastitimo-primarna-dokumenta>; and Samir Kajosevic, “Montenegro Still Assessing Damage From Mystery Cyber Attacks,” *Balkan Insight*, 29 August 2022.

2 Božena Jelušić, “Patrijarhat je živiji nego ikad,” *Vijesti online*, 15 July 2021, <https://www.vijesti.me/kolumne/556269/patrijarhat-je-zivlji-nego-ikad>. Also see: Srđan Janković, “Patrijarhalnost crnogorskog društva prepreka u evrointegracijama,” *Radio Slobodna Evropa*, 28 March 2013, <https://www.slobodnaevropa.org/a/patrijarhalnost-crnogorskog-drustva-prepreka-u-evrointegracijama/24941671.html>.

the region.<sup>3</sup> Notably, women in Montenegrin civil society – a sector that is dominated by women, unlike others – are also common targets for online threats, which tend to be misogynistic and sexualized. Women in politics face a magnified threat as well, with the authors of one study noting that “digitization is today celebrated worldwide as a civilizational shift, [but] for many female politicians this is an intensified threat and another avenue for violence.”<sup>4</sup>

Participants in this research were of the opinion that online abuses against women are aimed at silencing their voices in public spaces and pushing them out of politics. While non-governmental organizations (NGOs), and occasionally human rights institutions, condemn these incidents, Montenegro lacks the legislative and institutional framework to ensure protection to victims of these violations. Thus, the country must approach gender-based cyberviolence strategically and incorporate systemic solutions that will contribute to creating a safer online environment for all women, but particularly for those active in the public sphere.

To better understand the means by which women are excluded and discouraged from politics and activism in Montenegro, researchers talked with relevant stakeholders. All of them agreed that by involving themselves in politics, women break the rules of the patriarchy and defy the structures that uphold a patriarchal society; and for this, they are usually punished. Branka Bošnjak, Vice President of the Parliament of Montenegro, told researchers that violence against women in cyberspace has one goal: to humiliate women who have the courage to be active and visible in public, especially when they decide to engage in areas that touch on real power and impact the men who make the rules. She insisted that abuses directed at women won't discourage many of those who have already “entered the arena,” and will instead prompt them to fight even harder. Still, Bošnjak recognizes that attacks on women in cyberspace may cause others to question whether they want to enter the public sphere, arguing that this is one of the reasons *“all those attacks need to be sanctioned. Sexism and misogyny are perfidious tools for banishing women, especially from politics and power; positions which are, unfortunately, still considered the domain of men.”*

Boris Mugoša, a Social Democratic parliamentarian and the only male associate member of the Women's MP Group in the Montenegrin Parliament, has highlighted the growing problem of hate speech and verbal abuse directed at women who take part in public life. He contends that, “The purpose of those attacks is to scare, discourage, and demotivate women, or to banish them from public spaces.” Moreover, he notes that the deeply rooted patriarchal perspectives of political parties has made their approach to addressing these challenges wholly inadequate; highlighting an additional obstacle for women seeking to engage in politics.

Longtime journalist Duška Pejović, who has been the victim of misogynistic smear campaigns, also spoke with researchers. She was recently targeted for the “crime” of asking

3 Ivana Jeremic, et al., “Online Abuse Now Commonplace For Balkan Women Reporters”, BIRN, 18 June 2019, <https://balkaninsight.com/2019/06/18/online-abuse-now-commonplace-for-balkan-women-reporters/>.

4 Nataša Vuković and Ivana Raščanin, *Nasiđe nad ženama u Politici u Crnoj Gori* (Podgorica: UNDP, 2021), 38.

questions of a government official about the Serbian Orthodox Church, triggering an online avalanche of hateful comments, and eventually threats.<sup>5</sup> In her view, the patriarchal norms of Montenegrin society dictate that public and political spaces belong to men, which conveys to women that there is no room for them in the places where decisions are made.

If, in defiance of this, “*female politicians, activists, or journalists enter the public sphere, they are tearing down the concept that women are less worthy and capable than men, and that they (women) belong in the private sphere,*” notes Pejović; but in a patriarchy, “that sort of defiance... needs to be punished.” It is in digital spaces that this punishment is often first dispensed. In Pejović's case, this came in the form of:

*[S]exist and misogynistic abuse, gender-based disinformation, malicious rumours, vulgar comments and jokes, intimidation, psychological and sexual harassment, and even threats of rape and violence. It all has the same goal – to intimidate, disgrace, degrade, and humiliate a woman and remove her from public life.... They are looking to discourage women and lower their self-esteem and sense of security, which results in them avoiding public appearances, and as long as this misogynistic behaviour goes unpunished, we will see these negative consequences.*

Pejović emphasized that when sexist hate speech, insults, and threats push women out of public spaces, it not only endangers women but takes away their freedom of expression, which is direct attack on the rule of law, basic human rights, and democratic values.

This sentiment was echoed by Nikoleta Pavićević, a civic activist from Institute Alternative, who says that cyberviolence is deterring female politicians, activists, and journalists from publicly raising their voices, because they are targeted much more often than their male colleagues for doing so.<sup>6</sup> According to Pavićević, misogynistic comments and attacks are used to discredit female politicians “but also to send the message to women that they do not belong in public and that their voice is not supposed to be heard.” The effects of this are significant, in that it discourages some women from running for office or choosing public-facing professions or positions. Pavićević argues that society thus risks missing out on people that have certain knowledge and capacities to offer, and says that “*the consequences of gender-based violence in cyberspace can be equally, and sometimes even more, harmful than in the offline world,*” because the internet itself makes it easier for a perpetrator to attack, and to do so anonymously and with impunity.

<sup>5</sup> “EK osudila napade i pretnje novinarki RTCG,” *Danas*, 18

<sup>6</sup> Institute Alternative works to support democracy and good governance. See: <https://institut-alternativa.org/en/about-us/>.

## Targeting women activists and politicians

A 2021 UNDP study in Montenegro on violence against women in politics found that nearly three-quarters of women in politics reported experiencing some kind of violence.<sup>7</sup> Research by the National Democratic Institute (NDI) found, too, that gender-based harassment on social media is frequently directed at women in government and in other public-facing positions in Montenegro, and includes incitement, attacks on privacy, stalking, violent and offensive comments, the distribution of private images, and threats.<sup>8</sup> A recent study by the Centre for Monitoring and Research (CeMI) concludes similarly that these abuses against women almost always come in response to their public engagement, especially if women occupy positions of power. The authors of that study noted that social networks serve as particularly fertile ground in Montenegro for disinformation that is meant to morally discredit women.<sup>9</sup>

The consequences of online harassment can be very profound for victims, and attacks and abuses that occur online may manifest in the real world as well. But for women MPs in Montenegro, this can even come from inside the Parliament. For example, right-wing political opponents of the prominent female politician Božena Jelušić often target her with gendered insults, and have referred to her on social media as a “know-it-all grandma.”<sup>10</sup> This spilled over into the real world in 2022, when Jelušić was verbally assailed by a large crowd in the streets of Cetinje.<sup>11</sup>

When the effects of verbal provocations are insufficient, however, the forces of patriarchy will not hesitate to take it further, as former Minister of Education Vesna Bratić experienced. Bratić, a conservative and Serbian nationalist who holds many controversial views, faced constant attacks during her tenure and was assaulted in the street at one point; becoming the first ever minister of education to receive police security.<sup>12</sup> Deeply offensive caricatures of she and former Minister of Science Sanja Damjanović were also circulated on the web, and while this generated widespread concern and condemnation, the perpetrators were never identified.<sup>13</sup>

Notably, Montenegrin laws foresaw the need for a security detail for the President, Prime Minister, and President of the Parliament, but not for cabinet ministers. Yet, Bratić has not been the only female minister for whom police security has been ordered in response to threats. Minister of Health Jelena Borovinić Bojović was also assigned a security detail, after she received an anonymous e-mail message that mentioned members of her family and warned she would “have

<sup>7</sup> Vuković and Raščanin, *Nasilje nad ženama u Politici u Crnoj Gori*, 31. Also see: “Montenegro needs a systemic response to combat the growing online violence against women,” Centre for Monitoring and Research, 20 October 2022, <https://cemi.org.me/en/post/montenegro-needs-a-systemic-response-to-combat-the-growing-online-violence-against-women-935>.

<sup>8</sup> National Democratic Institute, *Political Participation and Violence against Women in Politics in Southeastern Europe* (Sarajevo, 2021), 38.

<sup>9</sup> Teodora Gilić, ed., (Ne)sigurna u online prostoru? Izvještaj o rodno zasnovanim dezinformacijama i online nasilju prema ženama u politici u Crnoj Gori (CeMI, 2022).

<sup>10</sup> “Frontovci vrijeđali Boženu Jelušić, ona odgovara: Ne prihvatam takvu vrstu političkog folklorea,” *Cafe del Montenegro*, 20 October 2020, <https://www.cdm.me/politika/frontovci-vrijeđali-bozenu-jelusic-ona-odgovara-ne-prihvatam-takvu-vrstu-politick-og-folklorea/>.

<sup>11</sup> See: “VIDEO – Grupa ljudi na Cetinju zaustavila pa provocirala poslanicu URE Boženu Jelušić,” *Adria*, 10 May 2022, <https://adria.tv/vijesti/politika/video-grupa-ljudi-na-cetinju-zaustavila-pa-provocirala-poslanicu-ure-bozenu-jelu-sic/>.

<sup>12</sup> Jelena Jovanović, “Nešto je trulo kad policija ministarku prosvjete čuva,” *Vijesti online*, 8 March 2021, <https://www.vijesti.me/vijesti/politika/518761/nesto-je-trulo-kad-policija-ministarku-prosvjete-cuva>.

<sup>13</sup> See: “Sramna karikatura Damjanović, hitno procesuirati odgovorne,” *Pobjeda*, 27 February 2021, <https://www.pobjeda.me/clanak/sramna-karikatura-damjanovic-hitno-procesuirati-odgovorne>; and “Nedolična karikatura na kojoj je Bratić, osuđujemo svaki čin kojim se vrijeđa dostojanstvo,” *Vijesti online*, 22 January 2021, <https://www.vijesti.me/vijesti/drustvo/505617/nedolicna-karikatura-na-kojoj-je-bratic-osudujemo-svaki-cin-koji-m-se-vrijeđa-dostojanstvo>.

to pay.”<sup>14</sup>

And MP Draginja Vuksanović-Stanković was forced to use police security after the Ministry of Interior assessed she might be a target of real-world attacks, following a series of insults, threats, and misogynist comments made on social media.<sup>15</sup> In fact, it is becoming a common occurrence for female MPs to be targeted by online abuse every time they express any criticism of certain systems or institutions, as was the case last year when MP Dragica Sekulić made comments interpreted as disparaging the Serbian Orthodox Church. Sekulić was subject to vulgar insults and other abuses online, particularly on social media and in the comment sections on news websites, of a clearly gendered nature.<sup>16</sup>

Women activists in Montenegro are also regular targets for this kind of abuse. In the case of Daliborka Uljarević of the Center for Civic Education (CGO), assertions made by government officials that she was anti-Serb gave rise to a torrent of abuse against her online.<sup>17</sup> And Vanja Čalović Marković of MANS was the subject of a years-long slander campaign in the tabloids after a fake video in which she allegedly appeared was distributed to hundreds of e-mail addresses in Montenegro.<sup>18</sup>

## Pushing women out of politics and public life

Representatives from the Women’s Rights Center in Podgorica contend that one glance at various online platforms is enough to realize that cases of cyberviolence against women are on the rise. They pointed to a recent report by the European Commission on Montenegro confirming this, and noted that “digital violence is being operationalized through misogynist comments and the promotion of gender stereotypes, hate speech, and sexist political discourse, especially targeting those who are most visible – female activists and politicians.” Additionally, because politics remains so male dominated, they say that verbal abuse, especially towards young female politicians, is also increasing; and media is playing a complicit role: “Instead of promoting equality and working inside the bounds of an ethical code, media conform to the views and vocabulary of leading politicians and shape their reporting on those... [which] further encourages violating the rights of women.”

Though the 2023 Gender Equality Index score for Montenegro of 59.3 represents an increase

<sup>14</sup> Miodrag Šćekić, “Mizoginija sve češća u javnom dijalogu u Crnoj Gori: Na meti, zato što su žene,” Center for Investigative Journalism of Montenegro, 5 July 2021, <http://www.cin-cg.me/mizoginija-sve-cesca-u-javnom-dijalogu-u-crnoj-gori-na-meti-zato-sto-su-zene/>.

<sup>15</sup> See: “Ugrožena bezbjednost crnogorske poslanice Draginje Vuksanović Stanković,” Radio Slobodna Evropa, 2 February 2022, <https://www.slobodnaevropa.org/a/crna-gora-politika-bezbjednost/31683499.html>; Draško Đuranović and Kačuša Kršmanović, “Srpski ekstremisti spremali napad na Draginju Vuksanović-Stanković,” Pobjeda, 2 February 2022, <https://www.pobjeda.me/clanak/srpski-ekstremisti-spreмали-napad-na-draginju-vuksanovic-stankovic/>; “Prijetnje Vuksanović Stanković i Konjeviću: Nećete se živi izvući kad krenu noćni vukovi,” Pobjeda, 6 August 2022, <https://www.pobjeda.me/clanak/prijetnje-vuksanovic-stankovic-i-konjevicu-necete-se-zivi-izvuc-kad-krenu-no-cni-vukovi/>; and “Death threats sent to Draginja Vuksanovic Stankovic again,” Cafe del Montenegro, 10 March 2023, <https://www.cdm.me/english/death-threats-sent-to-draginja-vuksanovic-stankovic-again/>; and Zeljka Vucinic, “This is Misogyny: The Growing Abuse Facing Women in Montenegrin Politics,” Balkan Insight, 28 March 2022, <https://balkaninsight.com/2022/03/28/this-is-misogyny-the-growing-abuse-facing-women-in-montenegrin-polit-ics/>.

<sup>16</sup> See: “Dragica Sekulić meta uvreda na društvenim mrežama,” *Antena M*, 27 March 2022, <https://www.antenam.net/drustvo/238952-dragica-sekulic-meta-uvreda-na-drustvenim-mrezama/>; and Reporting Diversity Network 2.0, “Monthly monitoring highlight: Hate speech during April across Western Balkans,” April 2022, <https://www.reportingdiversity.org/monthly-monitoring-highlight-hate-speech-during-april-across-western-balkans/>.

<sup>17</sup> “Uljarević: Ne baca se kamen na onog ko vas suoči sa činjenicama,” *The Balkantimes Press*, 30 October 2021, <https://balkantimes.press/uljarevic-ne-baca-se-kamen-na-onog-ko-vas-suoči-sa-činjenicama/>; and Vucinic, “This is Misogyny.”

<sup>18</sup> See: “Pet godina od afere ‘porno Vanja,’” *Aktuelno*, 23 September 2019, <https://www.aktuelno.me/istaknuto/pet-godina-od-afere-porno-vanja/>; and Dusica Tomovic, “Montenegro Prosecutor Demands Sex Claim Newspaper Ban,” *Balkan Insight*, 26 June 2014, <https://balkaninsight.com/2014/06/26/montenegro-prosecutor-demands-sex-claim-newspaper-ban/>.

over its 2019 score of 55, the country still trails the 2023 European average of 68.6, by over 9 points. Notably, the country's domain score for "knowledge" – which measures educational attainment and educational segregation – was quite low in 2023 and is the only score that decreased from 2019. Interestingly, this is not clearly reflected in data published by the Statistical Office of Montenegro (MONSTAT) in 2022; which does show that 49 percent of full-time students in high schools are female and 51 percent are male, but also indicates that this slight advantage of males at the secondary level is fleeting, as there are more women (55 percent) than men (45 percent) in undergraduate studies at Montenegrin universities, and this tips even further towards women at the graduate level.<sup>19</sup>

Montenegro's overall low score in the Index is due in large part to a particularly poor result in the "power" domain, which measures "gender equality in the highest decision-making positions across the political, economic, and social spheres."<sup>20</sup> It is possible this score could also decrease in the future, as there are fewer women MPs in Montenegro since the June 2023 election, which saw this number drop from 23 to 17, putting the country well behind many of its neighbours in terms of women's representation in government.<sup>21</sup> This underrepresentation for women in positions of political power means they do not have equal influence to men in shaping laws, policies, and reforms. Moreover, men continue to hold the greatest decision-making power in Montenegro, whereas women are often granted "soft" portfolios.<sup>22</sup> Indeed, the current Government of Montenegro, which included only four women at the end of 2022, is down to three, since the resignation of Minister of European Affairs Jovana Marović; leaving Minister of Culture and Media Maša Vlaović, Minister of Science and Technological Development Biljana Šćepanović, and Minister of Ecology, Spatial Planning and Urbanism Ana Novaković Đurović.<sup>23</sup>

At the municipal level, there were just two women mayors in 2021 and women made up only 31 percent of local assemblies; and women who participated in this research agreed that, over the past two years, the forces working to push women out of politics, public life, and activism have been more intense and focused than ever before. There is no doubt that these forces have instrumentalized online spaces to achieve this; and women in Montenegro have taken notice. In a 2019 survey conducted by the NGO Sigurna Ženska Kuća, nearly 80 percent of women respondents in Podgorica said that online violence against women had become a frequent occurrence in the country. And research carried out by DeFacto and Women's Safe House in the same year found that one in six women in Montenegro has been a victim of cyberviolence.<sup>24</sup>

Thus, the Women's Rights Center and its partner NGOs work constantly to shine a light on the

19 MONSTAT, *Women and Men in Montenegro*, 9th edition (Podgorica, 2022). Available at: [http://monstat.org/eng/publikacije\\_page.php?id=205&pageid=1](http://monstat.org/eng/publikacije_page.php?id=205&pageid=1).

20 MONSTAT and EIGE, "Gender Equality Index for Montenegro" (factsheet), No. 100/2023, 25 July 2023, 4.

21 To view and interact with historical data related to the Parliament of Montenegro, see the Inter-Parliamentary Union's Parline Database at: [https://api.data.ipu.org/parliament/me?chamber\\_id=13577](https://api.data.ipu.org/parliament/me?chamber_id=13577); for comparative data on gender representation across countries, see the IDEA Gender Quotas Database Country Overview at: <https://www.idea.int/data-tools/data/gender-quotas/country-overview>.

22 Olivera Kumar, *Gender Equality Index: Montenegro 2019* (MONSTAT, EIGE, and UNDP, 2020), 30.

23 See the composition of the 43rd Government of Montenegro at: <https://www.gov.me/en/government-of-montenegro/the-cabinet-of-montenegro>.

24 See: "Nasilje na internetu učestalo i u Crnoj Gori, ženama prijete, uhode ih i proganjanju," *Cafe del Montenegro*, 11 July 2019, <https://www.cdm.me/hronika/nasilje-na-internetu-ucestalo-i-u-crnoj-gori-zenama-prijete-uhode-ih-i-proganjanj-uj>.

hate directed towards women politicians and activists, in the form of sexist cartoons and images, manipulated photographs, and articles or commentaries that cross the line past a free expression of critique by seeking solely to degrade the integrity and dignity of women. According to representatives from the Center, “This psychological violence has huge consequences on [women’s] health, reputation, and social and family life, and is radically endangering decades of efforts to include women in public and political life and sustain modest progress made in this area.” In fact, it was clear in the latest election held in June 2023, that most of the women politicians who have suffered the harshest attacks in Montenegro have stepped away from politics.

And concerning, this environment is not only deterring women from entering the political arena as candidates, but is leading many women away from politics altogether, disconnecting them further from the democratic processes that impact their lives. For example, in research published by the Westminster Foundation for Democracy in 2021, DeFacto found that two-thirds (66 percent) of women surveyed described themselves as not politically active, and that only 20 percent of women in Montenegro are members of a political party. Over half (54 percent) of respondents in that research said gendered divisions in society had played a role in discouraging them from participating in politics, and roughly 40 percent indicated they would be more motivated to engage politically if a greater number of women occupied decision-making positions.<sup>25</sup>

## **Legal framework and institutional responses to gender-based violence**

Article 18 of the Constitution of Montenegro guarantees “the equality of women and men” and obliges the state to develop a “policy of equal opportunities,” and Article 8 prohibits “direct or indirect discrimination on any grounds.”<sup>26</sup> These provisions are further defined through laws, particularly the Law on Gender Equality and the Law on Prohibition of Discrimination. Among other things, the Law on Prohibition of Discrimination protects against discrimination based on gender and gender identity, in Article 2, and defines discrimination based on gender identity and sexual orientation in Article 19, as “any differentiation, unequal treatment or bringing a person in an unequal position based on gender identity or sexual orientation.”<sup>27</sup> The Law on Gender Equality defines gender equality as the “equal participation of women and men, as well as persons of different gender identities in all spheres” of public and private life, and the “equal position and equal opportunities” for all people to exercise their rights and freedoms, use their personal knowledge and skills to develop society, and realize equal benefits from their work.<sup>28</sup>

Anyone who considers themselves a victim of discrimination can file a complaint in civil court, or with the Protector of Human Rights and Freedoms of Montenegro (the Ombudsman). This

<sup>25</sup> Westminster Foundation for Democracy, Women’s political activism in Montenegro, Public opinion survey (DeFacto and WFD, 2021).

<sup>26</sup> Constitution of Montenegro, SU-SK No. 01-514/12, 19 October 2007. Available (in local language) at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/78709/86249/F2028578065/MGO78709.pdf>; and (in English) at: [https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/78709/119464/F1430048365/MGO78709\\_Eng.pdf](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/78709/119464/F1430048365/MGO78709_Eng.pdf).

<sup>27</sup> Law on the Prohibition of Discrimination, Official Gazette of Montenegro No. 46/10, 27 July 2010. Available with amendments (in local language) at: <https://www.gov.me/dokumenta/a1538a52-dcec-4bfc-aeb0-4859ea3ee7f3>; and (in English) at: <https://www.gov.me/en/documents/0920303b-0cf3-4a1e-b797-3dfbf72d9fee>.

