

Sexist hate speech in the European and Italian legal framework

di

Fabiana Ciccarella*

SUMMARY: 1. The impact of sexist hate speech: exploring differentiations and legal perspectives. – 2. Sexist hate speech and freedom of speech in the European Convention on Human Rights (ECHR) – 3. Sexist hate speech: how is it addressed by the Council of Europe? – 3.1. Relevant elements of the Council of Europe’s Human Rights protection system against sexist hate speech – 3.2. Legal Tools *ad hoc* for women’s human rights in Europe – 4. Sexist and/or misogynist hate speech: the *Italian case* – 5. Final remarks

1. The impact of sexist hate speech: exploring differentiations and legal perspectives

Hate speech poses a significant threat to the functioning of democratic societies, undermining fundamental values such as respect and solidarity. Defined as intentional speech that targets individuals or groups based on prohibited criteria such as race, ethnicity, gender, disability, sexual orientation, religion, or others, it has become a pervasive issue in our society.

While sexist hate speech has long been directed at women, it was not always recognized as a distinct form of communication with legal implications. Such remarks were often considered typical ways of relating to women, leading to the normalization of sexist expressions and jokes¹.

* PhD student, Oxford Brookes University.

¹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

However, it is crucial to differentiate between sexist hate speech and other derogatory statements aimed at women that, although offensive and oppressive, may not meet the criteria for hate speech.

Louise Richardson-Self proposes a distinction between "sexist speech," which is not necessarily hateful, and "misogynist speech," which indeed qualifies as hate speech². Although both types negatively target women based on their gender, they impact women in different ways³.

Richardson-Self, drawing upon Iris Marion Young's concept of five faces of oppression⁴, highlights how sexist rhetoric can be oppressive to women through marginalization. For instance, referring to an adult woman as a "girl" may be seen as oppressive speech but not violent enough to qualify as hate speech⁵. In contrast, misogynist speech exhibits the characteristics of hate speech: it is violent, hostile, coercive, and necessitates special measures, including legal repercussions⁶.

According to Richardson-Self, misogynistic discourse embodies all the hallmarks of hate speech. It targets an historically oppressed group, exhibits aggression and hostility, and degrades, stigmatizes, defames, and denigrates its targets⁷. While the term "misogyny" is recognized in legal discourse, it is not widely used in international human rights legislation, unlike the term "sexism⁸". Hence, "sexist

² Richardson-Self, L. 2018. Woman-Hating: On Misogyny, Sexism, and Hate Speech. *Hypatia* 33: 256–272.

³ Richardson-Self, L. 2018. Woman-Hating: On Misogyny, Sexism, and Hate Speech. *Hypatia* 33: 256–272.

⁴ I. M. Young. 2011. *Justice and Politics of Difference*, Princeton: Princeton University Press. (rev. ed.).

⁵ Richardson-Self, L. 2018. Woman-Hating: On Misogyny, Sexism, and Hate Speech. *Hypatia* 33: 256–272.

⁶ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁷ Richardson-Self, L. 2018. Woman-Hating: On Misogyny, Sexism, and Hate Speech. *Hypatia* 33: p.267

⁸ Barker, K., and O. Jurasz. 2018. *Online Misogyny as Hate Crime: A Challenge for Legal Regulation?* London: Routledge.

hate speech" is employed to encompass what Richardson-Self refers to as "misogynist speech".

Internationally, various pronouncements by international bodies employ different terms to address this phenomenon, such as "sexist hate speech⁹," "hate speech on the basis of sex or gender¹⁰", "hate speech against women¹¹", and "gendered hate speech¹²". Emphasizing the term "gender" is more inclusive as it covers a broader range of individuals affected by hate speech based on their gender¹³.

Distinguishing between sexist speech, which is primarily oppressive, and sexist hate speech is challenging as the boundaries often overlap. Context plays a crucial role in interpreting statements or expressions. However, when addressing hate speech against women through human rights instruments, these distinctions must be considered¹⁴. It is also important to differentiate between hate speech targeting women and racial hate speech, as the former requires more nuanced analysis¹⁵. Categorizing all sexist remarks as "hate speech" risks misinterpretation and trivialization of the issue¹⁶.

This investigation aims to explore the recognition of these distinctions within the European Convention on Human Rights and the Council of Europe's human rights protection system. Additionally, it will examine how Italian law regulates misogynistic hate speech both online and offline.

⁹ Council of Europe Gender Equality Strategy. 2016. Combating Sexist Hate Speech

¹⁰ Gender and sex are often added to other grounds included in the definition of the offence in national legislations; see S. De Vido and L. Sosa, *Criminalisation of Gender-Based Violence Against Women in European States, Including ICT-Facilitated Violence*, European Equality Law Network, forthcoming.

¹¹ European Parliament. 2018. *Cyber Violence and Hate Speech Online Against Women*, Policy Department for Citizens' Rights and Constitutional Affairs; Directorate General for Internal Policies of the Union.

¹² United Nations General Assembly. 2021. *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Irene Khan.

¹³ Council of Europe. 2011. *Convention on preventing and combating violence against women and domestic violence*, art. 3c, <https://rm.coe.int/168008482e>.

¹⁴ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). *Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe*. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

¹⁵ *Ibidem*

¹⁶ *Ibidem*

By delving into these matters, we strive to shed light on the complexities surrounding hate speech against women and its legal implications, fostering a better understanding and addressing the issue effectively.

1. Sexist hate speech and freedom of speech in the European Convention on Human Rights (ECHR)

Several hate speech cases have been brought before the European Court of Human Rights (ECHR), attacking national jurisprudence and claiming violation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) (ECHR)¹⁷.

The European Convention on Human Rights (ECHR) protects the right to freedom of expression under Article 10. However, this right is not absolute and can be subject to certain restrictions as outlined in Article 10(2) of the Convention. The European Court of Human Rights (ECtHR) has played a crucial role in defining the boundaries of freedom of expression in relation to hate speech cases.

