

STAND UP

for victims' rights

POLICY BRIEF



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Introduction

The aim of this policy brief is to share the most significant results of the implementation of the project and reflections that emerged during meetings with different stakeholders in the context of Stand Up for Victims' Rights project (2020-2022) and a preceding project on same theme, V-Start (2018-2020), both funded by the European Union DG Justice.

The activities of the project implemented beginning from September 2020 to date in Austria, Croatia and Italy, have enabled the project partners to reflect on the specific needs of victims of hate crimes and the main characteristics specialized support services for such victims should have. There is still a long way to go in the three partner countries (and probably in many other EU countries), in offering victims of hate crimes support that takes adequately into account the peculiarities and gravity of such crimes and the specific needs of those victimized. This publication aims to highlight some of the recommendations participants in the project think are important and which can significantly contribute to building more effective support services for victims of hate crimes and the local communities where they live.

The recommendations in this policy brief target different stakeholders: EU level decision makers who can improve on the current legal framework on rights and protection of victims of crime, national policy makers who can adopt new measures to strengthen the existing national legislations deriving from the Victims Directive, State institutions and bodies on the frontline of supporting victims of crime and civil society organisations that offer victim support services to those affected.

The brief provides a short overview of the EU legal framework on the rights of victims of crime in the Member States, followed by the situation in each of the three project partner countries. It highlights in particular some of the various challenges encountered at the national level, by institutions and civil society organisations that provide support for crime victims in general and hate crime victims in particular, in delivering much needed support to persons who have been victimized and groups targeted by such crimes. The challenges and recommendations on policy and practical measures that are needed to improve the current situation are presented by country, though many of them are common to all three countries.



Description of the project

Stand Up for Victims' Rights

Hate crimes are major issues in Europe for their diffusion and unique impact on victims and communities. The "Stand Up for Victims' Rights" project aims to contribute to the application of Directive 2012/29/EU in Austria, Croatia and Italy. The project commenced in September 2020 and will complete in December 2022. The main focus is on enhancing the system of support for victims of hate crimes, to promote victims' rights and to combat under-reporting of hate crimes.

The project activities fall into three main strands:

- 1. Cooperation and networking** - Cooperation and networking at both the national and European levels, forging formal links between civil society organisations (CSOs) engaged in providing victim support services and public institutions, with the aim of improving collective understanding of the problem, identifying the challenges it poses and appropriate solutions or remedies.
- 2. Capacity building** - Capacity building of service professionals and sentinels such as lawyers, law enforcement, social services workers and civil society organisations active in promoting and protecting rights of vulnerable groups.
- 3. Awareness raising** - Awareness raising initiatives targeting persons directly victimised, witnesses and the public through the production and dissemination of information materials on recognising hate crimes, reporting to both institutional and CSO stakeholders, existing support services, how they can be accessed and types of support offered etc.

In the first strand, steps were taken to improve cooperation among civil society organisations (general and specialised victim support organisations, community organisations) and between CSOs and law enforcement bodies and other public authorities. The main aim was to take steps towards an effective referral system for victims of hate crime. The involved actors continued to work together to improve access to support services by victims of hate crime and to ensure a tailored response to their needs.

Under the second strand, capacity building workshops were organized for professionals likely to come into contact with hate crime victims. These workshops served to raise awareness of hate crimes among social workers, law enforcement authorities and lawyers. These professionals acquired better understanding of the needs and rights of victims of hate crimes, as well as their personal and organisational roles in the support system. Alongside the training for professional and sentinels, there were national working group meetings that brought together CSOs engaged in promoting and protecting the rights of various groups that are vulnerable to discrimination and hate attacks. These discussions helped many CSOs enhance their knowledge of different aspects of hate crimes and hate crime victim support.

The third strand, awareness raising, focused on disseminating information on hate crimes in general and rights and needs of hate crime victims in particular. It involved advocacy initiatives and a campaign in each partner country to encourage reporting of hate crimes and hate incidents, as well as strengthening and promoting 'civil courage' using social and traditional media outlets. Five Know Your Rights brochures were published in each country as part of the campaign, providing information on hate crimes and different bias motives. In addition, five short video clips were produced and disseminated to inform real and potential victims of hate crimes and the public about hate crimes and where to turn to for support in the event of being victimized or witnessing a the crime or incident. The materials produced in this project are available online at <https://standup-project.eu/> and in the instagram page [standup.eu](https://www.instagram.com/standup.eu/).



European level

At the European Union level, a common criminal-law approach to racism and xenophobia was established within the *Framework Decision no. 2008/913/JHA* of 28 November 2008 on the Suppression of Certain Forms and Manners of Expressing Racism and Xenophobia by means of Criminal Law (hereinafter: Framework Decision on Racism and Xenophobia). However, this Framework Decision does not explicitly mention the notion of hate crimes but requires that racist and xenophobic motivations are considered as aggravating circumstances or that such motivation be taken into consideration in the determination of related penalties. Additionally, the notion of racist and xenophobic motives should be interpreted more broadly, in a way that includes hatred based on race, colour, religion, origin and national or ethnic origin.

