



HateAid gGmbH

Statement

Consultation

of the Council of Europe/GREVIO

**General Recommendation on the
Digital Dimension of Women**

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Recommendations

1. Acknowledging that digital violence against women is psychological violence

To underline the significance of digital violence unambiguously and give women meaningful and effective legal instruments.

2. Creating nationwide consultation networks for women

To provide specialised consultation and support that is tailored to special needs of women affected by digital violence.

3. Raising awareness in public service and installation of contact persons for women

To raise awareness in the public service, thus supporting women and creating trust instead of downgrading dismissing their experience of violence.

4. Creating low-threshold options to act against digital violence

To enable and empower women affected from digital violence to take action by dismantling barriers.

5. Enabling of law enforcement and litigation, creation of legal certainty

To uphold rule of law on the internet by strengthening law enforcement and deterring perpetrators permanently.

6. Conducting studies and creation of statistics on digital violence against women

Creating scientific evidence of the gender perspective and the structural problem of digital violence against women in order to point out legislative needs.

7. Holding online platforms liable

To regulate online platforms and hold them liable for their handling of illegal content and protection of users as this will especially benefit women.

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I. How we support those affected by digital violence

The non-profit organisation HateAid gGmbH (HateAid) supports people affected by digital violence who have been so far left largely unprotected on the internet. As targeted hate attacks are being used to drive people with certain traits (women, Jews, immigrants etc.) out of public online debates, perpetrators are rarely held responsible or brought to justice. Due to this de facto impunity, the digital space appears as a legal vacuum from which more and more people withdraw out of fear of hateful threats and harassment. This development does not only restrict the freedom of expression of many people but is also a threat to our free and open public debate. This so-called silencing effect poses a serious threat to democracy as it shifts the debate to a very one-sided public discourse. In Germany this is a shift towards the far right: more than 70 % of online hate content reported to the Federal Police Department was assigned to right wing extremist groups in 2019¹. As a result, the internet, which is supposed to be a place of unlimited freedom, is no longer a safe space for everybody but in fact only for a chosen few. Those few systematically spread hate and agitation and consider the internet to be a safe haven since there is rarely any law enforcement. The only consequence they need to fear is the deletion of their (hateful) content by the social media platforms which is also handled quite arbitrarily.

This is where our organization HateAid gGmbH comes in. We support those affected by digital violence through emotional support as well as security and communication counselling. Furthermore, HateAid offers support in law enforcement. As a financier of legal costs, HateAid enables those affected in taking (civil) legal action against perpetrators and thus facilitates them access to justice without any cost risk. As part of its advocacy work, HateAid advises the judiciary and law enforcement agencies in Germany and other European countries on how to set the appropriate framework to curb digital violence. The aim of HateAid is to strengthen the diversity of opinions on the net and thus to maintain free and open democracy.

II. Female perspective on digital violence

Who is predominantly affected by digital violence? Our experience after two years of intense consultation clearly shows that marginalized groups are at center of those frequently attacked. They experience various forms of digital violence ranging from insults and defamations on to the revelation of their personal data, such as their private address. Oftentimes digital violence is the preliminary stage to analog threats. Perpetrators aim to instrumentalize all sorts of personal data that could also pose an analog physical threat to the victim like their private address, living circumstances or the name of their employer. The aim is to increase the effect of their threats, to intimidate those affected as much as possible and to enhance the sensation of insecurity in everyday life. This concerns mainly statements made on social networks like Facebook, Twitter, Instagram, YouTube, but also on smaller platforms and messenger services like Telegram, 8chan or Reddit.

Women are not only the largest but also one of the most affected groups. Due to our observations and experiences counseling victims, digital violence against women is common practice on the internet especially on social networks. A nationwide study from 2019 concluded that not only 40 % of internet users have already witnessed digital violence but 88 % of them stated that the hate they saw was largely against women.² This amounts to about the same quantity as hate against refugees and LGBTI persons and even more than antisemitic hate (73 %).

¹Crime statistic of politically motivated offenses 2019:

https://www.bka.de/DE/UnsereAufgaben/Deliktsbereiche/PMK/PMKrechts/PMKrechts_node.html#doc121714bodyText2

² „Hass im Netz – der schleichende Angriff auf die Demokratie“, S. 20, https://www.idz-jena.de/fileadmin/user_upload/_Hass_im_Netz_-_Der_schleichende_Angriff.pdf (23.12.2020).