While the ECHR does not explicitly prohibit incitement to hatred, the ECtHR has established that opinions with discriminatory purposes and hate messages are contrary to the principles and values affirmed in Article 10 of the Convention. The Court has consistently balanced freedom of expression with other rights guaranteed by the ECHR, recognizing that freedom of expression cannot be used to violate the dignity and rights of others¹⁸.

In cases involving hate speech, the ECtHR has applied a proportionality test, evaluating whether the restrictions on freedom of expression are necessary in a democratic society and whether they exceed certain limits, including the reputation

¹⁷ Belavusau, U. (2017). *Hate Speech*. [online] Social Science Research Network. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3022531

¹⁸ KOEN LEMMENS, *Hate Speech in the case law of the European Court of Human Rights - Good Intentions make Bad Law*, In *FREEDOM OF SPEECH UNDER ATTACK*, at 142, (dited by, Afshin Ellian, Gelijn Molier, Eleven International Publishing) (2015).

and rights of others¹⁹. The Court has emphasised that states have an obligation to penalise and prevent the dissemination of expressions that incite or promote hatred based on intolerance, provided that such restrictions are proportionate to the aim pursued²⁰.

While the ECtHR has not explicitly defined hate speech, it has associated it with "all forms of expression that spread, incite, promote, or justify hatred based on intolerance." This broad interpretation leaves room for the Court to potentially expand the definition to include sexist hate speech, similar to its stance on homophobic and racist hate speech. The ECtHR's reasoning emphasises the harm caused by spreading hate against specific groups, which can be applicable to women exposed to sexist hate speech²¹.

It is worth noting that the ECtHR's jurisprudence has influenced the understanding and definition of hate speech. Although the ECtHR has not explicitly developed its jurisprudence on sexist hate speech, its approach to other forms of hate speech suggests that it could adopt a similar stance if faced with a case concerning sexist hate speech²².

Overall, while countering hate speech may appear to conflict with freedom of expression, the ECtHR has established that restrictions on hate speech are permissible to protect the reputation and rights of others²³. The Court's vagueness in defining hate speech allows for a broad interpretation, which leaves room for

¹⁹Belavusau, U. (2017). *Hate Speech*. Social Science Research Network. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3022531

²⁰ ECtHR, *Lingens v Austria* (1986)

ECtHR, *Mamère v. France* (2006).

²¹ S. BARTOLE, P. DE SENA, V. ZAGREBELSKY, *Commentario breve alla Convenzione europea dei diritti dell'uomo*, Padova, 2012, p. 397 ss.; P. DE SENA, M. CASTELLANETA, *La libertà di espressione e le norme internazionali, ed europee, prese sul serio: sempre su CasaPound c. Facebook in SidiBlog*, reperibile online; R. SAPIENZA, *Libertà di espressione e limiti convenzionali: il difficile bilanciamento*, in A. DI STASI (a cura di), *Cedu e ordinamento italiano*, Milano, 2020, p. 767 ss.; W.A. SCHABAS, *The European Convention on Human Right*, Oxford, 2015, p. 444 ss.

²² ECHR, *Erbakan v. Turkey*, App. n. 59405/00, 6 July 2006, par. 56.

²³ ECtHR, *Lingens v Austria* (1986)

potential expansion to include sexist hate speech based on the harm effect and consequences associated with spreading hate against specific groups²⁴.

The digital evolution has had a significant impact on the proliferation of hatred, particularly online. The increased use of social networks and the internet has led to a rise in cases related to hateful comments posted on these platforms. This has also raised important questions about the liability of platform operators in dealing with such content.

Since 2015, in fact, cases relating to comments that appeared on social networks²⁵ and, in general, on the internet²⁶ have increased. These cases have also raised the sensitive issue of the liability of platform operators²⁷.

In the *Delfi AS v. Estonia* case in 2015, the Grand Chamber of the European Court of Human Rights held that a web portal operator's conviction for defamation due to the dissemination of offensive and hateful comments on its platform did not violate Article 10 of the ECHR²⁸. The Court determined that the operator had not taken any steps to remove comments that endangered the rights and physical integrity of others. The exercise of freedom of thought, including by internet platform operators, carries duties and responsibilities²⁹.

Another relevant case is the 2021 *Sanchez v. France* judgment, where the Court confirmed the compatibility of financial penalties against individuals who fail to promptly delete hate comments posted by others on their Facebook walls with Article 10 of the ECHR³⁰.

²⁴ *Le Pen v. France* (2012, 6–7).

²⁵ P. FALLETTA, *Controlli e responsabilità dei social network sui discorsi d'odio online*, in *MediaLaws*, 2020, n. 1, p. 146 ss.

²⁶ C. MURPHY, *Works in Progress: New Technologies and the European Court of Human Rights*, in *Human Rights Law Review*, 2010, p. 601 ss.

²⁷ The issue of the liability of platform operators is extremely topical and relevant and is at the heart of the European Union's *Digital Services Act*; however, it can only be marginally addressed in this writing.

²⁸ ECHR, *Delfi AS v. Estonia* (GC), App. n. 64569/09, 16 June 2015.

R. NIGRO, *La responsabilità degli Internet service providers e la Convenzione europea dei diritti umani: il caso Delfi AS*, in *Diritti umani e diritto internazionale*, 2015, p. 681 ss.

²⁹ C. Morini, *Libertà di espressione e tutela della dignità delle giornaliste: il contrasto all'online sexist hate speech nello spazio digitale europeo*, *la Rivista giuridica di classe A. Freedom, Security & Justice: European Legal Studies*, 2022 n.3. Available at: <http://www.fsjeurostudies.eu>

³⁰ ECHR, *Sanchez v. France*, App. n. 45581/15, 2 September 2021.