OSCE/ODIHR defines hate crime as a crime that is motivated by bias towards a certain group within society. Two elements need to be met for a criminal act to qualify as a hate crime. First, it must constitute a criminal offense under national criminal law; second, it must be committed because of *biased motivation*. "Bias motivation" means that the perpetrator chose the target of the crime on the basis of a *protected characteristic*. A "protected characteristic" is a fundamental or core characteristic that is shared by a group, such as race, religion, ethnicity, language or sexual orientation. The target of a hate crime may be a person, a group of people or property associated with a group that shares a protected characteristic. What differentiates a hate crime from other criminal offences is precisely the perpetrator's motive i.e. bias motivation.

Victims are not only individuals (direct victims) but entire communities (indirect victims) that share characteristics with individual victims. Hate crime targets the victim's personal identity which is unchangeable or fundamental to a person's sense of self and sends a message to the entire community that they are not equal members of society – which is why these criminal offences are described as 'message crimes'.

Hate crimes are committed for reasons of hostility towards people based on their actual or perceived age, disability, colour, nationality, ethnicity, religion or belief, ideology, language, sexual orientation, gender identity and expression, sex characteristics or any other identity traits. This list, however, provides an indication of the most often protected characteristics and it is neither exhaustive, nor universally acknowledged across the OSCE region.¹

¹ - ODIHR's project on Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support (EStAR) developed important tools and resources to ensure that hate crime victims are protected, enjoy full access to justice and receive tailored specialist support. Among others, EStAR produced policy recommendations that outline policies and principles for establishing specialist support services where they do not exist and for expanding and strengthening their work where it is not sufficient; <https://www.osce.org/odihr/hate-crime-victim-support>.



HATE CRIME VICTIM SUPPORT

Bearing in mind that hate crimes target the victim's personal identity, "being a victim of a hate crime may feel like being attacked because of your identity, because of what you are [and] it undermines the very essence of who you are"².

Hate crimes frequently go unreported due to a wide range of reasons, from fear and shame to distrust that the authorities may not believe the victim's experience and that they may even be victimized again in the process of reporting. Victims who experience bias-motivated violence fear that law enforcement authorities may hold the same bias as the perpetrator and that institutional structures are biased against them.

The impacts of hate crime can range from feeling inferior, subhuman, scared, upset, unsafe, anxious, disoriented, fearful, depressed, empty and hollow for a long time. In some cases, victims of hate crime have suicidal tendencies. Since hate crime victimization can have wide-ranging impacts on victims, the response from law enforcement professionals need to include a respectful and sensitive approach. Moreover, hate crime victims have expressly declared that they require additional specialist support.

In 2012, the EU adopted Directive 2012/29/EU of the European Parliament and of the Council on establishing minimum standards on the rights, support and protection of victims of crime (*Victims' Rights Directive*). The aim of this Directive is to ensure that victims of crime receive appropriate information, support and protection and that across the EU all victims enjoy their rights and have equal access to support services. In the Directive, victims are identified as one of the most vulnerable groups due to the type or nature and circumstances of the crime and the fact of belonging to the group of victims who are victims of secondary and repeated victimization, intimidation and retaliation. Consequently, it is envisaged that special attention should be paid to victims of hate crimes in the context of conducting an individual assessment, a new approach introduced in order to identify specific needs and protection measures. Victims' Rights Directive calls on Member States to establish specialized victim support services, either as an integrated part of or in addition to generic victim support services.

What makes general victim support different from specialized victim support is the approach that understands the current socio-cultural and political contexts of the communities affected by hate crimes and that responds to it in a comprehensive manner, going beyond the criminal act. However, hate crime victims hardly have access to specialist hate crime victim support because in many Member States, hate crime victim support services run by public institutions do not exist. Where specialist support services exist, they often serve only one specific target group (e.g., LGBTIQ, Muslims, Roma and Sinti, etc.) and this leaves other target groups without support services. States often rely on CSOs to provide specialist support services to fill this gap but despite their crucial role in providing specialist support for hate crime victims, CSOs are often excluded from consultations on the development of victim support policies. An additional challenge is that CSOs have limited resources and are sometimes unable to guarantee continuity in providing support for victims.

It is the responsibility of the State to ensure that hate crime victims receive the support they need. In order to do so, States should enhance their efforts to strengthen cooperation between multiple stakeholders to fulfil their obligations to tackle hate crimes and provide victims the with support they need.

² - Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support (EStAR), Policy Brief Specialist Support for Hate Crime Victims, page 15, link available at: <https://www.osce.org/files/f/documents/2/4/513127.pdf>



Situation in each country involved in the project and recommendations

SITUATION IN AUSTRIA **Austria**

In Austria, a lot remains to be done to improve the support structures for victims of hate crimes. Also, the legal consequences of a hate crime continue to be limited, since the “special aggravating factors” (Besonderer Erschwerungsgrund, Criminal Code, Article 33 (1) (5)) are only considered at the time of sentencing.

