

ARENAS

ANALYSIS OF AND RESPONSES
TO EXTREMIST NARRATIVES



“Extremist narratives [...] exacerbate divisions between social groups.”

Gender and Hate Speech in Europe: A Comparative Analysis of Case Law in Spain, Italy, and Latvia

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Outline

- Date: 2025–2026
- Type: Training materials (legal and analytical presentations)
- Audience: Students, researchers, policymakers, NGOs, journalists
- Language: English

Learning Objectives

- Understand how gender-based hate speech is defined and addressed in different legal systems
- Identify judicial criteria used to assess discriminatory speech targeting women and LGBTIQ+ individuals
- Analyse how courts balance freedom of expression with gender equality and anti-discrimination principles
- Compare the role of intent, harm, and context in gender-related hate speech cases



Introduction

This section examines how national courts in Spain, Italy, and Latvia address hate speech with a particular focus on gender-related discrimination, including sexism, gender identity, and sexual orientation. Through case law analysis, it highlights how legal systems balance freedom of expression with the protection of dignity, equality, and gender rights.



Heading

Extremist narratives, as defined in the [ARENAS project](#), constitute a polarizing and radical form of discourse that exacerbates divisions between social groups. They seek to delegitimize and marginalise the 'out-group', perceived as a threat, while drawing a distinction with the 'in-group', which embodies the identity of those advancing the discourse.

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Introduction and objectives of the report

WP5 studies the legal and societal responses to extremist narratives and hate speech across European countries. It focuses on national legal frameworks, the groups protected, and how sanctions are applied in practice. It also examines judicial interpretations, including in the context of online hate speech, and the balance between freedom of expression and the protection of targeted groups. Through a comparative approach, WP5 identifies similarities, differences, and good practices for addressing extremist narratives.

This research is conducted within the **ARENAS project**, which investigates extremist narratives shaping political and social life in Europe, particularly in relation to science, gender, and the nation. By analysing how these narratives spread and influence public discourse, the project seeks to better understand their impact on democratic societies. It also aims to strengthen the capacity of individuals and institutions to resist these narratives and to promote social cohesion, while developing policy recommendations to prevent their expansion.

This report provides a comparative legal analysis of gender-related hate speech across three European countries: Spain, Italy, and Latvia. It focuses on how courts respond to harmful speech targeting individuals and groups based on gender, sexual orientation, and gender identity. Through selected case studies, the report highlights common legal principles, national differences, and ongoing challenges in ensuring effective protection against discrimination while safeguarding freedom of expression.



Extremist Narratives and Hate Speech

Extremist narratives, as defined in the [ARENAS project](#), constitute a polarizing and radical form of discourse that exacerbates divisions between social groups. They seek to delegitimize and marginalise the 'out-group', perceived as a threat, while drawing a distinction with the 'in-group', which embodies the identity of those advancing the discourse.



**Extremist
Narratives vs Hate
Speech**



Not always direct or explicit



Use indirect and subtle strategies



More accessible and persuasive than traditional hate speech



Rhetorical Strategies and Impact on Society

The rhetorical strategies of extremist narratives are based on :

Oversimplification

Emotional appeal

"Us vs Them" dichotomy

Stereotypes and caricatures

Consequences of such rhetoric on society :