While the topic of online hate speech is vast and complex, it is clear from the jurisprudence of the European Court of Human Rights that there is a recognition of the conflict between hate speech and the fundamental values of the Convention. National legislative measures to combat such conduct are not considered to conflict with Article 10 of the ECHR as long as they are proportionate to the aim pursued.

The Court has examined applications related to racist, sexist, and xenophobic statements based on Article 10 of the ECHR. These cases involve an assessment of the merits and a balancing exercise, considering the arguments for and against the prohibition or punishment of specific expressions. The Court's judgments often refer not only to the dignity of individuals but also to their safety and security³¹.

However, it is worth noting that while the Court directly links expressions of racism, sexism, and xenophobia to violence against targeted individuals, it does not explicitly examine similar potential links in cases of misogynistic hate speech. This may raise questions about the consistency of the Court's approach.

Despite the potential conflict with freedom of expression, the European Court of Human Rights has established that freedom of expression can be subject to restrictions, including to protect the reputation or rights of others³². The Court considers expressions that constitute hate speech as not protected by the ECHR, allowing states to sanction such forms of speech³³. The Court's vagueness in defining hate speech, associating it with expressions that spread, incite, promote, or justify hatred based on intolerance, suggests a broad interpretation³⁴.

Based on the Court's reasoning and its influence on the Council of Europe's definition, there is a hypothesis that the Court could similarly expand the

³¹ *Le Pen v. France*, App. no. 187788/09 (ECHR, 20 April 2010), para. 1.

Vejdeland and Others v. Sweden, App. no. 1813/07 (ECHR, 9 February 2012), para. 55.

³² T. MCGONAGLE, *The Council of Europe against Online Hate Speech*, cit., p. 8.

³³ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

³⁴ *Ibidem*

definition of hate speech to include sexist hate speech³⁵. The Court's emphasis on the harm effect and the consequences of spreading hate against specific groups supports the argument that this reasoning could apply to women exposed to sexist hate speech as well³⁶.

2. Sexist hate speech: how is it addressed by the Council of Europe?

Based on the analysis conducted thus far, it becomes evident that the right to freedom of expression is intricately intertwined with the phenomenon of hate speech, raising a question of its inherent boundaries. Consequently, as we have seen by analysing the discipline of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights, what makes the phenomenon of hate speech particularly complex is the absence of a unanimously agreed legal definition of hate speech³⁷.

This problem has raised the need to indicate the limits of freedom of expression in the modern world of multinational, multicultural and multireligious societies. In this world, the exercise of freedom of expression by some may violate the dignity, freedom of thought, conscience and religion of others, or constitute a violation of the prohibition of discrimination³⁸. However, no legally binding definition of hate speech has yet been incorporated in any human rights treaty, and such a definition faces major challenges³⁹.

³⁵ Vejdeland and others v Sweden, par.55 2012. Alkiviadou, N. 2018. The Legal Regulation of Hate Speech: The International and European Frameworks. *Croatian Political Science Review* 55: 203–229.

³⁶ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

³⁷ *Ibidem*

³⁸ The academic literature abounds on the subject.

Hare, I., and J. Weinstein, eds. 2009. *Extreme Speech and Democracy*. Oxford: Oxford UP. A. Cortese. 2006. *Opposing Hate Speech*, Westport. Coliver, S., ed. 1992. *Striking a Balance: Hate Speech*. London: Freedom of Expression and Non-Discrimination. A. Weber. 2009. Manual on Hate Speech, Strasbourg. Bleich, E. 2011. The Rise of Hate Speech and Hate Crime Laws in Liberal Democracies. *Journal of Ethnic and Migration Studies* 37(6): 917–934.

³⁹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the

Hate speech provokes much controversy, especially among those who fear the over-expansion of new concepts and areas of protection for vulnerable groups⁴⁰. Although, as we have observed, according to established ECHR jurisprudence, such restrictions should only be applied in strictly limited situations.

The greatest convergence of the different dimensions of hate speech can be found in the legislation of Council of Europe member states, whereby it was possible to formulate in the Recommendation of the Committee of Ministers of the Council of Europe, R 97 (20) a definition that recognises hate speech as:

*All forms of expression that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and persons of immigrant origin*⁴¹.

This definition of hate speech certainly does not correspond to today's reality. Having been formulated in a different era than the one we are living in today, the recommendation is outdated and does not refer to the groups that are increasingly victims of hate speech today⁴². In the time since the recommendation was adopted, the social and legal approach to gender discrimination has evolved significantly, recognising the global dimension of the phenomenon and the urgent need to combat gender discrimination⁴³. At the same time, there is a parallel trend to repress women's rights that goes hand in hand with a more general paradox, namely that increasingly the whole concept of human rights is being captured by

Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁴⁰ *Ibidem*

⁴¹ Council of Europe. 1997. Recommendation No. R (97) 20 of the Committee of Ministers to member states on "hate speech".

⁴² According to the findings of the survey published in May 2020 by the EU Fundamental Rights Agency, the phenomenon of anti-LGBTQ + hate speech is growing significantly. European Union Agency for Fundamental Rights. 2020. A long way to go for LGBTI equality. <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

⁴³ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

populist forces⁴⁴. This includes the populists' claim that the groups they discriminate against strive to discriminate against the majority, constantly demanding new rights and freedoms, including protection from hate speech⁴⁵. In this context, the phenomenon of the Internet and the online sphere in general as a 'battleground' for freedom of speech should also be mentioned. The online world has become a space where anything can be expressed and the power of this expression surpasses all other forms of communication that have ever existed in the history of the world⁴⁶.

Moreover, when reflecting on the nature, scope and difficulties of legal definition associated with the category of hate speech, the effects it causes should be emphasised⁴⁷. It is obvious that offensive words do not only have an offensive or degrading character towards the individuals they are directed at. They resonate with the entire group, contributing to its further marginalisation and exclusion. The example of sexist hate speech fits perfectly into this pattern.