Nevertheless, some important steps have been taken by policy makers since the research results of the preceding project “V-START – Victims support through awareness raising and networking” funded by the European Union Justice Programme (2014-2020), were published in November 2018.³ Most noteworthy were the efforts of the Austrian Federal Ministry for the Interior to improve the data recording practices of the law enforcement authorities for cases of hate crime.⁴ After a piloting phase between November 2020 and April 2021, 2021, is the first year for which these systematic data on hate crime are available.⁵ In parallel with the roll out of these data recording standards, the law enforcement authorities were trained on bias motives and hate crimes through a compulsory e-learning seminar. By May 2022, almost 90 per cent of the entire law enforcement authorities have been trained together with more than 200 multipliers.⁶ Even though the e-learning course cannot guarantee in-depth sensitization of the entire law enforcement on the topic, this is a big steppingstone towards increased awareness on the context and implications of hate crime by the law enforcement authorities.

Overall, hate crime and its societal and legal implications still are widely unknown among the general population in Austria. General and specialised victim support organisations continue to raise awareness of the topic. Yet, progress is slow, and underreporting remains a big issue. Through the activities carried out as part of the “Stand Up for Victims’ Rights” project in Austria the capacities of CSOs to support victims of hate crime were further enhanced. The focus of the endeavours, next to **capacity building** and **awareness raising**, was on strengthening **cooperation** among CSOs and between CSOs and public authorities.

ZARA, who offers support to people affected by racism and online hate, continued to coordinate a regular exchange among victim support organisations, both general and specific ones, community organisations and public authorities. The umbrella for this exchange is the **Network to Counter Hate Crime**⁷ (“Hate Crime Kontern Netzwerk”). The main two aims within this network are

- to improve the support structures for victims of hate crime, always with a victim-centred approach, and
- to make the referral mechanism for victims of hate crime more effective.

Currently, the **referral mechanism** for victims of hate crime in Austria is organised on an informal basis. There is no automated referral system in place for victims of hate crime yet i.e., a system where the law enforcement authorities are obliged to refer victims and their contact details to victim support organisations. The WEISSE RING, Austria’s only legally recognized general victim support organisation, has long been advocating for all victims of crime to

3 - V-START, 2018, “Support system for victims of hate crime in Austria. V-START Research Report.” Author: Schreilechner, Anna-Laura.

4 - Federal Ministry for the Interior (BMI), 2021, „Hate Crime in Austria: Pilot Report. Can be downloaded at: https://www.bmi.gv.at/408/Projekt/files/320_2021_Hate_Crime_Pilot_Report_English_V20210806_barrierefrei.pdf

5 - Federal Ministry for Interior (BMI), 2022, Hate Crime in Austria: Annual report 2021. Can be downloaded at: https://www.bmi.gv.at/408/Projekt/files/218_2021_Hate_Crime_Bericht_2021_GESAMT_V20220510_barrierefrei.pdf

6 - Federal Ministry for the Interior (BMI), 2022, Presentation: “Systematic Hate crime Data collection and reporting, trainings & civil society cooperations by Police and Ministry”, during the country visit to Austria of the Expert Working Group on Hate Crime Data collection, 19.05.2022

7 - Find out more about the network by visiting: www.hatecrimekontern.at



be referred to victim support organisations directly, but the legal basis has not yet been established. Only for cases of domestic violence does such a legal basis exist, where the law enforcement authorities directly refer victims and their contact details to victim support organisations specialized in supporting victims of domestic violence.

Main challenges

Lack of a standardized agreement within the network of victim support services

- The regular exchange within the Network to Counter Hate Crime allows for better understanding of each organisations' mandate, approach, and quality standards as well as their specific target groups and provided services. The network is organized informally, meaning **there is no formalized agreement** solely a **memorandum of understanding defines roles and responsibilities of stakeholders** as well as **referral procedures** between certain organisations.
- Within the informal referral system of victim support organisations there is a **lack of common standards for basic data collection** (categories, dimensions, etc.) of hate crime cases not reported to law enforcement authorities. A protocol has been drafted, which sets out standards for the work with victims of hate crime within the network. Thereby, informal referrals for victims of hate crime are facilitated.

Absence of an automated referral system:

- To ensure access to support, victims of domestic violence are referred to specialized victim support services by law. For victims of hate crime there is **no automated referral system in place**, in the sense of a law that obliges law enforcement authorities to refer victims and their contact details to victim support organizations
- On the one side a **legal basis** for such an automated referral system and on the other side the **political will for implementation** is missing.
- As a result of the missing legal basis, there is **no established way to ensure secure data transfers** among law enforcement authorities and specialized victim support organizations involved in such a referral process.

