



# Hate Crime Data-Collection and Monitoring Mechanisms

*A Practical Guide*

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## ACRONYMS

CEJI	A Jewish Contribution to an Inclusive Europe
CEOOR	Centre for Equal Opportunities and Opposition to Racism
CSO	Civil society organizations and/or groups
ECRI	European Commission against Racism and Intolerance
EU	European Union
EU MIDIS	European Union Minorities and Discrimination Survey
FBI	Federal Bureau of Investigation
FRA	Fundamental Rights Agency
IACP	International Association of Chiefs of Police
ICVS	International Crime Victims Survey
IGO	Inter-governmental organization
LGBT	Lesbian, gay, bisexual or transgender
NCVS	National Crime Victimization Survey
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PAHCT	Prosecutors and Hate Crime Training
SPCJ	Service de Protection de la Communauté Juive (Jewish Community Security Service)
TAHCLE	ODIHR Training against Hate Crimes for Law Enforcement
UN	United Nations

## PREFACE

The OSCE has long recognized that hate crimes can threaten both national and cross-border security and stability, and the OSCE's Ministerial Council has repeatedly asserted that hate crimes not only impact on individual human security but that they can lead to conflict and violence on a wider scale.<sup>1</sup>

Since 2003, OSCE participating States have made a number of commitments to address hate crimes,<sup>2</sup> and in 2009 the Ministerial Council adopted its first decision exclusively devoted to hate crimes. In addition to re-emphasizing the need for appropriate legislation and support to victims of hate crimes, the decision called on participating States to “collect, maintain and make public, reliable data and statistics in sufficient detail on hate crimes... including the numbers of cases reported to law enforcement, the numbers prosecuted and the sentences imposed.”<sup>3</sup>

In order to help participating States meet their commitments, ODIHR has produced a number of publications and training programmes<sup>4</sup> for legislators, officials, law-enforcement officers, prosecutors, judges and civil society organizations and/or groups (CSO). This guide was produced as a tool to improve the collection, analysis and dissemination of hate crime data, and is designed to be relevant to the diverse legal systems and political frameworks across the OSCE region.

ODIHR encourages States to disseminate the guide widely, and to translate it into local languages. Because the guide cannot address detailed issues of law and procedure that may arise in each jurisdiction, ODIHR also offers its support to participating States that wish to use this guide as a basis to develop local policies and practices.

*Michael Georg Link*  
*ODIHR Director*

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1 See, for example, OSCE Ministerial Council Decision No. 9/09, Athens, 1-2 December 2009. Excerpts from OSCE decisions related to hate crimes can be found in Annex B.

2 OSCE Ministerial Council Decision No. 4/03, Maastricht, 2 December 2003.

3 OSCE Ministerial Council Decision No. 9/09, Athens, 1-2 December 2009.

4 See, for example, *Hate Crime Laws: A Practical Guide*, (Warsaw: ODIHR, 2009), <http://www.osce.org/odihr/36426>; *Preventing and Responding to Hate Crimes: A Resource Guide for NGOs in the OSCE Region*, (Warsaw: ODIHR, 2009) <<http://www.osce.org/odihr/39821>>; *Training against Hate Crimes for Law Enforcement: Programme Description* (Warsaw: ODIHR, 2012) <<http://www.osce.org/odihr/94898?download=true>>. All ODIHR tools and resources can be found at: <<http://www.osce.org/odihr/66388>>.

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## INTRODUCTION

In recognition of the threat that hate crimes pose to the security of individuals and their potential to give rise to wider scale conflict and violence, OSCE participating States have committed themselves to take a range of measures to combat hate crime.<sup>5</sup> They have acknowledged that the primary responsibility for addressing acts of intolerance rests with the participating States themselves, while also recognizing the valuable role of civil society in responding to hate crimes.<sup>6</sup>

Participating States have recognized that collecting and maintaining reliable data and statistics on hate crimes is, “essential for effective policy formation and appropriate resource allocation in countering hate-motivated incidents”.<sup>7</sup> Acknowledging the need for more consistent, comprehensive and comparable data on hate crimes, they have committed themselves to “collect, maintain and make public, reliable data and statistics in sufficient detail on hate crimes...including the number of cases reported to law enforcement, the number prosecuted and the sentences imposed”.<sup>8</sup>