Normalisation of hatred

Justification of discrimination

Social division and hostility

Violence

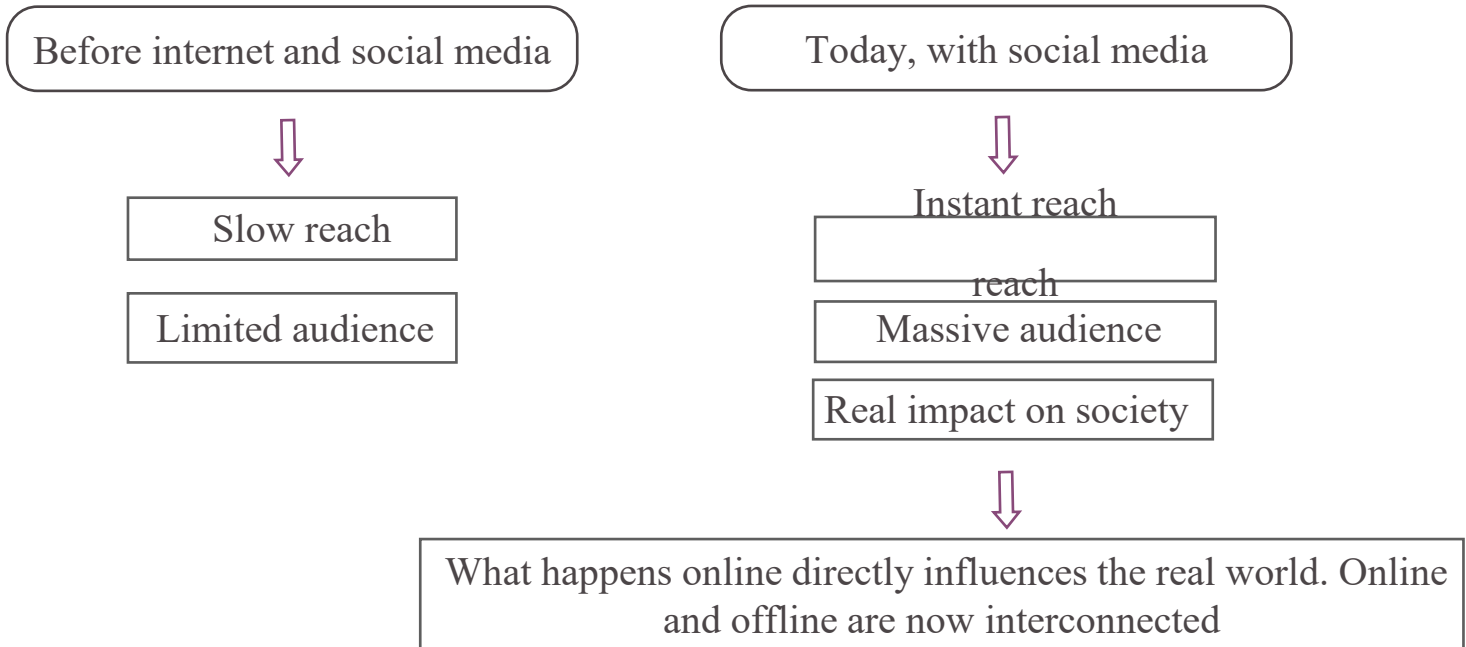


Hatred becomes rational and justified



How Digital Technology Amplifies Extremist Narratives

Today, extremist rhetoric spreads much more quickly and widely thanks to digital technology.



Legal Perspective - Freedom of Expression vs Protection

Extremist narratives

Hate speech

⊗ Not legally defined because they are not a legal category

Extreme narratives became problematic when they incite hatred or discrimination and thus have effects similar to hate speech

✓ Legally defined and recognized as inciting hatred, violence, or discrimination based on characteristics such as ethnicity, religion, or gender.

- ⇒ Regulating extremist narratives involves setting limits on freedom of expression.
- ⇒ These limits apply when speech incites hatred, violence, or discrimination.
- ⇒ Without regulation, such narratives reinforce power hierarchies and domination between groups.
- ⇒ Protecting against these discourses also helps ensure a fairer freedom of expression.

- Assess how gender-based hate speech is addressed in judicial practice across Spain, Italy, and Latvia
- Identify key legal principles and criteria used by courts when evaluating gender-related hate speech
- Highlight differences and similarities in national approaches to protecting gender equality
- Examine challenges in enforcement, including issues related to intent, harm, and legal thresholds
- Provide policymakers with insights into gaps, limitations, and emerging best practices
- Contribute to ongoing discussions on strengthening and harmonising hate speech regulation at the European level

Case studies are used in this report as practical illustrations of how legal norms are applied in real-world situations. Rather than focusing solely on abstract legal provisions, this section analyses judicial decisions to understand how courts interpret hate speech, assess intent, and determine appropriate sanctions.

The following section examines case law from Spain, Italy, and Latvia. These three countries offer contrasting legal approaches:

- Spain reflects a more structured criminal framework with explicit hate speech provisions
- Italy demonstrates a hybrid approach, often relying on defamation law and judicial interpretation
- Latvia highlights enforcement challenges, particularly regarding the requirement to prove intent and “substantial harm”

Together, these case studies provide a comparative perspective on how hate speech is regulated and enforced across different legal and socio-political contexts.



Hate Speech Targeting Women

Several cases illustrate the strict stance adopted by Spanish courts regarding hate speech directed at women.

- In the [2012 Palma de Mallorca case](#), the dissemination of a violent and degrading animation portraying women as objects of death was considered a clear incitement to violence and a violation of women's dignity.
- Similarly, in the 2018 Supreme Court ruling, misogynistic statements published on social media—encouraging violence against women—were deemed criminal, even when presented as humour.
- More recently, in 2020, a public comment justifying a gender-based murder was also sanctioned, confirming that speech which trivialises or legitimises violence against women falls within the scope of [Article 510](#).