<sup>28</sup> Law on Gender Equality, Official Gazette of Montenegro No. 46/07, 31 July 2007. Available with amendments (in local language) at: <https://www.gov.me/dokumenta/4641c329-d92c-4120-8ec5-7be87aff135e>; and (in English) at: <https://www.gov.me/en/documents/bff8aa54-73ec-43c0-bb09-c140cb50547c>.



national institution, established by the Constitution to ensure the protection of human rights, publishes annual reports of its activities, which have increasingly involved responding to complaints of sexism, misogynistic speech, and hate speech directed towards women in political and public life. The Ombudsman's 2021 Annual Report described a number of cases of women being targeted by brutal and misogynistic attacks with the aim to discourage them (and other women) from participating in the public sphere, and the normalization of these violations suggests that some figures accept them as a permissible, even desirable, part of political debate. The report notes that online portals and social networks have become flooded with comments directed against various groups; above all, hateful, intolerant, and violent statements targeting the LGBTQ+ community and women.<sup>29</sup>

The Criminal Code of Montenegro also protects against any "violation of equality" in Article 159, and "racial and other forms of discrimination" in Article 443, both of which stipulate protection based on sexual orientation and gender identity and provide for the consideration of an aggravating circumstance in any case of a criminal offence committed out of "hatred or intolerance" on the grounds of personal characteristics including gender, sexual orientation, and gender identity.<sup>30</sup> Gender-based violence is regulated by the Criminal Code as well (Article 220), and by the Law on Protection from Domestic Violence.<sup>31</sup> Montenegro has also ratified the Istanbul Convention.<sup>32</sup>

Yet, for years, data from the Montenegrin judicial system indicate an insufficient rate of prosecution for the incitement of hatred, acts of discrimination, or attacks motivated by a person's protected characteristics. These cases are very often rejected, or they are processed as offenses against the Law on Public Order and Peace in such a way that hatred as a motivation is hidden from revealing itself in the statistics.<sup>33</sup> Similarly, the Judicial Council tracks the number of cases charged as a criminal offence under Article 168 of the Criminal Code, on Endangering Safety, but does not capture data regarding the qualified form of this act, which can be charged when the offence has generated public anxiety "or other grave consequences or was committed out of hatred."<sup>34</sup>

Still, for the most part, these cases are simply not prosecuted in Montenegro. According to the annual report of the Prosecutor's Council for 2021, of six reported incidents of racial and other discrimination (as per Article 443 of the Criminal Code), criminal charges were dismissed in five cases. And of four reported criminal violations of equality (Article 159), none were pur-

29 Protector of Human Rights and Freedoms of Montenegro, *Izveštaj o radu za 2021. godinu* (Podgorica, 2022).

30 Criminal Code of Montenegro, Official Gazette of Montenegro No. 70/2003, 25 December 2003. Available with amendments (in local language) at: <https://www.gov.me/en/documents/861b2072-d127-417f-b046-245d915b9042>; and (in English) at: [https://track.unodc.org/uploads/documents/BRI-legal-resources/Montenegro/3\\_Criminal\\_Code\\_of\\_Montenegro\\_2018\\_English\\_version.pdf](https://track.unodc.org/uploads/documents/BRI-legal-resources/Montenegro/3_Criminal_Code_of_Montenegro_2018_English_version.pdf).

31 Law on Protection against Domestic Violence, Official Gazette of Montenegro No. 46/10, 30 July 2010. Available with amendments (in local language) at: <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=555351154>; and without amendments (in English) at: <https://www.globalwps.org/data/MNE/files/Law%20on%20Domestic%20Violence%20Protection.pdf>.

32 Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, 11 May 2005.

33 Law on Public Order and Peace, Official Gazette of the Republic of Montenegro No. 41/94, 16 December 1994. Available with amendments (in local language) at: <https://www.gov.me/dokumenta/cf800cdb-b79f-42db-becc-562a41522764>.

34 Criminal Code of Montenegro, Article 168, paragraph 2.

sued.<sup>35</sup> These data are not disaggregated in such a way that it is possible to determine how many reported cases involved discrimination or violations of equality related to gender, however, representatives from the Women's Rights Center argue that the current legal framework in Montenegro is inadequate, and that sexual harassment must be prohibited explicitly, both online and offline. They told researchers it was "encouraging that we have proposed this through the Workgroup for amending the Criminal Code and the proposal became part of the draft." It is also important that an entity such as the Committee for Gender Equality functions as a permanent working body in the Parliament. In addition, the Women's MP Group, which was established as an informal parliamentary body, seeks to promote "gender equality on all decision-making levels," and to encourage women's participation in politics and improve the position of women across society.<sup>36</sup>

The Women's MP Group regularly campaigns to condemn cyberviolence against women in politics, regardless of party affiliation. In July 2020, they published a "Manifesto against violence against women in politics," subtitled, "We demand a reaction to every form of misogyny in public discourse," in which they called on competent institutions to work rapidly and zealously to establish a legal and social boundary between freedom of speech and hate speech, with a special emphasis on hate speech against women, and to consistently and indiscriminately apply existing legal provisions to sanction all forms of hate speech. They emphasized that the dangers of digital violence – especially misogynistic hate speech – must not be ignored, nor the platforms from which this violence emanates, whether traditional media outlets or social media.<sup>37</sup> As representatives from the Women's Rights Center noted, anyone who wants to engage in political discussion and criticize politicians should have the full right to do so and should be allowed to express their views freely, but "not [through] hate speech, sexism, and misogyny."

## Conclusions and recommendations


Cyberviolence directed at women is a serious problem in Montenegro and has a negative impact on democratic processes by leading women to self-censor or by discouraging them from participating in public life at all. This threatens to further reduce the already insufficient representation of women in politics. Thus, Montenegro must address cyberviolence as it does any other form of violence against women.

As a first step, it is necessary to analyse existing strategies and laws in this area, and their application and effectiveness in protecting women from cyberviolence. This should inform a comprehensive revision of existing regulations in Montenegro, applying the good practices identified in other countries, or those recommended by relevant international and non-governmental organizations. Some of the most important of these include:

<sup>35</sup> Parliament of Montenegro, "Godišnji izvještaj o aktivnostima na sprovođenju i unapređenju upravljanja i kontrola za 2021. godinu," 30 March 2022.

<sup>36</sup> See: Parliament of Montenegro, "Women's MP Group," <https://www.skupstina.me/en/citizens/women-and-parliament/womens-mp-group>.

<sup>37</sup> "Manifest protiv nasilja nad ženama u politici: Zahtijevamo reakciju na svaki oblik mizoginije u javnom diskursu," Analitika, 20 July 2022, <https://www.portalanalitika.me/clanak/zenski-klub-skupstine-cg-zahtijevamo-reakciju-na-svaki-uoceni-oblik-g-ovora-mrznje-i-mizoginije-u-javnom-diskursu>.

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- Consistently applying existing relevant legislation and diligently prosecuting incidents of violations against protected characteristics including sex, gender, and sexual orientation.
  - Improving media legislation to recognize advancements such as digital media and social networks and introduce them into the legal system.
  - Introducing mechanisms, through media and electoral laws, to combat disinformation, with a special emphasis on gendered disinformation and other forms of disinformation that undermine democracy and human rights.
  - Criminalizing online violence against women and gendered disinformation that results in serious psychological, physical, or material harm.
  - Introducing measures to affirm and encourage the political work of women through legislation regulating elections and the work of political parties.
  - Prescribing that the media regulator monitor violence against women in politics and introduce appropriate penalties.
  - Introducing regulations to censure gender-based abuse by any elected or appointed public official.
  - Raising public awareness of gendered disinformation and online content directed against women in politics in Montenegro.

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# CHAPTER 5

## The rise of hate online:

Hate speech in cyber space targeted at women in North Macedonia

By Mila Josifovska Danilovska, Vesna Radinovska, Despina Kovachevska  
Metamorphosis Foundation

## Research overview

This research, aimed at identifying the gendered component of reported cases of online hate speech and exploring discrepancies in the treatment of these cases by authorities in North Macedonia, was conducted by the Metamorphosis Foundation for Internet and Society between 1 October and 30 November 2022. It incorporated both qualitative and quantitative research methods, including a desk review of relevant previous research (analyses, research papers, and reports published by the Metamorphosis Foundation and other national and international organizations in North Macedonia), national strategies and plans, applicable laws and regulations (both national and international), police reports, court verdicts, and information on legal aid provided to citizens in cases involving online hate speech, as well as a review of available online materials such as articles from media outlets, blogs, and statistical data. An online public opinion survey was also used to collect data, and stakeholders were consulted to draw from their expertise and experience.

## The conceptual and regulatory framework

The United Nations (UN) defines “human rights” as the right to freedom of speech, health, privacy, life, security, liberty, and a decent standard of living. While the right to freedom of speech implies that people have the right to express their opinion freely, this right does have limits. When the opinions people express are disrespectful, insulting, or even dangerous to certain individuals or groups, the right to free expression can often be restrained to ensure protection of the greater social good; meaning, national security, public order, public health, and the rights of others.<sup>1</sup>

Offensive speech becomes hate speech when it encourages discrimination and incites violence. Gender-based hate speech, which is intended to spread, incite, promote, or justify hatred based on gender identity, thus represents a threat to women on multiple levels, discouraging many women from participating in politics or society but also inspiring intolerance and, in some cases, real-world violence.<sup>2</sup> This is a direct attack on inclusion and human rights and, given that any woman is a potential target of hate speech, the implications for society are broad and troubling. Hence, combatting gender-based hate speech, through legal and other means, is an urgent priority.

To be clear, hate speech refers to offensive discourse targeting a group or individual with animus based on inherent characteristics such as race, religion, or gender.<sup>3</sup> Yet, in some contexts, gender-based hate speech has become incorporated into the informal speech people use in their everyday lives. For instance, it is not uncommon to hear women casually addressed in offensive, degrading, or humiliating ways in North Macedonia, and the Balkans more generally, where this kind of patronizing and misogynistic speech is an inherent part of the culture, which is overwhelm-

<sup>1</sup> Article “Why is Freedom of Expression Important”, published on the website of Amnesty International, available at this link: <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>

<sup>2</sup> Article “Hate speech and violence”, published on the website of the Council of Europe, available at this link: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/hate-speech-and-violence>

<sup>3</sup> Article “What is hate speech”, published on the official website of the United Nations, available on this link: <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech>

ingly patriarchal. There are a number of popular sayings that allude sexually to mothers or other female family members, for example. And various expressions referencing women or parts of their bodies are often used to illustrate the extent to which someone is unreasonable, unstable, vulnerable, or illogical. This language is used by men and women alike, and in an equally offensive manner, which speaks to the pervasiveness of patriarchal norms in North Macedonia. This impacts the way women are perceived not only in society but by and among themselves.

Despite the fact that hate speech is so common, there is no universal working definition of the phenomenon. Still, in 1997, the Council of Europe defined it as: “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance.”<sup>4</sup> And in 2019, to provide a unified framework and address the issue globally, the UN launched the UN Strategy and Plan of Action on Hate Speech – an important step towards preventing and combatting the spread of hate speech that calls for stronger advocacy, more research on hate speech, and a more coordinated response to it. The Strategy defines hate speech as “any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.”<sup>5</sup>

Even so, the concept of hate speech and how to define it remains under discussion, especially as it relates to “freedom of opinion and expression, non-discrimination and equality.”<sup>6</sup> Western countries take two divergent approaches to regulating hate speech, with the United States (US) arguing that the government cannot directly regulate this speech without violating the fundamental right to free speech protected by the US Constitution, and European states applying greater limitations to speech while still recognizing and upholding that right. Indeed, though “hate speech” is not a legal term in the US, the case-law of the US Supreme Court has repeatedly established that speech which would qualify as hate speech in other Western countries represents legally protected speech under the First Amendment of the US Constitution, according to which: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”<sup>7</sup>

In Europe, the freedom of speech is also guaranteed by the European Convention on Human Rights (ECHR), but this freedom is significantly more restricted than in the US. The ECHR grants the right of free expression to all, but stipulates that this freedom can be subject to limitations “as are prescribed by law and are necessary in a democratic society, in the interests of,” *inter alia*, “national security, territorial integrity, or public safety, for the prevention of disorder or crime...

<sup>4</sup> Council of Europe, Recommendation of the Committee of Ministers to Member States on “Hate Speech”, No. R (97) 20, 30 October 1997.

<sup>5</sup> United Nations, Strategy and Plan of Action on Hate Speech, 18 June 2019.

<sup>6</sup> See: United Nations, “What is hate speech”, <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech>.

<sup>7</sup> US Constitution, amend. 1. For a summary of US Supreme Court precedent in this area, especially related to online speech, see: ACLU, Brennan Center, Center for Democracy and Technology, EFF, and the Open Technology Institute, “Online Speech and the First Amendment: Ten Principles from the Supreme Court,” 8 April 2019.



[and] for the protection of the reputation or rights of others.”<sup>8</sup>This protection of the reputation or rights of others is particularly notable in the context of this research, considering that online hate speech violates the rights of others and represents a threat to their dignity.

The relatively strict approach Europe has taken to regulating freedom of expression reflects the fact that tragic events have occurred on European soil in the not-so-distant past – from genocide to antisemitism to ethno-religious tensions – that have been inspired and incited by speech. The Council of Europe has thus issued a sweeping definition of hate speech in General Policy Recommendation No. 15 on Combating Hate Speech, adopted by the European Commission against Racism and Intolerance at the end of 2015. According to the Recommendation, any “advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression” constitutes hate speech if these forms of expression are “based on a non-exhaustive list of personal characteristics or status that includes ‘race’, colour, language, religion or belief, nationality, national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.”<sup>9</sup> While Recommendation No. 15 is not legally binding, it is important that the document acknowledges gender and gender identity as grounds for hate speech.

Gender has also been recognized by the UN as a basis for hate speech, as in the Human Rights Council’s Resolution on the promotion, protection and enjoyment of human rights on the Internet – which “condemns unequivocally online attacks against women and girls, including sexual and gender-based violence and abuse of women, in particular where women journalists, media workers, public officials or others engaging in public debate are targeted for their expression,” and thus calls for “gender-sensitive responses” meant to address the particular forms of online discrimination facing women and girls.<sup>10</sup>

In North Macedonia, many institutions fail to practice gender-responsive policymaking due to a lack of awareness and understanding of gender. Gender identity reflects a deeply felt and experienced sense of self and constitutes an elemental part of identity, and yet it is common in North Macedonia, as in many countries, for gender to be assigned at birth based on assigned biological sex. As conceptions of gender evolve away from this restrictive presumption, and society becomes an ever-greater spectrum of different identities, policies must be developed to serve the needs and priorities of all citizens, regardless of identity.

Hate speech is legally regulated in North Macedonia by several provisions of the Criminal Code, as well as the Law on Audio and Audiovisual Media Services, the Law on Prevention and Protection against Discrimination, and the Defamation Law; which generally conform to the European

<sup>8</sup> European Convention on Human Rights, Rome, 4 November 1950, with amendments and protocols through Protocol No. 15 (CETS No. 213).

<sup>9</sup> European Commission against Racism and Intolerance, ECRI General Policy Recommendation No. 15 on Combating Hate Speech, 8 December 2015, 16.

<sup>10</sup> United Nations General Assembly, Human Rights Council, Resolution on the promotion, protection and enjoyment of human rights on the Internet (A/HRC/47/L.22), 7 July 2021.

Convention on Human Rights standards.<sup>11</sup> However, because the term “hate speech” is not more explicitly defined by this regulatory framework as a violation that occurs in digital space, it fails to address online forms of hate speech and discrimination. So, as hate speech becomes more prevalent on social media and other online platforms, there are few institutional means to combat it in North Macedonia.<sup>12</sup> Thus, the goal of this research was to map the links between gender and online hate speech in the country, explore practices and challenges in this area, and contribute to understanding the impact of various aspects of cybersecurity governance on women. Researchers also sought to identify the gendered component of reported cases of online hate speech, and to investigate discrepancies in the treatment of these cases by authorities.

In North Macedonia and across the region, hate speech that centres ethnicity tends to receive much more attention in the public discourse, including by generating fiery online discussion, than hate speech that centres gender. Typically, it is only a handful of activists or women’s organizations that highlight and condemn cases of gender-based hate speech, to little effect. This research also shows that a lack of understanding of the concept of hate speech and a lack of trust in institutions means that cases of gender-based hate speech are severely underreported, even though some cases of online hate speech may manifest in the real world as physical violence directed against women. Moreover, on top of the gendered norms that create the permission structure for these violations of women’s human rights in North Macedonia, confusion about the distinction between gender as a social construct and sex as a biological designation is common among the public, and very often motivates the protests and marches organized to oppose events like Pride parades.

## Gender-based speech in North Macedonia

It may be easy to think of the gender-based hate speech that now seems ubiquitous in online media as a fairly new phenomenon. But, arguably, this online speech represents part of the continuum of hate speech that women already face offline, and which has long been present in society. Of course, when we talk of media, we should be clear about what “media” is these days. While, in the past, traditional media like television and radio was the main source of information for most people, this speech has now been transferred to “new media” spaces on the internet, primarily to social media applications and online news portals. As this shift has occurred, this speech has escaped the legal framework established to govern hate speech in traditional media, such as regulations enforced by the Agency for Audio and Audiovisual Media Services in North Macedonia,

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<sup>11</sup> Bardhyl Jashari, Goce Arsovski, and Elida Zylbeari, “North Macedonia: Driving Implementation to Strengthen Stakeholder Inclusion,” in *Cybersecurity and Human Rights in the Western Balkans: Mapping governance and actors*, edited by Franziska Klopfer and Laylo Merali (Geneva: DCAF, 2021), 93.

<sup>12</sup> After the research period, the Criminal Code underwent changes that are not taken into consideration in the text. Most relevantly, Article 144 regulating “the endangering of safety,” now reads:

(4) With the penalty from paragraph (3) of this article, whoever commits the crime from paragraph (1) of this article against an official in the performance of his duties, a lawyer, a doctor or another health worker, a journalist or another media person or another person who performs works of public interest during the performance of professional tasks or in connection with the performance of professional tasks undertaken within the framework of his powers or towards several persons, will be punished. (With this change, attacks on journalists and media workers will be considered attacks on an official, for which a prison sentence is foreseen.)

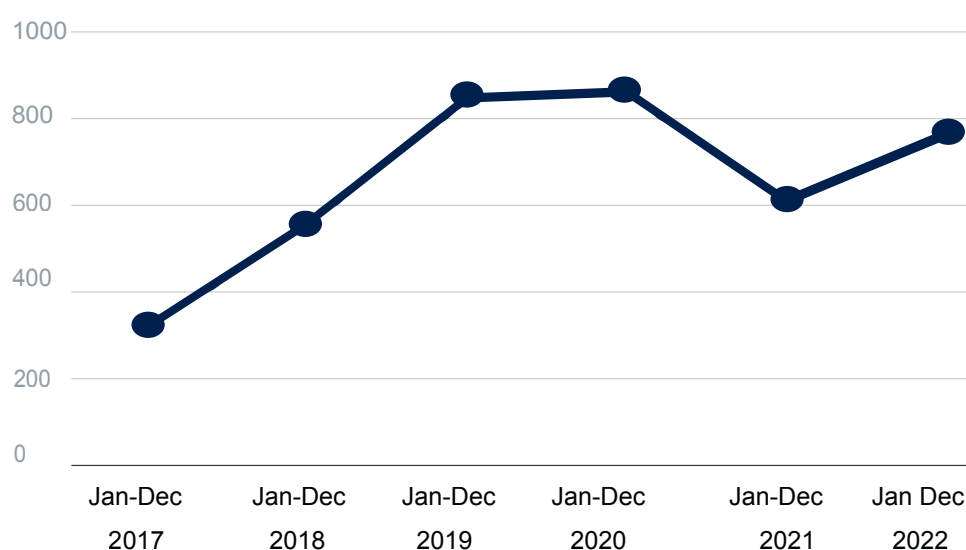
(5) He who publicly, or through an information system, threatens to commit a crime for which a prison sentence of five years or a heavier sentence is prescribed against a person because of his belonging to a certain race, skin color, origin, national or ethnic origin, sex, gender, sexual orientation, gender identity, belonging to a marginalized group, language, citizenship, social origin, education, religion or religious belief, political belief, other belief, disability, age, family or marital status, property status, state of health, personal quality and social status or any other basis provided by law or an international agreement ratified in accordance with the Constitution of the Republic of North Macedonia, shall be punished with a prison sentence of one to five years. (With this change, the scope of grounds on which threats to commit a crime, online or in real-life, has widened, this time also including: sex, gender, sexual orientation, gender identity, among other grounds.)

See: Assembly of the Republic of North Macedonia, Proposal for a law to amend and supplement the Criminal Code, 13 February 2023.)

which follows the Audiovisual Media Services Directive from the European Union and assures that media services under its jurisdiction do not incentivize hate based on race, gender, religion, or nationality.

In new, online media spaces, the regulations governing hate speech are weaker, creating an opportunity for anyone with internet access to engage in hate speech and online gender-based violence. This problem is plainly evident in statistics showing the percentage of women who have experienced online abuse globally, with 57 percent of respondents in a 2017 survey reporting that they had experienced harassment via Facebook alone.<sup>13</sup> Still, the legal framework in North Macedonia has yet to be adapted to this reality, even if data indicates that “hate speech” (“говор на омраза” in local language) has become something of a buzzword in the media (see Figure 1, below).

Figure 1. References to “hate speech” (“говор на омраза”) in media, per news aggregator Time.mk, January 2017–December 2022.



Mentions of “hate speech” increased steadily in North Macedonia between 2017 and 2020, when they reached a high of 869, according to Time.mk; and the latest statistics from the Helsinki Committee’s Hate Speech platform for the country ([www.govornaomraza.mk](http://www.govornaomraza.mk)) also show that reported cases of hate speech peaked in 2020.<sup>14</sup> This is notable, given that 2020 marked a transformational time for many people, as entire populations moved their communications and basic functions to online spaces as the COVID-19 pandemic prompted restrictions on physical interactions. This highlighted the social and digital gaps that exist around the world, because not all citizens had equal or any access to the necessary digital infrastructure (i.e., a stable internet connection), nor

<sup>13</sup> Statista, “Share of women worldwide who have ever experienced abuse or harassment on selected websites and social media platforms as of July 2017, 7 July 2022, <https://www.statista.com/statistics/784821/harassment-women-websites-social-media-platforms/>.

<sup>14</sup> Reports are available (in local language), by date, at: <https://www.govornaomraza.mk/reports>. The reports listed on the [www.govornaomraza.mk](http://www.govornaomraza.mk) platform are based of citizen reporting of cases of hate speech. After a report is made, it is reviewed by the Helsinki Committee for Human Rights of the Republic of North Macedonia. Following this verification process, the report is posted on the platform (though, personal data or identifying details are withheld).

the knowledge and digital literacy required to efficiently and safely navigate online, in order to participate meaningfully in society.

This low level of digital literacy combined with higher numbers of people online in 2020 led to an increase in online hate speech. It was also in 2020 that the Metamorphosis Foundation was targeted by online charges of defamation, hinging on untrue claims about the organization's role as part of Facebook's third-party fact-checking programme.<sup>15</sup> These claims went viral when they were shared on social media, in posts that included photos of Metamorphosis employees, the majority of whom identify as female; and this provoked an avalanche of hate speech – directed partly at the organization, but mostly at specific individuals.<sup>16</sup> This campaign of hate speech led to calls for these employees to be publicly lynched and to threats of physical violence, which were posted on social media and in the comments under related articles or photographs, and were in some cases sent in private messages on social networks. But there were also offline incidents that resulted from this campaign, including instances in which Metamorphosis employees were accosted by people unknown to them, in the street or in front of their homes. The organization initiated a civic procedure against the portal that first published the defaming claims which prompted these ensuing incidents. After a lengthy process, the court finally ruled in favour of Metamorphosis, but rejected a request for payment of damages.

## Cases of gender-based hate speech in online media

It should not be surprising that a majority of the hate speech directed towards female employees of Metamorphosis was associated with their personal appearance, and that this was much less the case for male employees, given the prevalence of misogyny and sexism in online speech. In North Macedonia, online hate speech with a gendered element occurs largely in Facebook posts and comments, and in the comment sections of online portals. Many of these portals lack clear ownership information and an Impressum, and do not use named authors on their articles; meaning, they do not meet the minimum criteria to be a part of the country's professional online media registry, which includes only 154 portals. These unregistered outlets often have a higher propensity for publishing articles that contain disinformation or hate speech.