The quantity and quality of digital violence women experience is significantly different from what heterosexual white men experience online. It is not only deeply personal but, in most cases, very sexualized and predominantly misogynistic, which means that women are attacked solely because of their gender. Women receive rape threats; they are insulted as being undersexed and persistently hassled to have sexual intercourse with the perpetrators or simply ordered to go back to the kitchen. It becomes blatantly obvious that major accomplishments of gender equality are at risk of being reversed on the internet as a matter of course. From law enforcement officials we hear that most of the perpetrators are men and 50 years and older.³

This is no coincidence. Right wing extremist groups who advocate a decidedly conservative and misogynist mindset openly communicate their views on women on the net. For example, the so called “Handbook for media guerrilla” published among far-right groups e.g., gives advice on “shitposting”⁴. According to this publication, young women are classified as “classic victims,, and worth to be preferably targeted because they are supposed to be easily silenced. As a consequence, women receive hardcore porn with their faces fitted in or find themselves advertised as prostitutes on social media. Female activists are forced to remove their addresses from the population register, because rapists announce to come for a visit. Fake profiles and even e-mail addresses are created regularly to spread lies and manipulated photos of women. Threats in commentary sections and private messages even include mutilation fantasies, pictures of genitals and regularly sexist insults.

Women and young girls are particularly affected by digital violence across Europe. These are the findings of a 2014 study by the FRA (European Union Agency for Fundamental Rights).⁵ Thus, women and girls disproportionately often experience aggressive and defamatory comments in the digital space. As a result, according to EIGE findings, every second a young woman withdraws from discussions in social networks after such experiences.⁶ As the study was conducted in 2014, it can be assumed that these figures have rather increased. This assumption is also confirmed by the study of FEMM (European Parliament Committee on Women's Rights and Gender Equality). Its most important finding: one in 10 women in Europe has already experienced some sort of digital violence from the age of 15. According to the study, 14% of young women aged 15 and over have even experienced cyberstalking. A recent worldwide study conducted by Plan International also shows the effect of digital violence on young women⁷. According to this study 58 % of the girls and young women have already been abused online and 22 % said that they themselves or a friend is fearing for their physical safety. 19 % reduced their social media use after being affected and 12 % changed the way they express themselves online.

³ Report about the “Zentral- und Ansprechstelle Cybercrime (ZAC)” a cyber crime unit in North Rhine Westphalia, Germany: <https://www.zdf.de/nachrichten/heute/sonderermittler-bringt-hater-vor-gericht-100.html> (29.12.2020).

⁴ <https://www.hogesatzbau.de/wp-content/uploads/2018/01/HANDBUCH-F%C3%9CR-MEDIENGUERRILLAS.pdf> (23.12.2020).

⁵ FEMM (European Parliament Committee on Women's Rights and Gender Equality): Cyber violence and hate speech online against women; [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604979/IPOL_STU\(2018\)604979_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604979/IPOL_STU(2018)604979_EN.pdf) (30.12.2020).

⁶ European Institute for Gender Equality (EIGE): Violence against women: an EU-wide survey. Main results report; <https://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report> (30.12.2020).

⁷ Plan International (2020): Free to be online? Girls’ and young women’s experiences of online harassment; <https://www.plan.de/presse/welt-maedchenbericht-2020-zu-digitaler-gewalt-gegen-maedchen-und-frauen.html> (30.12.2020).

These findings can also be confirmed by our own experience in counselling more than 500 people affected and in supporting more than 300 criminal and litigation procedures. 58 % of HateAid's clients in consultation are women. The number is higher in litigation financing where about 70 % of all clients are women. Moreover 2/3 of the individual cases HateAid supported through litigation financing are accounted to women. This illustrates the fact that digital violence against women is much more often also a criminal offence and/or a violation of personality rights that can be pursued. Many of our female clients are "regular customers" because new incidents of digital violence are recurring. About one third (28.57%) of them are affected by misogynist content and sexual hostility because of their gender. More than 5 % of the hostility constitutes in content of threats of sexual violence and rape. From our experience women are exceptionally endangered by digital violence if they are politicians, activists or otherwise speaking up for an open society, gender equality and democratic values in the digital space. If women do so, being subject of agitation and hate is not only likely result but has become a natural consequence.