Underreporting and lack of awareness

- There is a **lack of information amongst hate crime victims** on the topic as well as on the available support system. This results in **the difficulty to access specific support services**.
- Due to **lack of awareness on hate crime and knowledge on the criminal law** many **cases of hate crime are not reported to the law** enforcement authorities and therefore, not visible in any statistics.

Missing financial stability

- The informal referral system is **missing financial stability and sustainability**. The future of the Network to Counter Hate Crime is uncertain, as financial and time resources for participating organisations and the coordination work are not stable.

In the following, we present thematically grouped recommendations for the next steps that are essential to improve the situation for hate crime victims in Austria. These recommendations were collected at meetings with stakeholders throughout the "V-START" project (2018 – 2020) and its follow-up project "Stand Up for Victims' Rights" (2020 – 2022) funded by EU.



Recommendations

Recommendations to improve cooperation within the referral system and the support structures for victims of hate crime

Cooperation between law enforcement authorities and victim support organisations

- Cooperation between law enforcement authorities and communities, community leaders, advocacy groups, victim support organisations and initiatives need to be further strengthened in order to ensure effective referrals of hate crime victims. Law enforcement authorities, often the first point of contact for victims of hate crimes, must be part of the referral system.
- An automated referral system between law enforcement authorities and victim support organisation(s) is needed. Its structural setup should be informed by European “best practice” examples, stakeholder consultations and research.
- Secure modes and standards of data transfer between law enforcement authorities and victim support organisations need to be developed to ensure effective referral. Contact details of the victims and the hate crime case should be automatically forwarded to victim support organisations to ensure that the victim does not have to retell the case countless times.
- There should be a legal basis for the cooperation between law enforcement and victim support organisations rather than a formalized agreement.

Therefore, a national action plan against hate crime needs to be developed and implemented, in collaboration with relevant CSOs, victim support and community organisations as well as victims of hate crime.

 - Sufficient funding for all parties involved needs to be designated to secure its effectivity.
 - The automated referral system has to be victim-centred and a formalised protocol for referrals needs to be established.

Cooperation between various victim support organisations

- Cooperation between various victim support organisations, community organisations, communities, advocacy groups, victim support organisations and initiatives need to be standardized and adequately funded to ensure thorough support to victims of hate crimes. Only by stable and sustainable funding of victim support organisations the full extent of psychosocial and legal support for victims by well-trained professionals can be provided.
- Secure modes and standards of data transfer between the different organisations need to be developed to ensure effective referral of a hate crime case. Contact details of the victims and the hate crime case should be forwarded to victim support organisations to ensure that the victim does not have to retell the case countless times. Stakeholder consultations and research need to be carried out to define the most effective modes for secure and effective data transfer.
- Regardless of the level of (in)formality, a system map for Austria of all actors involved with hate crime should be created (e.g., following the model of the Facing all the Facts projects) in order to enable an effective (self-)referral procedures.
- As a supporting tool for (self-)referral, a multilingual website or app, should be developed listing all support services available to victims of hate crime and navigating victims or witnesses of hate crime towards the adequate organisation.
- Information for (self-)referral should be provided in a simple language and on a low-threshold level (websites, workshops, trainings, leaflets, etc.), as well as in as many relevant languages as possible.



Recommendations

Recommendations to improve knowledge capacities across people (potentially) coming in contact with hate crime victims

Regular trainings for all actors within the referral system need to be developed and conducted.

Law enforcement

- Law enforcement officers from different departments are currently provided with training courses on hate crime in Austria. These trainings should be complimented with mandatory training courses on hate crime online.
- Ideally, all trainings for law enforcement authorities should have a victim-centred approach and include strategies against secondary victimization. Information on sensitive treatment of hate crime victims as well as on how the referral process to victim support organisations shall look like should be included.
- Trainers for these courses could also include law enforcement officers from other EU member states, who are very experienced in the work with hate crime victims.
- Law enforcement recruitment strategy should adhere to equal opportunity policies in order to guarantee gender balance and a diversity among the recruited persons. Diverse representation within the law enforcement authorities should be mandatory as it would consciously contribute to more trust as well as a better handling of hate crime incidents and better support for victims.

Judiciary

- Specific training for judges and prosecutors should be implemented to foster knowledge based on the Article 33 (1) (5) of the Austrian Criminal Code on hate crimes to ensure recognition of hate crimes and specific needs/ treatments of hate crime victims.
- The specific training on hate crimes should be an obligatory part of the professional training curricula of judges and prosecutors.

CSOs

- Trainings should also be provided to CSOs, people involved in the health, educational and youth sector, and also to initiatives supporting specific groups, who might be affected by discrimination.
- Specific trainings on psychosocial needs and support possibilities, in particular on trauma, should be provided to all parties coming in contact with victims of hate crime. All organisations of the response system for victims of hate crime with which victims come into contact must take measures to become trauma-informed organisations and train their staff accordingly.