In order to achieve the objective of this article, it will be necessary to examine the Council of Europe's attitude towards the phenomenon of sexist hate speech

The Council of Europe, through its human rights protection system, has addressed the issue of sexist hate speech, although it has received less attention compared to other forms of hate speech. The Council of Europe's human rights protection system comprises binding international treaties, such as the European Convention on Human Rights (ECHR), and the European Court of Human Rights, which is the

⁴⁴For a more in-depth discussion, see Müller, W. 2016. *What is Populism?* Philadelphia: University of Pennsylvania Press.

⁴⁵ For more, see Alston, P. 2017. The Populist Challenge to Human Rights. *Journal of Human Rights Practice* 9(1): 1–15.

⁴⁶ Ging, D., and E. Siapera, eds. 2019. *Gender Hate Online*. Cham: Springer International Publishing. Citron, D.K. 2014. *Hate Crimes in Cyberspace*. Cambridge: Harvard University Press. M. C. Nussbaum. 2011. Objectification and Internet Misogyny. In *The Offensive Internet: Speech, Privacy and Reputation*, Cambridge, Harvard University Press, pp. 68–88.

⁴⁷ Tontodimamma, A., E. Nissi, A. Sarra, and L. Fontanella. 2021. Thirty Years of Research Into Hate Speech: Topics of Interest and Their Evolution. *Scientometrics* 126: 157–179.

primary judicial body for human rights protection in Europe⁴⁸. Additionally, there are several bodies within the Council of Europe that implement soft law.

The Council of Europe has been actively involved in promoting gender equality and has played a significant role in the development of norms and concepts related to gender mainstreaming. This approach recognizes the importance of integrating a gender perspective into all areas of policy and decision-making to achieve gender equality.

The Council of Europe's stance on free speech allows for limitations in certain situations, including when it comes to racist hate speech. In the past two decades, the Council of Europe has also recognized and addressed homophobic hate speech, as confirmed by the European Court of Human Rights⁴⁹. However, the issue of sexist hate speech has received less direct attention within the Council of Europe's human rights protection system.

While the Council of Europe has not explicitly developed its jurisprudence on sexist hate speech, it has influenced the definition of hate speech by stating that homophobic speech should be treated similarly to racist hate speech. This suggests that there is a potential for the Council of Europe to expand the definition of hate speech to include sexist hate speech as well. The Council of Europe's approach to gender equality and its recognition of the global dimension of gender discrimination indicate a broader understanding of the issue.

It is important to note that the Council of Europe's legal definition of hate speech, formulated in Recommendation R 97 (20), does not fully correspond to the reality of today. The recommendation was formulated in a different era and does not explicitly refer to the groups that are increasingly targeted by hate speech today. The emergence of the internet and the online sphere as a battleground for freedom of speech is also mentioned, highlighting the challenges posed by online hate speech.

⁴⁸ D. Cangemi. 2020. Combating Sexist Hate Speech: The Work of the Council of Europe. In *Language, Gender and Hate Speech: A Multidisciplinary Approach*, G. Giusti and G. Iannàcaro, Eds.

⁴⁹ *Beizaras and Levickas v. Lithuania*, 2020.

In conclusion, while the Council of Europe has addressed sexist hate speech to a lesser extent compared to other forms of hate speech, its commitment to gender equality and its influence on defining hate speech provide a basis for the potential expansion of the definition to include sexist hate speech. The evolving nature of the issue and the need to combat gender discrimination globally indicate the importance of addressing sexist hate speech within the Council of Europe's human rights protection system.

3.1. Relevant elements of the Council of Europe's human rights protection system against sexist hate speech

As we have observed, the initial definition of hate speech within the Council of Europe system was endorsed by the Committee of Ministers of the Council of Europe in 1997. This definition encompasses expressions that propagate, incite, promote, or justify hatred based on intolerance, including towards minors and migrants⁵⁰

However, it does not encompass sexist hate speech. Additionally, an explanatory memorandum was adopted alongside the recommendation, clarifying that the exclusion of gender from the grounds was deemed “necessary to maintain the focus of the text⁵¹”.

The memorandum also highlights that gender-based intolerance was addressed in the 1984 Council of Europe recommendation on gender equality in the media ⁵².

However, since this 1984 recommendation does not specifically address hate speech, it cannot be considered a text directly tackling sexist hate speech⁵³.

⁵⁰ Council of Europe. 1997. Recommendation No. R (97) 20 of the Committee of Ministers to member States on “hate speech”.

⁵¹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁵² Council of Europe Committee of Ministers. 1997. Recommendation on equality between women and men in the media.

⁵³ The closest it comes to hate speech is in the recommendation to stimulate “evaluation by national research of the impact and influence of entertainment programmes where sex stereotyping and prejudices are concerned”.

Nevertheless, the Council of Europe's Commissioner for Human Rights asserts that the list provided in the 1997 definition should be regarded as open and should encompass other categories, such as women and girls⁵⁴.

Although the Committee of Ministers of the Council of Europe has not recommended or presented a definition of sexist hate speech or hate speech that explicitly includes sex and gender as grounds, the term has been utilized in various recommendations and their accompanying documents⁵⁵.

Although the Committee of Ministers of the Council of Europe has not recommended or presented a definition of sexist hate speech or hate speech that explicitly includes sex and gender as grounds, the term has been utilized in various recommendations and their accompanying documents.

The term "hate speech" is used without a precise definition in the 2011 Council Recommendation on a new media concept. However, the recommendation emphasizes the need to address misogynistic and sexist prejudices, which implies an acknowledgment of sexist hate speech⁵⁶.

