

LAW STUDENTS PROVIDING LEGAL SUPPORT IN AN INTERNATIONAL HATE SPEECH PROJECT (PART 2) /

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1. INTRODUCTION

The previous report from 2022¹ presented a newly started international anti-hate speech project with the participation of students from the Faculty of Law of Comenius University Bratislava. Despite the EU-funded project started in April 2022, in December of the same year, we were already able to present tangible results. At the end of 2023, the project can be described as fully established and set to reach its ambitious goals thanks to the synergy among students, volunteers and the client Forum for Human Rights ("FORUM").² This report is a follow-up to the first one and presents new interesting developments and challenges. It focuses on the role of students, aspiring young

¹ Žatková, S. (2022). Law Students Providing Legal Support in an International Hate Speech Project. *Bratislava Law Review*, 6(2), 169-172. <https://doi.org/10.46282/blr.2022.6.2.324>

² For more information, see the webpage of FORUM: <https://forumhr.eu/> (accessed on 04.12.2023)

professionals, in protecting the human rights of Roma people.

Both summer and winter semesters of 2023 brought new students wishing to participate in the legal clinic for the non-profit sector, a subject created and administered by the Institute of Clinical Legal Education at the Comenius University.³ A legal clinic has repeatedly proven to be a modern and unique way to prepare students for their future legal careers. They are given an opportunity to work with a real client under the supervision of a legal practitioner and their effort is rewarded by learning new skills and credit (ECTS) points, too. One of the clients is FORUM, whose international project attracted motivated students willing to dedicate their time and expertise to protect a vulnerable group from attacks. Students' dedication and support are key in the legal part of the project.

Alexandra Dubová, the FORUM's chairperson, and her colleagues managed to create an agile environment providing new challenges and opportunities for anyone joining the project, even in its later stages. As the project has grown, the team welcomed new forces from the Law Faculty of the Pavol Jozef Šafárik University in Košice. To provide its students with credit points, the law faculty in Košice decided to join the law faculty in Bratislava and implement a similar legal clinic model towards FORUM. The project's team called "ROMAntici" now consists of: Alexandra Dubová, the head of the project, coordinators of volunteers Sandra Žatková, Adam Máčaj (Comenius University), Diana Repiščáková (Pavol Jozef Šafárik University), and Barbora Bešenejová (student and trainee at the European Roma Rights Centre - NGO coordinating the project at the international level), attorney Michal Zálešák and of course, students and activists. The project officially ends in April 2024, but hopefully, the initiative will continue. Anyone reading this report and wishing to join the common effort is thus encouraged to reach out.

2. LEGAL STRATEGY

Firstly, it is important to reiterate the project's goals. The project connects volunteers with lawyers who work to defend victims of discrimination and hate speech. It therefore has the potential to strengthen the Roma minority's trust in the rule of law and to mobilise people to take active action against discrimination and hate speech. The aim is to ensure that members of the Roma community see themselves as rights-holders and gain experience in defending their rights through reporting hate content. On the other hand, the project participants undertake to remind state authorities and other responsible institutions such as media platforms and social networks that they have a duty to protect the Roma from discrimination and hate speech. These goals and actions are central to the broader goal of ensuring that the rights of members of the Roma in Slovakia are recognised.

In Slovakia, the project leaders decided to focus on hate speech in the online environment, which is often encouraged by the perceived internet anonymity. The legal strategy, indicated already in the first report, focused on filing i.) complaints with the Council for Media Services ("Council") and ii.) criminal complaints with law enforcement bodies. The students and volunteers created a database with instances of hate speech found on social media. These data were then evaluated and used to develop our two main strategies: to create pressure on social media to remove harmful content and to remind

³ For more information, see the webpage of the Institute of Clinical Legal Education: <https://www.flaw.uniba.sk/en/departments/institutes/institute-of-clinical-legal-education/> (accessed on 04.12.2023).

the public of individual responsibility for one's illegal conduct on the internet. Moreover, FORUM also undertook advocacy activities as another strategy to improve the situation of the Roma in Slovakia.

