



# Dealing with the Past Principles

**Principle: Hate Speech must be opposed at every level**

**Case Study**

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# The March 2004 Riots



### Principles for dealing with the past

Principles for Dealing with the Past is a civic initiative, promoted by the informal coalition consisting of Youth Initiative for Human Rights - Kosovo (YIHR KS), Humanitarian Law Center Kosovo (HLCK), Integra, Kosovo Rehabilitation Center for Torture Victims (KRCT) and New Social Initiative (NSI). The group has taken a joint initiative to design and approve a set of principles that will inform and guide political and public stakeholders on how to deal with victims, survivors, painful past and historical narratives. The initiative aims to prevent harmful discourse and actions related to the legacy of the conflict and will serve as a reference document, where anyone who violates the principles should be held morally responsible. Therefore, the aim is to apply these principles and respect the values and feelings they embody, in order to ensure that victims and survivors are not harmed and that actions related to dealing with the past contribute to the reconciliation process.<sup>1</sup> Now that the principles have been established and organized, and well explained, it is crucial that they be presented to the general public and promoted correctly. We believe that one way to get people to understand the importance of principles is to tell them about the damages, consequences, and pain that can be caused in situations where principles are violated. Therefore, the coalition will publish some analyzes which will be compiled by Humanitarian Law Center Kosovo (HLCK) and we will try to bring concrete examples from the past where principles have been used properly or misused. One of these principles has to do with hate speech, which will be elaborated through the case study of the March 2004 riots.

### Hate speech must be opposed at every level

Hate speech is a threat to human rights, democratic values, social stability and peace, therefore it must be opposed at every level. Opposing hate speech does not go against freedom of expression, but on the contrary, silence can show indifference to bigotry and intolerance. Hate speech can escalate into something more dangerous, especially in incitement of discrimination, hostility and violence, which is prohibited by domestic and international law.

### Explanation of the hate speech notion

According to the Cambridge Dictionary, hate speech is defined as "Public speech that expresses hatred or incites violence against a person or group based on race, religion, gender or sexual orientation", and in this context, media-produced content may represent hate speech.<sup>2</sup> At the same time the Council of Europe has addressed hate speech through a recommendation addressed to governmental stakeholders of member states of the Council, public authorities and institutions at national, regional and local levels in order to comply with the recommendation.<sup>3</sup> Recommendation identified by number R(97) 20, of 1997.

This is also regulated by the national legislation. The Criminal Code of the Republic of Kosovo specifies incitement of hatred within the chapter "Criminal offenses against the constitutional order and security of the Republic of Kosovo, respectively in its article 141, as "Inciting discord and intolerance".<sup>4</sup> According to the CCRK, hatred means a hostile feeling towards a member of a nation, race, religion or other ethnicity, the intensity of which is such that it does not exclude the possibility of causing any harm to him/her. Whereas according to the Commentary of the Criminal Code of the Republic of Kosovo of 2014, incitement and spread of hatred, discord or intolerance must be carried out publicly, orally or in writing, such as newspaper articles and speeches at public gatherings, denigrating or ridiculing certain values of a nation or national minority, insulting or mocking a

<sup>1</sup> Dealing with the Past Principles | New Social Initiative - NSI

<sup>2</sup> <https://dictionary.cambridge.org/dictionary/english/hate-speech>

<sup>3</sup> Recommendation NO. R (97) 20 of the committee of ministers to member states on "hate speech" <https://rm.coe.int/1680505d5b>

<sup>4</sup> "Criminal Code of the Republic of Kosovo", 2019, Article 141, Incitement to discord and intolerance, page 50



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historical figure of a nation or national minority or ethnic group, mocking the flag or other symbols and other similar actions. The consequence of this criminal offense is incitement, spread or deepening of hatred, discord or intolerance between members of the Albanian nation and members of national minorities and ethnic groups living in Kosovo. However, for this criminal offense to exist it is not necessary for the hatred or discord to really be caused, or for the act of incitement or spread to increase the intensity of the existing hatred or intolerance, respectively in order to have this incrimination, for both incitement to hatred and discord it is not required to cause a consequence. Causing riots, violence or other serious consequences as a qualified form of this criminal offense means serious violation of public peace and order, endangerment of public traffic, obstruction of the functioning of public services, etc. Violence can be directed at people and property and can be expressed through battery, demolition, destruction, arson, etc.<sup>5</sup>

Within the purpose of this project, Humanitarian Law Center Kosovo (HLCK) has taken the March 2004 riots as a case study. These riots started as a result of the tragic loss of life of three Albanian children in the Ibër/Ibar River, in Çabër/Čabra of Zubin Potok/Zubin Potok on March 16th. The media reported that the children ended up in the Ibër/Ibar River, because they were attacked by Serbs who also had a dog with them. In absence of evidence, the HLCK does not address the issue of whether children lost their lives as a result of being chased by Serbs or no, although an international prosecutor, Peter Tinsley, has closed the investigation into the case, concluding: "No suspects have been identified despite considerable efforts".<sup>6</sup> This analysis will only elaborate media reports and statements which contained elements of hate speech, elements that greatly contributed to the start of the March riots.