Women who are targeted by content on these portals usually hold public office or have another public-facing job, such as in journalism or activism. But this abuse does not always come from the anonymous public, as a 2020 survey conducted with women from ten political parties in North Macedonia found, determining that “political parties... lack fundamental protections for women members, activists, and political representatives,” and that “party statutes or codes of conduct are silent on gender-based violence.”<sup>17</sup> In fact, more than six in 10 (65 percent) women politicians indicated they had experienced some kind of violence while performing their party functions,

<sup>15</sup> See: “The claim that Metamorphosis employees delete content from Facebook is defamation,” Meta.mk, 13 November 2020, <https://meta.mk/en/the-claim-that-metamorphosis-employees-delete-content-from-facebook-is-defamation/>.

<sup>16</sup> Nenad Georgievski, “Hate speech and harassment campaign against Metamorphosis staff continues with impunity: ‘Should we shoot them or bring funeral wreaths to their homes?’,” Meta.mk, 10 December 2020, <https://meta.mk/en/hate-speech-against-metamorphosis-foundation-staff-still-unpunished-should-we-shoot-them-or-bring-funeral-wreaths-to-their-homes/>.

<sup>17</sup> Ohrid Institute and National Democracy Institute, *Violence against women in Political Parties in North Macedonia: Assessment Report (2020)*, 12.

including being subject to hate speech, insults, slander, and even physical assault; in the vast majority of cases, by men in their own party.<sup>18</sup>

This is the situation that has faced the current mayor of Skopje, Danela Arsovska, after she dismissed the directors of several public institutions. Her constituents responded positively to the decision, which also received international support, but a rather brutal online campaign has been waged against Arsovska, nonetheless, and by the Prime Minister's Foreign Investment Adviser (who is in the opposition) and the leader of the party that supported her as an independent candidate in the last election.<sup>19</sup> She has faced clearly gendered abuse, including assertions that she should “be a lady,” implying that she ought to remain quiet, obey orders, and not voice opinions that differ from those expressed by the men leading the party behind her.

Minister of Defence Slavjanka Petrovska has also been targeted by gendered hate speech and insults on social media. Online outlets have published satirical articles focused on her appearance and have mocked her as Defence Minister in the context of the war in Ukraine, attempting to diminish her role in politics and her policy positions. At a conference on women in politics held in March 2023, Petrovska said it was only through the support of friends and civil society organizations that she had endured these abuses, emphasizing that women or girls with political ambitions should “not succumb to attacks and gender discrimination,” which are the tools of people seeking “to stop those [of us] who have started to change the world for the better.”<sup>20</sup>

In another recent case, Katerina Kolozova, executive director and professor of gender studies and philosophy at the Institute of Social Sciences and Humanities in Skopje, faced hate speech and various threats after voicing her support for the French proposal for EU accession for North Macedonia, which critics argue offers Bulgaria too much influence over the process. Kolozova was accused of being a traitor, in online articles that amassed hundreds of hateful comments; a response that was not encountered to this extent by the many men who also supported the French proposal. In Kolozova’s case, online attacks escalated to include hate speech directed towards her parents, who are prominent Macedonian actors, but especially towards her mother, revealing again that women are more likely to be targeted.<sup>21</sup>

Women “influencers” are also subject to gender-based hate speech in online media. Many of them raise awareness of these incidents by publishing examples of the hate speech they confront and speaking openly about it, but this has not compelled relevant institutions or media outlets to take the issue seriously enough to act decisively to combat or prevent it. Indeed, when women choose public-facing positions, it is widely believed that this kind of abuse is part of the job or

<sup>18</sup> Ibid, 19–21. Also see (in local language): ПРОЦЕНКА НА НАСИЛСТВОТО ВРЗ ЖЕНИТЕ ВО ПОЛИТИЧКИТЕ ПАРТИИ, Infographic, [https://www.ndi.org/sites/default/files/Infografik%201%20MK\\_0.pdf](https://www.ndi.org/sites/default/files/Infografik%201%20MK_0.pdf)

<sup>19</sup> See: “Советник на Заев со нов мизогин напад врз Дanela Арсовска,” *Expres.mk*, 29 August 2021, <https://www.expres.mk/sovetnik-na-zaev-so-nov-mizogin-napad-vrz-danela-arsovska/>; “ЈАС НЕ СУМ ПСИХИЈАТАР Мицкоски не ја поштеди Дanela за нејзиниот карактер (ВИДЕО),” *Plus Info*, 29 October 2022, <https://plusinfo.mk/as-ne-sum-psihi-atar-mickoski-ne-a-poshtedi-danela-za-ne-ziniot-karakter-video/>; and “Daniela is attacked by crooks who became millionaires through politics,” *Republika English*, 28 October 2021, <https://english.republika.mk/news/macedonia/danela-is-attacked-by-crooks-who-became-millionaires-through-politics/>.

<sup>20</sup> Republic of North Macedonia, Ministry of Defence, “Petrovska at the conference ‘Women in politics – hate speech, a shadow that discourages,’” 1 March 2023, <https://mod.gov.mk/petrovska-at-the-conference-women-in-politics-hate-speech-a-shadow-that-discourages/>.

<sup>21</sup> See: “Актерката Шенка Колозова мета на говор на омраза,” *Civil Media*, 29 April 2021, <https://civilmedia.mk/akterkata-shenka-kolozova-meta-na-govor-na-omraza/>.

that these women are “asking for it.” Knowing this, many victims are discouraged from reporting incidents of online hate speech in North Macedonia, as they have little faith that these abuses will be investigated by police.

Still, women continue to share their experiences, hoping to focus attention on the problem of online hate speech and the lack of response by authorities. For example, Jelena Spendzarska, a well-known television host and influencer, spoke in a recent interview about the hateful comments directed towards her on social media and the harm of cyber-bullying.<sup>22</sup> And Mia Kostova, an Instagram influencer and television host, published a 2022 article about the hate speech directed towards famous women in the North Macedonia.<sup>23</sup>

Many journalists in the country are also targeted by gender-based hate speech; though, sometimes, hate speech is the least concerning form of cyberviolence they face. The Association of Journalists of Macedonia maintains a database of violations of the rights of journalists, and those violations include cases of physical assault and detention against one’s will, of both men and women. However, most journalists experience verbal attacks, often of a threatening or insulting nature, including threats made online.<sup>24</sup> And when these threats and insults are directed at women in media, they are frequently sexist.

Journalist Tanja Milevska was subject to a torrent of gender-based hate speech in online spaces, including threats of physical and sexual violence, for her coverage in the midst of an electoral campaign in 2020.<sup>25</sup> Ironically, but predictably, Miroslava Byrns also faced online hate speech in response to her journalism about online media portals that disseminate hate speech and show no respect for the Code of Journalists. Byrns, who was shamed for her looks and for the fact that she is divorced by the online portal Dokaz, sued the outlet for defamation in civil court. Yet, the court did not even set a hearing date for a year and a half, because the owner of the portal could not be located in person; a procedural delay that some observers saw as a way of pressuring Byrns to give up.

The challenge of regulating hate speech in digital spaces is linked to weaknesses in the regulatory framework, as noted above. In North Macedonia, what constitutes online media is neither defined nor governed by current media laws – the Law on Media and the Law on Audio and Audiovisual Media Services. That said, online media does not entirely escape the reach of this legislation, especially in relation to content creation and distribution. This is why some online media outlets engage in self-regulation through membership in the Council of Media Ethics of Macedonia, which applies moral sanctions in response to violations of the professional standards set

22 “Грдосијо, провинцијалко” – Јелена Спенџарска опоменува за лошите коментари на социјалните мрежи и штетноста на булингот,” *crnobelo.com*, 21 December 2022, <https://www.crnobelo.com/novosti/domasni/98166-grdosijo-provincijalko-jelena-spendzarska-se-zhali-za-loshit-e-komentari-na-socijalnite-mrezhi-i-shtetnosta-na-bulingot>.

23 Mia Kostova, “Миа Костова почна да ги објавува „госпоѓите” кои шират говор на омраза: Имам време за сите Славици,” *Reporter*, 7 December 2022, <https://reporter.mk/nashi-faci/mia-kostova-pochna-da-gi-objavuva-gospogite-koi-shirat-govor-na-omraza-ima-m-vreme-za-site-slavitsi/>.

24 Association of Journalists of Macedonia, “Cases of Violation of Journalists’ Rights Through the Years,” <https://znm.org.mk/en/cases-of-violant-of-journalists-rights/>.

25 See: “Говор на омраза, брутални закани и навреди кон новинарката Тања Милевска #CoHeaCме,” *Frontline*, 13 July 2020, <https://frontline.mk/2020/07/13/govor-na-omraza-brutalni-zakani-i-navredi-kon-novinarkata-ta-a-milevska-son-easme/>; and “North Macedonia: Journalist Tanja Milevska Gets Hate Speech and Sexist Comments Over Her Coverage On The Election Campaign,” *The Coalition for Women in Journalism*, 14 July 2020, <https://www.womeninjournalism.org/threats-all/northmacedonia-journalist-tanja-milevska-gets-hate-speech-a-nd-sexist-comments-over-her-coverage-on-the-election-campaign>.

out in the Code of Journalists. The question for regulators and policymakers in North Macedonia is how to govern all the online media portals that are not members of this body, many of which publish content that meets any definition of hate speech, centring gender and other characteristics, with no consequence. These portals are incentivized by the responsiveness of users to continue publishing gender-based hate speech and are likely to satisfy this “market” as long as it exists. This will only contribute to the creation of an internet community that is harsher, driven by greater animus, offers impunity to those who fail to think critically or behave ethically, and is therefore a place where no one is safe.

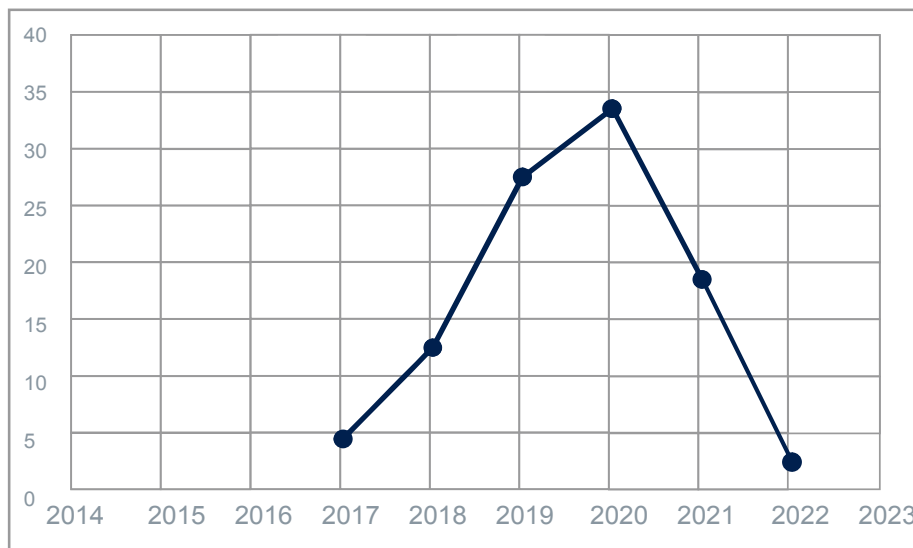
Given this, the lack of legal infrastructure in place to protect against online hate speech in North Macedonia must be addressed, as it adds to the trauma of victims and tends to de-motivate future victims from reporting violations. Moreover, women who have experienced online abuse are sometimes prone to self-censorship as a self-protective measure. This is the so-called “chilling effect” of hate speech, and in the most extreme cases, can lead victims to completely withdraw from public life.

### **The gendered component in reported cases of online hate speech**

This research employed a survey to explore how often citizens have sought legal aid in cases involving online hate speech, and found that very few have. The survey was conducted with representatives of 12 law offices, 58 percent of whom responded that they very rarely (not more than 3 times per year, over the past 5 years) receive legal aid inquiries related to online hate speech, and 42 percent of whom said they have never been asked to provide aid in such a case. To determine whether these low numbers were related to the economic status of victims, which may potentially deter them from taking action, researchers also reached out to three civil society organizations that provide free legal aid, and found in fact that two-thirds (67 percent) have never received a request for aid related to online hate speech, while the remaining one-third (33 percent) estimated that they receive no more than 3 such requests per year. They noted that the people most likely to seek their help in cases involving online hate speech, based on past cases, are employed women who live in Skopje, aged 30–55. Representatives of organizations that provide free legal aid were also asked to share their views on the adequacy of the existing legal framework that regulates online media and governs online speech in North Macedonia, and a majority said it is inadequate, though some believe it is somewhat adequate. These respondents suggested that the challenge of online abuse can only be overcome if online perpetrators are made criminally responsible and greater control is handed to administrative bodies to govern social media. They noted that one of the greatest impediments to fighting online hate speech is the phenomenon of fake profiles, which take advantage of the low digital literacy of citizens and a lack of media awareness. Thus, raising awareness among citizens about the importance of preventing, reporting, and sanctioning online hate speech is essential. Organizations that participated in this research have the capacity to implement various activities as part of such an initiative, including educational workshops on the prevention of cyberbullying for young people.

Any awareness raising or educational campaigns must acknowledge the gendered dimensions of online hate speech. The Helsinki Committee's Hate Speech platform collects and verifies reports from Macedonian citizens of online hate speech, and its data from the last five years show that reports of hate speech on the grounds of sex and gender peaked in 2020 (34) before rapidly decreasing in 2021 (19), and that almost no such reports were made in 2022 (3). It is possible that the high number of reports recorded in 2020 is linked to the pandemic, the social isolation of which pushed many people into new online spaces. Meanwhile, the low number of cases reported in 2022 may indicate that people are becoming more aware online and are taking precautions not to provoke or expose themselves to hate speech; but in many cases, this is likely to mean that users have turned to self-censorship in order to avoid online backlash. It could also be that not every case reported in 2022 was verified and listed in the database by the time this research was conducted in early 2023.

Figure 2. Reports of hate speech based on sex and gender, 2017–2022

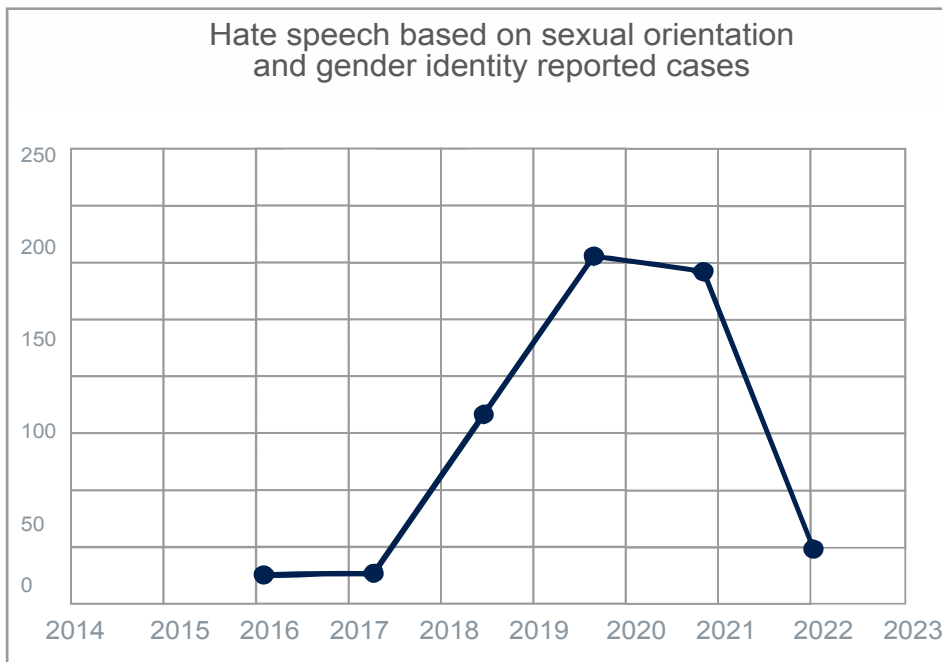


Source: <https://www.govornaomraza.mk/reports>

The same trend can be seen in reported cases of online hate speech on the grounds of sexual orientation and gender identity. These reports also rose quickly, increasing nearly six-fold from 2018 (19) to 2019 (111), then nearly doubling again in 2020 (203) before essentially plateauing in 2021 (194) and then dropping considerably in 2022. The same reasoning applied above to the peak in 2020 and low in 2022 in reports of gender-based hate speech apply here as well. Among these cases, however, it should be noted that the Pride parade appears to be a key event that prompts an uptick in hate speech targeting the LGBTQ+ community with homophobic and transphobic speech.

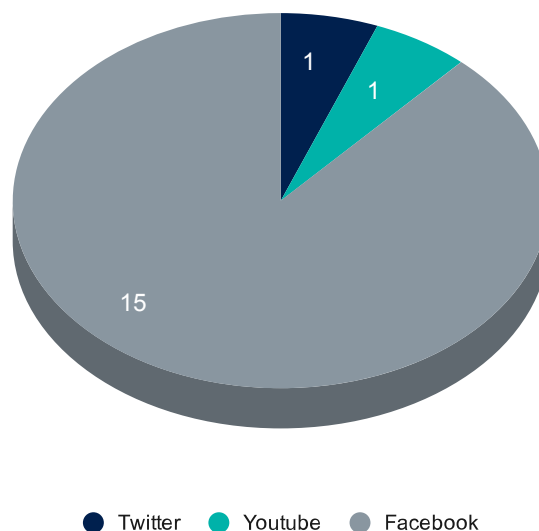


Figure 3. Reports of hate speech based on sexual orientation and gender identity, 2017–2022



A total of 17 verdicts were included in this analysis, which found that every person convicted in these cases received a suspended sentence, ranging from three months to one year, to be executed only if they committed another crime within one to three years. Notably, based on these verdicts, online hate speech is most prevalent on Facebook.

Figure 4. The platforms used to disseminate hate speech in cases charged under Article 394(g)



After the LGBTQ+ community, women public figures are those most often targeted by online hate speech, typically with sexist comments that speculate about their promiscuity and comment on their personal appearance or ethnicity. Very often, reports of online hate speech made to the Hate Speech platform over these years have fallen into multiple categories; meaning, a single case of abuse may include hateful speech due to the sex or gender of a victim as well as their sex

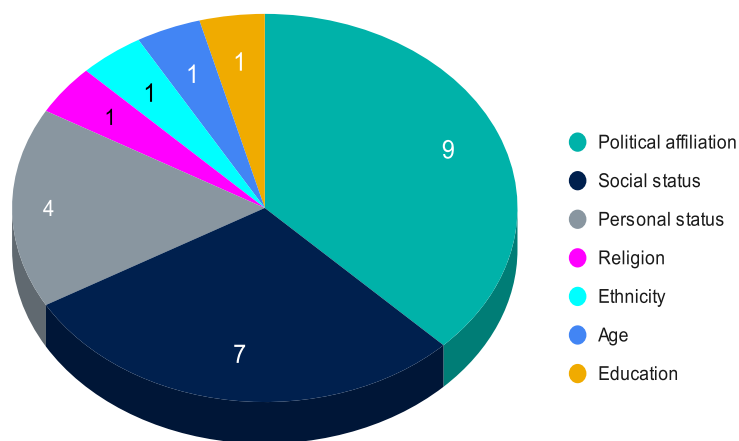
orientation and gender identity, or other categories such as ethnicity, religion, or political affiliation.

## Legal solutions and institutional responses

The basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution, are considered one of the fundamental values of the constitutional order of the Republic of North Macedonia. In fact, the Constitution guarantees that citizens “are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status.” And, though “online hate speech” is not explicitly regulated in the Criminal Code of North Macedonia, Article 394(g) criminalizes “spreading racist and xenophobic material via computer system.” To explore the manner in which these cases are handled by the country’s criminal courts, researchers analysed available verdicts in cases where Article 394(g) was charged.

Frequently, this online abuse has been due to the victim’s political affiliation, reflecting the fact that the injured party in some of these cases have been executive branch functionaries. But personal or social status are also grounds for hate speech in these cases, usually targeting police officers, bailiffs, and criminals, and some cases also involved hate speech on the basis of religion, ethnicity, and age. As Figure 5 (below) shows, however, there were no verdicts reflecting cases of hate speech based on sex or gender.

Figure 5. The basis for hate speech charged under Article 394(g)



## General perceptions and public awareness of online hate speech

In October 2022, the European Commission noted in its report on North Macedonia that the country needed to improve its implementation of legislation on hate speech and of its national action plan for the Istanbul Convention.<sup>249</sup> The report also highlighted that hate speech appears to persist online, asserting that “online media and social media platforms are the main source of disinformation, misinformation, [and] hate speech,” and calling for “campaigns... to boost the understanding of stakeholders and the general public.”

To explore the perceptions and awareness of the general public regarding online hate speech, as well as their knowledge of the existing reporting mechanisms available to victims, an online survey of 103 respondents of diverse age, ethnic affiliation, gender, and geographic location was conducted as part of this research.

It should be noted that a considerable majority (68 percent) of these respondents identified as female, and nearly three-quarters (71 percent) were between 30 and 55 years of age. They also largely (77 percent) identified as ethnically Macedonian, and reported living mainly in urban areas, where they have relatively better access to public services and state mechanisms than citizens in more rural parts of the country. Only 7 percent of respondents said they belonged to a marginalized community (i.e., due to having a disability, or being a drug user, sex worker, single parents, etc.), and they represented a broad array of professions, including project managers, lawyers, economists, activists, researchers, media workers, psychologists, public administrators, doctors, teachers, retirees, and more. Alarming, among these respondents, 65 percent have been or know someone who has been a target of online hate speech.

Respondents indicated the only four in ten (40 percent) of the incidents of online hate speech they had experienced or knew about had been reported; often (62 percent of the time) to a state institution, such as the Ministry of Interior (the Department of Computer Crime and Digital Forensics) or local police stations, the Ombudsman, the Commission for Prevention and Protection from Discrimination, the Personal Data Protection Agency, and the Agency for Audio and Audiovisual Media Services.

In 38 percent of these cases, respondents said the incident was reported through the relevant mechanism of the social media platform on which it occurred. A few respondents also indicated having reported an incident to a civil society organization, including the Helsinki Committee for Human Rights, the Council of Media Ethics of Macedonia, and the Internet Hotline Provider.

Respondents who indicated that they had made their own reports of online hate speech were asked about the outcome of that reporting and whether their case has been resolved. One respondent said that their case, which was reported to the Public Prosecutor's Office through the Ministry of Interior, was rejected due to a lack of evidence based on which it could be classified as hate speech. Another respondent who reported abuse to Facebook and the Ministry of Interior, and whose case was eventually resolved in their favour, noted that a great deal of time had passed between the violation and the final settlement (though, they did not specify how long). The details of some of the cases respondents said had been resolved also brought to light internal conflicts within the regulatory framework in North Macedonia, such as a case that was confirmed to be a criminal violation by the Personal Data Protection Agency but was rejected by the Council of Media Ethics of Macedonia, because they "bear no responsibility for the transmission of information even though it was determined that there was a violation of the Law."

