INTRODUCTION

The killing of Gdańsk’s mayor is the tragic result of hate speech. What happened to Paweł Adamowicz, the mayor of Gdańsk, isn’t just a Polish problem, wherever toxic public debate is indulged, violent acts may be committed. The Guardian, January 2019

Twenty years ago, far-right, far-left and extreme parties were seen as a marginal force. Since then, anti-establishment sentiments have been on the rise, particularly after the 2008 financial crash and the 2015 refugee crisis in Europe. Many predicted that the 2019 European elections would result in more anti-establishment and anti-EU representatives than ever. While that did not turn out to be the case the notion remains that democracy is under pressure and for a variety of reasons. In addition to this, some European countries and several of the world’s largest democracies, including the US, are led by people who question what was before considered a common set of values and rule of law.

In addition to this, hate speech and threats directed against elected representatives are causing concern, and with the advent of social media the problem seems to have increased dramatically. The performance of elected representative is constantly discussed on the internet and in a much more critical way than before. Elected representatives are therefore exposed to online comments around the clock, often based on half-truths or even fake news.

These things are not only affecting the political stage at national level. The local and regional level is no less affected, and it raises several questions, including:

- In what way is it a threat to democracy that local elected representatives are exposed to hateful statements and threats?
- To what extent do the challenges of being an elected politician lead to difficulties in engaging new and/or young people in political participation?
- Is there a need for stronger legal protection of elected politicians?
- What is the local and regional dimension of the fact that some governments, including European governments, consciously want to destabilize democracy as a form of government?
In 2018 Emmanuel Macron proposed a law that includes measures to make the backers of sponsored content transparent and empower the government to either scrap “fake news” from the internet or even block websites altogether during political elections. Does this apply to the local and regional level?

"Nobody can wreck Germany's democratic system” said president Wolfgang Schäuble in 2017, arguing that it is resilient to the threats it faces from inside and outside. How resilient are our European democracies, seen from the local and regional level?

With this in mind, below are a few highlights on European initiatives in relation to threats to democracy, prevention of radicalisation and hate speech towards elected representatives.

### THREATS TO DEMOCRACY

Over the last decade, a number of developments and trends constitute threats to democracy, be it at local, regional, national or European level. This includes reduced voter turnout and anti-establishment sentiments due to the mismanagement of the climate, refugee and financial crises.

In addition to this, corruption, as demonstrated by the Panama and Luxembourg papers, has caused public outrage. The social media revolution adds to this by making it easy for the public to express their frustration, often in the form of anonymous hate speech. Over the past years, we have also seen examples of foreign interference in elections.

These recent developments and trends constitute threats targeted at democracy, be it at local, regional, national or European level. This has an effect on whether elected representatives continue or become actively involved in politics, which in itself, is also a threat to democracy.

In September 2018, President Juncker proposed measures to bolster European democracy and to protect free and fair elections in Europe. The aim was to better protect the democratic processes from manipulation by third countries or private interests.

This came as a response to challenges posed by online campaigning and to threats observed in recent elections and referenda directed at discrediting and delegitimising elections in Europe. On this occasion Frans Timmermans, the First Vice-President summed the issue up in the following way:

*We know there are forces which are trying to disrupt our societies, meddle in our elections and subvert our democracies … We cannot be naïve. It’s time to step up our democratic defences as soon as possible so that people will be better informed, and their data better protected.*

The package of measures, adopted in September 2018, includes a series of actions addressed to national and European political parties and foundations. It calls on national parties to ensure transparency of the sources and amount of campaign funding for online activities during the
European election campaigns. To increase this transparency the Commission urges national political parties, foundations and campaign organisations to:

- Ensure that citizens can easily recognise online paid political advertisements and communications, and the party, foundation or organisation behind them;
- Make information available about their spending for online activities on their websites;
- Make their paid online political advertisements and communications accessible through their websites.

The Commission also reminded political parties and campaign organisations to implement appropriate measures to be able to tackle cyberattacks and reminded them of their obligations concerning the protection of personal data.

Political parties that do not respect data protection rules to deliberately influence or attempt to influence the outcome of European elections will be subject to new sanctions, introduced by the amended Regulation on the European political parties and foundations at the European level. The Regulation entered into force in April 2019, and the main changes are the following:

- Stricter requirements for forming a European political party: In the future only parties – and no longer individuals – will be able to sponsor the creation of a European party;
- More proportional distribution of funding;
- Easier access to funds;
- Stronger enforcement: The new rules allow in certain cases for the recovery of money from individuals who are responsible for the misuse of EU funds. De-registration of parties which have provided false information will also become simpler;
- Increased transparency: European political parties will in the future only be able to receive funds if their EU member parties display the logo and programme of the European party on their websites.