2.1 Council for Media Services

Those hateful comments or posts, that were reported to the respective social platforms, but were not deleted,⁴ were forwarded to the Council which is the national regulator. The Section 151 of the Act No. 264/2022 Coll. on Media Services specifies, which content is considered illegal and falls under the Council's authority. ROMAntici have been regularly and consistently reporting content inciting hate and violence against Roma. In a short time, they have been contacted by the Council and praised for filing complaints on a "very high level". The possibility to file a complaint against social platforms is open to anyone,⁵ but as mentioned by the Council, citizens often report cases with no merits. The Council invited ROMAntici for a closer cooperation and added them among trusted partners, who can report cases directly to their database. The Council even agreed to organise a webinar for students and volunteers, providing them with a better insight into how the Council operates. A very interesting part concerned their interaction as a Slovak national regulator with social media companies, such as META.

ROMAntici have been quite successful in its effort towards the Council. The very first administrative procedure was initiated by the Council against Google on 25.01.2023. It was a comment that was reported by ROMAntici on the YouTube platform, the verbatim text of which was as follows: "*shoot it all down*". This comment was directed at the Roma minority and incited violence. Another example, ROMAntici reported to Facebook a comment: "*Burn down the whole settlement and there will be peace from them*". After these comments were submitted as a complaint to the Council which initiated proceedings, Google informed the Council on 31.01.2023 that it deleted the comment containing racism on YouTube.⁶ After our many unsuccessful reports of individual comments that were not deleted by social media, we have finally seen the desired outcome, at least in these two cases.⁷ Such a small number of cases might seem irrelevant at first sight, but they help the Council to pile up cases and strengthen its strategy to pressure social media not to close their eyes and act swiftly against hate.⁸ We should mention that no decision has been issued in the administrative proceedings since the legislation creating the Council came into force. The illegal content has been always removed by social media either before the proceedings was initiated on the basis of escalation by the Council (dialogue between the Council and the social media) or after the proceedings was initiated. So far, FORUM reported 77 cases of hate speech to the Council and is planning to file further dozens by the end of December.

⁴ The social platform either ignored the report (there was no answer) or it was deemed compatible with the social platform's policy.

⁵ The formular is available online: <https://www.rpms.sk/formular-pre-podanie-podnetu-tykajuceho-sa-nelegalneho-obsahu> (accessed on 04.12.2023).

⁶ The proceedings gained attention of media - see a report by Dennik N: <https://dennikn.sk/minuta/3227529/?ref=ampm> (accessed on 08.12.2023)

⁷ See the blog of ROMAntici here: <https://romantici9.webnode.sk/l/malymi-krokmi-k-velkemu-uspechu/> (accessed on 04.12.2023).

⁸ The Council issues press releases on its webpage, which often inform about cases of hate speech submitted by ROMAntici. See e.g.: <https://rpms.sk/tlacove-spravy/tlacova-informacia-zo-zasadnutia-rady-pre-medialne-služby-dna-26-4-2023> (accessed on 04.12.2023).

2.2 Criminal Complaints

As regards the strategy to use criminal law tools against individual perpetrators, there have been some results as well. The students searched the project's internal database, identified six most serious instances of hate speech and drafted criminal complaints. The problematic content concerned promoting genocide against the Roma, sympathising with Nazi ideology, and directly inciting hate and violence against Roma and people with disabilities. The criminal complaints including evidence were submitted to the National Criminal Agency. FORUM has received decisions for four of them so far.

The first complaint dealt with a comment published under a YouTube video where someone visited a Roma settlement in Eastern Slovakia and reported a slaughter of dogs. The comment read as follows: *"The only solution I see throughout this video is... burn the place to the ground with those creeps. These are not people for me."*⁹ ROMAntici reasoned that the suspect's actions may have fulfilled the elements of the crime of defamation of nation, race and belief pursuant to Section 423, or the crime of incitement to national, racial and ethnic hatred pursuant to Section 424 of Act No. 300/2005 Coll., the Criminal Act. The case has been referred to another authority to deal with the conduct as a potential petty offence, as there was "no reason to start criminal proceedings". Unfortunately, the publisher of the comment was not identified by the authorities (the account was probably fake). As for the existence of a crime, the police investigator agreed that the comment can be considered as defaming and inciting violence but did not agree that it is defaming Roma and inciting violence towards Roma. This reasoning came as surprising because the video was recorded in a Roma settlement and even the word "settlement" (in Slovak "osada") from the title of the video is typically understood with the connection to secluded Roma areas. The students therefore prepared an interlocutory appeal ("sťažnosť") against the decision which was filed by attorney Michal Zálešák. The decision of the police investigator was, however, quashed due to its noncompliance with the law by a prosecutor acting pursuant to Section 230 (2) letter e) of the Act. No. 301/2005 Coll., the Criminal Procedure Code.¹⁰ The reasons were twofold: the police investigator referred the case to a non-existent body and specified a wrong Section of the Act No. 372/1990 Coll. on Offences (not Section 47a dealing with extremism, but Section 49 (1) letter a) dealing with reputation which requires a concrete victim). The prosecutor did not address the issue of whether the comment was aimed at Roma or not, but the police investigator will have to issue a new decision, which could be (again) subject to an appeal.