These cases demonstrate that Spanish courts consistently reject arguments based on “dark humour” and place strong emphasis on the protection of women's dignity, particularly in online environments.



Hate Speech Based on Sexual Orientation

Spanish case law also demonstrates a firm response to hate speech targeting individuals based on their sexual orientation.

- In a 2017 case in Madrid, a physical assault accompanied by homophobic insults was recognised as a hate crime, as the expressions used were clearly intended to humiliate and degrade the victim.
- In [another case](#) the same year, a YouTube video equating homosexuality with paedophilia was ruled to be deeply offensive and lacking any factual basis. The court emphasised that freedom of expression does not protect statements that attack the dignity of a group or promote discrimination.
- These decisions underline the importance of intent and context, as well as the courts’ willingness to sanction both speech and conduct that contribute to a climate of hostility toward LGBTQ+ individuals.





Hate Speech and Gender Identity

Cases involving transgender individuals highlight the importance of context and intent in the legal qualification of hate speech.

In a [2019 Madrid case](#), the court acquitted the defendant, considering that the insults occurred within a mutual conflict and did not demonstrate a clear intention to target a vulnerable group.

However, a more recent 2024 ruling by the Barcelona Provincial Court marked a significant development. The public disclosure of a person's transgender identity, combined with derogatory language, was recognised as a hate crime. The court notably affirmed that denying a transgender person's gender identity in a degrading manner may constitute a violation of human dignity.

These contrasting decisions illustrate an evolving legal framework, with increasing recognition of the specific vulnerabilities faced by transgender individuals.



Key Legal Trends and Policy Implications

Overall, Spanish jurisprudence reflects a restrictive approach to hate speech, prioritising the protection of human dignity over an expansive interpretation of freedom of expression.

Courts have adopted a broad understanding of hate speech, extending liability to situations where no direct violence occurs, but where expressions create a risk of hostility or discrimination.

The growing importance of online platforms in these cases has also led to increased scrutiny of digital content and its potential impact on public discourse.





Regulation of Online Platforms and Hate Speech

The [2020 decision of the Rome Tribunal](#) highlights the growing role of digital platforms in regulating hate speech.

The court upheld Facebook's decision to remove profiles linked to the political movement Forza Nuova, considering that the content **منتشر** (propaganda, anti-LGBTQ+ rhetoric) violated community standards and promoted discriminatory ideologies.

Importantly, the Tribunal recognised that private platforms have a legitimate role in preventing the viral spread of harmful content, especially when it threatens fundamental rights.

Drawing on [European Court of Human Rights](#) case law, the court emphasised that hate speech does not require direct incitement to violence; expressions that stigmatise or marginalise vulnerable groups may be sufficient to justify restrictions.

This case illustrates a shift toward shared responsibility between public authorities and private actors in combating online hate speech



Sexism, Media Representation, and Defamation

Italian case law also addresses gender-based discrimination through defamation law.

In a 2004 Supreme Court ruling, the publication of images exposing a female politician's body without consent was found to be degrading and sexist, reducing her to a sexual object and undermining her political credibility.

The Court clearly stated that satire cannot justify attacks based on sexist stereotypes or the humiliation of women.

Similarly, in a 2013 decision, the use of derogatory expressions against women in politics was considered particularly harmful in a social context still marked by gender inequality.

These cases demonstrate that the protection of women's dignity in Italy is often ensured through defamation law rather than specific hate speech provisions.





The Role of Language and Social Context

Italian courts place significant emphasis on the social and linguistic context in assessing whether a statement is offensive.

In a 2016 case, the Supreme Court ruled that referring to someone as “homosexual” does not, in itself, constitute defamation, as the term has evolved into a neutral descriptor in contemporary society.

The Court highlighted that the offensiveness of language depends on its meaning within a specific cultural and historical context.

This approach reflects a broader recognition that legal standards must evolve alongside societal perceptions, particularly in matters related to identity and inclusion.



Discrimination and Gender-Based Harassment

Italian courts have also addressed the limits of political expression in cases involving discriminatory statements.

In a 2022 case concerning a public figure, the Supreme Court ruled that political speech must remain grounded in factual accuracy and cannot devolve into harmful stereotypes or false accusations against minority groups.

The Court stressed that freedom of expression does not protect statements that distort reality or promote discrimination, particularly when targeting LGBTQ+ organisations.

Relying on [European Court of Human Rights](#) jurisprudence, the ruling reaffirmed that politicians have a heightened responsibility to avoid speech that may incite intolerance.