Responding to this, Member States have established national networks to formalise cooperation among national authorities to jointly identify threats and gaps, share good practices, and exchange information on how to apply electoral rules online. These national networks meet regularly at a European level, as a European network assisted by the Commission.

**PREVENTION OF RADICALISATION**

The EU’s approach has been to address acts of terrorism at their source. Therefore, preventing terrorist attacks by addressing and stopping terrorist radicalisation and recruitment is a priority for the EU.

This is further outlined in the EU Internal Security Strategy for the period 2015-2020, adopted by the Council Conclusion in June 2015. It constitutes the EU strategy, shared by EU institutions and Member States, aiming at tackling the security challenges and threats facing the EU.
The strategy is composed of several policy documents: including the Council Conclusions of December 2014 and June 2015, with the principles it outlines based on the Commission’s Communication “European Agenda on Security” from April 2015.

In terms of content, the internal security strategy is in line with the principles and priorities for action as defined by the Commission in its European Agenda on Security, namely: i) Tackling terrorism and preventing radicalisation, including online; ii) Disrupting organised crime; and iii) Fighting cybercrime.

Radicalisation in this sense is understood as a complex phenomenon of people embracing a radical ideology that could lead to the commitment of terrorist acts.

Rejecting terrorist ideology

In the EU’s approach, terrorist radicalisation and recruitment are not confined to one faith or political ideology. This is based on the fact that Europe has experienced different types of terrorism in its history. The EU stresses that the vast majority of Europeans, irrespective of belief or political conviction, reject terrorist ideology. Even among the small number of people that do not reject such ideologies, only few turn to terrorism. The EU also stresses that preventing radicalisation will only work if fundamental rights are fully respected, while promoting integration and cultural dialogue, and fighting discrimination.

Working with local communities

The EU promotes addressing this issue at a level closest to the most vulnerable individuals. This requires close cooperation with local authorities and civil society.

EU radicalisation awareness network

Under the EU Internal Security Strategy, the Commission promotes actions empowering communities and key groups that are engaged in the prevention of terrorist radicalisation and recruitment. To this end, the EU has established an EU-wide Radicalisation Awareness Network, which connects key groups of people involved in countering violent radicalisation across the EU. Thus, researchers, social workers, religious leaders, youth leaders, policemen and others working on the ground in vulnerable communities are able to exchange ideas and best practices, in particular on how to challenge terrorist narratives and recruitment.

Joint EU standards

Since 2005, work in this field has been guided by the EU Strategy for Combating Radicalisation and Recruitment. While recognising EU States’ authority as security providers, the strategy contains joint standards and measures that aim at preventing terrorist radicalisation and recruitment, grouped under three key headings:

- Disrupt the activities of individuals and networks that draw people into terrorism;
- Ensure that voices of mainstream opinion prevail over those of extremism;
- Promote security, justice, democracy and opportunities for all more vigorously.
HATE SPEECH TOWARDS ELECTED REPRESENTATIVES

Definition of “hate speech”

There is no international definition of “hate speech”, while Article 20 of the International Covenant on Civil and Political Rights from 1966 states that:

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

In addition to this, the following Council of Europe (non-binding) definitions exist:

- Committee of Ministers of the Council of Europe, recommendation from 1997 on “hate speech”:

  All forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

- European Commission against Racism and Intolerance, General Policy Recommendation from 2016 on “hate speech”:

  The use of one or more particular forms of expression – namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or status that includes “race”, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.”

The 2019 study “Hat og trusler mot folkevalgte”¹, done by the Norwegian Association of Local and Regional Authorities (KS), is based on “hatred and threats” being broadly understood as hate speech, threats, harassment, violence and other improper verbal or physical behaviour that can be linked to the exercise of political office. The study is discussed in more detail below.

The European Union approach to “hate speech”

The EU Framework Decision on Combatting Racism and Xenophobia from 2008 criminalises the public incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent, national or ethnic origin.

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Hate speech, as defined in the Framework Decision, is a criminal offence and Member States can punish actions which are either carried out in a manner likely to disturb the public order or which is threatening, abusive or insulting. This also applies when it occurs online.