Studies show that the silencing effect on internet users is already taking place⁸. We have witnessed this process throughout our consultation but also in the context of our advocacy work. We hardly find any women who are willing to talk about their experiences publicly. Merely women are willing to do so who are able and willing to withstand the backlash of hate they will certainly experience after a public testimony such as federal politicians. We also observe that women who are initially convinced to start a public campaign withdraw shortly before going public because of the hate they already experience in advance - not only from men but sadly also from other women.

Of course, silencing and withdrawal from the public debate is not the only effect digital violence has on those affected and women in particular. Many victims of digital violence do not only fear a spill over of digital violence to their real life but also suffer from psychological and physical impairments such as anxiety, depression or sleep disorders. Female activists, journalist or persons of public interest who are dependent on their internet presence (more than ever before in a pandemic) suffer professional impairment and potentially also damage to their reputation.

III. Situation of women affected by digital violence

The protection of those affected by digital violence is largely insufficient. Victims are often left alone for several reasons. One of those is that Germany still falls short of the targets set by the Istanbul Convention. It fails to meet specific needs of women as a particularly affected group and thus neither protects them from psychological violence on the internet nor engages in the prevention of such.

1. There is rarely any law enforcement on the internet

To this day we see hardly any law enforcement when it comes to insults and defamation on the internet. Most proceedings are abandoned due to lack of public interest in law enforcement and classified as civil court cases.

Prosecutors, police, and domestic lawmakers do not acknowledge that we can no longer judge insults and defamation in the digital space by the same legal standard as we do in a dispute between e.g., neighbours or in traffic. The reason is that there are fundamental differences in scope and impact of digital violence on the victims and also on society. Other than in a private space those affected online face complete and well-organized strangers acting under pseudonyms and often with multiple fake accounts. The defamation is public and stays public as it is extremely difficult to delete content

⁸ More than 50 % don't dare to express their political opinion online because of fear to become a victim of digital violence. - „Hass im Netz – der schleichende Angriff auf die Demokratie“, S. 20, https://www.idz-jena.de/fileadmin/user_upload/Hass_im_Netz_-_Der_schleichende_Angriff.pdf, 30.12.2020.

completely from the internet. The defamatory content is possibly seen by thousands of people and can affect victims also in the future as it frequently shows up in search engines, used by future employers or romantic partners. Those are not side effects but intentional consequences of online defamation. An insult or defamation online needs to be judged on these accounts.

Nevertheless, the majority of victims are forced to look for private legal action because of lack of public interest by prosecution. Thus, the victims are in fact unprotected because of legal uncertainty and unreasonable cost risks that keep them from further legal steps. Still, this disregards the severe effects those offenses have on the victims. The internet is fast-moving – content is spread rapidly and above that visible to a broad public – and it never forgets, which is why even if legal action is taken one can never be sure if the content in question is removed for good.

This creates a vicious circle. Those affected are not willing to file complaints anymore because they know from experience that prosecution will decline their plea and refer them to financially risky procedure. At the same time, law enforcement agencies keep asking why civil society is pledging to install specialized cybercrime units and hire staff if there are no complaints coming in.

We are convinced that effective law enforcement is key to combat digital violence since – other than deleting content - it is the only way to create a lasting deterrent on perpetrators and therefore work as a general prevention means. We are certainly obviously aware of the fact that not all European countries offer the same level of rule of law, but similar circumstances can be observed in France or Austria.

2. Limited awareness in public service

If those affected decide to take legal action and file a legal complaint they are unfortunately, often not taken seriously by authorities. Due to lack of information e.g., about how to preserve legally secure evidence on the internet and the possibilities of filing complaints online, the first point of contact for victims is the closest police department. Especially women, who have experienced sexualised digital violence, shy away from reaching out to the police, since they are not keen to discuss the sexualised content with an “old white policeman”. In many cases their request to file a complaint is rejected because “it is only on the internet”. At worst they are not only rejected but advised to delete their social media profile instead or even accused of provoking digital violence with a supposedly sexy profile picture or provocative posting.