Among respondents who reported instances of online hate speech through a social media reporting mechanism, the outcomes of this reporting ranged, from cases in which no action was taken, to those in which posts containing hate speech were removed, to the decision by some platforms such as Facebook and Twitter to suspend a perpetrator or limit their access to tools on the platform (i.e., commenting or posting). One respondent also described a case in which they reported hate speech to the administrator of a group maintained on a social media platform, which resulted in the removal of the comment in question, as well as a warning to the perpetrator.

However, nearly half (45 percent) of the respondents in this survey said the case(s) of online hate speech they had experienced or knew about did not get reported. This is a concerning high rate of non-reporting and further demonstrates the low trust of citizens in government institutions and external reporting mechanisms. In fact, when asked about their reasons for not reporting incidents of hate speech, a majority of these respondents answered that they did not believe reporting the abuse would solve the problem or that it would simply be a waste of time; and some said they were “afraid of the corrupt behaviour of police officers.”

This assumption that authorities will not investigate reports of online abuse are well-founded, given the experience of some respondents who have reported these incidents only to find that relevant institutions are nonresponsive. When victims are met by inaction, the trust of citizens in these institutional mechanisms decreases, discouraging reporting of human rights violations of all kinds. It is also crucial that all victims believe justice is meted out equally, regardless of their social status. For example, a respondent who experienced online abuse and did make a report noted that her report was resolved only after the same perpetrator began targeting journalists, which made her feel as though she was not viewed as a legitimate or important enough victim by authorities.

There were some respondents who said that they had not reported online hate speech because they were unaware of where or how to do so. This indicates that there has been a failure to effectively communicate about the resources and mechanisms by which online abuse can be reported. Notably, such a failure may not be due to a lack of messaging per se, but to the way this information is messaged or the channels by which it is communicated to the public.

## Recommendations

- Launch a comprehensive and meaningful awareness raising campaign, through a collaboration of CSOs, academia, and state institutions, to educate the public about gender-based hate speech and the risks it poses to women, girls, and society at large, to encourage reporting and to build institutional practices in this regard. Such a campaign should also help the public distinguish between free speech and hate speech, and can be supported by the introduction of digital and media literacy in formal educational curricula.

- Update institutional sanctions for online hate speech, and ensure these sanctions are applied equally, not only in cases involving public office holders.
- Create institutional policies that take a human-centric approach, in order to meet the needs of all citizens, by including stakeholders of all types in the process of policy development, implementation, and evaluation. A human-centric approach should always be gender-responsive.
- Systematically monitor gender-based hate speech in cyberspace, not only to help assess current trends but to provide a basis for further research; and strengthen monitoring of online media by the Public Prosecutor's Office.
- Set strict standards for politicians regarding their use of hate speech in government settings and on social media, particularly given that media outlets convey these statements as official, and encourage politicians to condemn the use of hate speech by others.
- Promote greater self-regulation by online media outlets, according to best practices, to ensure proportionality between accountability for violations and freedom from censure. This should include capacity building for journalists and online media platform owners regarding ethical reporting and human rights concerns, as well as efforts to strengthen the role of the Council for Media Ethics as the country's main self-regulatory body.
- Provide victims of hate speech with support, including by ensuring that reporting mechanisms allow for the safe reporting of these crimes to competent authorities.
- Amend the Media Law to explicitly include online media.

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# CHAPTER 6

## Enraged by gender:

Online anti-LGBTQ+ narratives and their offline effects in Serbia

**By: Ivana Ranković and Maja Bjeloš**

**Co-authors: Gorana Pebić and Đorđe Blagojević**

Belgrade Centre for Security Policy (BCSP)

## Introduction

Though the concept of gender is often conflated with biological sex, these are two separate aspects of a person's identity. Gender is a social construct; meaning, it is defined in relation to a given society's norms vis-à-vis the roles of men and women, which result from historic and social processes. From our earliest years, parents, schools, peers, religious institutions, mass media, and other influences shape our understanding of these roles, clarifying and reiterating the expectations and beliefs of our society about how boys and girls, men and women should behave, and what constitutes masculinity and femininity. As early 20th century feminist Simone de Beauvoir famously put it, "One is not born, but rather becomes, a woman."<sup>1</sup>

However, the idea that some people do not identify with the gender assigned by society to their biological sex has been stirred into a controversy by conservative and religious actors, who oppose the rising social acceptance of a non-binary model for gender as well as the feminist and LGBTQ+ rights movements they blame for this development. Hence, "anti-gender" activism has arguably emerged in reaction to the conquest of space by these progressive movements. Indeed, feminist and LGBTQ+ movements engaged in international advocacy for the adoption of policy documents that promote gender equality, such as the 1995 Beijing Declaration and Platform for Action. And in contemporaneous debates over the content of the document, the inclusion of the term "gender" provoked a sharp response from the Vatican, which along with its conservative allies, condemned the use of "gender", linking it "to homosexuality... and accusing feminist groups of promoting five genders."<sup>2</sup> This alliance succeeded in blocking the inclusion of sexual rights and the term "sexual orientation" in outcome documents.<sup>3</sup>

According to Françoise Girard, "most governments and feminist activists at the negotiations [in Beijing] were in fact using 'gender' in accordance with contemporary political usage, as a proxy for 'women,' [but] the Holy See recognized the far-reaching implications of detaching social roles, identities, and expressions from biological sex."<sup>4</sup> The opposition of the Vatican inflamed hostility among conservatives, nationalists, and other right-wing groups to the concept of gender, and these groups quickly formed an international alliance to push back against achievements in women's rights that resulted from United Nations initiatives in the 1990s.<sup>5</sup> But in recent years, both attacks on "gender ideology" and the number of "anti-gender" movements have increased around the world, alongside a growth of populist and right-wing parties that followed the global financial crisis and ushered extreme right figures into national parliaments and supranational structures like the European Parliament. Over time, this has led to a decline in democracy and threatens the progress made in guaranteeing human and minority rights and freedoms.

1 Simone de Beauvoir, *The Second Sex*, trans. H. M. Parshley (London: Johnathan Cape, 1956), 273.

2 Françoise Girard, "Negotiating Sexual Rights and Sexual Orientation at the United Nations," in *SexPolitics: Reports from the Front Lines*, edited by Richard Parker, Rosalind Petchesky, and Robert Sember (Sexual Policy Watch, 2007), 334.

3 Ibid.

4 Ibid., 335

5 Conny Roggeband and Andrea Krizsan, "Democratic Backsliding and the Backlash against Women's Rights: Understanding the current challenges for feminist politics," UN Women Discussion Paper No. 35, June 2020.



This organized opposition to “gender ideology” is driven by a fear that “the natural or divine character of the heteronormative family” will be undermined, “that men will lose their dominant positions or become fatally diminished,” and that “children... are being indoctrinated to become homosexuals.”<sup>6</sup> A broad coalition of right-wing groups has thus mobilized at the transnational and national levels to defend so-called traditional family values and promote “their views about the natural hierarchy between men and women,” to counteract progress on gender equality.<sup>7</sup> And conservative forces are already reaping the fruits of anti-gender campaigns, as officials in a number of countries have bowed to their pressure (or in some cases, have exploited the political cover it offered), ordering the removal of all language referencing gender and all teaching related to “gender and homosexuality” from public schools, abolishing gender studies at universities, banning abortion, and obstructing adoption of the Istanbul Convention as well as legislation aimed at combating gender-based violence and ensuring gender equality.

In Serbia, where conservative intellectuals, nationalists, populists, and right-wing parties have united politically over the last five years to form new anti-gender social movements, these actors enjoy significant support from religious organizations. Presenting “gender ideology” as a threat to national identity and describing themselves as protectors of “traditional Serbian values,” these actors have developed a significant digital presence, spreading and promoting anti-gender discourse in online spaces, often by sharing misinformation. This resistance against “gender ideology” emerged in Serbia in 2017 after an educational package on preventing sexual violence was introduced into the curricula of the country’s kindergartens and primary schools.<sup>8</sup> Since then, there has been a steady increase in anti-gender campaigning by actors who direct their discourse and actions against Pride events, in vitro fertilization, and abortion, and who oppose any teaching about gender or the prevention of sexual violence in schools at any level. The rhetoric of anti-gender figures typically relies on discriminatory stereotypes and prejudices about women and the LGBTQ+ community that are already deeply rooted in Serbian society, and the fact that there is no institutional response to these narratives only further strengthens their impact.

This research was aimed at determining how these anti-gender campaigns, built on misinformation and hate speech, are translated from digital to physical spaces in a way that threatens the personal safety and human rights of certain groups. This paper thus offers an overview of the current socio-political context in Serbia, maps anti-gender discourse and misinformation as well as the actors who spread this content most prominently via the internet and media, and explores the effects of these campaigns on human rights and freedoms by attempting to identify the voices in society that have been silenced or marginalized by anti-gender discourse. It also reviews the legal and institutional mechanisms that exist in Serbia to combat these campaigns.

6 Judith Butler, “Why is the idea of ‘gender’ provoking backlash the world over?” *The Guardian*, 23 October 2021, <https://www.theguardian.com/us-news/commentisfree/2021/oct/23/judith-butler-gender-ideology-backlash>.

7 Adriana Zaharijević, “Dženderizam nesting in Serbia,” *Engenderings* (blog), London School of Economics and Political Science, 8 October 2018, <https://blogs.lse.ac.uk/gender/2018/10/08/dzenderizam-nesting-in-serbia/>.

8 Adriana Zaharijević, “Dženderizam nesting in Serbia,” *Engenderings* (blog), London School of Economics and Political Science, 8 October 2018, <https://blogs.lse.ac.uk/gender/2018/10/08/dzenderizam-nesting-in-serbia/>.

Today's digital media space not only comprises the websites of official outlets, but includes numerous internet platforms, portals, social networks, blogs, and more, making it fertile ground for the dissemination of propaganda and disinformation and the mobilization of some online audiences.<sup>9</sup>This was exemplified by the digital media environment before, during, and after the international EuroPride event held in September 2022 in Belgrade, which is thus analysed here. A considerable number of citizens were mobilized against the event through traditional and social media, with the goal of banning the EuroPride march. This resistance to EuroPride was a useful case in the context of this study, as it allowed researchers to examine the impact of online campaigns on human and minority rights and freedoms – such as the freedom of public assembly and the freedom of speech – and helped them draw direct links between the spread of violent content on the internet and physical violence in the real world. This is especially important given correlations between hate speech in media spaces and an increase in hate crimes reports. For instance, the LGBTQ+ support organization Da se zna! (Let it Be Known!) recorded a spike in hate crimes in the runup to EuroPride, in July and August 2022, during which these crimes were reported at a five times higher rate than in all the previous months of that year combined.<sup>10</sup>

In light of these facts, this research sought to answer several key questions:

- What constitute the main anti-gender narratives and misinformation campaigns in Serbia?
- Who are the actors leading the movement against “gender ideology”?
- How do citizens mobilize in support of anti-gender causes?
- What are the effects of anti-gender campaigns on the human rights and freedoms of certain social groups?
- How do anti-gender campaigns and hate speech spill over from digital spaces into physical spaces?
- Which institutions are tasked with monitoring anti-gender campaigns and what institutional and legal mechanisms exist to oppose these campaigns?

Data was collected for this research by reviewing secondary literature, conducting interviews with representatives of civil society organizations, and accessing information from state institutions.

## Who's afraid of gender?

Gender equality was never going to come easily to Serbia. This has been evident since democratic reforms took place in 2000; as it still took decision makers nine more years to adopt the Law on the Equality of Sexes (which did not explicitly guarantee “gender equality”) and the Law on the Prohibition of Discrimination. Even then, these laws were essentially neutered versions of their

<sup>9</sup> Nevena Krivokapić, Bojan Perkov, and Ognjen Colić, *Dobre prakse i regulatorni modeli za odgovorno objavljivanje onlajn komentara: vodič* (Novi Sad: Share Foundation, 2015).

<sup>10</sup> Ana Petrović and Hristina Cvetinčanin Knežević, *Govor Mržnje nije Sloboda Govora: Analiza govora mržnje u javnom prostoru upućenog kvir osobama u Srbiji* (Beograd: Da se zna!, 2023).

proposed form, because the Serbian Orthodox Church (SOC) was dissatisfied with articles in the Law on the Prohibition of Discrimination that referred to gender identity and sexual orientation, and initially succeeded in influencing members of the executive and legislative branches of government to withdraw the Law from parliamentary procedure.<sup>11</sup> The SOC enjoyed the support of various other religious institutions in this effort, including the Belgrade Archdiocese of the Catholic Church, the Islamic Community of Serbia, and the Evangelical Church. Civil society representatives characterized the withdrawal of the Law as a failure of democracy and proof that non-institutional power centres hold considerable sway over the executive branch in Serbia.<sup>12</sup>

Still, both laws were enacted by the end of 2009, albeit with modifications, because their adoption was a prerequisite to Serbia's entry into a visa-free regime with the European Union (EU). A few years later, however, when the Law on the Equality of Sexes had failed to meet the purposes for which it was enacted, the government began drafting new gender equality legislation. The process lasted almost a decade, culminating in the May 2021 adoption of the current Law on Gender Equality.<sup>13</sup> During development of the Law, various state and non-state actors tried to eliminate "gender" from the draft Law entirely, proposing for example that the act be renamed the Law on the Equality of Women and Men. This was met by pushback from both the Ombudsman and women's organizations, as this would explicitly exclude gay, bisexual, and transsexual people, as well as those whose gender is not defined according to the male-female binary. But as opposition to the draft Law expanded, cultural and academic institutions such as Matica srpska and the Board for the Standardization of the Serbian Language joined the chorus of contestation, demanding that any provisions introducing gender-sensitive language be deleted.<sup>14</sup>

Meanwhile, members of the National Assembly voted in 2014 to abolish the Directorate for Gender Equality, the government's only institutional mechanism for monitoring the implementation of laws and strategies in this area.<sup>15</sup> But gender equality was simply not a priority for parliamentarians, who faced the task of responding to mounting economic challenges; especially given that the opposition to gender equality and women's rights had become louder, better organized, and more extensively networked. The growth of this opposition relied on the spread of disinformation and propaganda through social media and online portals, where key actors in the movement have gained popularity. These include religious organizations, conservative figures, right-wing populists and nationalists, men's rights organizations, and groups formed around anti-gender ideology.

In the Serbian "manosphere" – the online community that promotes masculinity, misogyny, and opposes feminism – some leading influencers have tens of thousands of followers and are seen as role models by young people.<sup>16</sup> These influencers claim that "gender ideology" and feminism

<sup>11</sup> <https://pescanik.net/withdrawal-of-the-anti-discrimination-law/>.  
March 2009, 2009 "Withdrawal of the anti-discrimination law"

<sup>12</sup> Miljenko Dereta, "Ko upravlja Srbijom," <https://www.politika.rs/sr/clanak/78343/Ko-upravlja-Srbijom>.

<sup>13</sup> Law on Gender Equality, Official Gazette no. 52/21, 20 May 2021.

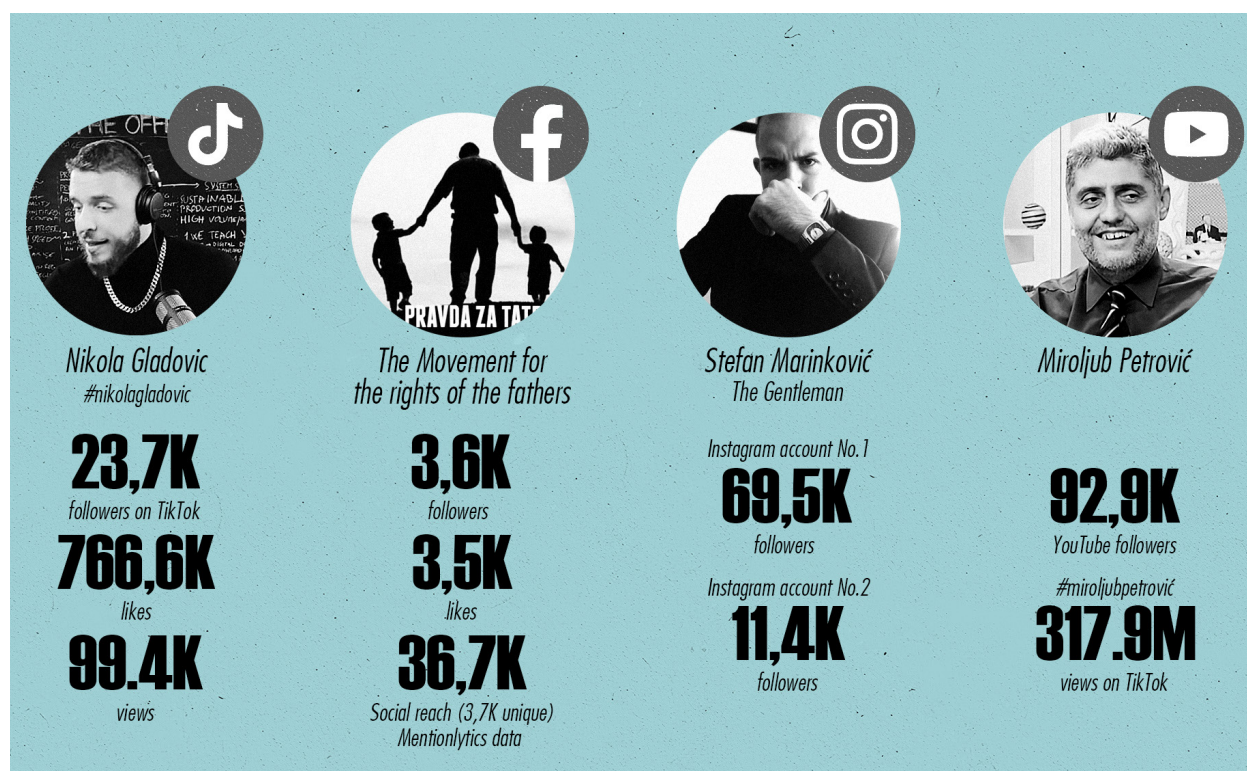
<sup>14</sup> See: Prvi Prvi na skali, "Ovaj zakon treba ukinuti i doneti nov - Matica srpska o Zakonu o rodnoj ravnopravnosti,"

<sup>15</sup> Centar modernih veština, "Reakcija povodom ukidanja Uprave za rodnu ravnopravnost,"

<sup>16</sup> Dragana Prica Kovacevic and Vanja Neškovic, "Endru Tejt: Influencers, 'Incels', and Copycat Misogyny in

(as well as feminists) have been “imported from the West” with the aim of “destroying the family.” As sociologist Aleksej Kišjuhas explains, the implication is that the concept of gender has emerged externally from “an ‘aggressive’ ideology” that espouses “non-traditional roles for men and women, as well as homosexuality among children.”<sup>17</sup>

Figure 1. Leading influencers in the Serbian “manosphere”



Source: Ivan Vujičić/BIRN270<sup>18</sup>

The anti-gender movement in Serbia is reminiscent of those in places like Spain, Croatia, Slovenia, Poland, Italy, France, Hungary, and Russia – all of which have been active for more than a decade.<sup>19</sup> It is not an accident that these movements reflect each other, as religious and extreme right-wing organizations and actors across Europe have been working to unite against laws that permit same-sex marriage, uphold the Istanbul Convention, ensure reproductive rights, and support gender studies or gender-related education content in schools. In fact, anti-gender activism in Serbia pulls almost entirely from Western anti-gender movements in terms of actions and ideology, and must be viewed as part of a wider transnational network of movements. This is something of a paradox, as the same local actors who fight against the imposition of a values system they claim comes from the political West, and which they argue poses a threat to the traditional family and Christian morality, are borrowing heavily from the philosophy, vocabulary, and methodology of Western influencers, including self-proclaimed misogynist Andrew Tate and

17 Serbia," Balkan Insight, 21 April 2023, <https://balkaninsight.com/2023/04/21/endru-tejt-influencers-incels-and-copycat-misogyny-in-serbia/>.

18 <https://www.danas.rs/kolumna/aleksej-kisjuhas/dogadjanje-roda/>.

19 Prica Kovacevic and Neškovic, "Endru Tejt: Influencers, 'Incels', and Copycat Misogyny in Serbia."

20 Roggeband and Krizsan, "Democratic Backsliding and the Backlash against Women's Rights."

various American “incels” (i.e., men who describe themselves as “involuntarily celibate” and hold very negative views of both women and sexually active men).<sup>20</sup>

At the centre of anti-gender discourse is a traditionalist view of the family as the union of a man and a woman, depicted as the social and political fabric of the nation. In Serbia, this has revived a model of the family that draws from the early 20th century, when the national identity of Serbs was being redefined and the ongoing process of nationalist homogenization was initiated.<sup>21</sup> Hence, this process – of redefining and homogenizing Serbian national identity – runs parallel to but is also intertwined with this process of re-traditionalization. From the perspective of reactionary forces, the survival of the nation is linked to the survival of the traditional family, and this is most threatened by the existence of sexual minorities, women’s organizations, and feminists.

Notably, despite undisputed connections between the Serbian anti-gender movement and the SOC, Adriana Zaharijević and Katarina Lončarević claim that the current anti-gender discourse in Serbia is not religious in character and is disseminated primarily by conservative intellectual elites.<sup>22</sup> These elites publish in academic journals, and author books and newspaper articles, in order to present gender as “an unscientific, ideological (and therefore political) construct, an import, something that is foreign to us, that is unknown and unnecessary to us and in collision with who we are, or with ‘our’ essential values.”<sup>23</sup> By externalizing the “threat” of so-called gender ideologies, and framing them as imports from the political West, these conservative voices are also asserting that Serbia is being colonized by other means. Women’s rights, gender equality, and equal opportunities are considered achievements of Western democracy and the pinnacle of individualism, and attacking these concepts and principles is a means by which the conservative intellectual elite in Serbia is able to fundamentally challenge democratic values.

This discourse gains support from the general public through its normalization and repetition on the internet and in social networks, where conservative and right-wing groups have become increasingly savvy about how to effectively spread their anti-gender and anti-Western messaging. The popularity of certain intellectuals, as well as right-wing influencers on social media,<sup>24</sup> appears to lead a large portion of Serbian society to uncritically adopt and then share this anti-democratic discourse, which has also been mainstreamed by members of the ruling political elite. For example, president of the executive board of the Serbian Progressive Party (SNS) Darko Glišić stated in 2018 that he has “never understood the concept of democracy in the abstract,” describing it as having been “imposed on [Serbians] from the outside.”<sup>25</sup>

20 <https://www.oblakoder.org.rs/incel-mizoginija-i-muska-nadmoc/>.

21 <https://pescanik.net/lomaca-za-deda-mraza/>.

22 Adriana Zaharijević and Katarina Lončarević, “Rod i ideologija. O pobuni protiv jednakosti,” in *RODNA ravnopravnost: od jednakih prava do jednakih mogućnosti*, edited by Tibor Varadi and Marijana Pajvančić (Belgrade: SANU, 2020).

23 Ibid.

24 Nejra Veljan, “Extreme Entitlement: Misogyny, Anti-Feminism in Far-Right Recruitment,” *Detektor*, 10 May 2022, <https://detektor.ba/2022/05/10/extreme-entitlement-misogyny-anti-feminism-in-far-right-recruitment/?lang=en>.