The second and third complaint was filed against Facebook users, who posted hateful comments under an article titled *"A young man from the settlement was supposed to have committed the murder. Erika was still screaming for help, but no one heard her."* The problematic comments were these: *"That bastard from the settlement should be hanged or dissolved in acid, personally I'd start by gouging out his eyes, etc."*¹¹ and *"Fu*king addict. Set the whole village on fire"*.¹² The investigator did not proceed with the prosecution in either of the two. He took into account the material corrective and assessed the seriousness of the conduct as minor. Referring to the remedy of criminal law as the *ultima ratio*, both cases were referred to be dealt with as a potential petty

⁹ In the original language (Czech): „Celou dobu toho videa vidim jediný řešení... spálit to tam na popel i třeba hnusákama. Toto za mě nejsou lidi.“

¹⁰ The prosecutor shall supervise the observance of legality prior to the initiation of criminal prosecution and in the preparatory proceedings.

¹¹ In the original language (Slovak): „Toho bastarda z osady by mali obesit, alebo rozpusťit v kyseline ja osobne by som mu na začiatok vypichol oči a podobne“

¹² In the original language (Slovak): „Sku*veny fetak. Celú osadu zapáliť.“

offence pursuant to Section 47a (1) letter b) of the Act on Offences.¹³ FORUM decided to appeal because the decisions lacked reasoning as to why the seriousness of the comments was deemed minor, except for the suspects regretting their actions. Moreover, in the latter case, the suspect posted another vulgar comment, where he explicitly mentioned Roma. The arguments contained in the appeal were supported by the relevant jurisprudence of the European Court of Human Rights.

The fourth complaint concerned a comment on the same article about a murder by a young man from a settlement as mentioned above. The suspect wrote: "*Into the gas chamber with that scum*."¹⁴ The police investigator refused the criminal complaint mainly on the grounds that the suspect does not explicitly mention any group of persons mentioned in Sections 423 and 424 of the Criminal Act. In the opinion of the police investigator, the suspect's comment is not objectively capable of causing the members of the Roma minority to fear for their lives and health, as this minority is not mentioned in the comment. He concluded that there is no object, objective and subjective aspect of the crime (with the word „scum“, the suspect allegedly referred to all murderers, not Roma people). According to the decision, elements of crimes can be only fulfilled in cases where there is a manifest excess of freedom of expression - the suspect's comment, on the other hand, should be protected by human rights law. The police investigator did not even refer the case to be dealt with as a potential offence, as was done in the previous cases by a different police investigator. To the disappointment of the project team, the police investigator concluded by saying that the comment is only an angry, inappropriate reaction "*from behind the keyboard*". This approach only supports the idea that the behaviour on the internet should be taken less seriously and does not recognise the harm it can cause. Especially when there are tens, hundreds and thousands of comments on social media and elsewhere in the online environment not specifically mentioning "Roma" but published under content mentioning or showing Roma. During last year's terror attack at Zámocká street, we witnessed how hatred from the online world escalated into the real world. It is therefore not adequate to underestimate internet hatred. FORUM appealed in this case, too.

2.3 Advocacy

FORUM focuses not only on strategic litigation but also on advocacy. The hate speech project itself presupposes advocacy activities. Therefore, FORUM sent advocacy letters to improve specific human rights situations of Roma people. One of them was addressed to a Slovak city, which was asked to respect a human right to adequate housing and to provide accommodation to a Roma family with children, whose health and life might be endangered by living on the streets during winter.