The 2015 guide to the 2013 Council of Europe Recommendation on Gender Equality and Media states that "hate speech against women" on the Internet largely goes unpunished⁵⁷. Furthermore, the Annex to the 2019 Council of Europe Recommendation on Preventing and Combating Sexism explicitly deals with sexist hate speech in various instances⁵⁸.

⁵⁴ Council of Europe Gender Equality Unit. 2016. Background Note on Sexist Hate Speech p.4

⁵⁵ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁵⁶ Council of Europe. 2011. Recommendation CM/Rec(2011)7 on a new notion of media, par.91.

⁵⁷ Council of Europe Gender Equality Commission. 2013. Handbook on the implementation of Recommendation CM/Rec(2013)1 of the Committee of Ministers to member States on gender equality and media p.28.

⁵⁸ Council of Europe Committee of Ministers. 2019. Appendix to Recommendation CM/Rec(2019)1. Guidelines for Preventing and Combating Sexism: Measures of Implementation.

Aligned with the Council of Europe's Gender Equality Strategy for 2014-2017, combating sexism as a form of hate speech is a key focus in their efforts to counter gender stereotypes and sexism⁵⁹.

Aligned with the Council of Europe's Gender Equality Strategy for 2014-2017, combating sexism as a form of hate speech is a key focus in their efforts to counter gender stereotypes and sexism.

However, it should be noted that not all instances of sexism can be classified as hate speech. The Council of Europe's formulation indicates that there is not always a consensus at the political level regarding this matter.

On the other hand, the Council of Europe's Internet Governance Strategy 2016-2019 addresses the prevention and handling of online hate speech, with a specific emphasis on the protection of women from online abuse, including cyber-stalking, sexism, and threats of sexual violence.

Several resolutions from the Council of Europe's Parliamentary Assembly explicitly mention sexually motivated hate speech. These resolutions urge member states to combat "racist and sexist hate speech" and promote collaboration between the public and private sectors to address sexually motivated hate speech. In a 2017 resolution, the Council of Europe Parliamentary Assembly emphasizes that hate speech is not limited to racism and xenophobia but can also manifest as sexism.

In summary, while the Council of Europe recognizes the existence of sexually motivated hate speech and highlights the importance of addressing it, there may be varying perspectives and levels of acceptance within the political realm.

However, it should be noted that not all instances of sexism can be classified as hate speech. The Council of Europe's formulation indicates that there is not always a consensus at the political level regarding this matter⁶⁰.

⁵⁹ Council of Europe Gender Equality Strategy. 2016. Combating Sexist Hate Speech.

⁶⁰ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

On the other hand, the Council of Europe's Internet Governance Strategy 2016-2019 addresses the prevention and handling of online hate speech, with a specific emphasis on the protection of women from online abuse, including cyber-stalking, sexism, and threats of sexual violence⁶¹.

Several resolutions from the Council of Europe's Parliamentary Assembly explicitly mention sexually motivated hate speech. These resolutions urge member states to combat "racist and sexist hate speech"⁶² and promote collaboration between the public and private sectors to address sexually motivated hate speech⁶³. In a 2017 resolution, the Council of Europe Parliamentary Assembly emphasizes that hate speech is not limited to racism and xenophobia but can also manifest as sexism⁶⁴.

In summary, while the Council of Europe recognizes the existence of sexually motivated hate speech and highlights the importance of addressing it, there may be varying perspectives and levels of acceptance within the political realm.

The 2019 Council of Europe Recommendation on Preventing and Combating Sexism marks the first attempt to provide a legal definition of sexism. Although the recommendation includes a section on hate speech and acknowledges that racist hate speech is widely recognized as violating European and international human rights standards, it does not explicitly address sexist hate speech. Interestingly, the document mentions "sexist or misogynist hate speech"⁶⁵ without providing further clarification or distinction between the two terms. While "sexism" is the more commonly used term throughout the recommendation, "misogyny" appears only twice, once in the context of hate speech. This could suggest that the recognition of the difference between the two terms is primarily associated with hate speech.

⁶¹ Council of Europe. 2016. Internet Governance Strategy for 2016–2019 (CM(2016)10) para 8(b),10(d).

⁶² Council of Europe. 2016. Internet Governance Strategy for 2016–2019 (CM(2016)10) para 8(b),10(d).

⁶³ Council of Europe Parliamentary Assembly. 2019. Resolution 2314, Media Education in the New Media Environment, para. 14.1.

See also, Council of Europe Parliamentary Assembly. 2019. Resolution 2290, Towards an ambitious Council of Europe agenda for gender equality, para. 16.1.1.

⁶⁴ Council of Europe Parliamentary Assembly. 2017. Resolution 2144, para. 2

⁶⁵ Council of Europe Committee of Ministers. 2019. Appendix to Recommendation CM/Rec(2019)1. Guidelines for Preventing and Combating Sexism: Measures of Implementation, 1(a), 2(b).

Meanwhile, various other Council of Europe committees have developed definitions of hate speech, including those specifically addressing sexist hate speech.

The European Commission against Racism and Intolerance (ECRI), an independent human rights monitoring agency of the Council of Europe, has been actively involved in combating hate speech, focusing on anti-Semitism, discrimination, racism, religious intolerance, and xenophobia⁶⁶. ECRI's General Policy Recommendation No. 15 on combating hate speech includes gender as a non-exhaustive personal trait in its definition⁶⁷.

Moreover, the recommendation's preamble acknowledges the "specific problem and gravity of hate speech targeting women because of their sex, gender, and/or gender identity."

Additionally, the 2016 Council of Europe Factsheet on Combating Sexist Hate Speech proposes the following definition of sexist hate speech: it is a form of sexism that encompasses assumptions, beliefs, assertions, gestures, or acts intended to express contempt for a person based on their sex or gender or to consider them inferior or primarily defined by their sexual dimension⁶⁸.