This case highlights the tension between democratic debate and the protection of vulnerable groups.



Protection of Groups Through Defamation Law

In a 2023 decision, the Supreme Court confirmed that defamation law can apply not only to individuals but also to identifiable groups.

The case involved statements linking the LGBTQ+ community to paedophilia, which the Court considered highly offensive and damaging to the reputation of the group.

The ruling recognised that collective entities, such as associations or social groups, can be protected when they are clearly identifiable and targeted by defamatory statements.

This approach allows Italian courts to address hate speech indirectly, even in the absence of specific legal provisions.

It also reflects a broader understanding of honour as both an individual and collective legal interest.



Key Trends and Policy Implications in Italy

Overall, Italy adopts a more fragmented and moderate approach to hate speech compared to Spain.

Criminal sanctions are generally less severe and often rely on defamation law rather than specific hate speech provisions.

Courts place strong emphasis on context, intent, and social perception, particularly in assessing whether a statement is harmful or discriminatory.

In addition, civil remedies, such as compensation and reputational protection, play a significant role in addressing harmful speech.





Hate Speech and Legal Challenges in Latvia

This section examines key judicial decisions on hate speech in Latvia, focusing on the application of [Articles 78 and 150](#) of the Latvian Criminal Code.

Latvia adopts a relatively restrictive legal framework, requiring proof of both intent and substantial harm for hate speech to be criminally sanctioned.

The following cases illustrate both the criminalisation of extreme expressions of hatred and the practical challenges faced by courts and authorities in effectively prosecuting hate speech, particularly against minority groups.



Criminalisation of Extreme Hate Speech

Latvian courts adopt a strict approach when dealing with extreme forms of hate speech, particularly those involving racist ideologies or explicit calls for violence.

In a 2010 case, the Riga Regional Court convicted an individual who published numerous online comments promoting National Socialism, justifying the Holocaust, and calling for the elimination of various minority groups, including LGBTQ+ individuals and ethnic minorities.

The Court emphasised that freedom of expression cannot be used to justify statements that promote violence, racism, or social exclusion.

Relying on both national and international legal standards, the Court found that such speech poses a direct threat to social cohesion and democratic values.





Hate Speech in Online Environments

Several cases highlight the risks associated with the dissemination of hate speech through digital platforms.

In a 2011 case, a user posted violent and discriminatory comments against the Russian-speaking minority on a social network, explicitly calling for violence.

The Court considered the use of the internet as an aggravating factor, given its capacity to amplify the reach and impact of harmful messages.

Although mitigating factors such as the defendant's age and personal circumstances were taken into account, the Court reaffirmed that online hate speech represents a serious threat to social harmony.



Indirect Hate Speech and Historical Narratives

Latvian courts also address more indirect forms of hate speech, particularly in cases involving antisemitism.

In a 2013 case, a comment posted under an article about the desecration of Jewish graves was found to implicitly justify such acts while expressing contempt toward the Jewish community.

The Court ruled that even indirect statements, which minimise or legitimise discriminatory acts, can contribute to the spread of hatred and social division.

This case demonstrates that hate speech does not require explicit calls to violence; implicit approval of harmful acts may be sufficient to establish criminal liability.



The Importance of Intent and Evidence

Latvian courts place strong emphasis on the subjective element of intent when assessing hate speech offenses.

In a [2018 Supreme Court case](#), the Court clarified that it is not sufficient to express discriminatory opinions; it must be proven that the defendant intended to incite hatred or discrimination.

The analysis of language, tone, and context is therefore crucial in determining whether a statement meets the legal threshold.

This requirement reflects a cautious approach but also creates challenges in effectively prosecuting hate speech cases.



Limits of Article 150: “Substantial Harm” Requirement

The application of Article 150 of the Latvian Criminal Code reveals significant limitations in the prosecution of hate speech.

Courts require proof that the speech caused “substantial harm,” a threshold that is often difficult to establish in practice.

As a result, many cases involving discriminatory or offensive speech are dismissed or downgraded to minor administrative offenses.

Even in cases involving explicit hostility toward LGBTQ+ individuals, courts may refrain from imposing criminal sanctions if the required level of harm is not demonstrated.

This legal threshold has been widely criticised for limiting the effectiveness of hate speech legislation.



Indirect Hate Speech and Historical Narratives

Cases involving hate speech and violence against LGBTQ+ individuals reveal significant gaps in enforcement.

In a 2018 case, explicit calls for violence against sexual minorities were recognised as hate speech, although the defendant ultimately avoided severe punishment.