The development of this publication stems from ODIHR’s mandate to “assist participating States, upon their request, in developing appropriate methodologies and capacities for collecting and maintaining reliable information and statistics about hate crimes and violent manifestations of intolerance with a view to helping them to collect comparable data and statistics”.<sup>9</sup> ODIHR has collected information on hate crimes submitted by states since 2006, which is published in its annual report *Hate Crimes in the OSCE Region: Incidents and Responses*.<sup>10</sup> However, as successive reports demonstrate, there is a chronic lack of reliable and comprehensive data on hate crimes across the region. For example, in 2012, ODIHR received statistics on hate crimes from only 27 out of 57 participating States, with figures ranging from

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5 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE”, 5-29 June 1990, para 40.1, <<http://www.osce.org/odihr/elections/14304>>; OSCE Ministerial Council, Decision No. 10/07, “Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding”, Madrid, 30 November 2007, <<http://www.osce.org/mc/29452>>; OSCE Ministerial Council, Decision No. 13/06, “Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding”, Brussels, 5 December 2006, <<http://www.osce.org/mc/23114>>.

6 OSCE Ministerial Council, Decision No. 10/07; OSCE Ministerial Council, Decision No. 12/04, “Tolerance and Non-Discrimination”, Sofia, 7 December 2004, <<http://www.osce.org/mc/23114>>; OSCE Ministerial Council, Decision No. 13/06, “Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding”, Brussels, 5 December 2006, <<http://www.osce.org/mc/23114>>.

7 OSCE Ministerial Council, Decision No. 13/06, “Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding”, Brussels, 5 December 2006, <<http://www.osce.org/mc/23114>>.

8 OSCE Ministerial Council, Decision No. 9/09, “Combating Hate Crimes”, Athens, 1-2 December 2009, <<http://www.osce.org/cio/40695>>.

9 OSCE Ministerial Council Decision No. 10/05, “Tolerance and non-Discrimination: Promoting Mutual Respect and Understanding”, Ljubljana, 6 December 2005, <<http://www.osce.org/mc/17462>>.

10 For the latest report, please see <[www.hatecrime.osce.org](http://www.hatecrime.osce.org)>.

below 10 to over 40,000 hate crimes. It is clear that a guide is needed to improve hate crime data-collection mechanisms at the national level and comparability of information about the prevalence of hate crimes at the international level.

Specifically, hate crime data-collection mechanisms are needed to:

- ▶ Understand the prevalence and nature of hate crimes;
- ▶ Improve responses in support of victims;
- ▶ Prevent hate crimes;
- ▶ Measure the effectiveness of initiatives to address hate crimes; and
- ▶ Communicate the criminal justice response to hate crimes to a wide range of stakeholders, such as victims, affected communities and the wider public.

The overarching aim of any hate crime data-collection system should be to give policymakers the information they need to make informed decisions and develop well-designed policy responses. Such data should include the number of crimes that have taken place; the number of crimes reported to the police; which groups were targeted; the number of crimes that were successfully prosecuted; and information about sentencing decisions. Ultimately, this information can be used to analyse differences across crime types and victim groups, to develop more effective responses, and to identify gaps in legislation and policy.

Criminal justice agencies are accountable to elected representatives, victims and the general public, who may make regular requests for information. Organized mechanisms that produce transparent and comprehensible information about hate crimes can assist in responding to these requests. Above all, hate crimes affect individual victims, communities and wider society, who should have easy access to the data authorities have gathered and the steps they are taking to deal with the problems revealed by the data.

This guide describes ways in which governments can use hate crime data to develop a co-ordinated strategy and promote action across a range of agencies to implement a comprehensive response to hate crimes from the national to the local levels. Examples are presented from governments that have developed multi-agency frameworks that pull together data collected to identify problems or sticking points, and to measure progress in policy implementation in such areas as hate crime laws, police training and community outreach.

In the absence of official data-collection mechanisms, civil society organizations (CSOs) are often the only sources of information about the nature of hate crimes, their impact and the barriers to justice and safety victims face. The role of civil

society is highlighted throughout this guide as a cross-cutting issue, relevant to many aspects of hate crime data collection and monitoring.