Recommendations

Recommendations to raise awareness on hate crime

- Awareness raising efforts need to continue to improve the understanding about and far-reaching societal implication of hate crimes among (potential) victims of hate crimes, allies, and the general public.
- The awareness raising activities (campaigns, trainings, etc.) should focus on raising knowledge about the importance of taking a stance, recognising a motive as well as practical steps to be taken in case of a hate crime. (Civil) courage should be a great part of awareness raising campaigns in order to encourage people to stand up and support, as well as to report cases of hate crime incidents.
- Among the following audiences, such as law enforcement authorities, judges and prosecutors, psychologists, social workers, teachers, and pedagogues, etc., hate crime and the Europe-wide reality of the existence of hate crime should be made explicitly visible.

Raising awareness should commence at an early age in order to challenge prejudices and reflect on existing power structures. Therefore, it should be part of any school curriculum, irrespective of school levels. Curricula should pay particular focus to bias-motivated crime and its far-reaching societal effects (also considering [pyramid of hate](#)).



SITUATION IN CROATIA

Croatia

Development of legal concepts of hate crime and victims' rights in Croatia was significantly influenced by the harmonization of Croatian legislation with the EU acquis in the process of accession to the full EU membership, as well as indirectly through ruling of the European Court of Human Rights in the *Šečić versus Croatia* case from 2007⁸.

Hate crime was introduced into the Croatian legal framework with the 2006 amendments⁹ to the Criminal Code, but at the time the substantive elements of hate crime were not specified. With entry into force of the new Criminal Code in 2013¹⁰, the Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law was transposed into Croatian legislation. This led to the current regulation of hate crime as a criminal offence committed on account of a person's race, color, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity. Unless a more severe punishment is explicitly prescribed by the Criminal Code, such conduct shall be taken as an aggravating circumstance¹¹.

Particularly significant development in terms of combating hate crime was the adoption of the Protocol of Procedure in Cases of Hate Crimes in 2011¹² with the aim to ensure efficient operation of the competent bodies participating in uncovering, proceeding against and monitoring the prosecution of hate crime. The Protocol governs the recording of hate crimes by the competent authorities (police, prosecutors and judges). New Protocol for procedure in the case of hate crimes was adopted in 2021¹³ to set out clearer guidelines for the procedure to be followed in hate crime cases. New Protocol broadened hate crime indicators that the police should examine when carrying out the investigation and outlined the obligations of relevant authorities in a more tailored way with the aim of improving statistical data on hate crimes.

The Croatian Government Office for Human Rights and Rights of National Minorities¹⁴ is the central body which collects, consolidates and publishes data on hate crime for Croatia. It also coordinates the work of the Hate Crime Monitoring Working Group, composed of representatives of state institutions, academia and civil society, which is assigned with the task to collect and consolidate data from the police, attorney general's office and criminal and misdemeanour courts regarding hate crimes and hate-motivated misdemeanors. The responsibilities of the Working Group include analyzing hate crime data and coordinating inter-institutional cooperation in relation to hate crime prevention.

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- 8** - European Court of Human Rights, *Šečić v. Croatia*, no. 40116/02, 31 May 2007, available at: <https://uredzastupnika.gov.hr/UserDocImages/arhiva/728SECIC.pdf> In *Šečić v. Croatia* case the ECtHR found the Republic of Croatia responsible for the failure to conduct effective investigation and to complete an inquiry into an ethnically motivated crime because of the complainant's Roma origin. This was followed by a number of changes in the national legal framework for suppression of discrimination and hate crime.
- 9** - Amendments to the Criminal Code, OG 71/2006, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2006_06_71_1706.html
- 10** - Criminal Code, OG 125/2011, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_125_2498.html
- 11** - *Ibid.*, Article 87(20)
- 12** - Government of the Republic of Croatia, Protocol for Procedure in Cases of Hate Crime from 2011, available at: <https://pravamanjina.gov.hr/UserDocImages/dokumenti/PROTOCOL%20FOR%20PROCEDURE%20IN%20CASES%20OF%20HATE%20CRIME.pdf>
- 13** - Government of the Republic of Croatia, Protocol for Procedure in Cases of Hate Crime from 2021, OG 43/2021, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/full/2021_04_43_841.html
- 14** - Croatian Government Office for Human Rights and Rights of National Minorities, Combating hate crime, available at: <https://judskaprava.gov.hr/suzbijanje-zlocina-iz-mrznje/602>



It was only in 2008 that the Croatian Criminal Procedure Code¹⁵ explicitly introduced the concept of victim as participant in the criminal procedure, as well as the obligation of all bodies that come into contact with the victim in the course of the procedure to treat them with special care and attention. Status of victims in Croatian legislation was further improved through 2013¹⁶ and 2017¹⁷ amendments to the Criminal Procedure Code that introduced additional rights of the victims. Croatian legislative framework concerning victim protection is well established and grants all rights to the victims as foreseen by the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. When it comes to victims of hate crime, they are entitled to not only the rights that all victims of crime and misdemeanors have, but also to additional rights established through the process of individual assessment performed by the police, the State Attorney's Office and the court.