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On the night of the tragic event but also the next day, the media were overwhelmed with unprofessional reporting, which is believed to have further contributed to worsening of the situation. As a result of the tragic loss of life of children, large riots started in the major parts of Kosovo. This caused a lot of consequences, where in addition to the loss of lives, damage was caused to homes, and at the same time a large number of religious objects were damaged by being demolished or even burned. According to a report issued by the OSCE referring to the report of the Secretary-General of the United Nations Interim Administration,<sup>7</sup> Mission in Kosovo, as a result of the riots, 19 people were killed, of whom 11 Kosovo Albanians and 8 Kosovo Serbs, more than 900 people were injured, including 65 international police officers and 58 Kosovo Police Service officers, and more than 800 buildings were destroyed or damaged, including 29 Orthodox churches or monasteries. It is estimated that more than 50,000 people took part in the riots.<sup>8</sup> While in another report, also issued by the OSCE, entitled "The role of the media in the events of March 2004 in Kosovo", it is stated that even in societies that do not have ethnic conflicts, the link between media reporting and loss of life, represents a thin line between freedom of expression and hate speech. Lessons learned from March 2004 and the role of the media in civil disobedience and violence have been addressed in more traditional media such as RTK which is the sole public broadcaster, but also in other private media.<sup>9</sup>

<sup>5</sup> Ismet Salihu, Hilmi Zhitija and Fejzullah Hasani, "Commentary on the Criminal Code of the Republic of Kosovo", 2014, pages 403-404, Article 147, paragraph 1

<sup>6</sup> [BBC NEWS | Europe | No evidence over Kosovo drownings](#)

<sup>7</sup> Follow up of the March 2004 riots cases in the criminal justice system in Kosovo - OSCE Report, 2008, citing UNMIK Report No. "S/2004/348", 30 April 2004, pages 1 and 2, available at [s-2004-348.pdf \(unmissions.org\)](#)

<sup>8</sup> "4 years later, Follow up Monitoring of the March 2004 riots in the criminal justice system in Kosovo" - OSCE Report, 2008, page 4

<sup>9</sup> Miklós Haraszti, OSCE, "The Role of the Media in the March 2004 Events", Vienna 2004, page 3

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In the next part we have presented some of the main reports and interviews broadcasted in the media during those two days, which contained clear messages of hatred towards the Serbian ethnicity and which led people to believe in the broadcasted event and join the crowds.

### *The March 16, 2004 reports*

RTK as the only public broadcaster, in the “Blic” news at 23:00, March 16, 2004, reported - Presenter: "They are victims of an attack by a group of Serbs in the village of Çabër/Čabra." While the reporter from Mitrovicë/Mitrovica who was reporting on the phone, said: "Police, KFOR and the KPC have not yet found the bodies of the three missing children in the Ibar River, who fell on the water after being chased by a group of Serbs." ... While reporting he said: "Almost all the residents went on the direction of village of Çabër/Čabra, to learn more about the fate of the three missing children in the Ibër/Ibar River."

After this reporting of the RTK correspondent, it was the UNMIK spokesperson, Tracy Becker, who stated: "First of all, some people have said that we are dealing with an ethnically motivated crime. "However, at the moment we do not have any such information and we cannot confirm the event."

After his statement, an activist from a human rights organization based in Mitrovica was invited to the RTK studio in the capacity of an expert witness, since he had not been an eyewitness. He declared: "Today, around 16:00, in the village of Çabër/Čabra, municipality of Zubin Potok/Zubin Potok, while six children were playing, a group of Serb bandits attacked these children. Serbian bandits also had a dog and swore the children by their mothers and forced the children to leave. "We are used to these Serb bandits ...".<sup>10</sup>

The above reports and statements are not based on any undeniable facts or evidence from primary sources, which was also mentioned by the UNMIK spokesperson, who gave a video interview to two Kosovar media, RTK and KTV, in which he had appealed to citizens to stay in their homes and stay calm, in order to allow the police focus on finding the children rather than dealing with controlling crowds of people. According to him, this interview was never broadcasted and the reports continued in the same way and with the same content.

### The March 17, 2004 reports

On March 17, as violence had already spread in Kosovo, all televisions began broadcasting special editions about the drowning of children and violent riots, in the same manner as the night before.

While during some interviews conducted by RTK that day, among others with a member of the Assembly of Kosovo, who stated: "The barbaric act of killing children... has provoked a legitimate revolt on the part of the Albanian population. "This must be a lesson for the international community." The leader of an Albanian party in Macedonia also said: "The reason is the death of three children who were trying to escape from the Serbian monsters, so they drowned in the river..."

During this day the print media also had unprofessional publications with different headlines. These are just some of the headlines:

Koha Ditore newspaper: "Three children drowned in Ibër/Ibar, while escaping from Serbs."

Zëri newspaper: "Three Albanian children have disappeared in the Ibër/Ibar River... They have disappeared while trying to escape from two Serbs."

Gazeta Bota Sot: "Serbian gangs started their activities to expel Albanians from the north."