If law enforcement is not sensitive towards digital violence against women, this also applies to, prosecution, authorities and even judges in civil proceedings. Over the past 1,5 years we supervised one of the most famous cases in Germany where we supported a federal female politician against highly misogynistic hate speech in commentary sections on Facebook⁹ and Twitter^[OB]. The aim of the lawsuit was initially to receive information about the identities of the perpetrators from the networks. It then took an unexpected turn when the judges passed a resolution saying that all the commentaries in question were covered by freedom of speech. This ruling was remarkable to say the least and caused an outcry not only among the general public but also among legal experts. The judges concluded that a female politician who once commented on a sexualised topic more than 20 years ago now has to endure all kinds of misogynist swear words and even rape threats. We supported the victim in the appeal of this decision, and it was partly revoked by the higher court. The case shows not only how normalized agitation against women has become so that even judges consider it to be tolerable and

⁹ English report about the case: <https://www.dw.com/en/judge-tells-german-politician-to-put-up-with-derogatory-online-comments/a-50507975> (28.12.2020)

part of free speech. It also shows how established strongly sexualised defamation has become in public digital discourse as it is considered to be acceptable even by a court.

Lastly, law enforcement agencies and courts are not sensitive towards security concerns of the affected women. Especially the victims' desire not to reveal their personal address, so that the perpetrator cannot obtain it when examining the files, is rarely met although there is no mandatory legal obligation. This means that by pressing charges against a perpetrator, the victims ultimately take a high security risk as they oftentimes cannot prevent their personal data to be exposed to the perpetrators in the course of legal proceedings.

3. No secure legal ground for digital violence

A lack of information about legal requirements combined with criminal liability gaps create insecurity among the population. As the internet is a comparably modern phenomenon many laws are neither adjusted to the current circumstances and developments nor do they meet the needs of the victims in order to create fair and just results.

For example: According to the wording of the German criminal code (Strafgesetzbuch – StGB) sexual harassment (§ 184 i StGB) requires physical contact with the victim. Thus, the only applicable criminal provision for sexual harassment on the internet that does not include the transfer of pornographic content is insult (§ 185 BGB). The criminal code does not specify what the term “insult” specifically covers. It depends on interpretation and further development by judicial decisions. The problem this causes is, that it is often unclear to women affected that sexual harassment or other similar offenses online would be applicable to this offense. As a consequence, less women affected press charges, also because judicial interpretations on this matter are not foreseeable.

Especially when it comes to sexual insults this leads to absurd verdicts by German courts. Insult generally requires a disparagement of a person, which is usually complied in abusive language. Nonetheless, this does not apply when a sexual desire is expressed since this can also be seen as a compliment. This interpretation again disregards the enormous effects which especially sexual harassment on the internet has on women since it is a very effective way to discredit women in public, to undermine their integrity and to harm them emotionally.

4. High obstacles for litigation

The main concern of many victims is to legally ensure that the defamatory content is entirely deleted from the net, and perpetrators are obliged to sign an injunction. This injunction guarantees not only deletion but obliges perpetrators to not post the same harmful content again. Finally, perpetrators are to be held liable for the damages they caused to the victims.

Unfortunately, in the majority of cases the only chance for victims to press these charges against perpetrators is to sue them in civil court. But this approach poses inadequately high obstacles for those affected. This is the case, because to file a lawsuit means for victims to bear a disproportionate cost risk. It is their obligation to hire a lawyer and place an advanced payment for the attorney and the court fees. As described, the legal assessment e.g., of an insult is completely dependent on interpretation which is why there is huge legal insecurity in many cases. Even if the case is won by 100 % and theoretically there is a reimbursement claim against the counter party, it still bears the solvency risk of the defendant. If the case is (partly) lost, the victim pays not only the attorney and court fees, but also the attorney fees of the counter party. This financial obstacle for victims has enormous implications on law enforcement of digital violence. Most of the victims are not willing or in many cases simply not able to take this cost risk and therefore do not pursue litigation. Women are

especially affected, as their wages are still generally lower than men's wages and they work disproportionately often in low-income jobs. Furthermore, women are less disposed to hire a lawyer and start a legal proceeding than white heterosexual men. As a consequence, in the case of women affected predominately male perpetrators are not held accountable for their illegal actions. The overall effect is twofold: On the one hand, perpetrators do not perceive their actions as potentially illegal and therefore possibly subject to legal punishment anymore. This constitutes the acceptance of the crime. On the other hand, women who fall victim start perceiving (sexist) insults and defamation online as something to be tolerated and not legally pursued. Sexism and digital violence against women have been diminished and women's rights have been strengthened in the analogue world and analogue media during the last decades. On the contrary, in the digital space sexism and misogyny have become the new normal again. It doesn't come as a surprise that women by now feel less secure on the internet than in the offline space as the Plan B study has shown.¹⁰