25 Vladimir Veljković, “Šansa za opoziciju,” *Peščanik*, 14 October 2020, <https://pescanik.net/sansa-za-opoziciju/>.

## How it all began...

Resistance first emerged against “gender ideology” in 2017 when a number of conservative Serbian intellectuals opposed the introduction of a national curriculum on the prevention of sexual violence, which was described by critics as a “school manual for the promotion of homosexuality.”<sup>26</sup> Some even suggested that it was bound to “increase the share of homosexuals in society.”<sup>27</sup> These scare tactics activated opposition among the wider public when Sputnik published an article about the controversy and referred to “public officials, sociologists, psychologists, political scientists and politicians who believe that the alleged prevention of sexual violence... has turned into a declaration of war on the family and family values, and the propagation of LGBTQ+ and gender ideology.”<sup>28</sup> This media campaign resulted in a suspension of the introduction of the educational package into school curricula when the Ministry of Education, Science and Technological Development caved to conservative forces.

Not long after this, the decision of the German, Dutch, and Canadian governments to replace the terms “father” and “mother” on official forms with the term “parent” prompted the Serbian outlet *Večernje novosti* to publish a series of online articles in 2018 and 2019 meant to convince the domestic public that “the West is attacking the family in the name of protecting vulnerable groups” and that Western governments would eventually “abolish mom and dad” altogether.<sup>29</sup> The argument was made that such changes would be implemented in Serbia as well, to bring it in line with accepted standards of gender equality within the framework of European integration.<sup>30</sup> *Večernje Novosti* reported that Russian President Vladimir Putin had defended the traditional family by rejecting imaginary examples of family structures from the West; and thus, while ideas like gender-neutral parenting had never been officially debated in Serbia, they were a priori declared “devastating to the family and the values of the Serbian people.”<sup>31</sup>

Then, during the pandemic, populist governments in some European countries, such as Hungary and Poland, used the fears fuelled by the rhetoric of right-wing groups and church leaders to enact anti-LGBTQ+ policies and laws. At the same time in Serbia, the Law on Same-Sex Unions failed to pass, leaving the LGBTQ+ community feeling betrayed. And while Serbian President Aleksandar Vučić announced in 2021 that he could not sign the law even if the National Assembly adopted it, citing his obligation to adhere to the constitutional definition of marriage as the union of a man and a woman,<sup>32</sup> this was a deliberate obfuscation; because the draft Law on Same-Sex

26 Miša Djurković, “Školski priručnik za promociju homoseksualizma,” *Politika*, 13 April 2017, <https://www.politika.rs/sr/clanak/378321/Skolski-prirucnik-za-promociju-homoseksualizma>.

27 Slobodan Antić, “Seksualno obrazovanje: Postizborna LGBT inkluzija,” 12 April 2017, <https://www.koreni.rs/seksualno-obrazovanje-postizborna-lgbt-inkluzija/>. (Published in Cyrillic at: <https://www.ceopom-istina.rs/politika-i-drustvo/postizborna-lgbt-inkluzija/?lang=lat>.)

28 Mira Kankaraš Trkija, “Hoće li škola učiti decu o oralnom i analnom seksu?” *Sputnik*, 18 April 2017, <https://lat.sputnikportal.rs/20170418/seks-nasilje-skola-1110816112.html>.

29 J. Matijević and B. Caranović, “Zapad Udara na Porodicu: Da li će i u Srbiji ukinuti mamu i tatu,” *Večernje Novosti*, 10 June 2018, <https://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:732078-Da-li-ce-i-u-Srbiji-ukinuti-mamu-i-tat-u>.

30 Milica Stanojković, “Uvode nam ‘treći pol’ i ukidaju mame i tate: Zapad nameće diktat u ime zaštite osetljivih grupa,” *Novosti*, 7 December 2019, <https://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:834736-Uvode-nam-treci-pol-i-ukidaju-mame-i-tate-Zapad-namece-diktat-u-ime-zastite-osetljivih-grupa>.

31 van Čolović, “U ime oca, majke i svetog duha tradicije,” *Peščanik*, 9 January 2020, <https://pescanik.net/u-ime-oca-majke-i-svetog-duha-tradicije/>.

32 Vučić: Ne bih potpisao zakon o istopolnim zajednicama,” *Radio Slobodna Evropa*, 1 May 2021, <https://www.slobodnaevropa.org/a/vu%C4%8Di%C4%87-ne-bih-potpisao-zakon-o-istopolnim-zajednicama/31233124.html>.

Unions – which was prepared by the Ministry of Human and Minority Rights and Social Dialogue – did not recognize marriage per se between people of the same sex. Rather, it allowed them to register their unions so that they could exercise certain basic rights, such as the right to divide or inherit property, make decisions in the case of illness, and visit their partners in hospitals or prisons.

This steady drip of reactionary opposition to “gender ideology” finally became more of a flood as EuroPride approached in 2022, and has continued in its wake. When the Ministry of Education made changes to a lesson on “Sex and Gender Identities” in an 8th grade biology textbook in late 2022, it marked a victory for religious forces over science and secularism. The SOC had joined with right-wing actors, scientists, biology professors, and lawyers to dispute that a distinction can be made between sex and gender, that sex and gender are misaligned in some people, that young people sometimes question their gender identity, and that some people consider themselves to be gender-neutral.<sup>33</sup> This has led to a debate over whether gender-sensitive language should be removed from textbooks in Serbia, in contravention of the current Law on Gender Equality.<sup>34</sup>

### **Case study: Mobilization against EuroPride 2022 in Belgrade**

The mobilization of citizens and conservative forces against EuroPride, which took place in Belgrade in September 2022, marked the largest such mobilization in Serbia thus far and was fostered by the increasing clericalization of Serbian society and a radical shift in politics to the right. Conservative forces relied not only on the power of rhetoric and propaganda, but also collected signatures from people across the country in an effort to ban EuroPride altogether. Although the view of the SOC regarding the LGBTQ+ population and same-sex communities has long been negative, the Church had not previously organized in any official way against Pride events. Hence, it represented a novelty in the behaviour of the Church that its leadership played a role in activating public sentiment in opposition to EuroPride, via the internet as well as both traditional and social media. This followed the appointment of Patriarch Porfirije as head of the SOC in February 2021, and has been omnipresent in his rhetoric ever since.<sup>35</sup>

Indeed, in a special address to the public made in early September 2022 and published on the SOC website and posted on its social media (see Figure X.2, below),<sup>36</sup> the Patriarch endorsed the decision of the government to ban the march that was scheduled at the end of the week-long EuroPride event. While the government claimed the ban was due to security concerns, Porfirije celebrated the cancellation for ideological reasons, contending that the lifestyle of LGBTQ+ people has been “artificially imposed” on Serbians and stands in contradiction to “the system the values of our people, as well as the brothers and sisters of other religions and nations with whom

<sup>33</sup> Jovana Georgievski, “Srbija i obrazovanje: Šta (ne)će biti u novim udžbenicima iz biologije i da li će 'nastavnica' postati zabranjena reč,” BBC News na Srpskom, 21 November 2022, <https://www.bbc.com/serbian/lat/srbija-63658998>.

<sup>34</sup> Milenija Simić-Miladinović, “Rodno osetljivom jeziku (ni)je mesto u udžbenicima,” Politika, 10 June 2022, <https://www.politika.rs/sr/clanak/509378/Rodno-osetljivom-jeziku-ni-je-mesto-u-udzbenicima>.

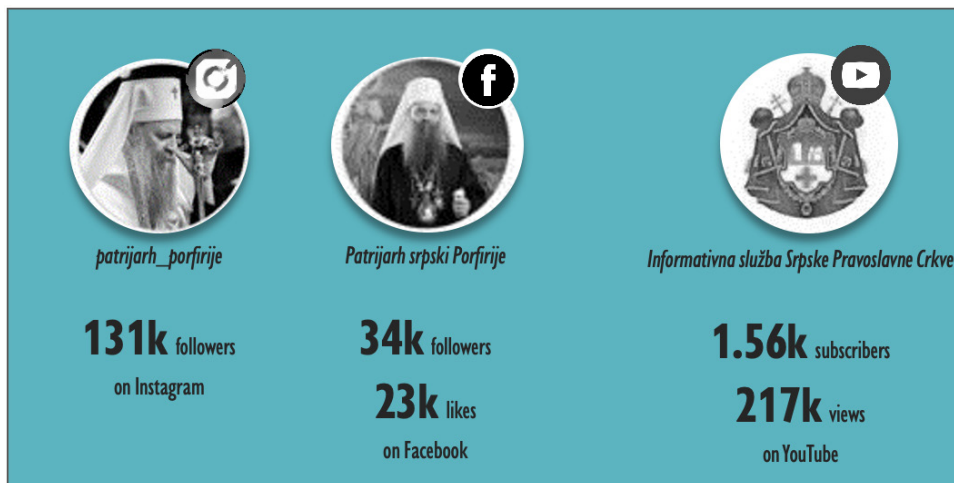
<sup>35</sup> See: Nataša Andjelković, “Srpska pravoslavna crkva i Porfirije: Šta je rekao patrijarh u prvom televizijskom gostovanju - u 100 i 500 reči,” BBC News na Srpskom, 3 March 2021, <https://www.bbc.com/serbian/lat/srbija-56266813>; and Nataša Andjelković, “Srbija i Srpska pravoslavna crkva: Sva lica patrijarha Porfirija,” BBC News na Srpskom, 19 May 2023, <https://www.bbc.com/serbian/lat/svet-65617426>.

<sup>36</sup> The Facebook post of Patriarch Porfirije is available (in Cyrillic) at: [https://www.facebook.com/permalink.php?story\\_fbid=211736534561639&id=100071758814705](https://www.facebook.com/permalink.php?story_fbid=211736534561639&id=100071758814705); a video of the speech he gave is available at the YouTube site of the SOC's information service, at: <https://www.youtube.com/watch?v=dCpfanRV-PQ>.

we live.” Despite stating that the Church opposed “any form of violence, public branding and persecution,” the Patriarch failed to condemn death threats made by some SOC bishops against members of the LGBTQ+ community.<sup>37</sup>

In addition, the SOC has supported the organization of “cross processions for the salvation of Serbia,” which have been attended by right-wing party members and public figures, as well as by members of several informal extreme right-wing and pro-Russian groups. In one such procession that took place in the days before the EuroPride event, participants carried religious icons, banners reading “Kosovo is the heart of Serbia,” flags of Imperial Russia and the Donetsk People’s Republic, and photos of Vladimir Putin. They gathered in front of the Church of Saint Sava in Belgrade, where Porfirije offered a prayer “for the sanctity of marriage and the family.”<sup>38</sup> Just days later, on the occasion of the newly established national holiday, the Day of Serb Unity, Freedom and the National Flag, the Patriarch reiterated his views on traditional families and the LGBTQ+ community in a speech that was broadcast live on Radio-Television Serbia, a channel watched by over half the country’s population.

Figure 2. The social media presence of Serbian Orthodox Church leadership



Among those who have taken part in the cross processions of the SOC are sitting or former members of the National Assembly. These include figures in the nationalist right-wing Dveri Party, such as party president Boško Obradović and Belgrade City Assembly councillor Borislav Antonijević. Hence, it is important to note that politicians in the Dveri Party have been key to transferring the demands of participants in these cross processions to the institutional level. For instance, they have called on the National Assembly to adopt a declaration legally prohibiting “homosexualism and transgender propaganda among minors” and to introduce a new national Family Day holiday.<sup>39</sup>

37 “Moleban” i protest desničara protiv Evroprajda u Beogradu,” Radio Slobodna Evropa, 11 September 2022, <https://www.slobodnaevropa.org/a/spc-desnicari-evroprajd-iti-je-moleban/32028614.html>.

38 A video of the event is available at the YouTube site of the SOC’s information service, at: <https://www.youtube.com/watch?v=4dEdAne59E8>.

39 “Dveri od Skupštine Srbije traže zabranu Prajda na 100 godina i da državni praznik bude Dan porodice,” Danas, 5 September 2022, <https://www.danas.rs/vesti/politika/dveri-od-skupstine-srbije-traze-zabranu-prajda-na-100-godina-i-da-drzavni-praznik-bude-dan-porodice/>; and “On the Watchlist: LGBTQI+ EuroPride Goes Ahead at the Last Minute as Journalists and LGBTQI+ Activists Attacked,” Monitor (blog), Civicus, 22 September 2022, <https://monitor.civicus.org/explore/watchlist-lgbtqi-euro-pride-goes-ahead-last-minute-journalists-and-lgbtqi-activists-attacked/>.



Figure 3. The social media presence of the Dveri Party



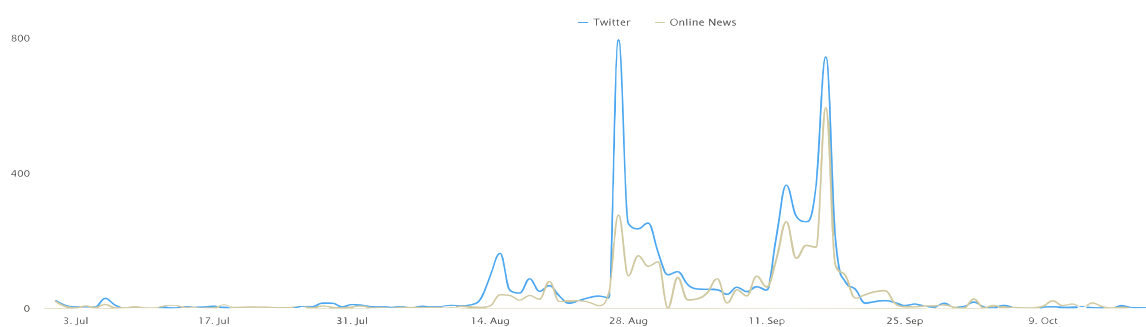
The term “homosexuality” (i.e., homoseksualizam) instead of homosexuality (i.e., homoseksualnost) is often used in the right-wing neologisms promoted by Dveri, implying an ideology and not a sexual orientation. As part of its campaign against the “promotion of homosexuality,” Dveri leaders misled the public as EuroPride approached, using unverified information to assert that the event would cost taxpayers some EUR 40 million, an amount they claimed could otherwise provide 960 apartments to young married couples.<sup>40</sup> This was rather ironic, given that costs of the event were linked to the need for increased manpower from the Ministry of the Interior; an expense that was necessary because extremists had threatened violence against EuroPride participants.<sup>41</sup>

But Dveri did not singlehandedly mobilize citizens against EuroPride. Tabloids such as Informer, and right-wing portals including Srbin.info, Slavija.info, Vaseljenska, Iskra, and Pravda, also played an important role, as did websites like Vidovdan and Živim za Srbiju (I live for Serbia), all of which have a robust social media presence. As Figure 4 shows (below), online activity related to EuroPride spiked from the beginning of July to the end of October 2022, during which the event was mentioned in over 6,000 posts on Twitter and over 4,000 online news items.

<sup>40</sup> See: “Odakle pokretu “Dveri” računica od 40 miliona evra za Evroprajd?” Istinomer, 2 August 2022, <https://www.istinomer.rs/analize/odakle-pokretu-dveri-racunica-od-40-miliona-evra-za-evroprajd/>.

<sup>41</sup> Ivana Jelača, Executive Director, Media Diversity Institute Western Balkans, interview by authors, 23 June 2023.

Figure 4. Twitter posts and online news items related to EuroPride, 1 July to 31 October 2022



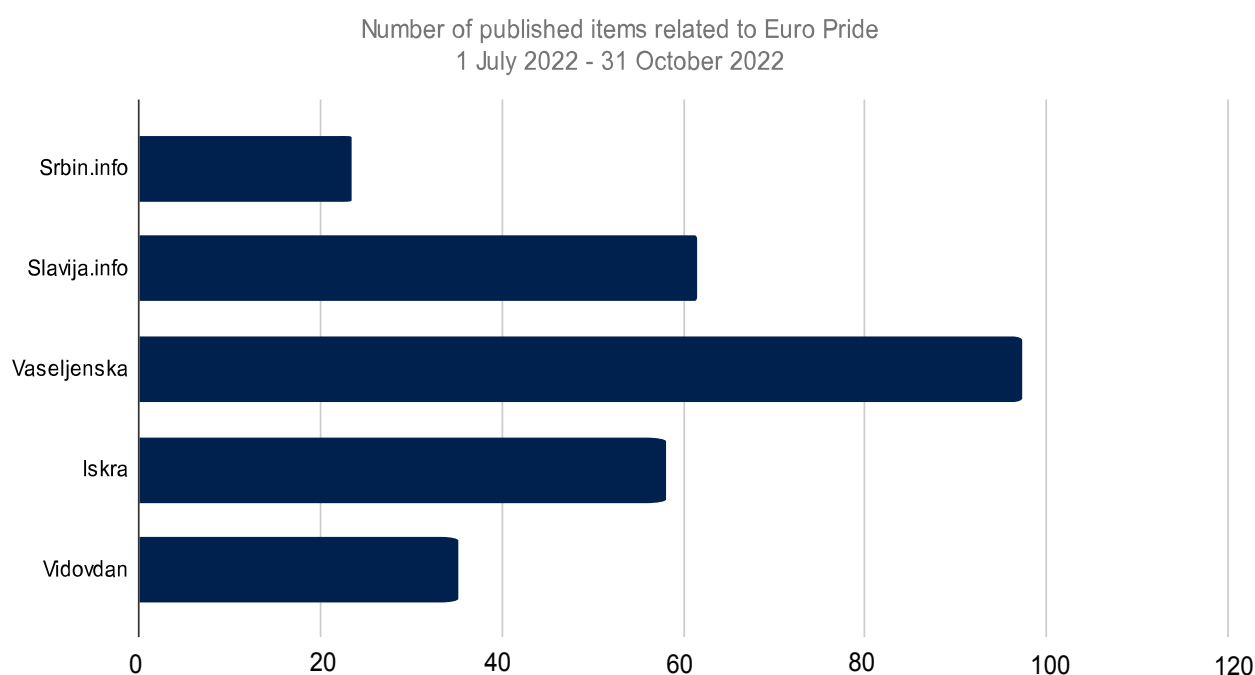
Number of Twitter posts and online news items related to EuroPride, from 1 July to 31 October 2022 (Data gathered using Pulsar, with the support of the International Republican Institute's Beacon Project)

These posts and articles – written by conservative intellectuals, priests, and members of right-wing groups – shared half-truths and disinformation about EuroPride, directed hate speech against the LGBTQ+ community, and propagated conspiracy theories formed around anti-Western rhetoric.<sup>42</sup>Over four months, just five online portals (see Figure X.5, below) published more than 270 news items concerning EuroPride, conveying the statements of officials, updating readers on whether the event would be held or not, discussing news about monkeypox, and reporting on the cross processions and various incidents that took place during the event. Every news item published on these websites in that period spoke negatively about EuroPride and LGBTQ+ people in general. The editor-in-chief of *Informer* argued for example that, by promoting EuroPride to the Serbian public, the political West and domestic opposition parties were waging a “special war” against the country.<sup>43</sup>And on *Iskra*, a text by SOC archpriest Jovan Plamenac was republished, wherein he labelled “LGBT ideology” a part of the “new pagan Western globalist value system of life, which is opposed to the Christian one” and said that “violence by the minority against the majority” was being carried out under the pretext of protecting human rights.

<sup>42</sup> International Security and Affairs Centre, “Europride 2022: The Target of Anti-Western Narratives,” 3 September 2022, <https://www.isac-fund.org/en/news/narrative-analysis-europride-2022-the-target-of-anti-western-narratives>.

<sup>43</sup> *Ibid.*

Figure 5. Number of items published by leading right-wing portals about EuroPride, 1 July to 31 October 2022



### **EuroPride and propaganda: Milka from Germany<sup>44</sup>**

As the EuroPride controversy took centre stage in Serbia, a video appeared on social media that featured a Serbian woman who said that boys in Germany were expected to attend school dressed as girls, and vice versa. The woman, identified as Milka, was in Niš at the time, but claimed to live in Germany and have an 8-year-old son, and said she had received an official letter stating that, “on Tuesday – so that children can find out whether they are male or female – our sons should wear dresses to school, and our daughters should come dressed as boys.” According to Milka, after she informed the teacher that she “would not be putting a dress on my son because he likes to wear a jersey every day, Ronaldo’s, Messi’s, Mbappe’s... and he knows for sure that he is a boy,” she was made to pay a fine of EUR 263. She ended by saying, “That is why I want to return (to Serbia), because I don’t want my child to be something he’s not.”

<sup>44</sup> Nemanja Rujević, “Forenzika slučaja “naše sestre” Milke,” *Vreme*, 1 September 2022, <https://www.vreme.com/vreme/forenzika-slucaja-nase-sestre-milke/>.

The “testimony of our sister Milka” was published on the Twitter account of Ivica Božić (@llebozicile), a regular participant in the cross processions of the SOC who collected signatures to ban EuroPride in Niš – where the recording was made. The video was viewed some 135,000 times just from the post by Božić on Twitter, and quickly became viral, leading many in the Serbian public to believe that the German educational system is forcing children to dress according to the gender norms with which they do not identify. Meanwhile, some Serbian media outlets reported that Milka was a Russian spy associated with the Humanitarian Centre in Niš, and this story was shared by Dragan Šormaz – a Serbian Progressive Party member who sits in the National Assembly – on his Twitter account.

Milka, a single mother of an autistic boy, defended herself to Vreme magazine a few days later, claiming to have been exploited twice: once as an example to uphold a narrative about the decadent West, and then by the assertion that she was a Russian spy. She admitted to Vreme that it had not been an obligation to dress her son as a girl. Instead, a suggestion had been made that boys and girls may want to switch roles during the school’s “tolerance week”. Moreover, the fine she paid had not resulted from her son’s refusal to dress as a girl, but from his unjustified absence from school, as the city of Munich is paying for his education.

### **Monkeypox**

The portal Pečat was among the first to inform the public about what it called the “Monkey pox Parade.”<sup>45</sup> This initiated an online misinformation campaign alleging that monkeypox was likely to spread during EuroPride.<sup>46</sup> This epidemiological risk was linked only to EuroPride, however, and not to other public gatherings organized at the same time, such as a ceremony to promote new officers of the Serbian Army. On public media outlets Radio-Television Vojvodina and Radio-Television Serbia, local experts (epidemiologists and virologists) expressed conflicting views on the issue. Some said there was no reason to worry about monkeypox and claimed it is easier to get scabies or head lice; while others referred to data from the World Health Organisation indicating that 98 percent of monkeypox cases appear in men who have sex with men, thus contributing to a further stigmatization of the LGBTQ+ community and raising fears and mistrust about gay and bisexual men. Opponents of EuroPride centred the opinions of doctors in arguing that the event should be cancelled.

45 Nikola Vrzić, “Parada majmunskih boginja,” Pečat, 29 July 2022, <https://www.pecat.co.rs/2022/07/parada-majmunskih-boginja/?LATINICA=lat>.

46 Lazar Čovs and Slobodan Maričić, “Evroprijd 2022 u Beogradu: Od otkazivanja do obilaska manastira i širenja majmunskih boginja - pet (dez)informacija o Paradi ponosa,” BBC News na Srpskom, 26 August 2022, <https://www.bbc.com/serbian/lat/srbija-62680246>.