Gazeta Epoka e Re: "Serbs drowned three Albanian children in the Ibar River."<sup>11</sup>

<sup>10</sup> Miklós Haraszti, OSCE, "The Role of the Media in the March 2004 Events", Vienna 2004, pages 7-11.

<sup>11</sup> Ibid, page 11



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As a result of the media reports mentioned above, whether television or printed, in addition to unfounded information we can also see the use of hate speech against the Serbian ethnicity, which has undoubtedly influenced in convincing citizens about the circumstances in which the event occurred, and becoming part of the riots. To substantiate this, we have included some testimonies of citizens who showed how they saw the event and how the reports affected them.

One of these witnesses was NN from Prishtinë/Pristina, a participant in the demonstrations, who during an interview conducted with the HLC on April 18, 2004, showed what was the reason he took to the streets. He said: "...the next morning (March 17, 2004), all television stations were reporting on the events in Mitrovicë/Mitrovica, saying that several people had been killed and more than 500 injured. I can not say that this did not bother me. I left the apartment shortly after noon..." On the other hand Lj.D, a Serb from Kamenicë/Kamenica, manager of a multi-ethnic radio station, in an interview with HLC on June 24, 2004, indicated that he had seen the reports of these two days as a direct incitement to riots. He said: "In my opinion, the Kosovar media played a very negative role in the March events. In a way they called people to come out. "Such a conclusion can be inferred from the way they reported the incidents..." The same was testified by an Albanian from Prizren/Prizren, who wanted his identity to remain anonymous, who gave an interview to the HLC on April 27, 2004. He said: "News programs on RTK, TV 21, KTV and local television stations Besa and TV Prizren, were dominated by special reports and broadcasts from Mitrovicë/Mitrovica regarding the three children, victims of the Serbian attack near the village of Çabër/Čabra ... I felt it would not end well... However, later (March 17), in the afternoon, Prizren/Prizren was caught in a wave of violence... After a while the violence reached its peak...".<sup>12</sup>

These testimonies are examples of how the manner of reporting and statements by public figures, who were given space by the media, clearly contained hate speech, which led many people to join the crowds, incite inter-ethnic divisions, which resulted in tragic consequences for the entire Kosovo.

Humanitarian Law Center Kosovo also managed to identify other cases which have incited inter-ethnic hatred. We have had cases where Albanian municipal spokespersons have used hate speech against Serb IDPs. On the other hand, we have seen members of government cabinets, who also represented the Serb community, address with speeches that contained hate speech against the Albanian population. Referring to these findings we can say that this problem still exists today and is not just part of the past. In addition to ethnic grounds, we also noticed such a language being used in our country on other grounds such as gender, religion, race, sexual orientation, etc.

In order to address this issue a Cooperation Agreement was signed in 2018 between the Ministry of Internal Affairs, Kosovo Police, the Office of the Chief State Prosecutor and the Kosovo Judicial Council, specifically for addressing hate crimes in Kosovo.<sup>13</sup> Under this Cooperation Agreement, "Hate Crime" is any crime committed against a person, group of persons or property, motivated, in whole or in part, by race, color, gender, gender identity, language, religion, political opinion or any other opinion, national or social origin, property, economic or social status, sexual orientation, birth, disability or other personal status or due to relations or proximity to persons having the above mentioned characteristics. Anyone can be a victim of hate crime however; members of minority communities are the most common victims. The purpose of this Cooperation Agreement is to use a

<sup>12</sup> Humanitarian Law Center, *Ethnic Violence in Kosovo*, July 2004, pages 12, 55, 59

<sup>13</sup> "Cooperation Agreement for the Addressing Hate Crimes in Kosovo", 2018, pages 2-4

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coordinated and comprehensive approach, between the signatories in addressing hate crimes as effectively as possible within the existing legal framework in cooperation with other institutions of the Republic of Kosovo and civil society organizations. In line with this Agreement, the Prosecutorial Council's Performance Review Unit has issued annual statistics regarding the handling of hate crime cases.<sup>14</sup>

## Recommendations

### Holders of public positions

In order to eliminate the use of hate speech, and given the consequences it causes, and being a multiethnic state, public and political stakeholders will need to be more mindful about the language they use in their televised speeches, pronouncements and actions that can often be presented as incitement for a section of the population.

### Media

Based on the key case study of this analysis, during their reporting media should be based on accurate information and in no way use elements of hate speech on any grounds, be it ethnic, religious, racial, etc.

### The signatories of the Agreement for addressing hate crimes

Addressed to the Ministry of Internal Affairs, the Kosovo Police, the Office of the Chief State Prosecutor and the Kosovo Judicial Council, to ensure that this Agreement is strictly implemented and all persons with high functions in state institutions, but also other public and political stakeholders who commit hate crimes, in addition to disciplinary measures, be subjected to criminal sanctions in accordance with the CCRK, so that they serve as preventive measures and precedents for all cases and possible violations in the future.

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<sup>14</sup> Kosovo Prosecutorial Council, Prosecutors Performance Review Unit, "Reporting Period 01 January 2019 - 31 December 2019, Reporting Period 01 January 2020 - 31 December 2020"

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