To make matters worse, in this legal proceeding the person affected, which means the woman, must file the lawsuit in their own name and therefore personally go after the perpetrator. There is no legal option for an organization like HateAid to represent the victim as there is no right for associations to initiate proceedings. Also, prosecutors can't initiate proceedings without the consent of the victim. This is especially problematic as massive, organized hate storms against women include thousands of public insults. The goal of these massive attacks is not only to harm the woman but to send a message to all other women watching. They are to be warned not to post similar content – for example political or feminist commentaries or certain types of pictures. The silencing effect works very well here, and many women change their behaviour online after they have seen what happens to other women. This silencing effect is therefore not only harmful to the woman in question but to women as a marginalized group as a whole. Hence, especially the orchestrated and massive hate attacks against women online should be classified as of public interest and pursued by prosecutors.

5. No cooperation of Social Media platforms

The most difficult part of going after digital violence in general is the identification of the perpetrators. Without their identification, perpetrators can neither be prosecuted nor can those affected litigate them. Social Media platforms are a key element in this process because they hold the highest amount of information about the identity of the perpetrators in their internal data bases.

HateAid's lawyers filed complaints for those affected in more than 300 cases with unknown perpetrators. 2/3 of these cases had to be abandoned by the prosecution, although HateAid is already cooperating with a special cybercrime unit of the attorney general's office in Hesse which is specialized in the identification of perpetrators online.¹¹ It can be assumed that the identification-success rate would be much lower in other less trained prosecution offices.

So far not only German but especially European legislators fail to provide a legal ground to oblige the platforms to cooperate in terms of identification of perpetrators and definition of legal requirements. Thus, the social media platforms are not obliged to reveal the identity of the perpetrators, even with a court order issued. This leads to the absurd situation that victims and even law enforcement agencies cannot do anything but ask politely for the data they need for identification. In most of the cases the answer from Facebook, Google & Co is that they are not able to provide any information on the identity of perpetrators. This is according to the platforms either due to freedom of speech or to the

¹⁰ Plan International (2020): Free to be online? Girls' and young women's experiences of online harassment: <https://www.plan.de/presse/welt-maedchenbericht-2020-zu-digitaler-gewalt-gegen-maedchen-und-frauen.html> (30.12.2020).

¹¹ ZIT = Zentralstelle für Internetkriminalität, Generalstaatsanwaltschaft Hessen, They are very experienced in investigating child porn cases and work together closely with the Federal Police Department (Bundeskriminalamt).

fact that the data is not stored in Germany but in Ireland or in the USA. As a result, we need to acknowledge that social media platforms as an incredibly powerful 3rd party are not only dictating the way we communicate by installing community standards which are enforced arbitrarily and cannot be subject of judicial review¹². They are also dictating in which cases the law can be enforced. It is their decision in which case they want to reveal data about a suspect or even convicted perpetrator. According to law enforcement officials this right is exercised highly arbitrarily.

When those affected try to sustain data through civil procedure the situation is even worse. Firstly, the procedure takes six months up to one year and the victims have to bear the costs without possibility of reimbursement. Secondly, the lawsuit which needs to be filed first does only give permission to the platforms to provide data to the victims but doesn't oblige them to do so. HateAid received data from Facebook only once after such a proceeding. This case had a high level of media coverage. Twitter only submitted data in three cases in which those affected were also public figures. That leads to the conclusion that data provision is highly arbitrary and does only take place when the platforms fear to be shamed publicly. When we got the data, we were unable to check its completeness and only in some cases did it lead to identification because not all user data was useful, since it either was fake or only partial (e.g., username & e-mail address which does not require verification).

This arbitrary form of data submission by the Social Media Platforms only in high-profile cases also especially disfavours women. Due to their proportional lower income, they are less likely to press charges in the first place. But women, if they are not public figures and even then, are less likely to talk publicly about their court cases as the fear of the backlash is substantial.