EU measures to counter illegal hate speech online:

The EU approach towards illegal hate speech online follows the assumption that the EU, its Member States, social media companies and other platforms, all share a collective responsibility to promote and facilitate freedom of expression in the online world. At the same time, all these actors have a responsibility to ensure that the internet does not become a free haven for violence and hatred.

To prevent and counter the spread of illegal hate speech online, in May 2016, the Commission agreed with Facebook, Microsoft, Twitter and YouTube on an EU “Code of conduct on countering illegal hate speech online”. The aim is to help users to notify illegal hate speech in these social platforms, improve the support to civil society as well as the coordination with national authorities. The four platforms agreed to assess the majority of user’s notifications of hate speech within 24 hours, and to respect EU and national legislation on hate speech and commit to remove messages assessed illegal.

Between 2018 and early 2019 Instagram, Google+, Snapchat, Dailymotion and jeuxvideo.com announced their intention to join the EU “Code of conduct”.

The 4th evaluation on the EU “Code of conduct”, published in January 2019, shows that this initiative is delivering positive results. IT companies are now assessing 89% of flagged content within 24 hours and 72% of the content deemed to be illegal hate speech is removed, compared to 40% and 28% respectively before the EU “Code of conduct” was launched.

Mr Andrus Ansip, European Commission Vice-President for the Digital Single Market, said on this occasion that the EU “Code of conduct” works because it respects freedom of expression. The internet is a place people go to share their views and find out information at the click of a button. Nobody should feel unsafe or threatened due to illegal hateful content remaining online.

“Hat og trusler mot folkevalgte”:

The KS study “Hat og trusler mot folkevalgte” distinguishes between indirect and direct forms of contact and forwarding of hate speech or threats. Indirect contact refers to communication via means such as social media, internet or telephone. Direct contact refers to the dissemination of hate speech or threats through physical or close contact with the sender, such as unpleasant approaches or contact attempts, physical attacks or property damage.

Hate speech is often experienced through indirect contact. The results from the survey among locally elected representatives show that almost 3 out of 5 (57%) have experienced troublesome and unwanted inquiries through Twitter, Facebook or other types of social media. Slightly more than 4 of 10 locally elected officials have been subjected to hateful utterances or specific threats (43 %). Furthermore, half of the locally elected representatives have experienced someone
communicating malicious information through for example newspaper posts, blog posts or smear campaigns online (49%). Those who have experienced specific threats are more exposed to direct forms of contact. Just under a quarter (23%) have experienced someone making unpleasant approaches or contact attempts at home, at work, or in public places, or that someone has behaved uncomfortably or disturbingly in connection with political events or journeys.

Internet is a major arena for conveying both hateful utterances and specific threats aimed at locally elected representatives. Social media is most frequently used, followed by online comments and forums. Phone/SMS is the third most used channel. The results reveal that, compared to hateful utterances, direct threats are less often online, and more often communicated by telephone or SMS.

Hate speech and threats can affect locally elected representatives both mentally and socially. Simultaneously, these incidents can cause real implications for their motivation to participate in politics and the public sphere. That is also what the survey tells; half of those who have experienced hate speech or threats have considered ending their political career. Hate speech and threats can also affect freedom of speech, as many will avoid uttering their views. Furthermore, decision makers may refrain from making difficult decisions to avoid becoming subject to hate speech and threats. In the longer term this may lead to decisions being made at other levels than at local and regional.

**DISCUSSIONS ON DEMOCRACY, PREVENTION OF RADICALISATION AND HATE SPEECH IN ICELAND, NORWAY AND SWITZERLAND**

**Iceland**

Iceland has to this date not experienced an increase in the activities of far-right, far-left and extreme parties. Hate speech is on the other hand a growing problem and is frequently found on Icelandic websites.

Hate speech, including online hate speech, falls within the scope of Icelandic criminal law. There are concerns though that the current approach towards hate speech isn’t working and that it has created a society where people find hate speech acceptable. There are also concerns that proposed amendments to the existing hate speech law may be exacerbating the problem rather than addressing it.

There is increasing racist public discourse in Iceland, focused in recent years largely on Muslims. The decision of Reykjavík City Council to grant permission for the construction of Iceland’s first mosque was for example met with wide criticism.

Hate speech directed against elected representatives is causing concern in Iceland. With the advent of social media, the nature of public debate has changed enormously. People who previously did not participate publicly in political discussions have now been given a wide-open platform to express their views publicly for better or worse. The performance of elected representatives is constantly discussed on the internet and in a much more critical way than
People can now say or write almost anything they like, about anybody and at any time. Elected representatives are therefore exposed to online comments around the clock, often based on half-truths or even fake news.