### ***Other inter-governmental organizations' activities and recommendations on hate crime data collection***

Other international organizations have also made recommendations to collect and publish hate crime data. For example, the European Commission against Racism and Intolerance (ECRI), the monitoring body of the Council of Europe, has adopted General Policy Recommendation Number One, which calls on Member States of the Council of Europe to “Ensure that accurate data and statistics are collected and published on the number of racist and xenophobic offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and on the outcome of cases prosecuted”.<sup>11</sup> ECRI’s regular country reports include data on racist and xenophobic crimes and recommendations for improvement.

The European Union (EU) Agency for Fundamental Rights (FRA) published a report, *Making Hate Crime Visible in the European Union: acknowledging victims' rights*, which includes sections relating specifically to data collection on hate crimes.<sup>12</sup> The report suggests that statistical data should be collected and published on the number of incidents reported by the public and recorded by the authorities; the number of convictions of offenders; the grounds on which these offences were found to be discriminatory; and the punishments handed down to offenders. In addition, the FRA suggests that details on hate crimes should be recorded to allow for the identification of specific bias motivations; data collected on hate crimes should be disaggregated according to bias motivations; and that official data-collection mechanisms should be supplemented by crime-victimization surveys that include questions on hate crimes to shed light on the nature and extent of non-reported crimes.<sup>13</sup>

The United Nations (UN) Committee on the Elimination of Racial Discrimination, which oversees implementation of the Convention on the Elimination of all forms of Racial Discrimination (CERD) has also stressed the importance of collecting data on acts of aggression or other offences committed against different racial groups. The Committee’s General recommendation XXXI stipulates that States parties

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11 ECRI General Policy Recommendation No. 1, “*Combating racism, xenophobia, antisemitism and intolerance*”, adopted 4 October 1996 (Strasbourg: Council of Europe, 1996), <[http://www.coe.int/t/dghl/monitoring/ecri/activities/gpr/en/recommendation\\_n1/Rec01en.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/gpr/en/recommendation_n1/Rec01en.pdf)>.

12 “*Making hate crime visible in the European Union: acknowledging victims' rights*”, Fundamental Rights Agency, <<http://fra.europa.eu/en/publication/2012/making-hate-crime-visible-european-union-acknowledging-victims-rights>>.

13 In addition, FRA reports on data published by relevant authorities in EU Member States in its annual report; issues an annual update on the situation of anti-Semitism in the EU, drawing on data from relevant authorities and CSOs; and prepares large-scale surveys pertaining to experiences of hate crimes, including the EU Minorities and Discrimination Survey (EU MIDIS) and a survey on perceptions and experiences of anti-Semitism in nine EU Member States. See <<http://fra.europa.eu/en>> for more information.

– which include 56 out of the 57 OSCE participating States – “should embark on regular and public collection of information from police, judicial and prison authorities and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data. ...In particular, States parties should have access to comprehensive statistical or other information on complaints, prosecutions and convictions relating to acts of racism and xenophobia, as well as on compensation awarded to the victims...”<sup>14</sup> In addition, the recommendation states that the information should be incorporated into databases. As the Committee’s recommendation is aimed broadly at all acts of discrimination, racism or xenophobia, its scope clearly includes hate crimes.

Despite renewed focus by inter-governmental organizations (IGOs) and official efforts to gather data, surveys and studies show that hate crimes remain under-reported and under-recorded across the OSCE region.<sup>15</sup> Victims need the confidence to come forward and report hate crimes to the authorities. Law-enforcement agencies need training to identify and record these offences effectively. Data-collection mechanisms must have the capacity to capture and record them. Without these key elements in place, information about the true nature and scale of hate crime will remain obscured and policymakers will not have the information they need to make well-informed decisions or to allocate resources appropriately.

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14 ECRI General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system, A/60/18, <[http://www2.ohchr.org/english/bodies/cerd/docs/GC31Rev\\_En.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/GC31Rev_En.pdf)>.

15 See, for example, “*Hate Crimes in the OSCE Region, Incidents and Response*.” The latest edition is available at <[www.hatecrime.osce.org](http://www.hatecrime.osce.org)>.