Another strategy ROMAntici implemented was informing the public through blogging and posting on social media on various topics concerning Roma people. ROMAntici are active on major social platforms, namely Facebook, Instagram and

¹³ The offence of extremism is committed by a person who uses in public a written, graphic, pictorial, visual, audio or audio-visual representation advocating, supporting or inciting hatred, violence or unjustifiably different treatment towards a group of persons or an individual because of their belonging to a race, nation, nationality, colour, ethnic group, origin of descent or because of their religion. This offence is punishable by a fine of up to EUR 500.

¹⁴ In the original language (Slovak): „Do plynu s tou havedou“.

LinkedIn.¹⁵ They publish stories about successful Roma people, but also about ordinary men and women to break the stereotypes and spread a positive image because the media mostly show negative news that supports those stereotypes. Moreover, students and volunteers point out important dates and events, such as International Roma Day, or Roma Resistance Day. They furthermore explain international jurisprudence relating to hate speech, racism and extremism in simple words. One of the volunteers, Zdeno Farkaš, has been exceptionally proactive in advocating for more authentic representation of Roma voices through his engaging videos in which he shares mostly his personal stories. ROMAntici publish good and inspirational stories about Roma people in the hope of making them feel accepted, understood and to bring a little bit of light to all the negativity and harm being spread on the internet.

3. SPECIALISED TRAININGS

Students and volunteers participating in the project have been regularly provided with various trainings by experts or people with personal experience in the relevant topics. Those trainings are supposed to develop certain skills that may be helpful in the project activities, such as digital content creation, sociological aspects, knowledge of relevant law or understanding social media and their policies. One of the benefits of the project is that Roma and non-Roma volunteers and lawyers get to work together. Non-Roma colleagues may directly hear life stories and situations of Roma colleagues. This may be one of the most valuable lessons learned during the project period. However, the Roma volunteers come from safer environments than Roma who live in secluded areas and often lack basic needs, such as access to potable water. ROMAntici therefore gladly accepted the invitation by Klara Kohoutová, an expert on Roma history and culture, to visit one of the most known Roma “ghettos” - Luník IX. Mgr. Klara Kohoutová, PhD. is based at the Centre of Social and Psychological Sciences (Slovak Academy of Sciences) that has been FORUM’s partner since the early stages of the project.

The volunteers started the rich program in the metropolis of Eastern Slovakia, where they were welcomed by scientists Jana Papcunová and Klara Kohoutová, who told them about the history of Luník IX, as well as their other projects focused on Roma and hate speech. Subsequently, the project participants moved to Luník IX – a secluded part of Košice inhabited exclusively by the Roma. The non-profit organisation ETP Slovensko guided the volunteers through Luník IX and the neighbouring village of Mašličkovo. Students and volunteers had an opportunity to ask questions and interact with the local population.

Luník IX generally has a bad reputation and local non-Roma people usually avoid visiting it or the neighbouring areas. Even the volunteers from Košice have never been there before. However, many people would be surprised about the current situation in Luník IX as well as by its cheerful and welcoming inhabitants. This “city in a city” is slowly on the rise, with various projects going on, including housing. Those interested in living in their own house have an opportunity to take a loan for material and start building their new home. Luník IX is an example that with a little bit of help and faith from the majority, the life conditions of Roma could be much improved. Unfortunately, the situation of many other secluded Roma ghettos is much worse, as the majority and the authorities turn a blind eye to their fates. As the colleagues from the Slovak Academy of Sciences and ETP

¹⁵ ROMAntici on Facebook: https://www.facebook.com/p/ROMAntici-100085930808998/?paipv=0&eav=AfZc9.SUwzwU5ragKeOTXkDqg-Gj7H5RcHos2FCtT4IE2iZVqBiNdtprnye8VN7QA8-Pkk&_rdr and Instagram: <https://www.instagram.com/roma.ntici/> (accessed on 04.12.2023).

Slovensko showed us, the change and acceptance can begin by firstly understanding Roma people a little bit more. Roma belongs to the biggest minorities in Slovakia and in Europe – but what do we really know (or learn at school) about their history and culture?