Main challenges

Despite the legislative improvements introduced during the past decade concerning hate crime and victims' rights, there are significant problems emerging in practice that need to be tackled in order to achieve efficient implementation of the satisfactory legislative framework. Main deficiencies are visible when it comes to recognising and prosecuting hate crime, as well as with respect to adequate approach to supporting hate crime victims in practice.

Bodies in charge of criminal procedures and prosecuting criminal offences still do not recognise the motive of hate as a grounds for conducting an effective investigation, which was warned of by the Committee of Ministers of the Council of Europe in its opinion on the execution of the rulings in *Šečić v. Croatia and Škorjanec v. Croatia* cases. As key actors in prosecuting hate crime, the police often does not recognise its features, so practical problems emerge due to insufficient level of knowledge of the concept of hate crime as well as the issues surrounding it, which leads to an improper qualification of cases and thus their unsuitable prosecution – most often as misdemeanours, rather than criminal offences with an aggravating circumstance of hatred as a motive or as an aggravated form of criminal offence.

Another issue is the lack of systematic and reliable data on hate crimes collected at one place. Competent bodies are either late in providing data, or the data provided is incomplete and sometimes even inaccurate. In addition, there are differences in figures in the official data provided to the Government Office for Human Rights and National Minorities in comparison to the data published by the competent bodies in their statistics or reports.

Providing support to all victims of crime in Croatia at the institutional level is organized through: Judicial Departments at County Courts for Victims and Witnesses in seven cities coordinated and supervised by the independent Victim and Witness Support Service of the Ministry of Justice and Administration; Victims and Witnesses Support Network for criminal offenses and misdemeanors - associations that provide support to victims in areas of those counties where there are no judicial departments and National Call Center for Victims of Criminal and Misdemeanor Offenses- free and anonymous hotline that is open 24/7.

However, there is no support system exclusively for victims of hate crimes, but existing forms of institutional and non-institutional support for all victims of crime are also available to victims of hate crimes. Specialist support providers for hate crime victims are not integrated into the general support system, but they operate independently.

15 - Criminal Procedure Code, OG 152/2008, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2008_12_152_4149.html

16 - Amendments to the Criminal Procedure Code, OG 145/2013, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/full/2013_12_145_3090.html

17 - Amendments to the Criminal Procedure Code, OG 70/2017, available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2017_07_70_1661.html



Cooperation between civil society organizations and state institutions is sporadic and underdeveloped when it comes to the referral, support and individual assessments for victims. Although the system of informing and referral is legally regulated from the stage of police conduct onward, witnesses and victims are still highly under informed and insufficiently empowered to report criminal offences. According to conducted research, court departments and civil society organizations that provide legal and/or psycho-social support for victims barely have reported any experience working with victims of hate crimes. This again suggests a certain level of ignorance of the mere concept of hate crime victims as well as their specific needs. Providers of psychosocial and psychological counseling services remain unequally represented across Croatia. Rural areas, islands and even some counties do not have a system of psychosocial and psychological counseling services in place.

Non-recognition of hate crimes is also present as an issue in the society overall, including among victims themselves. Beside insufficient awareness among citizens about the concept of hate crime, victims of hate crimes also frequently do not report them due to the fear of re-victimisation and reprisal by the perpetrator, as well as lack of trust that the relevant institutions will offer them an adequate level of protection.

Recommendations

- Considering that recognising hate crime is a precondition for ensuring adequate support for victims, **continuous education** of police officers, state attorneys and judges as well as civil society organizations, public service employees, legal professionals is needed in order to improve the knowledge and skills of professionals working with actual or potential victims of hate crimes and consequently to be able to recognize and properly address hate crime cases.
- Competent bodies should keep a **harmonized record of cases** of hate crimes, primarily by establishing a common methodology for collecting and monitoring these data. Enhancing the system of monitoring hate crime can only be done through active, systematic and high quality cooperation between competent bodies.
- Large number of unrecognized and/or unreported hate crime cases indicate the need to continuously work on informing the society as a whole about the concept and importance of recognizing hate crime. Efforts should be put into ways of raising the level of social awareness of hate crime and the support available to victims. This could be done e.g. through systematic collection of data and making it available to the wider public, as well as through conducting media or social network campaigns.
- It is necessary to map all available organizations at the central, regional and local level capable of providing assistance and support to victims of hate crimes and provide them with training activities on the specifics of victimization in the area of hate crimes.
- Lastly, it is necessary to strengthen the **cooperation between multiple stakeholders**, including the cooperation between civil society organizations and state institutions when it comes to the referral, support and individual assessments for victims.