### Box 1: Why are hate crimes under-reported?

In its work to support participating States to improve responses to hate crimes, ODIHR has conducted interviews and focus groups with organizations and individuals that directly support victims of hate crimes. In over 600 such interviews, several key reasons why victims may not report hate crimes have been repeatedly raised. These barriers are also referred to in the ODIHR publication *Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region*.<sup>16</sup> Victims may not report hate crimes because of:

- Fear of re-victimization or retaliation by perpetrators;
- Feelings of humiliation or shame about being victimized;
- Uncertainty about how/where to report the incident or how reporting will help them;
- Lack of confidence that law-enforcement agencies will be able to help or will pursue their case seriously or effectively;
- Language barriers;
- Fear of being deported, on the part of undocumented people;
- For lesbian, gay, bisexual or transgender (LGBT) people, fear of having their identity or status exposed; or
- The victim does not consider the incident to have been a criminal act.<sup>17</sup>

In addition, information gathered from ODIHR's focus groups with police officers and prosecutors indicates that hate crimes might be under-recorded because of:

- Lack of understanding of what constitutes a hate crime;
- Lack of training in how to deal with and interview victims of hate crimes;
- Inadequate recognition of the different victim groups that may be targeted;
- Absence of policy guidance on how to report hate crimes;
- Use of reporting forms that do not include specific spaces to report possible hate crimes;
- Failure of witnesses to come forward;
- Lack of interest by prosecutors in handling hate crime cases; or
- Biases held by some portion of the law-enforcement establishment.

<sup>16</sup> See, <<http://www.osce.org/odihr/39821>>

<sup>17</sup> "Investigation of Hate Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention", International Association of Chiefs of Police, <<http://www.theiacp.org/PublicationsGuides/LawEnforcementIssues/Hatecrimes/RespondingtoHateCrimesPoliceOfficersGuide/tabid/221/Default.aspx>>; also see "Combating Xenophobic Violence a Framework for Action", Human Rights First, <[http://www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR\\_Blueprint.pdf](http://www.humanrightsfirst.org/wp-content/uploads/pdf/UNHCR_Blueprint.pdf)>.

## Why is this guide necessary?

OSCE participating States still have a substantial way to go to meet their commitments to collect, maintain and make public reliable data and statistics in sufficient detail on hate crimes.<sup>18</sup> Information received from participating States and presented in successive years in ODIHR's annual report *Hate Crimes in the OSCE region: Incidents and Responses* demonstrates a significant data deficit.<sup>19</sup> Moreover, ODIHR's 2012 annual report revealed that only 36 participating States publish some form of information about hate crimes, while the remaining states do not provide public access to data on hate crimes. Deficits of publicly available information hamper attempts to have transparent and informed discussions, and hinder efforts to develop and implement effective policy responses to hate crimes.

Participating States have also adopted diverse approaches to collecting information about hate crimes, with different states covering different kinds of criminal offences and bias motivations. Different agencies within the same country may collect data of different types or in different categories. Policymakers may thus encounter problems when trying to understand data and draw conclusions about the prevalence and impact of hate crimes, as well as the strengths and weaknesses of current actions to address them.

While there are many and varied approaches to hate crime data monitoring and collection, there is little guidance for policymakers on how to achieve a comprehensive and strategic framework. This guide aims to fill this gap, using practical examples from diverse contexts. It is primarily aimed at government policymakers and officials with responsibility for hate crime data collection. However, the guide has also been designed to be useful to CSOs, IGOs, academics and others, both as a practical guide and as an advocacy tool.

## Overview

This guide is designed to highlight the key issues involved in efforts to improve hate crime data-collection methods. Where possible, varied examples of policy options pursued in different contexts are presented with comments on the related benefits and potential drawbacks. Given the unique impact of hate crimes on individuals and the challenges of under-reporting to the authorities, the benefits of co-operating with civil society on improving data-collection methods are emphasized throughout. Above all it aims to be a practical guide for policymakers, supporting their efforts to implement practical solutions that are relevant to the local context.

► **Section One** describes the key issues involved in setting up a hate crime data-collection system that produces consistently defined and categorized

<sup>18</sup> OSCE Ministerial Council, Decision No. 9/09.

<sup>19</sup> *Hate Crimes in the OSCE Region: Incidents and Responses* – Annual Report for 2012, ODIHR, 15 November 2013.

data, which can be understood and used at the national and international levels. It discusses the importance of adopting a common, simple and comprehensive definition of hate crime for monitoring purposes and sets out the types of data that should be captured by police recording mechanisms. Finally, it discusses how these data can be collected and used.