More critically, in the 2024 case *Hanovs v. Latvia*, the European Court of Human Rights found that Latvian authorities failed to properly classify a homophobic assault as a hate crime.

The Court condemned the authorities’ response as insufficient and overly lenient, noting that it trivialised the discriminatory nature of the attack.

This case highlights systemic issues in the recognition and prosecution of hate-motivated offenses.





Influence of International and European Standards

Latvian courts frequently rely on international legal frameworks when addressing hate speech.

References to the European Convention on Human Rights, the [UN Covenant on Civil and Political Rights](#), and the [Rabat Plan of Action](#) demonstrate an effort to align national law with global standards.

However, despite this formal alignment, practical enforcement remains inconsistent.

Recent policy initiatives, including training programmes and legal reforms, aim to improve the identification and prosecution of hate crimes, particularly against vulnerable groups.



Key Trends and Policy Implications in Latvia

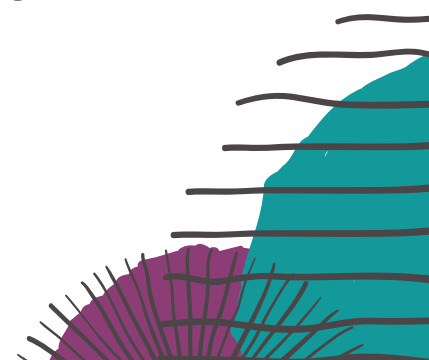
Latvia presents a complex and often restrictive approach to hate speech regulation.

While extreme cases involving explicit incitement to violence are prosecuted, many instances of hate speech remain unpunished due to high evidentiary thresholds, particularly the requirement to prove intent and substantial harm.

This framework creates significant challenges for the protection of vulnerable groups, especially LGBTQ+ individuals and ethnic minorities.

For policymakers, these findings highlight the need to reconsider legal thresholds, improve enforcement mechanisms, and strengthen institutional responses to hate speech and discrimination.

Ensuring effective protection requires not only legal reform but also greater awareness and training among law enforcement and judicial authorities.



2.4

Comparative Analysis



Comparative Table: Case Law on Hate Speech : Spain, Italy, Latvia

Criteria	Spain	Italy	Latvia
Legal Basis	Explicit hate speech offences in criminal law	Combination of defamation law + constitutional principles + ECtHR case law	Articles 78, 149, 150 of Criminal Code
Approach to Hate Speech	Clearly criminalised, especially when targeting protected groups	Often addressed indirectly (defamation, dignity, discrimination)	Criminalised but narrowly applied due to strict legal thresholds
Role of Intent	Important but not always central if harm is evident	Context, language, and impact strongly considered	Crucial – direct intent must be proven
Threshold of Harm	Moderate – focus on discriminatory or degrading nature	Focus on dignity, reputation, and social impact	High – “substantial harm” requirement limits prosecutions
Freedom of Expression	Limited when conflicting with equality and dignity	Strongly protected but restricted in cases of hate or discrimination	Constitutionally protected but restricted under international standards
Online Speech	Recognised as aggravating factor	Platforms have responsibility to moderate content	Considered highly dangerous due to wide dissemination
Sanctions	Fines, imprisonment in serious cases	Mostly fines, compensation, occasional imprisonment	Often suspended sentences, probation, rare imprisonment
Protection of LGBTIQ+ Groups	Explicitly recognised	Increasingly recognised through case law	Recognised, but enforcement remains inconsistent
Judicial Challenges	Balancing free speech and criminalisation	Lack of specific hate speech legislation	Difficulty proving intent and “substantial harm”
Notable Trend	Structured and enforceable legal framework	Expanding interpretation via courts and ECtHR influence	Under-enforcement despite legal provisions



Comparative Analysis : Case Law on Hate Speech: Spain, Italy, Latvia

Overall, the comparison of Spain, Italy, and Latvia reveals both converging principles and significant divergences in the regulation of gender-based hate speech.

While all three legal systems recognise the need to limit freedom of expression when it undermines dignity, equality, and the rights of vulnerable groups, they differ in how effectively these principles are implemented in practice.

Spain stands out for its more structured and explicit legal framework, enabling more consistent enforcement.

Italy, by contrast, relies on a more interpretative and case-by-case approach, often grounded in defamation law and influenced by European human rights standards.

Latvia illustrates the challenges of enforcement, where strict requirements such as proving intent and “substantial harm” can limit the effectiveness of existing laws.

Taken together, these findings highlight the importance of clearer legal definitions, consistent judicial application, and stronger enforcement mechanisms.



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