Moreover, the major social media platforms, but also smaller platforms even encumber the affected women to investigate illegal content associated to them themselves. This especially applies to porn platforms where private videos or pictures of women are frequently uploaded without their consent. Even if a platform is notified of illegal content by the woman affected or an organisation and willing to delete, it will only remove the specific content/file that has been reported. It is up to the affected women to investigate if the content is shared or reposted on other (pornographic) platforms, which is often the case in our experience. This is already problematic with defamatory content but even more with pictures or videos on porn platforms that reappear multiple times. This puts a disproportionate burden on women affected, especially when this is part of systematic defamation campaigns and increases not only the constant humiliation but also psychological pressure, as they can never be sure that nude pictures will reappear at some other place on the specific platform or the internet.

If a platform decides not to delete notified content, those affected do not even receive an explanation but messages with text modules instead.

That said we can only conclude that defending women and all other affected marginalized groups against digital violence means to have legally secure, reasonable and enforceable opportunities to identify perpetrators.

6. No nationwide consultation network

As already indicated, HateAid is the only counselling centre solely for those affected of digital violence in Germany. Across Europe we do not know of any other organisation like HateAid either. HateAid

¹² This is why we demand a priority of national law over community standards, so that national law has to be applied to all notifications first and the platforms cannot avoid to be held liable by assessing and removing content according to community standards (without transparency obligation or appeal, etc pp).

provides specialised counselling in the digital sphere, which includes digital security, digital preservation of evidence and counselling on the general possibilities of law enforcement. The majority of traditional counselling centres unfortunately does not have this expertise yet, which however is highly demanded by victims. That is why those affected by digital violence and especially women who are highly affected by a very specific type of discrimination and harassment frequently do not receive the specific help they need. Even counselling centres that are specialized on violence against women in many cases lack the expertise in the digital field. For example, domestic violence is exerted more and more on digital devices as (ex-)partners use spyware on mobile phones to control the movement of the women. A counselling centre needs to have the expertise to detect this kind of spyware and to efficiently remove it from the phone. This is rarely the case.

IV. Recommendations for member states

Based on the above mentioned we urge for the following demands to ensure the protection of women affected by digital violence in the member states.

1. Acknowledging that digital violence against women is psychological violence

In order to comply with the Istanbul Convention member states should acknowledge digital violence against women as full-fledged psychological violence regardless of any special severity. This would not only enable legislators and judiciary to exploit all possibilities the law has to offer in order to protect and defend women against digital violence. It is also likely to strengthen the position of women in many respects by taking them seriously and encouraging them to seek emotional and legal support. We therefore pledge not only to subsume digital violence theoretically under psychological violence but also to name it explicitly in order to eliminate any doubts for those affected and legal practitioners. This way it is not only acknowledged that digital violence cannot be judged by the same law that was designed to deal with analog violence. Also downgrading or even rejecting complaints or abandoning cases due to lack of public interest would be much harder. Moreover, this is suitable to ensure damage claims as requested by the Istanbul Convention.

2. Creating nationwide consultation networks for women

Member states should ensure that there is a network of sufficient contact points where the women affected by digital violence can receive specialised counseling and advise on their legal options. Such counseling centres should be trained to provide emotional support in a crisis online, but also advice on technical and legal aspects concerning the digital space such as preservation of evidence and ensuring data security on the internet. Moreover, employees need to be trained in practicing counseling online or on the phone. Many of our clients do not want to reveal their identity at the beginning or even at all since they are seriously threatened and do not trust anybody to talk about the digital violence they have suffered. Therefore, offering online counselling or counselling by telephone often is the only way to reach those affected at all. Moreover, many clients are digital natives and are not interested in analog counseling at all. This requires specific skills such as listening to keywords to detect suicidality, asking the right questions in order to preserve legally secure evidence and gain all information necessary. With respect to women, it is necessary to install well trained contact persons who can respond to the needs of women who experience sexual harassment online and give advice to mitigate the spread of such content. Finally, these counseling centres need to have a contact person at the Social Media Platforms, which they can contact in severe cases 24/7 to take harmful content down quickly. This is necessary because in our experience, platforms still have many weaknesses concerning the deletion process of harmful content and all too often they do not delete content that

has clearly been reported as hate speech. Through a quick intervention by the verified counselling centres, victims can be supported in enforcing this right.