In the afternoon, the students and volunteers moved to the Constitutional Court of the Slovak Republic, where, in addition to a tour of the court, a discussion was prepared for them with judicial advisors Ján Štiavnický and Tomáš Majerník. They briefly introduced the decision-making of the Constitutional Court in the area of hate speech. At the end, a lecture combined with a discussion with doc. JUDr. Renáta Bačárová, PhD., LL.M was held at the premises of the Faculty of Law of the Pavol Jozef Šafárik University. The participants discussed the legislation of illegal content on platforms, the responsibility of online platforms and content filtering.¹⁶

In the second part of the year, FORUM organised another in-person training for students and volunteers. It was held in the beautiful premises of the Liszt Pavilion at the University Library in Bratislava. Ján Hurtík and Peter Wilfling from the Council for Media Services prepared a workshop for the students and volunteers, during which they introduced them to the procedure of preventing the dissemination of illegal content, in which the Council, as an independent and regulatory body, decides. Simona Šintalová and Rebecca Hulalová from digiQ, FORUM's partner, presented different tips for fighting hate speech on social networks, e. g. how to search for hate speech, how to identify it and how to report it. Another guest was Irena Biháryová, a politician and a lawyer specialising in crimes of extremism and the issues of misinformation and unlawful hate speech in the online environment with a focus on Roma. Finally, Tomáš Halász, the CEO of TrollWall, explained the way artificial intelligence helps to filter hateful comments on social networks.¹⁷ After presentations, interactive exercises and teambuilding activities, the team of volunteers was ready to continue fighting against hatred. As a follow-up event, Diana Repiščáková and Barbora Bešenejová, both volunteer coordinators, prepared a workshop for volunteers on legal and non-legal options to challenge online hate. In the first part, Barbora emphasised to the volunteers the importance of using counter-narratives. In selected case studies from Slovakia, she explored how amplifying a wider diversity of Roma voices and experience can challenge the authoritative dominant discourses that use stereotypical portrayals of Roma and relegate their real stories and the social conditions surrounding them to the edges of the Internet. In the second part, Diana introduced the legal aspects of the administrative procedure to prevent the spread of illegal content - she presented the legislation, pointed out its shortcomings and summarised the FORUM's experience with this procedure.

Besides these bigger events, where students, volunteers and lawyers could get to know each other through different activities and teambuilding, FORUM also organised two webinars, one with the Council mentioned above and one focusing on legal aspects of hate speech with an academic guest JUDr. Laura Bachňáková Rózenfeldová, PhD. from the Law Faculty of the Pavol Jozef Šafárik University. The European Roma Rights Centre ("ERRC") has also provided students and volunteers from the project with opportunities to attend interesting events abroad, including a summer school. Barbora Bešenejová, a former active volunteer, who was promoted by FORUM to a coordinator of volunteers in the project, has been individually tutored by the ERRC. The assigned mentor helps improve her writing skills for a future career in the non-profit sector.

¹⁶ See the original information here: <https://forumhr.eu/meeting-of-volunteers-fighting-online-hate-speech/> (accessed on 06.12.2023).

¹⁷ See a video report by Barbora Bešenejová: <https://www.instagram.com/reel/CyOpexrIzC/> (accessed on 06.12.2023).

Another experience worth mentioning was an opportunity for students and volunteers from the project to participate in a roundtable with META representatives. Minority Rights Group International, an international NGO, organised for META (formerly as Facebook) a series of roundtables in selected countries to receive opinions from experts, activists, members of minorities and other stakeholders on their policies and activities concerning hate speech. FORUM was asked to identify relevant stakeholders for the Czech Republic and help organise a roundtable in March. The discussion was very dynamic and interesting due to the diversity of attendees. The project participants could contribute with their fresh experience with META platforms, give advice on improvements and ask for explanations. The discussion seemed to be fruitful, all concerns were duly heard. However, not many answers were provided by META representatives, especially on legal questions, as there was no one from the legal department. Hopefully, META will use the gained information to improve its approach to hate speech from the policy and technical point of view in general and when it comes to smaller markets, such as the Czech Republic or Slovakia. On the other hand, META has much more initiative and tools to tackle hate speech than many other platforms, such as Twitch or TikTok.