Therefore, when it comes to the Council of Europe's discussions on violence and discrimination against women, the term 'sexist hate speech' is more commonly used, but it takes a backseat when addressing hate speech more broadly⁶⁹. There seems to be a greater awareness of the phenomenon when specifically addressing women, compared to the general discourse on hate speech.

⁶⁶ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁶⁷ Council of Europe European Commission against Racism and Intolerance. 2015. General Policy Recommendation No. 15 on Combating Hate Speech, Explanatory Memorandum, B. para. 9

⁶⁸ Council of Europe Gender Equality Strategy. 2016. Combating Sexist Hate Speech, p.1

⁶⁹ Council of Europe Parliamentary Assembly. 2019. Resolution 2314, Media Education in the New Media Environment, para. 14.1

The Council of Europe has frequently addressed the issue of hate speech, including its presence in online spaces⁷⁰. For instance, the 2013 Council of Europe Recommendations on Gender Equality and Media provide suggestions concerning sexist hate speech without explicitly defining it as such⁷¹. Member states are encouraged to establish appropriate legal frameworks to prohibit hate speech and gender-based violence in the media⁷². Although online violence is not explicitly mentioned in the 2013 Recommendation, the 2015 implementation manual highlights the increasing problem of online harassment and 'hate speech against women.' It emphasizes that such hate speech often goes unpunished, necessitating special attention due to the lack of regulatory procedures⁷³. To tackle this issue, the 2013 Recommendation suggests the creation of an online platform for reporting sexist content and speech in both news and everyday life⁷⁴.

In a 2019 resolution, the Council of Europe Parliamentary Assembly called for Internet intermediaries to actively collaborate with public, social, and private institutions in combating sexist hate speech⁷⁵.

The Council of Europe's Committee of Ministers has endorsed a recommendation outlining the duties and responsibilities of Internet intermediaries⁷⁶, emphasizing their crucial role. The second part of the recommendation's appendix delineates the responsibilities of Internet intermediaries regarding human rights and fundamental freedoms, which include transparency, accountability, content moderation, use of

⁷⁰ Council of Europe. 2011. Recommendation CM/Rec(2011)7 on a new notion of media, para 91.

⁷¹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁷² Council of Europe Gender Equality Commission. 2013. Handbook on the implementation of Recommendation CM/Rec(2013)1 of the Committee of Ministers to member States on gender equality and media.

⁷³ Council of Europe Gender Equality Commission. 2013. Handbook on the implementation of Recommendation CM/Rec(2013)1 of the Committee of Ministers to member States on gender equality and media, p.28

⁷⁴ *Ibidem*, p.29

⁷⁵ Council of Europe Parliamentary Assembly. 2019. Resolution 2314, Media Education in the New Media Environment., para 14.1.

⁷⁶ Council of Europe. 2018. Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries

personal data, and access to effective remedies⁷⁷. However, the recommendations do not explicitly mention hate speech or sexist hate speech.

Furthermore, the case law of the European Court of Human Rights demonstrates that companies operating Internet platforms can be held liable for user-generated hate speech on their platforms⁷⁸. This highlights the involvement of private entities in safeguarding against hate speech under certain circumstances. However, as the European Court of Human Rights has not yet ruled on cases specifically addressing sexist hate speech, the verification of liability in relation to such statements is yet to be established.

3.2. Legal tools *ad hoc* for women's human rights in Europe

The Council of Europe Convention on Preventing and addressing Violence Against Women and Domestic Violence (Istanbul Convention), known as the 'gold standard' for addressing violence against women and girls, neither explicitly nor in its explanatory report⁷⁹. The Ad Hoc Committee to Prevent and Combat Violence Against Women and Domestic Violence (CAHVIO), the Istanbul Convention's drafting committee, also makes no mention of this topic⁸⁰. Nonetheless, we can see that the Istanbul Convention already addresses the issue in its definition of violence against women, which is as follows:

"A violation of human rights and a form of discrimination against women; means all acts of gender-based violence that cause, or are likely to cause, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."

This definition implies that for an act to be considered violence against women, there must be an element of actual or potential harm or suffering. In the case of

⁷⁷ *Ibidem*

⁷⁸ *Delfi AS v. Estonia* ECtHR, 2015.

⁷⁹ Council of Europe. 2011. Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.

⁸⁰ Council of Europe. 2021. Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence. <https://www.coe.int/en/web/istanbul-convention/cahvio>.

sexist hate speech, the fundamental issue is the psychological harm or suffering it can cause⁸¹. We believe that this distinction sets apart sexist discourse from sexist hate speech⁸². Sexist speech becomes sexist hate speech and, consequently, a form of violence against women when it inflicts or is likely to inflict pain or suffering⁸³.

The Istanbul Convention, inspired by Article 5 of CEDAW, obliges states to eliminate prejudices, customs, traditions, and all other practices based on the assumption of women's inferiority or stereotypical gender roles⁸⁴. Therefore, we argue that Article 12 of the Istanbul Convention requires states to address both sexist speech, which may not be hateful but perpetuates prejudices and stereotypes about women, as well as combat sexist hate speech, which constitutes violence against women and can trigger other forms of violence. Article 12 establishes obligations that are further detailed in Chapter III of the Istanbul Convention.

Article 17 of the Istanbul Convention is particularly relevant in combating sexist and sexist hate speech as it encourages States Parties to involve the media and ICT sectors actively in the fight against violence against women⁸⁵. The Istanbul Convention's monitoring body, the Group of Experts on Action Against Violence Against Women and Domestic Violence (GREVIO), emphasizes the importance of urging national media to adhere to the Convention and its self-regulatory standards that prohibit the dissemination of content that fuels hate speech and/or sexist speech against women. This extract from GREVIO's practice distinguishes between sexist speech and sexist hate speech⁸⁶.

⁸¹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁸² Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁸³ *Ibidem*

⁸⁴ Art.12 Istanbul Convention

⁸⁵ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁸⁶ Council of Europe GREVIO. 2020. Baseline Evaluation Report Andorra, par. 88.