SITUATION IN ITALY

Italy

The national legal system does not have a body of provisions on hate crimes that fit well. The only law that refers to this particular type of crime is Law No. 205 of 25 June 1993, - 'Urgent measures on racial, ethnic and religious discrimination' (*Legge Mancino*). This law takes into account only some grounds of discrimination and sanctions, under criminal law, the spreading of ideas based on racial or ethnic superiority or hatred and the conduct of those who incite to commit or commit acts of discrimination or violence on racial, ethnic, national or religious grounds, as well as the organisation or participation in groups whose aims include incitement to discrimination or violence on the same grounds.¹⁸

An aggravating circumstance is also provided for crimes committed for the purpose of discrimination or ethnic, racial or religious hatred, or in order to facilitate the activities of organizations, associations, movements or groups that have the same aims. These crimes are considered crimes against the dignity of the person. The above law is used also to counter hate speech, through specific provisions that punish insult, defamation and threat, including those that occur on the Internet, though the problem of identifying ideas based on racial or ethnic hatred spread via the web remains complex.

The above law is the main legal instrument for combating hate crimes on grounds of racial or ethnic origin and religion but it does not cover victims of hate crimes based on gender identity, sexual orientation and disability. All attempts in Parliament over the last 10 years to extend the scope of the protection to include the excluded grounds have so far failed.

The most relevant law on the protection of victims of crime is *Legislative Decree No. 2122 of 15 December 2015*, which transposed into national law, *Directive 2012/29/EU of 25 November 2012*, which establishes minimum standards on the rights, support and protection of victims of crime. Though this law has resulted in a more coordinated system of protection for victims of crime in the national legal system, the transposition of the Directive does not conform with the provisions of the Directive, some of which are completely disregarded.

First of all, the decree mostly introduces procedural changes and neglects the basic approach of the Directive, which requires a comprehensive focus on the victim and an approach centred on rights, assistance and protection.

The Directive draws attention to the need for an assessment of the vulnerability of the victim, taking into account the person's individual characteristics such as age, gender, gender identity or expression, sexual orientation, ethnicity, religion, state of health, disability, residence status, communication difficulties etc., as well as the type and nature of the crime, such as in the case of hate crimes or crimes committed with the aim to discriminate. Despite the fact that the law mentions such assessment, in practice it nullifies this by failing to assign it to a specific actor or function, while the Directive expressly identifies support services as those who should perform the assessment. Support services that are responsible for information on victims' rights, psychological and legal support, as well as referral to dedicated specialist services, have a central role in the provisions of the Directive as a means of mitigating risks of secondary victimisation and reducing the number of crimes that are not reported.

The provision of dedicated and free services (such as spaces for victims in Courts or other public support services), which can be activated at all times during criminal proceedings, even in cases of proceedings that do not derive from complaint by the victim, is not provided for in the national law.

The referral system for victims is fragmented at the national level. Support for victims of crime is provided mainly by civil society organisations (CSOs) because few support structures are created and / or financed by public institutions. Support centres run by CSOs are historically characterised by a voluntary spirit and a distribution across different parts of the country that varies significantly, ranging from Regions that have few support services to others

¹⁸ - Article 604-bis of the Criminal Code.



that do not have any at all. In fact, there is no regular public funding to guarantee the functioning of these centres and this exposes them to risks of not being able to respond professionally and continuously to victims' needs.

In the absence of institutional guidance on crime victim support structures, the development of centres focusing on specific categories of crime victims has taken place in a heterogeneous way, leading to a situation where only civil society organisations deal with victims of certain specific categories of crimes. This leaves some categories of crime victims less protected than others. For example, victims of crimes motivated by racial hatred or disability find it very difficult to see their specific needs recognized and to receive structured support, except through civil society organisations that provide assistance only partially. LGBTQI+ organisations are currently the best organised in offering comprehensive support to a specific category of hate crime victims.

There are two institutional bodies responsible for monitoring discriminatory acts: the Observatory for Security Against Acts of Discrimination – OSCAD¹⁹, focuses on those that constitute crimes while the National Office Against Racial Discrimination - UNAR²⁰, focuses on cases that do not constitute crime. However, there is no standard at the national level on how to record, classify and follow up cases monitored because there are no common definitions of acts monitored nor shared protocols on how law enforcement agencies should deal with hate crime complaints. A consequence of this is that there is no systematic data collection, based on unambiguous and shared definitions. The fragmentary nature of the data collected by these bodies using different methods and collated differently, together with widespread under-reporting, lead to major shortcomings in monitoring hate crimes and incidents and these in turn, make it difficult to provide adequate responses to these phenomena.

The coherence and coordination of the activities of the different support services involved in the protection of victims are essential to create an effective support network, but such a link is often missing. The role of civil society organisations, which have great experience in assisting victims of generic or, specific crimes, is not valued by public institutions.