The unprofessional way in which media reported on the spread of monkeypox and linked it explicitly to the LGBTQ+ population was condemned by Serbia's Commissioner for the Protection of Equality, Brankica Janković, and by 19 civil society organizations.<sup>47</sup> A number of respected public figures also spoke out, condemning some so-called experts and far-right politicians for encouraging prejudice and discrimination. Importantly, the same voices also decried attempts by these actors to limit the constitutional right of all people to freedom of assembly.<sup>48</sup>

### **Visits to monasteries on Mt. Fruška Gora**

As EuroPride approached, members of the Facebook Group "Sremski Karlovci Aktuelni" (which number more than 6,000) – many of whom presumably live in or near Sremski Karlovci, in the vicinity of Novi Sad and the Fruška Gora National Park – shared rumours that EuroPride participants were planning to visit a local elementary school to discuss the problems faced by the LGBTQ+ community, as well as two monasteries located on Mt. Fruška Gora. These allegations were followed by the fabricated news that villagers in Krušedol, Maradik, Velika Remeta, and Čortanovci had announced they would block all the roads leading to the Krušedol monastery, to "prevent the arrival of Pride activists to this holy Orthodox place." While these claims attracted the attention of visitors to popular Facebook Pages promoting Serbian Orthodoxy, and prompted responses that included hate speech, organizers of EuroPride denied that there was any truth to these stories.

Beyond ideological arguments, opponents of EuroPride also raised alarm about the possibility that monkeypox may be spread during the event, calling it a disease of homosexuals.<sup>49</sup> As Goran Miletić, of the international organization Civil Rights Defenders, has noted, these campaigners sought to rationalize prejudices against the LGBTQ+ population by highlighting their supposedly immoral behaviour.<sup>50</sup> The already widespread nature of negative attitudes and beliefs about LGBTQ+ people only fuelled these conspiracy theories, and it served the cause of anti-LGBTQ+ activists that long-standing social biases has flourished on social networks and in the media during the pandemic.

Given this context, it was unsurprising that death threats were addressed to activists and organizers of EuroPride via social media. Instagram users also submitted reports about posts on the official Euro Pride account on such a massive scale that they temporarily succeeded in getting it

47 "Osudjuje se neprofesionalno izveštavanje medija o širenju majmunskih boginja i dovođenja u vezu sa LGBTQ+ populacijom," Reporting Diversity Network 2.0, <https://www.reportingdiversity.org/osudjuje-se-neprofesionalno-izvestavanje-medija-o-sirenju-majmunskih-bo-ginja-i-dovođenja-u-vezu-sa-lgbtq-populacijom/>.

48 Luka Jovanović, "Monkeypox v. EuroPride," Forum for Security and Democracy, 6 September 2022.

49 Biljana Srbijanović, "Polemika povodom napada na Europrajd (prvi deo)," Javni servis, 16 August 2022, <https://javniservis.net/komentar/biljana-srbijanovic-polemika-povodom-napada-na-europrajd/>.

50 Goran Miletić, Director Europe and MENA Department and Deputy Global Programme Director, Civil Rights Defenders, interview by authors, 3 May 2023.

suspended, negating the organization's freedom of speech ahead of the event.<sup>51</sup> Still, EuroPride organizers were prepared for opposition from the "usual suspects" on the far right, but were surprised and concerned by the appearance of a radical right cloaked in "feminism."<sup>52</sup> This came primarily from the trans-exclusionary organization, the Lesbian and Gay Solidarity Network, and caused a split to form within the existing LGBTQ+ community in Serbia. At every turn, it seemed the Lesbian and Gay Solidarity Network was working to undermine the efforts of other LGBTQ+ organizations in the runup to EuroPride, issuing counter-statements about the monkeypox epidemic, disseminating trans-phobic content, and more.<sup>53</sup> According to the Executive Director of Izadji (Come out), this kind of inter-group conflict has made it even more difficult for the average Serbian citizen – who is likely already homophobic and has not been sensitized to this population – to understand the needs and demands of the **LGBTQ+ community**.<sup>54</sup> **Be that as it may, LGBTQ+ activists are united in the opinion that it is Serbian state leaders who bear the greatest responsibility for mobilizing citizens against EuroPride.**

### Who is allowed to ban EuroPride, and why?

Despite the large number of non-state actors who spread anti-gender narratives and disinformation about the LGBTQ+ community and the EuroPride event, many decision makers in Serbia openly opposed EuroPride and framed it as a step in the wrong direction for Serbian society.<sup>55</sup> Disregarding the separation of powers, and exceeding his authority, President Vučić was the first to announce that the EuroPride march would be "either cancelled or postponed."<sup>56</sup> He cited the "difficult situation" Serbia found itself in, due to the energy crisis caused by the war in Ukraine and tensions in Kosovo over license plates, and argued that in these conditions, EuroPride "could lead to serious unrest" in the country.<sup>57</sup> Prime Minister Ana Brnabić reiterated these points and noted that the main priorities of the cabinet would be to preserve peace and stability in Kosovo and in Serbia's energy security. Accordingly, she called on citizens to give their "full support to [Vučić], who will be fighting in the (Kosovo) talks in Brussels so that we can have peace."<sup>58</sup>

References by Serbian politicians to the "difficult" and "uncertain" situation in the country as a result of events in Kosovo are part of an established pattern used by the government to divert public attention from other important issues. As long as a majority of the electorate supports non-recognition of the independence of Kosovo, which preserves this as a "priority" for Serbian leadership, it can be used to justify their marginalization of concerns related to the rule of law or the protection of human rights and freedoms, as these are always less important than the "issue to end all

51 Filip Vulović, activist, Civil Rights Defenders, interview by authors, 3 May 2023.

52 Asja Bakić, "TERF: radikalna desnica u feminističkom ruhu," *Vox feminae*, 29 December 2020, <https://voxfeminae.net/pravednost/terf-radikalna-desnica-u-feministic-kom-ruhu/>.

53 Aleksa Savić, Executive Director, Izadji, interview by authors, 28 April 2023

54 Ibid.

55 Maja Živanović, "Može li država da zabrani Evroprijd?" *Radio Slobodna Evropa*, 27 August 2022, <https://www.slobodnaevropa.org/a/moze-li-drzava-zabraniti-evroprijd/32007108.html>.

56 "Oštre reakcije na najave otkazivanja Evroprijda," *European Western Balkans*, 27 August 2022, <https://europeanwesternbalkans.rs/ostre-reakcije-na-najave-otkazivanja-evroprijda/>.

57 "'Moleban' i protest desničara protiv Evroprijda u Beogradu," *Radio Slobodna Evropa*.

58 Jasmina Kuzmanovic and Misha Savic, "Serbia's Gay Premier Says Unity Key After Orthodox Bishop Curse," *Bloomberg*, 17 August 2022, <https://www.bloomberg.com/news/articles/2022-08-17/serbia-s-gay-premier-says-unity-key-after-orthodox-bishop-curse#xj4y7vzkg>.

issues” (i.e. the status of Kosovo).<sup>59</sup>In the context of EuroPride, the highest state officials sought to mislead citizens into thinking that the state was unable to simultaneously conduct negotiations with Priština while also guaranteeing the protection and exercise of civil rights and freedoms on the streets of Belgrade. A false binary was thus presented to citizens, who were told they could opt for civil rights and freedoms or national security, but not both.<sup>60</sup>This framing dovetailed with the rhetoric deployed by some non-state actors who campaigned to ban EuroPride, as the question of Kosovar independence cannot be disentangled from the issue of “Western influence” and Serbian leaders depend considerably on support from pro-Russian, anti-Western voters on the far right, many of whom equated opposition to EuroPride with opposition to the West.

Notably, the Serbian President does not have the constitutional or legal authority to ban public gatherings, nor does the Prime Minister, so it was up to the Ministry of the Interior to prohibit the EuroPride march based on a purported assessment that the event posed “a danger of violence, destruction of property or disruption of public order on a large scale” that would put the safety of participants at risk.<sup>61</sup>This was an exception to usual practice, and contravened a 2013 decision of the Constitutional Court of Serbia which had confirmed that the prohibition of a very similar event – the Pride Parade – was unconstitutional.<sup>62</sup>Hence, many LGBTQ+ people and their allies viewed the ban as a prohibition not only on the march, but also on their right to exercise constitutionally guaranteed freedoms.

Prime Minister Brnabić, herself a member of the LGBTQ+ community, did attempt to strike something of a balance between the rights of that community and the inclinations of the far-right voters who form a key base of support for the ruling party, to which she also belongs. In some cases, this led her to make statements that contradicted the party line, such as when she remarked at the International Conference on Human Rights, after the march in Belgrade had been banned, that marching is a “basic human right” from which no one can be prohibited.<sup>63</sup> Still, almost no progress has been made since Brnabić entered office in 2017 in protecting and expanding the rights and freedoms of the LGBTQ+ community in Serbia, in part because she has courted a right-wing electorate and in part because she lacks any real influence in the country. In fact, during her tenure as prime minister, verbal and physical attacks on the LGBTQ+ population have remained quite common and same-sex unions have not yet been legalized. This represents a failure of the current government to provide basic rights to LGBTQ+ people, including the rights to marry, divide or inherit property, participate in medical decision-making or visit hospitalized partners, and adopt children or undergo artificial insemination. Serbia does not even recognize both same-sex partners as the parents of a child conceived by artificial insemination in a procedure completed abroad.<sup>64</sup>

<sup>59</sup> Dubravka Stojanović, “O Kosovu, malinama i gej parade,” Peščanik, 16 September 2011, <https://pescanik.net/o-kosovu-malinama-i-gej-paradi/>.

<sup>60</sup> <https://heartefact.org/biljana-srbijanovic-u-ime-ponosa/>.

<sup>61</sup> “Brnabić posle zabrane Prajda LGBT aktivistima: Niko vam ne može zabraniti da šetate,” Radio Slobodna Evropa, 13 September 2022, <https://www.slobodnaevropa.org/a/zabranjen-evroprajd-beograd-srbija/32031682.html>.

<sup>62</sup> Vesna Rakić Vodinić, “Otvoreni Balkan, zatvoreni Beograd,” Peščanik, 30 August 2022, <https://pescanik.net/otvoreni-balkan-zatvoreni-beograd/>.

<sup>63</sup> Ibid.

<sup>64</sup> Ron Synovitz and Gordana Cosic, “Lesbian PM or Not, Serbia Blocks Gays’ Path to Parenthood,” Radio Free Europe/Radio Liberty, 22 August 2019, <https://www.rferl.org/a/>

Brnabić has acknowledged that little has changed for members of the LGBTQ+ community despite her prime ministership, commenting at the EuroPride conference that she “does not live in a registered partnership and cannot adopt her own child.”<sup>65</sup> Indeed, the social and political climate in Serbia has arguably worsened in recent years. Just one example of this was the reaction of the current mayor of Belgrade, Aleksandar Šapić, to EuroPride. Šapić, who was elected several months before the event, did not want to open the event because he could not see himself walking at the head of the march.<sup>66</sup> Yet, the two mayors before him, from the same party as Šapić, supported and participated in marches that accompanied earlier Pride events.<sup>67</sup> The position of Šapić thus reflects the turn in Serbian politics that has been marked by authorities in Belgrade catering to right-wing voters above all others.

**The EuroPride march did eventually take place after it was re-registered, using a different and significantly shorter route than originally planned. Still, it remains unclear why state officials made decisions that ran contrary to Article 54 of the Constitution on the Freedom of assembly, and did not take into account the four decisions of the Constitutional Court of Serbia that declared bans on the movement of people unconstitutional.<sup>68</sup>**

## Reactions of the legislative branch to EuroPride

It was not only the executive branch that united around a ban on the EuroPride march. A majority of MPs (71 percent) also supported the ban, for “moral, security, economic and health reasons.”<sup>69</sup> To justify their stance, members of the ruling coalition repeated the message of President Vučić that there were simply more pressing issues than EuroPride, including the situation in Kosovo.<sup>70</sup>

Leaders of extreme right-wing opposition parties alleged, however, that it would represent a “capitulation of the state before Western embassies”<sup>71</sup> and a “suspension of the legal order of Serbia”<sup>72</sup> if the country hosted EuroPride. Dveri Party President Boško Obradović declared that Serbia had “been suffering constant pressure from the EU and NATO to adjust and adapt our value system and our politics to their world views” for decades, and said that EuroPride was part of “the occupation agenda” being imposed on Serbians by the West.<sup>73</sup> Statements such as this, and hate

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lesbian-pm-or-not-serbia-blocks-gays-path-to-parenthood/30123813.html.

65 “MUP odbio žalbu, organizatori Evroprajda ne odustaju od šetnje u Beogradu,” Radio Slobodna Evropa, 14 September 2022, <https://www.slobodnaevropa.org/a/para-da-ponosa-zabrana-beograd/32033329.html>.

66 Slobodan Maričić, “Evropa, Srbija i LGBT: Sve što znamo do sada,” BBC News sa Srpskom, 17 August 2022, <https://www.bbc.com/serbian/lat/srbija-62563643>.

67 “Grafiti mržnje protiv Parade ponosa u centru Beograda,” BBC News sa Srpskom, 13 July 2022, <https://www.slobodnaevropa.org/a/europrajd-beograd-grafiti-mrznje-lgbt/31941712.html>.

68 Rakić Vodinelić, “Otvoreni” Balkan, zatvoreni Beograd.”

69 Maričić, “Evropa, Srbija i LGBT.”

70 See: “Đukanović: Organizatori da otkažu Evroprajd ili da vlasti razmisle da ga zabrane,” Politika, 15 August 2022, <https://www.politika.rs/sr/clanak/514375/Dukanovic-Organizatori-da-olkazu-Evroprajd-ili-da-vlasti-razmisle-da-ga-zabrane>.

71 Ognjen Tubić, “Održavanje Evroprajda kapitulacija države pred zapadnim ambasadama i LGBT organizacijama,” Pokret obnove Kraljevine Srbije, 17 September 2022, <http://poks.rs/2022/09/17/odrzavanje-evroprajda-kapitulacija-drzave-pred-zapadnim-ambasadama-i-lgbt-organizacijama/>.

72 “Đurđević Stamenkovski o Evroprajdu: Vučić i Brnabić suspendovali pravni poredak Republike Srbije,” Danas, 17 September 2022, <https://www.danas.rs/vesti/politika/djurdevic-stamenkovski-o-evroprajdu-vucic-i-brnabic-suspendovali-pravni-poredak-republike-srbije/>.

73 See: Boško Obradović, Twitter post, 22 July 2022, <https://twitter.com/BoskoObradovic/status/1551475768647192576>; and Valérie Gauriat, “EuroPride 2022 in Belgrade: A storm over the rainbow flag,” Euronews, 3 October 2022, <https://www.euronews.com/2022/09/30/belgrade-europride-2022-a-storm-over-the-rainbow-flag>.

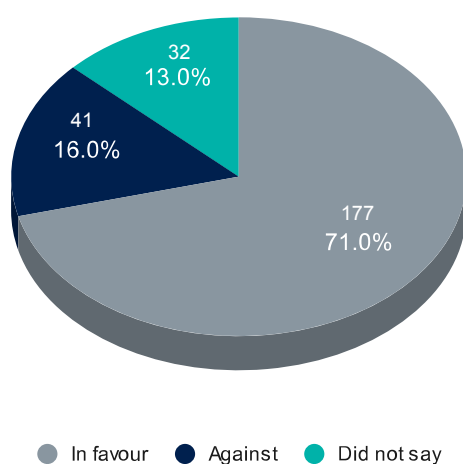


speech which included assertions that “transgenderism is a perversion and an unnatural deformation of the human personality,” undoubtedly played a role in shaping public opinion and mobilizing citizens against EuroPride.<sup>74</sup>

On the other side of the political spectrum, 41 MPs from centre, centre-left, and left coalitions supported the EuroPride march and recognized it as a protected exercise of freedom of assembly and expression, as well as a manifestation of equal rights for all citizens. This represented just 16 percent of the 250 legislators who sit in the National Assembly, though (see Figure 6, below).

Figure 6. Number of Serbian MPs who supported and opposed banning the EuroPride march

### Views of Serbian parliamentarians on banning the EuroPride march



Source: Gordana Ćosić, “Koje parlamentarne stranke u Srbiji su za zabranu Prajda?” Radio Slobodna Evropa, 29 August 2022.

## Reactions of Independent Institutions to EuroPride

**Online discussions and debates about (Euro)Pride often elicited hate speech against members of the LGBTQ+ community. Yet, in practice, this speech is rarely sanctioned in Serbia. In fact,** Serbian courts have adjudicated only seven cases of hate speech against the LGBTQ+ community involving online user engagement.<sup>75</sup> Among these, in 2011, both the daily newspaper Press was found to have “acted discriminatorily” by allowing comments to be published online despite containing hate speech against the LGBT population; and Dragan Marković Palma, the mayor of Jagodina and head of the United Serbia party, was convicted in a first-instance verdict of “the severe form of discrimination based on sexual orientation,” for statements he made in the media.<sup>76</sup> In 2014, the High Court of Belgrade issued several more verdicts “against persons who

<sup>74</sup> “Podnete pritužbe Poverenici za zaštitu ravnopravnosti i REM-u,” Geten, 6 September 2022, <https://www.transserbia.org/vesti/2013-podnete-pritužbe-poverenici-za-zastitu-ravnopravnosti-i-rem-u>.

<sup>75</sup> “Prva presuda zbog govora mržnje protiv LGBT populacije,” Peščanik, 7 June 2011, <https://pescanik.net/prva-presuda-zbog-govora-mrznje-protiv-lgbt-populacije/>.

<sup>76</sup> See: Gay Straight Alliance, Freedom is not given, Freedom is taken: Report on human rights status of LGBT persons in Serbia, 2011 (Belgrade, 2012), 42.

used social [media] networks to issue threats of violence and death against members of the LGBT community.”<sup>77</sup>

Hate speech that appears in public information and electronic media in Serbia can also be sanctioned by the independent Regulatory Authority for Electronic Media (REM). Among other things, REM regulates the work of media providers by setting “rules related to programme content and in connection with the protection of personal dignity and other personal rights, the protection the rights of minors, the prohibition of hate speech, etc,” in accordance with Article 22 of the Law on Electronic Media.<sup>78</sup>REM can also issue reprimands and warnings to providers, temporarily ban them from broadcasting content, and revoke their broadcasting licenses.<sup>79</sup>Even so, statistics show that REM does not respond to complaints of hate speech against the LGBTQ+ population, as a rule. For example, in 2022, it issued only four warnings and none concerned hate speech, despite the fact that Da se zna! had filed complaints reporting hate speech observed on the eve of EuroPride.<sup>80</sup>Given that REM imposed only 67 measures on media providers from 2014 to 2020, and that 1,030 reports were submitted to the body just from 2017 to 2020 (most of which were rejected as incomplete), it is clear that REM has not protected citizens’ rights by prohibiting hate speech.<sup>81</sup>This reality, combined with the lack of resources and capacity that plagues civil society organizations, has led the number of reports submitted to REM to decrease over time.<sup>82</sup>

The Press Council is another independent body to which individuals, organizations, and institutions may submit complaints about the content of media, either in print or on websites or internet portals. These complaints can cite text or photographs that appear in content produced by media outlets, as well as the comments of readers who interact with that content, if they cause direct harm to the complainant.<sup>83</sup> Practically, this means that organizations which monitor and report on media are not permitted to file a complaint on behalf of a minority group (such as the LGBTQ+ community) that has been harmed by media content, as this must be done by an individual, or by an organization that supports the rights of a specific group. Moreover, the powers of the Council are rather limited, as it does not have the ability to sanction media outlets against which complaints have been filed but can merely issue non-binding decisions; meaning, it is up to outlets to comply or not, and at best, these outlets may correct or retract the content that prompted a complaint or publicly apologize to the complainant.<sup>84</sup>These remedies often come months after problematic content is published, though, at which point that content has already been viewed

77 See: Gay Straight Alliance, “Annual Report on the Status of Human Rights of LGBT Persons in Serbia for 2014: Report Summary,” 25 March 2015.

78 Law on Electronic Media, Official Gazette no. 129/2021, 23 December 2021, Article 22.

79 Ivana Krstić, Report on the use of hate speech in Serbian media (Belgrade: Commissioner for the Protection of Equality and the Council of Europe, 2020).

80 See: Regulatory Authority for Electronic Media, “Measures pronounced,” <http://www.rem.rs/sr/odluke/izrecene-mere#gsc.tab=0>; and “Podnete pritužbe Poverenici za zaštitu ravnopravnosti i REM-u.”

81 “REM: Diskriminacija i govor mržnje obeležili programe nacionalnih televizija u Srbiji,” *Danas*, 26 October 2020, <https://www.danas.rs/vesti/drustvo/rem-diskriminacija-i-govor-mrznje-obelezili-programe-nacionalnih-t-elevizija-u-srbiji/>.

82 Representatives from Geten, interview by authors, 3 May 2023.

83 See: Press Council, “What can we do for <https://savetzastampu.rs/en/about-us/what-can-we-do-for-you/>.”

84 Ibid.

by a considerable number of people, minimizing the impact of any correction.<sup>85</sup> Nevertheless, the Press Council has proven to be quite responsive within its capabilities and competences.<sup>86</sup>

While the Commissioner for Protection of Equality does not address media content explicitly, with a mandate that includes the prevention of all forms and types of discrimination, the bulk of complaints submitted to the Commissioner for hate speech since 2009 have involved speech directed at members of the LGBTQ+ community.<sup>87</sup> Yet, the Commissioner can exert relatively little influence to fight discrimination against the LGBTQ+ population, as the position is authorized only to issue opinions, recommendations, and warnings to those who violate the Law on the Prohibition of Discrimination, and to warn the public. LGBTQ+ advocacy organizations are united in the opinion that these kind of public condemnations, and the compulsory apologies they produce, are insufficient sanctions if the goal is to prevent individuals and institutions from repeating similar acts.<sup>88</sup> And it does not help that recommendations of the Commissioner are usually general in nature, further diminishing their effect.<sup>89</sup> In the view of LGBTQ+ organizations, the Commissioner should act *ex officio* more frequently, i.e. by issuing concrete recommendations and stricter measures, and by condemning anyone who behaves discriminatorily, regardless of their political and social status.<sup>90</sup> That said, in the context of EuroPride, the Commissioner did initiate a private lawsuit based on a complaint filed against Dr. Borislav Antonijević, who said during a television appearance that “homosexuality is a disease.”<sup>91</sup>

The reaction of the Public Prosecutor’s Office to threats against EuroPride and LGBTQ+ participants was also inadequate, and drew a false equivalence between EuroPride marchers and those who threatened them, by announcing that any citizen could face misdemeanour charges for failing to respect the ban on the EuroPride march.<sup>92</sup> The reasoning of the Office was that it sought to “protect public order and peace, as well as the physical integrity and tranquillity of citizens,” ignoring that it was thereby denying those citizens their constitutionally guaranteed right to freely assemble. But the response of state prosecutors is also disappointing because the wheels of justice move slowly, even when charges are filed. For instance, the organization *Da se zna!* filed a criminal complaint against Veljko Bogunović (Bishop Nikanor of Banat) in mid-August 2022 for the offence of “racial and other discrimination” after the Orthodox priest cursed LGBTQ+ people, insulted the Prime Minister based on her sexual orientation and ethnic origins, and openly called for an armed confrontation with the LGBTQ+ population at EuroPride, saying “...if I had a weapon, I would use it.”<sup>93</sup> The case remains in the pre-investigation phase nearly a year later, while the

85 Ivana Jelača, Media Diversity Institute Western Balkans, interview by authors.

86 Ibid.

87 Krstić, Report on the use of hate speech in Serbian media.

88 Representatives from *Da se zna*, interview by authors, 3 May 2023.

89 Representatives from Civil Rights Defenders, interview by authors, 3 May 2023.

90 Representatives from *Geten*, interview by authors.

91 Representatives from *Da se zna*, interview by authors.

92 See: “Belgrade Pride Activists Conduct Scaled-Down March As Far-Right Opponents Clash With Police,” Radio Free Europe/Radio Liberty, 17 September 2022, <https://www.rferl.org/a/serbia-europride-march-banned-lgbt-belgrade/32038818.html>.