Articles 33-40 of the Istanbul Convention require state parties to criminalize certain forms of violence against women. Two of these provisions, Article 34 (stalking) and Article 40 (sexual harassment), are considered particularly relevant in combating sexist hate speech⁸⁷. Sexist hate speech falls within the scope of stalking when it involves repeated threatening behavior towards an identified person, creating a sense of fear in that person⁸⁸. Sexual harassment, on the other hand, encompasses one-time behavior of a sexual nature, including verbal conduct such as jokes, questions, and remarks communicated orally or in writing⁸⁹. States parties are obligated to address and prevent such behavior, and while criminal consequences are preferable, alternative legal measures like civil or labor legislation can also be employed⁹⁰.

It can be argued that not all instances of sexist hate speech fit within the categories of stalking or sexual harassment. For instance, it could involve a one-time non-sexual sexist remark, such as expressing hatred or issuing threats based on someone's gender⁹¹. Additionally, sexist hate speech often occurs in more public settings compared to stalking and sexual harassment, which typically take place in private domains. Article 33, which requires states parties to criminalize psychological violence defined as behavior that significantly threatens a person's psychological well-being through pressure or threats, could potentially address this gap. However, as the editors clarify, this provision pertains to ongoing behavior rather than a specific incident⁹².

⁸⁷ Council of Europe Gender Equality Strategy. 2016. Combating Sexist Hate Speech, p.9

⁸⁸ Council of Europe. 2011. Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, para. 182

⁸⁹ *Ibidem*, para. 208

⁹⁰ *Ibidem*, para. 207

⁹¹ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁹² Council of Europe. 2011. Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, para. 181

It is evident, therefore, that this paragraph refers to types of conduct beyond episodic acts of incitement to sexist hatred, which are covered by the concept of "psychological harm." Consequently, there are no explicit provisions in the Istanbul Convention mandating states parties to criminalize all forms of sexist hate speech or impose specific penalties, such as administrative sanctions⁹³. However, the Istanbul Convention provides crucial guidelines for international human rights bodies, including the European Court of Human Rights (ECHR), in addressing violence against women⁹⁴. As a result, it is apparent that the Istanbul Convention can be utilized as an interpretive tool to incorporate the gender dimension of hate speech into the broader human rights framework.

4. Sexist and/or misogynist hate speech: *the Italian case*

In Italy, despite being a member of the Council of Europe, there are currently no specific standards or regulations in place to address and combat sexist and/or misogynist hate speech, whether online or offline. The country has not implemented binding regulations aimed at restricting the dissemination of such hate speech in Italian law.

However, there have been attempts to address the issue through proposed bills in the Parliament. Among these bills, two notable ones are worth mentioning⁹⁵. The first is project A.S. n.1455, with the Hon. Fedeli as the first signatory, titled "Measures to counter the phenomenon of incitement to hatred on the web." This bill was presented on November 18, 2019. The second is project A.C. n.2936, with the Hon. Boldrini as the first signatory, titled "Measures to prevent and counter the

⁹³ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

⁹⁴ Vido, S.D. 2020. "The Istanbul Convention as an Interpretative Tool at the European and National Levels. In *International Law and Violence Against Women: Europe and the Istanbul Convention*, ed. J. Niemi, L. Peroni, and V. Stoyanova. London: Routledge.

⁹⁵ Brambilla, M., D'Amico, M., Crestani, V. and Nardocci, C. (n.d.). *Genere, disabilità, linguaggio. Progetti e prospettive a Milano*, p.115.

Available at: <https://series.francoangeli.it/index.php/oa/catalog/view/751/591/4468>

spread of hate speech through the Internet." It was presented in the Chamber of Deputies in March 2021⁹⁶.

These bills indicate some recognition of the need to address hate speech, including sexist and/or misogynist hate speech, in the digital realm. However, it's important to note that as of now, these bills are still in the proposal stage and have not been enacted into law. Therefore, Italy currently lacks specific binding regulations to counter and restrict the dissemination of sexist and/or misogynist hate speech.

The bill signed by the Hon. Fedeli, which aims to counter the spread of hate speech on the web, may be ineffective in combating misogyny⁹⁷. This is because the bill defines unlawful content based on the cases specified in Articles 604 bis, 604 ter, and 604 quater of the Criminal Code, which pertain to incitement to discrimination and violence based on race, ethnicity, and religion, without explicitly mentioning sex⁹⁸. In order to effectively combat misogyny, these articles of the Criminal Code would need to be amended prior to the approval of such a law⁹⁹.

On the other hand, the bill signed by the Hon. Boldrini extends the offenses outlined in Articles 604 bis, ter, and quater of the Penal Code to conduct motivated by motives based on "sex, gender, sexual orientation, gender identity, or disability" (Art. 3 of the bill by the Hon. Boldrini). While Boldrini's bill has some critical aspects regarding content removal procedures¹⁰⁰, it is seen as a positive step as it would fill the legislative gap in combating online misogyny.

In the offline context, it is important to note that there are currently no specific rules in the Italian legal system aimed at punishing misogynistic conduct. The existing Articles 604 bis, ter, and quater of the Criminal Code, which address

⁹⁶ *Ibidem* p.116

⁹⁷ Brambilla, M., D'Amico, M., Crestani, V. and Nardocci, C. (n.d.). *Genere, disabilità, linguaggio. Progetti e prospettive a Milano*, p.116

⁹⁸ *Ibidem*

⁹⁹ *Ibidem*

¹⁰⁰ P. Villaschi, I progetti di legge in discussione in Italia: analisi critica, in M. D'Amico, C. Siccardi, *La Costituzione non odia*, cit., pp. 185 ss.

propaganda and incitement to racial, ethnic, and religious discrimination, do not encompass incitement to discriminatory acts or violence based on gender¹⁰¹.