There is no available data or survey that sheds light on how widespread this problem is among elected representatives in Iceland. As a response to this, it has now been decided that the Icelandic Association of Local Authorities will conduct a survey among elected representatives at municipal level, addressing this issue. The survey will include, among other things, questions about gender-based harassment, gender-based violence, and prejudice against elected representatives at municipal level. The survey is a part of broader review of the working conditions for elected representatives at the local level in Iceland. A key component in the review is to look into the reasons why elected representatives generally do not seek a second term in office. The Ministry for Transport and Local Government, in cooperation with the Association of Local and Regional Authorities, is responsible for the review.

Norway

In Norway politicians at local and regional level do not have the same level of protection as national politicians. They are therefore more vulnerable and less protected than their national colleagues, who are supported by the police and intelligence services.

Further, local and regional elected politicians are carrying out their democratic duty in their spare time and are ordinary people of the local community. Often the municipal or regional administration do not have the possibility to give the same support to politicians receiving hate speech or threats than the national administration does. And finally, local politicians are often faced with the task of defending at municipal level the decisions made by politicians at national level. In general, 39% state that they have been subjected to hateful utterances, while 13% have experienced threats. In total, 8% state that they have been subjected to both hateful utterances and threats.

Furthermore, the results show that the younger the age, the higher the probability of being exposed to hate speech. In northern Norway there is also a higher proportion of people who answer that they have been exposed to hate speech, compared to the average. In addition, specific threats mostly affect those who live in central areas. The proportion who have been exposed to hate speech or specific threats is somewhat higher among politicians belonging to the Progress party, compared to the average. In contrast, the lowest proportion is found among politicians belonging to the Christian Democratic Party.

There can be many different reasons why locally elected officials receive hate speech or specific threats. The study shows that the politicians believe they have been particularly vulnerable to hate speech or concrete threats by being in the public eye fronting individual cases (80%) or their own party affiliation (58%). Furthermore, 1 in 3 believes that it was because they are a known person. Other reasons mentioned are bullying, smear campaigns or dominant behaviour in connection with internal political power struggles and political opponents.
There are fewer who believe that this is due to the grounds for discrimination that appear in the legal jurisdiction on hate speech, as less than 5% have stated these reasons (skin colour/ethnicity, religion, sexual orientation or impaired ability). It is nevertheless worth mentioning that 13% have stated gender as the primary cause, which currently stands outside the Norwegian penal code.

Switzerland

Online hate speech might fall within the scope of Swiss criminal law under the provisions applicable to comments made in the analogue world. In its recent answer to a question by a member of the Federal Parliament, the Swiss government argued that the existing legislative framework provides adequate protection and that there was no need for additional criminal rules. Swiss people will vote in February 2020 on an extension of the criminal law’s provisions applicable to discrimination on the basis of sexual orientation.

The Federal government considers that developing critical skills towards media among children and young people is one of the most important measures to prevent hate speech. A web-based information portal devoted to the promotion of media skills, “Youth & Media”, has been created to this end in 2011. Prevention is in the first place an issue for the cantons. Another internet portal, operated by an inter-cantonal service, is providing guidance on countering racism and xenophobia through cyber-bullying.

Considering the problems of applying Swiss law due to the cross-border nature of internet services, the Federal government focuses on solutions based on the voluntary commitment of the media on the internet. In order to partly alleviate some of these problems, internet media headquartered abroad might be required in the future to have an address for service in Switzerland.

In this context, it is worth mentioning that the Zurich public prosecutor’s office recently initiated a criminal investigation into unknown persons suspected of violating the laws on racial discrimination for a video campaign posted on various media platforms by the Swiss People’s Party (SVP) before the last national parliamentary election in October. SVP, the country’s largest political party, argued that the video was not racist but rather part of an “information campaign”. Showing refugees from Eritrea, the largest foreign community seeking asylum in Switzerland, the video was pulled from YouTube for violating its hate speech policy.

Also worth mentioning is the Swiss National Action Plan to prevent and counter radicalisation and violent extremism. Launched in 2017 as part of the Swiss counter-terrorism strategy, it aims for the Federal State, the cantons and the municipalities to work together in taking preventive measures against all forms of radicalisation and violent extremism and in proposing measures to achieve disengagement and reintegration.