93 “Više javno tužilaštvo u Pančevu postupa po krivičnoj prijavi protiv episkopa Nikanora,” *Danas*, 18 August 2022, <https://www.danas.rs/vesti/drustvo/vise-javno-tuzilastvo-u-pancevu-postupa-po-krivicnoj-prijavi-protiv-episkopa-nikanora/>. A video of the Bishop’s address from 12 August 2022 is available on YouTube at: <https://www.youtube.com/watch?v=5hZhqoL72mA&t=93s>.

Ministry of Interior works to identify the person who made the video of the Bishop and shared it on social networks.<sup>94</sup> And the Bishop himself will not face legal consequences for his statement, because the Law on the Prohibition of Discrimination includes an exemption for “the conduct of... religious officials that is in accordance with religious doctrine, beliefs or goals of churches and religious communities.”<sup>95</sup>

**This collective lack of effective response from various state institutions has helped facilitate the transfer of hate speech and threats to the LGBTQ+ population from digital to physical spaces, where the personal safety of LGBTQ+ individuals is at risk. At the heart of this problem lies the fact that all three branches of government in Serbia are controlled by people who – despite their obligation to act in the public interest and based on the Constitution and laws of Serbia – hold biased, stereotypical views of the LGBTQ+ community and other minorities that clearly impact their decision making.**

## Reactions of civil society organizations

Upon the announcement of the Ministry of Interior that it was banning the EuroPride march, civil society organizations gathered around the “Three Freedom Platform” and issued a statement alleging the decision was a direct consequence of pressure put on the police by the President and Prime Minister, and filed a complaint calling on the Ministry to reverse it.<sup>96</sup> Instead, the Ministry confirmed the ban in a second-instance decision, and a challenge to the legality of this decision was rejected by the Administrative Court in Belgrade in a judgment issued on 16 September 2022.<sup>97</sup> Contrary to the earlier decision of the Constitutional Court, the Administrative Court found that the Ministry had made the decision to ban the march in accordance with the law, and had established the existence of a danger of large scale violence, property destruction, or disruption of public order.

But this danger extended not from LGBTQ+ participants in the march, but from those who wished to ban it. In fact, Da se zna! – which has documented cases of violence against members of the LGBTQ+ community over time – reported that 83 unlawful acts were recorded against LGBTQ+ persons in 2021, a rise of 37% from the previous year, nearly a quarter of which involved physical violence.<sup>98</sup> And the situation had deteriorated further by August 2022, when Da se zna! recorded 30 such incidents in that month alone. There were also 14 incidents reported on the day of the EuroPride march, which officials downplayed by asserting that the state had managed to secure the safety of all participants.<sup>99</sup> These statements by Serbian leaders discouraged members of the LGBTQ+ community from reporting both physical and verbal attacks to the competent authorities,

94 347 Higher Public Prosecutor’s Office in Pančevo, Republic of Serbia, response to a request for access to information of public importance, 17 March 2023.

95 348 Law on the Prohibition of Discrimination, Official Gazette no. 22/09, 26 March 2009, Article 18.

96 Youth Initiative for Human Rights, “Platforma ‘Tri slobode’: Sramotna odluka policije o zabrani EuroPride šetnje,” 13 September 2022. <https://www.yihr.rs/bhs/platforma-tri-slobode-sramotna-odluka-policije-o-zabrani-europride-setnje/>.

97 Judgment of the Administrative Court in Belgrade, No. 38615/22, 16 September 2022.

98 Da se zna!, “Reported cases of violence,” <https://dasezna.lgbt/en/slucajevi/>; and Miloš Kovačević and Nikola Planojević, Grasp the Truth Based on Facts 5: Report on hate-motivated incidents against LGBTQ+ persons in Serbia in 2021 (Belgrade: Da se zna Association, 2022).

99 Da se zna!, “Saopštenje povodom incidenata tokom EuroPride šetnje,” <https://dasezna.lgbt/saopstenje-povodom-incidentata-tokom-europride-setnje/>.

particularly given the experience of many LGBTQ+ people of being secondarily victimized when they have previously reported crimes to the police; who often seem uninterested in pursuing these cases and “usually ask three questions and that’s where the procedure ends.”<sup>100</sup>

This makes it even more important to victims to be able to collect proof of harm. When hateful comments are directed toward the LGBTQ+ community in online spaces, especially on social media, they can be saved through screenshots and then deleted to remove the disturbing content; and in the case of death threats made against specific individuals, the High-Tech Crime Department of the Ministry of Interior becomes involved. Still, a relatively small number of online threats are reported. Thus, among the options available to activists are to engage users of their social networks to join together in reporting accounts that spread hate speech or make threats, and to push social media companies to ban such accounts.<sup>101</sup>

## Reactions of the international community

Because EuroPride is a pan-European event, there was a robust response from the international community when Serbian officials announced the ban on the EuroPride march. International leaders condemned the decision, and noted that as a country on the path to EU membership, Serbia was obligated to not only respect but improve human rights.<sup>102</sup> The European Commissioner for Equality also reminded the Serbian government that restricting citizens’ freedom of assembly by prohibiting the march was a violation of the European Convention on Human Rights, which is ratified by Serbia,<sup>103</sup> and also a contravention of the international legal protections of the European Court of Human Rights.<sup>104</sup> Members of the European Parliament’s LGBTI Intergroup appealed to authorities in Serbia to hold EuroPride according to the established schedule and to deploy additional police forces to ensure the safety of citizens who simply wanted to enjoy their right to freely assemble and express themselves peacefully.<sup>105</sup> From the perspective of these parliamentarians, EuroPride is a symbol of the struggle to uphold democratic values that have come under attack across Europe, and it was of special significance and importance that the event was to be hosted by Serbia.<sup>106</sup>

The fact that the march did take place in the end revealed that its prohibition was unenforceable (i.e., unconstitutional) and that opponents of EuroPride had spread false information to discredit the event. Indeed, among those who participated in the march were ambassadors from numerous European countries as well as the EU and US, which alone called for very high levels of security and hinted that the initial ban on the march had not been issued for security reasons after all. And

<sup>100</sup> Representatives from Civil Rights Defenders, interview by authors.

<sup>101</sup> Aleksa Savić, Izadji, interview by authors.

<sup>102</sup> “European Commissioner Dalli expects Belgrade to focus on human rights,” European Western Balkans, 12 September 2022, <https://europeanwesternbalkans.com/2022/09/12/european-commissioner-dalli-expects-belgrade-to-focus-on-human-rights/>.

<sup>103</sup> Valerie Gauriat, “EuroPride 2022 in Belgrade.” Euronews, 30 September 2022.

<sup>104</sup> Sofija Mandić, “Strogo poverljivo nasilje,” Peščanik, 17 September 2022, <https://pescanik.net/strogo-poverljivo-nasilje/>.

<sup>105</sup> European Parliament, LGBTI Intergroup Bureau, “145 MEPs sign letter to Serbian leadership calling to maintain the organisation of EuroPride 2022 and deploying sufficient police protection”, 31 August 2022, <https://lgbti-ep.eu/2022/08/31/140-meps-sign-letter-to-serbian-leadership-calling-to-maintain-the-organisation-of-euro-pride-2022-and-deploying-sufficient-police-protection/>.

<sup>106</sup> Gauriat, “EuroPride 2022 in Belgrade.”

while allowing the march may have appeared on its face as a political liability for Serbian leadership, the government managed to profit politically by demonstrating to the electorate that it was dissatisfied the event had been organized in Serbia and had tried to prevent it. At the same time, when EuroPride was held with only slight modifications, the government was able to tout to the international community that it had respected the civil liberties and human and minority rights of its citizens. In other words, despite the uproar, EuroPride was a win for the Serbian government. It was members of the LGBTQ+ community – the civil and human rights of whom ought to have been centred throughout the event – who lost out; not only were they instrumentalized for political purposes, but they continue to face discrimination, hatred, and physical attacks on the basis of their identity.

## Conclusion

Stereotypes and prejudices about gender and LGBTQ+ people have long been present in Serbian society and are deeply rooted in its male-dominated patriarchal culture. The movement against “gender ideology” is a novelty, however, and has only recently grown in numbers and influence. As in other countries in Europe and North America, the leading actors in the Serbian anti-gender movement are conservative intellectuals, right-wing groups and parties, and men’s rights organizations, all of which enjoy the support of key religious institutions. Still, the biggest surprise to many feminist and LGBTQ+ activists in Serbia has been the appearance of trans-exclusionary organizations within the LGBTQ+ population, and their alliance with anti-gender groups; undermining hard-fought efforts of the country’s LGBTQ+ community.

The robust presence of these actors on the internet and in social networks, where they spread hate speech and promote anti-gender discourse – often by sharing misinformation and conspiracy theories – has increased their popularity in Serbia, helping them to mobilize Serbian citizens against the LGBTQ+ community and feminists. This facilitated a campaign to oppose the 2022 Belgrade EuroPride event and harass and intimidate participants in the EuroPride march. The Serbian establishment also played an important role in popularizing anti-gender discourse and mobilizing many citizens against EuroPride participants, by providing anti-gender actors with access to the public broadcasting service (RTS) and pro-government media.

Although the anti-gender discourse disseminated by Serbian influencers in this movement is essentially nationalist and anti-Western, it is Western anti-gender figures and groups that provide the template for this discourse. Nevertheless, the purpose of anti-gender narratives in Serbia is to discredit the “decadent West” and dehumanize the LGBTQ+ population and women. Moreover, anti-gender rhetoric and actions are skilfully (ab)used by state officials to channel public frustration with government policies towards other social issues, and to marginalize the rule of law agenda and limit certain civil rights and freedoms under the pretext of defending “traditional Serbian values and the family” or national security. In the context of EuroPride, the highest state officials, using social media, as well as online and traditional media, sought to mislead citizens into thinking

that the state was unable to simultaneously conduct negotiations with Priština while also guaranteeing the protection and exercise of civil rights and freedoms on the streets of Belgrade. The ultimate goal of introducing this false binary was to score political points from pro-Russian and anti-Western voters.

But that is just the tip of the iceberg. In order to secure public support and appease the quickly growing anti-gender movement, the government – which is currently led by the first openly lesbian prime minister in Serbian history – has acted over the past five years to exclude gender-related content from school textbooks, has failed to implement portions of gender legislation, and has failed to introduce a law on same-sex unions. Hence, while anti-gender influencers are certainly not without fault, the government bears the greatest responsibility for fostering social conditions in which prejudices against LGBTQ+ are allowed to flourish, and human rights and freedoms are sacrificed for political gain. It is also the government that attempted to ban the EuroPride march, ostensibly for security reasons, in a blatant violation of the Serbian Constitution. Meanwhile, Serbian officials with the greatest power and responsibility did little or nothing to prevent hate speech against the LGBTQ+ community, online threats, and anti-gender misinformation campaigns during the EuroPride event.

Indeed, Serbian leadership managed to profit politically from this episode, when the EuroPride march did take place after all, allowing the government to save face with the international community while simultaneously demonstrating to voters their dissatisfaction with the event. Yet, it has been a collective lack of responsiveness from the various state institutions of this government that has helped enable the translation of hate speech and threats to the LGBTQ+ population from digital to physical spaces, significantly reducing the personal safety of this population. As a result, Serbia saw an increase in hate crimes reports before and even after EuroPride. Meaning, in the end, an event intended to celebrate diversity and elevate the achievements of the LGBTQ+ community represented a risk to many LGBTQ+ people in Serbia – who continue to face online and offline discrimination, hatred, and physical attacks on the basis of their identity.

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# CONCLUSION

Creating safe spaces  
for women, girls and  
members of the  
LGBTQ+ community

By Ena Bavčić  
DCAF

## No safe space for women, girls and members of the LGBTQ+ community

In Western Balkan societies, and in most societies around the world, patriarchal norms remain strongly embedded. These norms, which have long existed offline, have now been transferred to and amplified in online spaces. These spaces offer valuable opportunities for mobilizing political resistance among marginalized communities, but as the preceding chapters have demonstrated, they also open the same communities to even more hate speech and discrimination, and this online violence sometimes incites violence in the real world. Indeed, the problems fought by feminists and LGBTQ+ activists offline are proliferating online; for, as Reçi and Kelmendi note in their chapter, online violence is merely a reflection of already existing societal prejudices and stereotypes.

Reading through all six of these chapters, it is easy to see that both women and members of the LGBTQ+ community face similar attempts to silence their voices as well as similar threats, in online and offline spaces. A particular challenge to addressing this lies in the fact that the internet has become so integral to our daily lives, and is always “open,” meaning that perpetrators can commit online abuses 24/7. Moreover, in online spaces, even the number of potential offenders proliferates. Whereas in the pre-internet era, perpetrators of gender-based violence (GBV) could be narrowed to among those who had some real-world connection to a victim, as these chapters have shown, the internet introduces an almost endless array of additional potential perpetrators of GBV, who may never be known to their victims.

This prevalence of GBV in online spaces is occurring in the context of the Gender Digital Divide, which has left adolescent girls and women at a particular disadvantage when it comes to accessing the internet and developing important digital skills.<sup>1</sup> The rates at which women, girls, and LGBTQ+ people use the internet depends on a number of factors, but low-income countries that do not funnel resources into reducing this divide find themselves at the bottom of the Gender Digital Divide Index (GDDI).<sup>2</sup> The United Nations Children’s Fund has emphasized that “harmful gender norms... continue to underpin the many barriers to digital access, internet usage and skills acquisition” faced by these groups, and previous research by the Western Balkans Cybersecurity Research Network on cybersecurity and human rights has also highlighted how online disinformation and smear campaigns, hate speech, and other forms of online abuse are being used to silence these groups within the region.<sup>3</sup>

The research presented here further confirms that GBV is now a tool of online perpetrators in the

<sup>1</sup> See: United Nations Children’s Fund, *Bridging the Gender Digital Divide: Challenges and an Urgent Call for Action for Equitable Digital Skills Development* (New York: UNICEF, 2023).

<sup>2</sup> The GDDI was piloted in 2022 and included 20 countries representing a wide range of economic and political variation. Though Western Balkan countries were not among them, many of the key findings of this pilot year can be universalized across contexts, including that “offline gaps in gender equality follow women online.” See more at: <https://gddindex.com/>.

<sup>3</sup> See: Franziska Klopfer, Ena Bavčić and Laylo Merali, eds., *Cybersecurity and Human Rights in the Western Balkans: Mapping governance and actors* (Geneva: DCAF, 2022).

region, and beyond, who seek to push women, girls, and members of the LGBTQ+ community out of public spaces.

By uncovering different aspects of online GBV, the authors of the preceding chapters have illustrated the spectrum of violations to free speech that are experienced by women, girls, and LGBTQ+ people in the Western Balkans, including politicians, journalists, and human rights defenders – who have faced: cyberbullying, hate speech, threats of violence, astroturfing, doxing, stalking, disinformation campaigns, defamation campaigns, and non-consensual intimate image (NCII) distribution. This is not to say that heterosexual cisgender<sup>4</sup> men are immune to victimization by these same abuses, but as the research of Peci, Ukshini, and Kastrati on NCII abuse reveals, women are overwhelmingly more likely to be the victims of this crime, as discussed in their chapter.

Josifovska Danliovska, Radinkovska, and Kovachevska shine a light in their chapter on a hate speech campaign that was waged against employees of the Metamorphosis Foundation, noting gendered differences in the speech directed against female and male employees; for instance, finding that the speech attacking females was more focused on their appearance than the speech attacking their male colleagues. Other chapters provide comparable examples of online GBV that explicitly references female anatomy, or in which the behaviour of women is judged as “un-ladylike,” clearly demonstrating how both the physical appearance of women and socially constructed notions of womanhood are instrumentalized in attacks against women in online spaces. To confront this problem, as emphasized in this text and in *Cybersecurity and Human Rights in the Western Balkans*, it is crucial that a human-centric approach to cybersecurity governance is adopted.

Such an approach should be derived from broader good security sector governance (SSG) theory, which encompasses the principles of accountability, participation, inclusiveness, effectiveness, efficiency, and transparency. The focus of good SSG is not only on protecting the networks, systems, and stability of a state but also the human rights of its population. Human-centric cybersecurity can therefore be defined as “security of the people and their human rights online, and of the networks and services that are essential for this objective, which together protect the democratic order and the rule of law.”<sup>5</sup> As Liaropoulos has put it, “cybersecurity should not only address the security needs of the state, but also (if not primarily) the needs of people. ...A human-centric approach addresses digital human rights violations, Internet freedom, and privacy of data.”<sup>6</sup>

This is the only approach to cybersecurity that can account for the security needs of all users in cyberspace. And it is only by understanding these users and these needs that we may hope

4 This term describes a person whose sense of identity and gender align with their assigned sex at birth.

5 Iloper, Bavčić and Merali, *Cybersecurity and Human Rights in the Western Balkans*, 3.

6 A. Liaropoulos, “A Human-Centric Approach to Cybersecurity: Securing the Human in the Era of Cyberphobia,” *Journal of Information Warfare* 14, no. 4 (2015), 16.

to ensure more equitable access to online spaces for all. But, as elaborated in the preceding chapters, online GBV and other abuses stand in the way of this goal. Hence, the consequences of these online violations are summarized below, along with proposals for how whole-of-government and whole-of-society approaches to cybersecurity can be made human-centric, to better serve all people.

### **The impact of online GBV on women, girls, and the LGBTQ+ community**

Online GBV has real-life impacts that spill over into the social, physical, psychological, and emotional lives of the women, girls, and LGBTQ+ people who are targeted. And as authors in this text have noted, one effect of this is a shrinking of cyber-civic space for these groups. The research herein provides insights as to how these groups are targeted by perpetrators who seek to discredit and undermine women and the LGBTQ+ community at large, and ultimately push them out of public life. And, sadly, this research reveals that strategies to silence these groups are often successful. In fact, Kovačević and Murić found this to be true, as did Reçi and Kelmenđi, and Mahmutović and Trepanić, and also Josifovska Danliovska, Radinkovska, and Kovachevska.

Some of these authors examined how even “subtle” techniques – such as the way media outlets report on female politicians, journalists, or activists by using pictures of them in personal settings, or focusing on what they wear or how their hair is styled – can have a discrediting effect.

It would be wrong to think, however, that it is only women and LGBTQ+ people occupying public facing positions, such as politicians and journalists, who are the targets of online attacks. As the preceding chapters make clear, women, girls, and members of the LGBTQ+ community from all walks of life are subjected to violations of their rights in online spaces, and are targeted in some cases explicitly due to their sexual and/or gender identity. One widespread form of GBV that is experienced almost exclusively by these groups is non-consensual intimate image distribution (NCIID), which we have learned from Mahmutović and Trepanić is widely mis-labelled as “revenge porn,” yet it is anything but porn and rarely entails revenge. Rather, NCIID is used to initiate harm, and can undermine the long-term, everyday sense of safety felt by victims.

### **The psychological effects of online GBV**

Online GBV can produce complex psychological outcomes, some of which may become severe. As Mahmutović and Trepanić note in their chapter, the impacts of NCIID can be equated to those of real-world sexual violence. A range of serious psychological consequences can result, including PTSD, anxiety, suicidal ideation, and more. NCIID often leaves victims with feelings of guilt and shame, and many experience a sense that they have lost control over their life, as they typically have no way to intervene in the continued dissemination of the materials in question. On top of this, Peci, Ukshini, and Kastrati emphasize in their chapter that online GBV can lead to a twofold violation: first, a victim faces an offence in online spaces, and then faces social stigma and a lack of support when reporting the case or discussing it within their close social circle or family. In fact, all the preceding chapters show that judicial systems across the region lack appropriate mechanisms to best meet the needs of victims of online GBV, which can mean these victims face

re-traumatization when they seek legal remedy.

While some people who face online abuse say it has not negatively affected their mental health, as Reçi and Kelmendi found in the research presented in their chapter, their validation of these findings indicated that this result is probably due in part to the normalization of this experience for women and LGBTQ+ people, leading many to view this treatment as such a standard part of everyday life that they hardly question its consequences. A similar phenomenon was noted by Kovačević and Murić, who found that some politicians even accept these online abuses as an unavoidable aspect of modern political debate. This normalizes violations of rights and does nothing to challenge online GBV, as the preceding chapters demonstrate, which makes it even more vital that more awareness raising efforts are undertaken to sensitize the public to the very harmful long-term impacts of these violations on certain groups in society, but also on society at large.

### **The real-world effects of online violence**

Self-censorship is also a common consequence of online abuse and is a strategy to which many women and LGBTQ+ people resort when they face violations of their rights in cyberspace. But Reçi and Kelmendi noted in their chapter that this has led some women to delete their social media accounts altogether, and that some had even withdrawn from their family and social lives or had been fired from their jobs, in the aftermath of experiencing online violence. The impacts of online violations can be especially significant when the boundary between online and offline spaces blurs, as seen in the chapter by Ranković and Bjeloš describing how online anti-LGBTQ+ narratives led to a real-world ban on the Belgrade EuroPride march. In that case, the authors detail how extremist narratives influenced the rule of law in Serbia as well as actions by the President and Prime Minister, who intervened first by announcing the ban and then by announcing that it was lifted.

The fact is, online narratives do have real-world effects, and online and offline spaces are no longer as distinct as the language we use to discuss them implies. Just as the norms of offline spaces manifest online, the norms of digital spaces sometimes leak back into the real world. This can mean that the sense of impunity and particularity people enjoy in cyberspace gives perpetrators of online violence an offline sense that they are (anti) heroes. Indeed, if the content they share generates likes, shares, and comments, this can result in a very real surge of dopamine.<sup>7</sup> These perpetrators may feel as though they are acting on the will of their online followers as they chase the dopamine high that comes from online engagement with the abusive content they post (such as non-consensual intimate images or information gained by hacking into private data, for example). For this reason, the addictive nature of social media is increasingly raised in international debates, prompting governments such as the EU to develop regulations meant to minimize the ability of these platforms, through their online interfaces, to intentionally or unintentionally exploit or

7 This surge of dopamine that occurs when we engage in certain social media behaviours is similar to that which occurs in addicts. See: Trevor Haynes, "Dopamine, Smartphones & You: A battle for your time," Science in the News (blog), Harvard University, 1 May 2018, <https://sitn.hms.harvard.edu/flash/2018/dopamine-smartphones-battle-time/>.

stimulate addictive behaviours.<sup>8</sup>

In Serbia, where online activism meant to prevent the EuroPride march from taking place did not have the desired effect in the end, Ranković and Bjeloš found that these narratives were nonetheless effective at motivating other anti-LGBTQ+ activity. They reported that 14 criminal acts, many of which were violent, were committed against LGBTQ+ people on the day of the march, and 30 in the month preceding it. In this case and others, as shown in the preceding chapters, the role played by traditional media in online spaces cannot be ignored, as their engagement of certain narratives often exacerbates the scope and impact of online violence.