Moreover, at present there is no institution at the national level that supports victims of crime or coordinates existing support centres; even when support services are numerous and active, they often are not aware of each other's existence and/or the activities carried out at the local level. This makes the system inefficient as services operate in an uncoordinated manner, with projects that overlap in some areas or are completely not available in others.

An attempt to improve the situation was made in 2018 through the establishment of an Inter-institutional Coordination Body for crime victims support services, which includes the Ministry of Justice, the National Forensic Council, the Conference of the State and the Regions, the Ministry of the Interior, Daphne Network and the University of Rome III. Networking helps avoid that support services in an area are time-consuming and heterogeneous, in addition to providing extensive and complete assistance. It facilitates exchange of good practices and is also important to improve the flow of information to victims, because within a wide and varied network, it is easier to find actors that have better outreach to the target groups. A network is also important in providing support services to people in rural areas and small towns, so that even victims of crime in the most isolated places can benefit from support services too.

Lastly, the Victims Directive requires Member States to provide training for workers who come into contact with crime victims and those who provide support services, so that both are made aware of the needs of crime victims and placed in a position to treat them appropriately. However, this specialised training is not provided for in the national legislation and in particular, people working with generic victim support services do not have specific skills that are required to provide adequate support to victims of hate crimes.

19- The '*Osservatorio per la Sicurezza Contro gli Atti Discriminatori*' (OSCAD) comprises professionals from the State Police and the Carabinieri Corps. Founded in 2010 by decree of the Police Chief, it operates under the supervision of the Department of Public Security - Central Directorate of Criminal Police.

20- The '*Ufficio Nazionale Antidiscriminazione Razziale*' (UNAR) is the national equality body provided for in Law nr. 215/2003 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. It operates under the Department for Equal Opportunities, Presidency of the Council of Ministers.



Main challenges

Poor recognition of hate crimes in the legislation and partial protection provided for victims of such crimes

- Funding of victim support services and referral mechanisms are fragmented and scarce, leading to an uneven development of such services, in terms of categories of victims covered and the distribution support services in the different regions of the country.
- Lack of regular and adequate funding undermines the sustainability of victim support services and this heightens the risk of transforming a service that should be guaranteed by paid professionals into one that is based exclusively on volunteer workers.
- People responsible for handling hate crime complaints such as counsellors, legal experts, and other professionals whose activities support victims of hate crimes, do not receive adequate training that would allow them to recognize such crimes, carry out individual needs assessment of victims and deal with them accordingly.

Lack of a structured referral system

- There are no shared referral procedures between different institutions and civil society actors involved in supporting victims of hate crime. Even among civil society organisations supporting victims of crime in general and hate crimes in particular, there is a lack of coordination and in some cases, lack of knowledge of the services offered by other similar organisations.
- Collaboration between victim support CSOs and institutions such as the judiciary and law enforcement agencies in the process of assisting victims of crime is absent or intermittent.

Under-reporting and lack of awareness of rights

- There is a lack of systematic and coordinated data collection, with a common definition.
- It is estimated that the incidence of under-reporting of hate crimes is very high.
- There is limited awareness in society of the existence and characteristics of hate crimes, their severity and the damage they do to their victims. Many people belonging to groups affected by hate crimes are not aware of the nature of such crimes and of the existing legal measures to counter them.
- Some victims of hate crimes do not report their experiences of victimisation to the Police due to the fear that they may not be believed or worse, may even suffer further abuse by the Police (secondary victimisation).



Recommendations

- Reform the existing criminal provisions on hate crimes, in particular, broaden their scope to include hate crimes based on **sexual orientation, gender identity and expression and disability**.
- Harmonise crime victim support procedures and referral mechanism among CSOs, through a common quality standard for hate crime victim support.
- Set clear guidelines on how law enforcement agencies should handle hate crime cases, beginning with proper recording of complaints.
- Create a national body for the protection of victims of crime, with a clear mandate to facilitate coordination of the victim support components of the judiciary and law enforcement agencies with victim support services operated by CSOs, with particular attention to putting in place an effective referral mechanism, set quality standards and a national accreditation system for crime victim support services.
- Strengthen relations between civil society organizations and law enforcement agencies and other public services involved in supporting victims of crime, with the aim of fostering collaboration and improving the quality of services for those victimised by crime.
- Set up an institutional funding scheme for victim support services. with adequate and continuous public funds, to ensure that victim support service users receive complete, professional and stable support, in the form of economic, psycho-social, legal, interpreting and translation support services etc., in line with the outcome of their individual needs assessment.
- Victim support service providers should ensure that their members of staff receive appropriate training on how to support hate crime victims, accompanied by the adoption and respect of a quality standard that clearly highlights the characteristics and conditions of delivery of the support services.
- Institutions and civil society organizations engaged in supporting crime victims, should promote campaigns to inform and raise awareness of hate crimes, targeting the public and vulnerable groups and highlighting existing measures for countering them and for supporting victims.





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