4. COOPERATION & VISIBILITY

Project participants use social media and blogging to reach a wider audience and share good and objective news, opposite of hate. Their effort has gained some attention,¹⁸ but mostly among their partner organisations, the ERRC¹⁹ or Bratislava and Košice law schools, who used their web pages or social media accounts to inform about the project activities. Klara Kohoutová from the Slovak Academy of Sciences even invited Sandra Žatková (the author) to be interviewed for the Slovak Radio and Television (RTVS).²⁰ Diana Repiščáková promoted the activities at the popular event called Night of Researchers (Noc výskumníkov)²¹ and Barbora Bešenejová represented ROMAntici at a 3-day conference held in December of this year in Prešov. The conference is called “The current state of Roma studies IV” and is organised by the Centre of Social and Psychological Sciences of the Slovak Academy of Sciences, the State Scientific Library in Prešov and the Institute of Roma Studies of the University of Prešov.²²

Fortunately, FORUM is not the only organisation fighting against hate speech and protecting hate victims. GLOBSEC, FORUM's partner, coordinated a common initiative called “Stop hate” (“Zastavme nenávisť”)²³ joined by various partners, including NGOs, attorneys or the Slovak National Centre for Human Rights. The common goal is to raise awareness that even freedom of speech has its limits, to stop the spread of hate speech and incitement to violence through legal action and to provide legal, media and social assistance and support to victims of hate speech. The webpage of the initiative²³ explains how to identify hate speech and what legal tools victims have at their disposal. Anyone can fill out a form reporting hate speech and members of the initiative will evaluate it and either take legal action to protect the victims or at least provide advice on possible further steps. The initiative also uses visually and audibly interesting content on social media to

¹⁸ See e.g., a short report by SITA: <https://sita.sk/dobrovolnici-a-pravnici-budu-bojovat-proti-nenavistnym-prejavom-zaroven-ohlasili-boj-proti-digitalnemu-anticiganizmu/> (accessed on 04.12.2023).

¹⁹ See e.g., this press release: <http://www.errc.org/press-releases/young-activists-take-legal-action-against-anti-roma-online-hate-in-slovakia> (accessed on 04.12.2023).

²⁰ The interview can be found here: <https://www.rtvs.sk/radio/archiv/1565> and <https://www.rtvs.sk/radio/archiv/11406/2032863> (accessed on 04.12.2023).

²¹ See more here: https://www.instagram.com/p/CxxmJuyLZIF/?img_index=3 (accessed on 06.12.2023)

²² Some information is published here: <https://svusav.sk/chystame> (accessed on 04.12.2023).

²³ See the webpage of the initiative: <https://zastavmenenavist.online/> (accessed on 04.12.2023).

share its message.²⁴

Another initiative FORUM is a part of is called #nohate (#bezhejtu). The current number of members is 125 and includes many companies (e.g., ESET, Henkel, Allianz, Tatra Banka), public institutions (e.g., Bratislava city, Košice city, Police Corps, Office of the President), media, influencers, non-governmental organisations and others. All members undertake to support polite debate by actively monitoring comments on their profiles, identifying and removing hate content and fostering a culture of openness, respect and constructive feedback on its digital platforms.²⁵

5. CONCLUSION

This report reiterates the importance of the engagement of young students and activists in topics such as hate speech against vulnerable groups. Every person participating in the project believes in the equality of all people and therefore invests time and expertise to protect those in need. The focus of this project are Roma. Despite the generally negative approaches towards Roma people in our society, the people involved in the project (mostly non-Roma) are working hard to make a change. Supported by their universities, mentors, NGO sector and their colleagues mutually, they could see that change (even if small) before they finish their studies and start their careers as embraced, motivated and skilled young professionals.

As regards the project plans, there is still a lot on the plate. The team will further monitor and document hate speech on social media, deal with criminal complaints, report hate speech to the Council and gain new skills. At the moment, FORUM is discussing a workshop with doc. Dr. Iur. Mgr. Martin Husovec, Assistant-Professor at the Law Faculty of the London School of Economics and Political Science and an expert on human rights in the digital environment. Moreover, there will be a conference organised by the ERRC in Bratislava at the end of the project, where ROMAntici will meet Bulgarian and Romanian teams participating in the project. At the end of the project, there will be a third report where we will inform about further achievements, the state of the initiated proceedings and the future fate of ROMAntici.

²⁴ See the Instagram account: <https://www.instagram.com/zastavme.nenavist/> (accessed on 04.12.2023)

²⁵ See the webpage of the initiative: <https://www.bezhejtu.sk/> (accessed on 04.12.2023).