## **A whole-of-state approach to gender (in)equality in online spaces**

No social space will ever be completely secure, according to Waldman, but “privacy, expectations of confidentiality and discretion, and relief from hate and harassment are all necessary for identity formation, intellectual freedom, and equality.”<sup>9</sup> He argues that the creation of online social spaces which embody this kind of security requires a combination of law, trust, and the community norms to govern with respect for human privacy and safety. The research presented here confirms exactly that. There is a clear need to improve laws, to increase trust between governments and citizens, and to develop more transparent online regulations that align with international human rights standards and ensure gender equality.

One means of achieving this would be through the adoption of human-centric approaches to cybersecurity governance. Good cybersecurity governance models should thus be adapted to better reflect gender (in)equality in online spaces, and should centre whole-of-government and whole-of-society approaches to cybersecurity.<sup>10</sup> In practice, these approaches would engage actors across government (from those in cybersecurity institutions to those in human rights, educational, and gender equality institutions), and across sectors (the private sector, media, and civil society, etc.). These diverse stakeholders should all play a role in improving laws, increasing trust in institutions, and developing norms to which private actors must adhere.

### ***Active collaboration to improve laws and increase trust***

The research presented here highlights the high level of distrust that victims of online GBV from across the Western Balkans have in the institutions meant to protect them or provide them justice. This is evident, for example, in the high number of victims who fail to report or talk publicly about the online violations they have faced. The authors featured in this text attribute this to factors including: social stigmas and victim-blaming, law enforcement practices that lead to re-traumatization, a lack of or very slow response by the judiciary, weak laws, inadequate legal mechanisms to address

<sup>8</sup> The EU Digital Services Act is an example. European Parliament, Digital Services Act, Official Journal of the European Union L 277/1, 19 October 2022 (see para. 81 and 83). For a summary of the Act, see: European Commission, “The Digital Services Act: ensuring a safe and accountable online environment,” [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment_en).

<sup>9</sup> Ari Ezra Waldman, “Safe Social Spaces,” *Washington University Law Review* 96, no. 6 (2019): 1537–1579.

<sup>10</sup> A definition previously used by DCAF, and adapted from an OECD document, describes a whole-of-government approach (WGA) as “involving the departments responsible for security, and political and economic affairs, as well as those responsible for development aid and humanitarian assistance in foreign and security policymaking and implementation, both at the policy and operational levels. WGA means that the state’s political, security, economic and social spheres are interdependent. One benefit of this approach is that reforms in each area are supported and reproduced in other areas.” See: Nicolas Masson, Lena Andersson, and Mohammed Salah Aldin, *Guidebook: Strengthening Financial Oversight in the Security Sector, Toolkit – Legislating for the Security Sector*, 7.1 (Geneva: DCAF, 2011), 39, Box 26.



persistent violence, a lack of victim support, an absence of collaboration between the public and private sectors, the normalization of these crimes in society, and a lack of awareness as to how online abuse can be reported, among others.

In Kosovo, Peci, Ukshini, and Kastrati discovered that the patriarchal structure of society means women face widespread stigma within their families, social circles, and institutions, when reporting online GBV. These authors explain that this puts victims of NCIID at risk of being re-traumatized in the process of reporting these crimes, and propose solutions including training for police, judges, and prosecutors on how to recognize and handle cases of online abuse and how to treat victims ethically. They also recommend better victim support, to aid victims during the handling of their cases and as they pursue claims for compensation. Mahmutović and Trepanić highlighted these needs in their chapter as well. Through a case study approach, they demonstrated that even when NCIID is reported, investigated, and prosecuted, the mechanisms are not in place in BiH to prevent an escalation of online violence against a victim, due both to a lack of criminal-legal capacities and inadequate collaboration between the government and the private sector, specifically social media platforms.

Some survivors of online abuse, such as a number of the women human rights defenders with which Reçi and Kelmendi engaged in Albania, say they do not report these violations when they occur because they do not believe the authorities will take effective measures in response. The authors note that this issue has been previously highlighted by activists, who allege that authorities have often failed to investigate or charge cases of online harassment, denying it is a real threat. In North Macedonia, Josifovska Danliovska, Radinkovska, and Kovachevska found the same to be true, as 45 percent of respondents who were surveyed in their research said they had not reported cases of online hate speech to the authorities, and many of those who had done so indicated that they had received no response. Kovačević and Murić underscored this same dynamic in Montenegro, where they discovered that a majority of cases of online abuse are not regarded as violations of the Criminal Code.

On top of this, when cases of online GBV do come to trial, Peci, Ukshini, and Kastrati note that judges tend to apply mitigating circumstances to reduce sentencing for perpetrators. Not only does this raise questions about the application of law in these cases, but it highlights the fact that criminal codes across the region are neither comprehensive nor straightforward enough to be used as a basis for prosecuting online GBV. Moreover, as Ranković and Bjeloš conclude in their analysis of EuroPride, a lack of effective responses to online violence from state institutions has helped facilitate its transfer from digital to physical spaces, in this case threatening the physical safety of members of the LGBTQ+ community.

The authors in the preceding chapters thus tell the stories of many survivors of online abuse who feel they are left to fend for themselves and have no faith in relevant institutions. This even includes

politicians and women human rights defenders, who have greater access to these institutions than most women and LGBTQ+ people, but opt to deal with the consequences of online violence privately because they have so little trust that their case will be met with an appropriate response. To correct this, these authors underline the importance of proactively sensitizing first responders; launching awareness raising campaigns for women, girls, and LGBTQ+ people on how to stay safe in online spaces and how to report online crimes; and working to ensure the adequacy of policies and laws, as well as to reduce social stigma related to the reporting of online GBV.

Due to the complexity and wide social impact of online GBV, it cannot be addressed by the judiciary and police alone, however. A comprehensive SSG approach is needed, involving various state agencies tasked with ensuring the security and safety of citizens, and should be met by efforts to engage actors from both the cybersecurity sector and the field of gender equality in developing more adequate responses to the short- and long- term outcomes of online GBV. In other words, cybersecurity bodies, CERTs, police, and the judiciary should work with gender agencies, human rights institutions, educational institutions, institutions for mental health, and more, to achieve a whole-of-state approach that includes actors at all levels of government; and private companies, civil society, media, academia, and others should work together to achieve a whole-of-society approach that brings together diverse stakeholders. This is simply the only chance that Western Balkan countries have at effectively tackling online GBV.

Such an agenda has already been proposed by the OECD countries, which are looking to a three-pillar model for the whole-of-state framework needed to confront GBV, including online GBV. The first pillar, “Systems,” is focused on the function of structures meant to address these crimes, with an aim to develop holistic policies that address multiple forms of online violence, identify the responsibilities of various stakeholders, and create accountability mechanisms. To tackle online GBV specifically, a whole-of-state approach is envisioned to include the collaboration of cybersecurity and cyber-crime bodies with other relevant institutions. The second pillar, “Culture,” is aimed at fostering “a governance and service culture that is survivor/victim-centric,” including by improving the detection and prevention of GBV and providing better support to survivors/victims. And the third pillar, “Access to Justice and Accountability,” encourages OECD states to design more responsive justice services, criminalize new forms of GBV, and ensure sanctions for perpetrators.<sup>11</sup>

The Council of Europe has also identified good practices for tackling online GBV. In October 2021, for example, it adopted GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) Recommendation No. 1 on the digital dimension of violence against women, which acknowledges that “[g]ender-based violence... in the digital sphere has a serious impact on women’s and girls’ lives, including psychological and physical health, their

<sup>11</sup> OECD, *Eliminating Gender-based Violence: Governance and Survivor/Victim-centred Approaches* (Paris: OECD Publishing, 2021). See Chapter 2.

livelihoods, their physical safety and their reputation... [and] has severe implications for women's participatory rights online."<sup>12</sup> The Recommendation suggests action in four areas – Prevention, Protection, Prosecution, and Co-ordinated policies – across all of government and society. For example, Prevention includes legislative initiatives to fill legal gaps, capacity building among legal and judicial professionals to expand their knowledge of online violence and its real-world impacts, and educational/awareness raising programming for youth.

Some countries that neighbour the Western Balkans, like Slovenia, have adopted a number of the measures this Recommendation advises. The GREVIO Baseline Evaluation Report for Slovenia notes, for instance, that the Slovenian government has criminalized various online and technology-facilitated forms of violence, and has also worked to increase access to justice and support for victims, including by organizing trainings for law-enforcement officers and judges to enhance their capacity to investigate and prosecute the digital dimension of GBV. Additionally, and importantly, “a handbook with guidelines on the roles to be played by the law-enforcement agencies and the judiciary in successfully dealing with cases of online and technology-facilitated violence against women and girls was adopted and distributed to all Slovenian police stations and directorates, prosecutors' offices and courts.”<sup>13</sup> Moreover, Slovenia has implemented training for teachers, school counsellors, and other professionals who work with youth, to educate them about “the challenges which new information technologies may present in perpetrating violence against girls,” and has also offered awareness-raising workshops to primary and secondary students. These various educational initiatives have been implemented as part of a project developed through a collaboration of different Slovenian government ministries.

The Council of Europe's Platform of Independent Expert Mechanisms on Discrimination and Violence against Women (EDVAW Platform) further recommends “promising practices... to fight the digital dimension of violence against women” that include collecting various data related to technology-facilitated violence; adopting a holistic, multi-agency approach to countering the phenomenon; and introducing measures to hold internet platforms, including social media companies, more accountable.<sup>14</sup> The path forward has already been paved in the EU by the Digital Services Act, which is entering into force as this text is being written and is aimed at tackling the dissemination of illegal content (including NCIID), protecting fundamental rights and democratic processes, and preventing digital users from suffering the negative impacts of online platforms – either as a result of the content with which they interact, the abusive behaviour of other users, or “interface design that may stimulate behavioural addictions.”<sup>15</sup>

The Digital Services Act (DSA), which “is grounded in human rights language, contains clear transparency requirements for platforms, and... was drafted using a participatory process,”

<sup>12</sup> Council of Europe, GREVIO General Recommendation No. 1 on the digital dimension of violence against women, adopted 20 October 2021, para. 12–13. Also see: Council of Europe, The digital dimension of violence against women as addressed by the seven mechanisms of the EDVAW Platform (2022).

<sup>13</sup> Council of Europe, GREVIO Baseline Evaluation Report: Slovenia (Strasbourg, 2021), para. 111.

<sup>14</sup> Council of Europe, The digital dimension of violence against women as addressed by the seven mechanisms of the EDVAW Platform.

<sup>15</sup> European Parliament, Digital Services Act, Official Journal of the European Union L 277/1, 19 October 2022, para. 80–83.

has the potential to change conversations about the democratic regulation of cyberspace; though, regulation of this nature is always bound to face the challenge of balancing protections and rights.<sup>16</sup> Once fully in force, however, the Act will create the basis for a more secure cyber environment, and a similar regulatory framework could easily be envisaged for the Western Balkan common market.<sup>17</sup>

The EU accession process may incentivize these actions in Western Balkans countries, given that adopting such measures will bring these economies closer in line with economies in the EU. As efforts by the EU to tackle GBV, including online GBV, have increased, calls have grown for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, which was finally proposed in 2022 and is the subject of interinstitutional negotiations within the European Parliament at this writing.<sup>18</sup> When finalized, this Directive as well as DSA can guide Western Balkan economies in developing similar policies to comprehensively and democratically address online GBV, and increase gender equality in online spaces.

### ***Online community norms should fit the needs of women, girls, and the LGBTQ+ community***

The value of the Digital Services Act and similar documents is derived from the fact that online GBV is largely facilitated by social media platforms. In the Western Balkans, Facebook and Instagram (i.e., Meta) are the platforms most widely used, followed by X (formerly Twitter) and Tik-Tok. Meta is worth examining here, considering its regional popularity, and because the preceding chapters have highlighted that Meta's efforts to establish standards promoting greater security have been rendered mostly useless to many victims of online GBV, who often have no knowledge of them, and sometimes fail to compel corrective action even in the context of adjudicated cases of online violence. Moreover, the company is fighting its own algorithms, which are set to favour social engagement over mere content consumption, opening the way for disinformation, sensationalism, hate speech, and a general rise in violent content.<sup>19</sup> Coupled with AI-based content moderation that is unable to effectively moderate in many languages, Meta platforms have become increasingly insecure for vulnerable groups in regions like Western Balkans.<sup>20</sup> Further, authors in this text learned that Facebook often censors independent journalists in the region, citing ethical standards.

<sup>16</sup> UN OHCHR, "Moderating online content: fighting harm or silencing dissent?", 23 July 2021, <https://www.ohchr.org/en/stories/2021/07/moderating-online-content-fighting-harm-or-silencing-dissent>.

<sup>17</sup> See more on the ongoing implementation of a Common Regional Market in the Western Balkans, which includes a Regional Digital Area, coordinated by the Regional Cooperation Council, in: Bojana Zorić, ed., *Common Regional Market Report on Implementation for 2022* (Sarajevo: Regional Cooperation Council, 2023); and at: Regional Cooperation Council, "Common Regional Market," <https://www.rcc.int/pages/143/common-regional-market>.

<sup>18</sup> See: European Parliament Legislative Observatory, "2022/0066(COD): Combating violence against women and domestic violence," [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0066\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0066(COD)); and European Parliament, Report on the proposal for a directive of the European Parliament and of the Council on combating violence against women and domestic violence (COM(2022)0105 – C9-0058/2022 – 2022/0066(COD)), A9-0234/2023, 6 July 2023.

<sup>19</sup> See: Keach Hagey and Jeff Horwitz, "Facebook Tried to Make Its Platform a Healthier Place. It Got Angrier Instead," *The Wall Street Journal*, 15 September 2021, <https://www.wsj.com/articles/facebook-algorithm-change-zuckerberg-11631654215>.

<sup>20</sup> See: Katie Canales, "Facebook's AI moderation reportedly can't interpret many languages, leaving users in some countries more susceptible to harmful posts," *Business Insider*, 16 September 2021, <https://www.businessinsider.com/facebook-content-moderation-ai-cant-speak-all-languages-2021-9?r=US&IR=T>; and Gabriel Nicholas and Aliya Bhatia, "The Dire Defect of 'Multilingual' AI Content Moderation," *Wired*, 23 May 2023, <https://www.wired.com/story/content-moderation-language-artificial-intelligence/>.

The problem with Meta and other platforms is therefore twofold. They are simultaneously failing to respond to actual cases of online violence – even, as Mahmutović and Trepanić found, when a victim presents them with a court decision – while censoring critical voices, some of whom may themselves be victims of online abuses, as described by Reci and Kelmendi. To address these issues with the regulation and moderation of online content, the UN OHCHR has put forth five solutions “for a way forward,” recommending that: human moderators, not algorithms, make decisions on “complex issues”; restrictions imposed by states respect principles of legality, proportionality, and transparency and are clear, necessary, and non-discriminatory; companies are transparent about how they moderate content and share information; users can meaningfully appeal decisions they consider unfair in a process ultimately decided by independent courts; and “civil society and experts should be involved in the design and evaluation of regulations.”<sup>21</sup> But social media platforms are not the only cyberspaces where misogyny and anti-LGBTQ+ narratives are spread. There has been an explosion of online media outlets, often with untransparent ownership and funding, for which profits are linked to user traffic; meaning, they chase the same clicks, likes, and shares that drive the engagement algorithms of social media. As the preceding chapters show, this incentivizes many of these outlets to post and publish content that is hateful and sexist. The solution offered by authors in this text is improved self-regulation in digital space, to ensure a better balance between journalistic accountability and freedom from censorship; and the Istanbul Convention also identifies self-regulation as a means of reducing online GBV.<sup>22</sup>

This is where a whole-of-society approach becomes crucial, as local civil society, private companies, and other national and regional stakeholders must come together to provide the basis for a better moderation framework, grounded in the international human rights standards to which private businesses must already adhere according to the UN Guiding Principles on Business and Human Rights.<sup>384</sup> As noted earlier, the Digital Services Act also offers a good example of how online spaces can be democratically regulated. Thus, a human-centric whole-of-society cybersecurity governance approach would not only entail collaboration among different institutions of the state, as cybersecurity governance would involve local private companies, civil society, and the computer technology community as well, to draw on key expertise in designing cybersecurity policies that ensure security for all.<sup>23</sup> Additionally, the preceding chapters suggest that governments should establish direct communication channels with social media companies, to communicate about cases of online GBV and assist in addressing persistent violence.

It should be noted that civil society can act as a key point of contact between survivors of online violence, government entities, and private companies. Yet, the most crucial role of civil society is to ensure that policies and mechanisms are human-centric, by providing independent oversight that

21 UN OHCHR, “Moderating online content.”

22 Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, Istanbul, 11 May 2005, Article 17.

384 See: UN OHCHR, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (United Nations, 2011).

23 Modified from the “3C” approach. See: Alan Bryden, “International Coherence in Security Sector Reform,” DCAF Horizon 2015 Working Paper No. 6, 21 December 2011, 14.

is informed by the experience of survivors.<sup>24</sup> The work of civil society brings this sector into direct contact with end users, and in such way that it acts as a voice of the people, advocating for their rights, including in order to shape the cybersecurity agenda. Indeed, in many cases, civil society has stepped in as an intermediary in policy processes or with social media companies, and efforts by DCAF to raise the capacities of local think-tanks and media organizations have revealed that, with the tools developed by international NGOs, civil society has real opportunities to engage meaningfully in discussions on cybersecurity in a way that shifts perspectives and normalizes a more human-centric approach. Even during the two phases of research that have constituted this multi-year project by the Western Balkans Cybersecurity Research Network, organizations involved in the project have managed to affect the way some governmental and private sector institutions regard cyberviolence and human rights abuses in cyberspace.

While oversight by civil society is vital, parliamentary oversight of the cybersecurity sector is just as essential to good governance of the sector as it is to SSG more generally, in that it supports better security for all. Ultimately, in any democracy, “parliamentarians are responsible for ensuring that this highly complex sector is held accountable to the population it serves and acts according to the rule of law and with respect for human rights and gender equality.”<sup>25</sup>

Still, independent institutions such as gender agencies, ombuds, and data protection authorities should play part in overseeing the drafting, adoption, and implementation of laws and regulations related to cybersecurity, as these institutions are in place to provide expert advice and ensure that security policies are benefiting all citizens regardless of gender, socioeconomic status, or other characteristics.

Finally, the research presented here has revealed a widespread need to improve internet literacy. As Josifovska Danliovska, Radinkovska, and Kovachevska reported, the first year of the COVID-19 pandemic (2020) brought to light that low levels of digital and media literacy were a problem, and correlated to an increase in online hate speech; and similar links were made by Mahmutović and Trepanić. Promisingly, however, Reçi and Kelmendi demonstrated that survivors of online violence may feel more confident interacting on social media platforms when they are educated about how to protect their privacy in digital spaces and address online violations when they do occur. Thus, again, it is a whole-of-society approach that is needed, involving government, private companies, and civil society, to raise awareness among all citizens of the effects of this violence and the best cyber hygiene practices to reduce its impacts. Though it should not be viewed as solution on its own, and will not make women and LGBTQ+ people safer online in the absence of other measures, digital literacy is a potent tool for individuals, as it makes them more conscious users in online spaces and empowers them with information.

<sup>24</sup> See: Karen Barnes and Peter Albrecht, *Civil Society Oversight of the Security Sector and Gender*, Gender and SSR Toolkit – Tool 9 (DCAF, OSCE/ODIHR, UN-INSTRAW, 2008).

<sup>25</sup> See: DCAF, “Parliamentary oversight of security institutions: what it is and why it matters,” 30 June 2023, <https://www.dcaf.ch/parliamentary-oversight-security-institutions-what-it-and-why-it-matters>.

## Toolkit for survivors of online GBV

Here, we want to reiterate tools mentioned in the preceding chapters, in a single list.

### Digital literacy tools:

*Tactical Tech* offers valuable resources on topics such as Gender and Tech, Data and Political influence, Holistic and Digital influence, in an array of languages: <https://tacticaltech.org/>.

The *Circulo* app provide a means for small groups to engage inside a safe digital space: <https://encirculo.org/en/>.

The *Access Now Digital Security Helpline* assists individuals and organizations to improve their digital practices and reduce their risk, and also offers rapid-response emergency assistance in the midst of attacks: <https://www.accessnow.org/help/>.

### Tools to remove online content:

*Take It Down*, for removing sexually explicit images or videos of minors, under 18 years old: <https://takeitdown.ncmec.org>. Participating platforms include Facebook, Instagram, Porn Hub, TikTok, Snap, Yubo, Clips4sale, and OnlyFans.

*StopNCII.org*, for reporting by adult victims, 18 years and older: <https://stopncii.org/>. Participating platforms include Facebook, TikTok, Reddit, Instagram, Bumble, and OnlyFans.

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## ACRONYMS AND ABBREVIATIONS

APC	Association for Progressive Communications AI Artificial intelligence Belgrade Centre for
BCSP	Security Policy
BICRF	Brazilian Internet Civil Rights Framework
BIRN	Balkan Investigative Reporting Network
CDT	Center for Democratic Transition (Montenegro)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERT	Computer Emergency Response Team
CGO	Center for Civic Education
CIB	Coordinated Inauthentic Behaviour
CSO	Civil Society Organization
DCAF	Geneva Centre for Security Sector Governance
DSA	Digital Services Act
EC	European Commission
ECHR	European Convention on Human Rights
EDVAW	Expert Mechanisms on Discrimination and Violence against Women (Council of Europe)
ENISA	European Union Agency for Cybersecurity EU European Union Euro currency
EUR	Euro currency
GBV	Gender-Based Violence
GDDI	Gender Digital Divide Index
GDPR	General Data Protection Regulation
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence (Council of Europe)
HRD	Human Rights Defender
IDM	Institute for Democracy and Mediation KIPRED Kosovar Institute for Policy and Research
NATO	North Atlantic Treaty Organization
NCII	Non-Consensual Intimate Image
NCIID	Non-Consensual Intimate Image Distribution
NGO	Non-Governmental Organization
NDI	National Democratic Institute
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights OSCE Organization for Security and Co-operation in Europe
PTSD	Post-Traumatic Stress Disorder
REM	Regulatory Authority for Electronic Media (Serbia)
SNS	Serbian Progressive Party
SSR	Security sector reform
UNFPA	United Nations Population Fund
UN	United Nations
US	United States (of America)
VAW	Violence Against Women
WHRD	Women Human Rights Defender
WJP	World Justice Project's

# DCAF Geneva Centre for Security Sector Governance

DCAF-Geneva Centre for Security Sector Governance

Maison de la Paix, Chemin Eugène-Rigot 2E  
CH-1202, Geneva, Switzerland

 +41 22 730 94 00

 [info@dcaf.ch](mailto:info@dcaf.ch)

 [@DCAF\\_Geneva](https://twitter.com/DCAF_Geneva)

[www.dcaf.ch](http://www.dcaf.ch)