3. Raising awareness in public service and installation of contact persons for women

Public Service, which generally stands for law enforcement, authorities but also judiciaries, need to be educated about the scope of digital violence and advised about the systemic impact it has especially on women. This is necessary to make them understand that they are expected to break the habit of abandoning and rejecting cases and take in respect the full gravity of digital violence against women in their legal assessment. In our experience, authorities who have worked with NGOs specialized in that field and have been open to their expertise, have started to take the matter more seriously and have put more effort into solving cases. As it is clear that authorities in general lack digital expertise, we strongly recommend close collaboration between civil society and authorities. Secondly, from our experience it is necessary to install special contact persons for women in the law enforcement agencies who are sensitive towards their needs and whom women can open up to without being ashamed.

4. Creating low-threshold options to act against digital violence

Affected women are discouraged to act on digital violence in many respects. Therefore, it is necessary to lower the barriers for them to take action.

This needs to start with the Social Media platforms. They should be obliged to offer easily accessible and low-threshold notification procedures to their users, which is still not the case on every network (e.g. Facebook). It must then be mandatory to assess every notification in the first instance according to the law and not according to their private community standards. This way platforms cannot avoid being held liable for (wrong) content decisions by applying community standards and using them as an excuse not to follow national law. Platforms must also be cooperating when it comes to the preservation of evidence. Legally secure screenshots require that date and time of the post is always visible, which e.g. cannot be displayed when using the App of Facebook or requires a certain setting/placement of cursor.

But not only the platforms need to take action. Member states must also ensure that they do not create artificial barriers for women affected by digital violence. In many federal states in Germany there are no options to file complaints online. In those federal states which offer this service, files cannot be uploaded which means that victims have to print the screenshots separately and send them by mail. Often providing full name and an address is mandatory for no legal reason and there is no hint to the option to provide a c/o address or another alternative. Victims frequently withdraw when they have to state their home addresses as they fear rightly that perpetrators can ask for access to the files and find out these private data. All those hurdles keep the affected women from filing complaints. This is why law enforcement doesn't dispose of liable statistics and the number of unrecorded cases increases steadily.

We aim to contribute to the solution of this problem by providing those affected and also bystanders who are willing to act against digital hate crimes with an app, that we have developed in cooperation with the ministry of justice and a specialised cybercrime prosecution unit of Hesse¹³. It can be used on the smartphone and makes it very easy to report incidents of digital violence without providing an

¹³ It is called Meldehelden: <https://hateaid.org/meldehelden-app/>

address or even the full name. We connected the app to our counselling centre and use it to offer emotional support or consultation for those in need.

5. Enabling of law enforcement and litigation, creation of legal certainty

Effective measures against digital violence require an adequate legal framework that enables those affected to pursue the violation of their rights and further law enforcement to prosecute perpetrators. We need legally secure provisions to identify perpetrators. That way we would enable affected women to have a realistic risk assessment by creating legally secure requirements and procedures without disproportionate financial risks and unknown duration of proceedings. Since data vanishes quickly summary proceedings are crucial to the success of court proceedings.

Further, it is necessary to create specialized Cyber Crime Units or even specialized public prosecution offices that are able and equipped to investigate violent crimes against women on the internet and identify perpetrators. From the cooperation we already mentioned in Hesse, we know that they are working closely with IT forensics which is a key to their success since it enables efficient open resource research. Most of the cases would have been already abandoned in other public prosecutions because of the effort that takes. In a specialised unit knowledge is bundled and processes are more effectively managed which is a huge benefit in handling mass proceedings, which we are facing in the field of digital violence against women

6. Conducting studies and creation of statistics on digital violence against women

So far, we know very little about the gender perspective of digital violence. There are very few mostly quantitative studies taking it into account which hint to a massive scope and severe consequences on society. Crime statistics in Germany are usually not even focussing on digital violence at all let alone women as victims. Also, they are overall incomparable with one another since the federal states collect different data and work with different definitions (e.g. of hate crime). If anything, the category “victims of insults” is differentiating between men and women. We are not aware of any crime statistic that is examining the digital space more closely (except for the political motivation of perpetrators) let alone the characteristics of violence against women. This needs to change. To be able to understand the full extent of the gender perspective on digital violence we need more data from authorities as well as independent scientific institutes. Digital violence against women needs to be clearly defined and integrated as a category in crime statistics in all member states. That said, we consider it to be crucial that member states install frequent studies and surveys on digital violence against young girls and women to get an overview of the full scope of the problem. From our experience in consultation, we need to assume that the impact of gender and being female is significant. As described, women are subjected not only to a different quantity but also to a different quality and various manifestations of sexist and misogynist forms of digital violence. Creating scientific evidence of these circumstances is important to derive legislative needs and public awareness within society.