The bill signed by Hon. Zan, which aimed to extend the offense to include homotransphobia, misogyny, and hatred against persons with disabilities, was not approved¹⁰². During the parliamentary debate, criticisms were raised, including concerns related to misogynistic and/or sexist hate speech. Some feminist elements opposed the broadening of criminal offenses to include incitement based on gender identity, arguing that it would diminish the significance of gender discrimination and render biological sex irrelevant.

There were also those who believed it was wrong to extend the scope of application of Articles 604 bis, ter, and quater of the Penal Code to incitement and violence against women¹⁰³. According to this perspective, women, representing half of society and not a specific group, should not be equated with ethnic and religious minorities protected by the Mancino Law¹⁰⁴.

However, these criticisms lose consistency when considering the constitutional basis of the relevant laws, particularly the principle of equality under Article 3 of the Constitution¹⁰⁵. Articles 604 bis and ter of the Criminal Code were introduced, through Legislative Decree No. 21 of 2018, to protect the equality and dignity of individuals¹⁰⁶. Therefore, if the constitutional basis of these articles is Article 3 of the Constitution, which prohibits discrimination in any form, it would be

¹⁰¹ M. D'Amico, Audizione davanti alla Commissione Giustizia della Camera dei Deputati sui progetti di legge volti a contrastare l'omofobia e le discriminazioni fondate sull'identità di genere, in www.camera.it, 18 Febbraio 2020

¹⁰² See A.S. No. 2005, first signed by Hon. Zan, 'Measures to prevent and combat discrimination and violence on grounds of sex, gender, sexual orientation, gender identity and disability, transmitted to the Senate on 5 November 2020.

¹⁰³ See the thoughts of the President of the Parliamentary Commission of Inquiry into Femicide and All Forms of Gender-based Violence V. Valente, The law against homotransphobia is necessary, leave women out of it, in Huffpost, 2020 https://www.huffingpost.it/entry/la-legge-contro-lomotransfobia-e-necessaria-lasciamone-le-donne-fuori_it_5f009833c5b612083c5cea2f

¹⁰⁴ D. Lgs. No. 122 of 1993

¹⁰⁵ Brambilla, M., D'Amico, M., Crestani, V. and Nardocci, C. (n.d.). *Genere, disabilità, linguaggio. Progetti e prospettive a Milano*, p.116

¹⁰⁶ M. D'Amico, Audizione davanti alla Commissione Giustizia della Camera dei Deputati sui progetti di legge volti a contrastare l'omofobia e le discriminazioni fondate sull'identità di genere, in www.camera.it, 18 Febbraio 2020

reasonable to extend the application of these criminal offenses to conduct based on gender-related grounds¹⁰⁷.

5. Final remarks

The issue of sexually motivated hate speech is indeed a growing concern in terms of human rights, and it is important for international human rights protection institutions to develop an appropriate response, particularly considering its prevalence in online channels¹⁰⁸. There is a need for a more nuanced approach to regulating hate speech against women, distinguishing between sexist speech and sexist hate speech within legal discourse. While sexist speech may marginalize or condescend women, it typically does not cross the line into hate speech.

On the other hand, misogynistic sexist hate speech can be violent, confrontational, and coercive. The existing anti-stereotyping frameworks, such as those found in CEDAW and the Istanbul Convention, which impose obligations on state parties to address gender stereotyping, have not yielded the desired results, as evidenced by the case of Italy. The issue of sexist hate speech, which can be considered a form of violence against women, requires a more targeted response, including the possibility of criminal or non-criminal sanctions in some jurisdictions. Clear guidance from international human rights organizations on how to define "sexist hate speech" and the appropriate measures to address it is crucial for national-level responses.

While the issue of sexist hate speech is on the human rights agenda of the Council of Europe, there is still room for improvement. Taking a more intersectional approach could undoubtedly contribute to the desired progress. The regular evaluation of States Parties through the monitoring procedure provides an excellent opportunity to address this issue. The CEDAW Committee, as a specialized authority on women's rights, is best positioned to identify sexist hate

¹⁰⁷ *Ibidem*

¹⁰⁸ Sękowska-Kozłowska, K., Baranowska, G. and Gliszczyńska-Grabias, A. (2022). Sexist Hate Speech and the International Human Rights Law: Towards Legal Recognition of the Phenomenon by the United Nations and the Council of Europe. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique*.

speech. However, its General Recommendation No. 35 on violence against women does not directly address sexist hate speech, which is a missed opportunity.

Regarding the protection provided by the Council of Europe, it is significant that the European Court of Human Rights has not yet ruled on cases involving sexist hate speech. Considering the Court's dynamic interpretation of hate speech norms, it is plausible to expect a progressive approach to sexist hate speech as well. Standards produced by Council of Ministers organizations, such as the 2019 Recommendation of the Council of Ministers on Preventing and Combating Sexism, may also influence future interpretations by the European Court of Human Rights.

The Istanbul Convention explicitly recognizes the responsibility to address sexist hate speech. Its anti-stereotyping measures oblige states parties to respond to both sexist hate speech and sexist utterances that do not amount to hate speech. Implementing strategies in the fields of education and media is crucial, and states parties should consider making sexist hate speech punishable as violence against women. While the Istanbul Convention does not specifically identify sexist hate speech as a form of violence against women, it may fall under other provisions of the treaty, such as stalking and sexual harassment. However, there is debate over whether the Convention covers other forms of sexist hate speech, such as episodic non-sexual comments.

Based on the analysis thus far, it appears that sexist hate speech is more readily addressed within the context of gender equality, particularly in combating violence against women, compared to hate speech addressed under the general human rights law framework. While this approach should not be criticized, as any human rights-oriented effort to address the issue is valuable, it would be legitimate to confront sexist hate speech outside of the gender equality agenda as well, recognizing that women's rights are human rights.