[FR] Fight against online hate speech addressed again in bill “strengthening respect for the principles of the Republic”

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The torrent of anti-Semitic tweets targeting the Miss France runner-up on the evening of the beauty pageant on 20 December 2020 once again brought into sharp focus the need to strengthen the tools available to combat online hate speech in France. The law to combat hate speech on the Internet, known as the “Avia law”, of 24 June 2020, which required social networks to remove manifestly illegal hate speech within 24 hours (or one hour in some cases), was almost entirely rejected by the Constitutional Council. One of the few provisions to escape criticism concerned the creation of a “parquet numérique” (digital public prosecution authority) to act as a specialist body in order to centralise and simplify the reporting procedure so that online hate speech could be dealt with effectively by the courts.

Enacted pursuant to Article 15-3-3 of the Code of Criminal Procedure, as amended by Article 10 of the Avia law, the decree of 24 November 2020 gives the Tribunal Judiciaire de Paris (Paris judicial court) jurisdiction to deal with Internet-based psychological and sexual harassment of a discriminatory nature that is committed on French soil and reported online. This national jurisdiction is concurrent with that of other courts with local jurisdiction. On 24 November, in order to deal with all online threats and hate speech “in real time”, the Minister of Justice, Eric Dupond-Moretti, sent a circular letter to French public prosecutors explaining the specialist body’s powers and the criteria under which cases could be referred to it. It can examine acts of direct provocation committed on the Internet that are not actually followed by the commission of a crime or offence (Article 24(1) and (2) of the 1881 press law); incitement to discrimination, hatred or violence (Article 24(7) and (8)); public insults and defamation based on origin, race, religion, gender or sexual orientation; and psychological harassment through messages containing aggravating elements (for example, mentioning the victim’s background, race or religion). Whether a case can be referred to the Paris-based authority depends on its complexity, which is based on the technicality of the investigation, the public disorder that results from it, in particular the media attention created, and the sensitivity of the case. The specialist body will work in close cooperation with the Pharos reporting platform.

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Chapter 4 of the bill strengthening respect for the principles of the Republic, which was presented to the Council of Ministers on 9 December and which will be debated in parliament from 1 February, contains a series of provisions aimed at combatting online hate speech and illicit content. It introduces a new offence of "endangering the lives of others" by distributing information about their private life "in order to knowingly expose them or members of their family to a direct risk of an attack on their person or possessions." Presented as a means of responding to the hate campaign waged against Samuel Paty, the teacher who was murdered last October, this offence will be punishable with a three-year prison sentence and a fine of EUR 45 000. The bill also contains a measure to combat mirror sites that replicate illegal content that has been removed or blocked by the courts.

In anticipation of the implementation of the Digital Services Act, the bill also contains a provision designed to regulate the moderation of illicit content on social networks and search engines, under the responsibility of the CSA (the French audiovisual regulator).

Décret n° 2020-1444 du 24 novembre 2020 pris pour l'application de l'article 15-3-3 du Code de procédure pénale Projet de loi confortant le respect des principes de la République

https://www.assemblee-nationale.fr/dyn/15/dossiers/respects_principes_republique?etape=15-AN1-DEPOT

Decree No. 2020-1444 of 24 November 2020 pursuant to Article 15-3-3 of the Code of Criminal Procedure Bill strengthening respect for the principles of the Republic

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