7. Holding online platforms liable

Last but not least, we want to point out the importance of the role of online platforms as they provide the space where most of the digital violence is carried out. The process of holding platforms liable is already in progress as the European Commissions’ draft of the digital services act¹⁴ is discussed in

¹⁴ We participated in the consultation procedure and developed demands for the Digital Services Act. We will also follow the progress closely. We can provide more material on this if it is of interest for this consultation as well.

Brussels and all over Europe. It is very important to acknowledge that those platforms are no longer small start-ups that need to be fostered as they were 20 years ago. Today they are huge global companies that define the standards of public debate. They are doing this with clear economic interests: agitated and emotional debates create more traffic and clicks than neutral and respectful exchange. Aggressive content is more likely to keep users engaged, hence it is preferred by algorithms and literally at the centre of attention on social media. In the end, digital violence is generating profit, it is about the money: in 2019 that meant 70,7 billion USD for Facebook only. This is clearly contradicting with the claim to make the internet a healthy and safe space for everyone.

Considering the impact and importance social media platforms have on public and private interaction and participation nowadays - and even elections, we are arguing that there is a need for regulation of the major platforms. Their business model poses a risk not only to women affected by digital violence but also to freedom of expression of women in general and other marginalized groups. As this in consequence poses a threat to a democratic and liberal society, which we consider at the heart of the European Union, we need to assess economic considerations under these circumstances. We are convinced that there is a need to regulate notification and deletion of illegal content, transparency and domestic accountability in relation to users.

From our point of view this should not only be applicable to the major social media platforms such as YouTube, Facebook, Twitter or Instagram but also to smaller platforms with a high risk of misuse. Porn platforms such as xHamster and Porn Hub need to be highlighted here as they make it particularly difficult for those affected by misuse of pictures or videos to protect themselves. Those platforms are mostly located in Cyprus and not regulated at all. Often, they don't even provide a contact person. Nonetheless many of them are deleting illegal content upon request quickly and voluntarily, but do not prevent that the material is uploaded again. For the women affected this is a disaster as this happens regularly by self-proclaimed slut expositors or because platforms mirror each other and share data. In the end the women affected have to search for their pictures proactively to see if they have reappeared on the same or another platform. This burden cannot be unloaded upon the victims anymore



HateAid gGmbH was initiated in 2018. We are the first organization in Germany to offer protection from digital violence to those affected and at the same time to support effective sanctioning of the perpetrators. Moreover, we create social awareness of the destructive effects of digital hatred on our democracy. HateAid's aim is to relieve the burden of the victims of attacks, enforce their rights, deter the perpetrators, and overall strengthen our democracy and society.

About the authors

Anna-Lena von Hodenberg, CEO

Anna-Lena von Hodenberg is a journalist who has worked in News Media for RTL and NDR. In 2015 she started working as a political campaigner at the NGO Campact where she was responsible for campaigns against right-wing populism and racism. She specialized in orchestrated hate campaigns on the internet and strategies of the extreme right.

In 2018 she conjointly founded with Compact e.V. and Fearless Democracy e.V. the organisation HateAid gGmbH which offers victims of digital violence emotional support as well as privacy and data security counsel and process financing in civil court cases. The organisation has 26 employees today and has counselled more than 500 clients. It works with several special prosecutions in Germany and other authorities. Von Hodenberg has been awarded the Digital Female Leader Award in 2020 and was voted one of 100 women of the year 2020 by the magazine Focus.

Josephine Ballon, Head of Legal:

After studying law and completing legal clerkship, Josephine Ballon has been working as a lawyer. Since November 2019 she has been supporting HateAid as Head of Legal.

During her legal clerkship, she already stood up against hatred and agitation as part of the No Hate Speech Movement. For example, she explained in workshops and a video series (“Are they allowed to do that?”) which criminal offenses are relevant regarding online hate speech and how to take legal actions against them.

In 2020, Ms. Ballon was twice invited as an expert to the Legal Committee of the German Bundestag and commented on the planned amendments to the Network Enforcement Act (NetzDG) and the draft law on combating right-wing extremism and hate crime.