- ▶ **Section Two** centres on measuring the response of the criminal justice system to hate crimes, in particular by the prosecution and court services. It addresses what data should be captured at each stage of the criminal justice process and describes how they can be used.
- ▶ **Section Three** discusses victimization surveys and their utility in measuring the prevalence and the impact of hate crimes on victims. It discusses how such surveys can be structured to be comparable to official reports, and how they can be used by policymakers to understand better the full extent of hate crimes and victim needs.
- ▶ The **annexes** include a “Ten Practical Steps” guide, which summarizes the key stages of setting up data-collection mechanisms and a list of relevant OSCE Commitments.

The guide emphasizes the need to create hate crime data-collection and monitoring mechanisms that are rooted in national experiences and based on a realistic assessment of available resources and current capacities. At the same time, the advantages of common or parallel international approaches to data collection are also emphasized. For example, adopting the OSCE’s definition of hate crimes for monitoring purposes would improve the international comparability of hate crime data (see Section One for a full consideration of these issues). ODIHR has a number of resources to support participating States in each of the activities covered in the guide, which are explained in the relevant sections.

### *Methodology: how this guide was developed*

To develop the guide, ODIHR established an expert group made up of officials from Croatia, the Czech Republic, Germany, Kazakhstan, Poland, Sweden, the United Kingdom and the United States, as well as specialists from the Anti-Defamation League (ADL), ECRI, FRA, Human Rights First and a Jewish Contribution to an Inclusive Europe (CEJI).

The first phase involved convening a meeting with the experts to determine the scope of the guide and the methodology for a series of country visits. The aim of the visits was to learn about and to compare the approaches of different participating States toward data-collection and monitoring mechanisms, with a view to identifying useful approaches. The visits were carried out in partnership with members of the expert group to facilitate opportunities for learning and exchange. The second phase involved developing the guide in partnership with the expert

group and through a public consultation with organizations that participated in the country visits.

The country examples provided draw largely, although not exclusively, on the detailed information gathered during the country visits described above. These examples are not an exhaustive representation of practices across the OSCE region; however, they do illustrate the issues to consider and approaches that have been taken to understand and address hate crime data collection in a variety of contexts.

### *A comprehensive approach to hate crimes and hate crime data collection*

No single government agency can address all aspects of hate crime. While this publication is limited to the role of police, prosecution services, court services and civil society in collecting and recording data on hate crimes, it is important to bear in mind that many other agencies may also collect various kinds of data or information. For example, health or social welfare authorities may collect information on victims and victim services, education authorities may have data on hate crimes or incidents in schools, and housing authorities may have data on hate crimes in specific areas or housing developments. Close co-ordination among ministries and agencies can lead to the development of a broadly based strategic approach by governments, bringing a range of government agencies into the effort to respond effectively to hate crimes.

Hate crime data-collection and monitoring mechanisms are only one part of a comprehensive approach that states can adopt to address hate crimes effectively. Many other aspects should be included in a comprehensive national programme to combat hate crime. Some specific steps states can consider include:

- ▶ Adopting legislation that makes hate crimes specific offences or that provides enhanced penalties for any crimes committed with a bias motive;<sup>20</sup>
- ▶ Training criminal justice personnel on how to investigate hate crimes, work with victims and prosecute cases;<sup>21</sup>
- ▶ Providing for redress in civil anti-discrimination law;<sup>22</sup>
- ▶ Establishing anti-discrimination bodies with mandates to support victims of hate crimes and discrimination;<sup>23</sup>

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20 OSCE Ministerial Council, Decision No. 9/09.

21 Ibid.

22 OSCE Ministerial Council, Decision No. 10/07.

23 Ibid., para 10.

- ▶ Reaching out to communities and fostering relationships between law enforcement and community groups so that victims feel confident to report crimes;<sup>24</sup>
- ▶ Educating the public (especially young people) on tolerance and non-discrimination;
- ▶ Providing services for victims;<sup>25</sup>
- ▶ Enlisting prominent personalities, such as sports stars, to participate in programmes against hate crimes;<sup>26</sup> and
- ▶ Ensuring that national leaders speak out forcefully against hate crimes.<sup>27</sup>

### *Hate crime data collection and gender*

Participating States have committed themselves to making equality between men and women an integral part of their policies.<sup>28</sup> Specifically, OSCE participating States have committed to “prevent and combat all forms of gender-based violence against women and girls” to, “collect, analyse and disseminate comparable data on violence against women”.<sup>29</sup> As an important cross-cutting issue, gender intersects with hate crimes and should be systematically considered when developing hate crime data-collection mechanisms. For example:

- ▶ Bias against a victim’s gender can be a motivating factor in hate crimes. According to ODIHR’s 2012 report, *Hate Crimes in the OSCE region: Incidents and Responses*, 17 participating States collect data on gender-based hate crimes.
- ▶ Hate crimes can be committed based on a mixed motive, such as bias against a victim’s gender, as well as bias against another characteristic, such as ethnicity or religion. An example might be an assault against a Muslim woman involving her headscarf being pulled off during the attack.
- ▶ Certain types of hate crimes may be more commonly committed against men compared to women, and vice versa. For example, men may be more likely to be victims of physical assaults, whereas women may be more likely to be targets of sexual violence.

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24 Ibid., para 2.

25 OSCE Ministerial Council, Decision No. 9/09, op. cit., note 8, para 5.

26 See “Final Report of the Supplementary Human Dimension Meeting on Combating Racism, Intolerance and Discrimination in Society through Sport”, (Warsaw: ODIHR, 1 June 2012), <<http://www.osce.org/odihr/91015>>.

27 OSCE Ministerial Council, Decision No. 13/06.

28 OSCE Ministerial Council, Decision No. 14/04, “2004 OSCE Action Plan for the Promotion of Gender Equality”, <<http://www.osce.org/mc/23295>>.

29 OSCE Ministerial Council, Decision No. 15/05, “Preventing and Combating Violence against Women” Ljubljana, 6 December 2005, <<http://www.osce.org/mc/17451>>.

These issues have implications for practitioners and policymakers with responsibility for hate crime data collection and responses. Knowing how men and women are differently affected by hate crimes can help with planning victim support services and prevention programmes. Where possible, this guide provides examples of how the consideration of gender can be mainstreamed into hate crime data-collection mechanisms.

## SECTION ONE

# Recording and understanding reported hate crimes

### *Introduction*

Accurate and reliable data are essential for effective action against hate crime. Well-designed mechanisms to record and compile data enable law-enforcement agencies to gather intelligence about local hate crime patterns, assist in the allocation of resources, and support more effective investigation of specific types of cases. Policymakers can then rely on this information to make sound decisions and to communicate with affected communities and the wider public about the scale of hate crimes and responses to them.

The police provide the first law-enforcement response to hate crimes and the information they collect comprises the backbone of official hate crime data. However, despite efforts by police and other government agencies, official statistics generally understate the frequency of hate crimes. This is because official reporting relies on victims coming forward to report incidents and accurate recording by police officers. Victims may not report such crimes for many reasons, from language barriers to lack of confidence in the justice system (see Box 1).<sup>30</sup> In addition, police officers may not recognize the signs that a crime is a hate crime and record it as such, or have the necessary recording mechanism or forms. It is, therefore, essential that measures are put in place to encourage victims to report and to improve their confidence in the system and to ensure that the police have the knowledge to identify and record hate crimes correctly. A targeted awareness-raising programme can be one important way in which law-enforcement agencies and policymakers can encourage victims to report hate crimes and to respond effectively to their concerns.

ODIHR's annual report, *Hate Crimes in the OSCE region: Incidents and Responses*, shows that data are rarely fully comparable across agencies. Data collected by different agencies serve different purposes and are captured at different times during the criminal justice process. Within the justice system, for example, a case recorded by

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<sup>30</sup> These and other causes of victim under-reporting are described in more detail in the ODIHR publication *Preventing and Responding to Hate Crimes, A Resource Guide for NGOs in the OSCE Region*, available on line at <http://www.osce.org/odihr/39821?download=true>.

the police may take years to progress through the courts, thus making comparisons between police and court data difficult. This highlights the need for a consolidated approach to ensure that essential data, analysis and planning encompass information from all concerned agencies. Consolidated data can be used to measure and assess trends in outcomes across the system, and to help identify areas for improvement.

This section:

- ▶ Explains the importance of having a common, simple and comprehensive definition of hate crimes for data-recording and monitoring purposes;
- ▶ Describes what data should ideally be captured by police recording mechanisms;
- ▶ Sets out the steps for implementation and review of the data, including working with CSOs to improve hate crime reporting; and
- ▶ Describes options for publicly sharing data.

## POLICY ISSUE 1

### **Establishing a common, simple and comprehensive definition of hate crimes for monitoring and data-recording purposes**

OSCE participating States acknowledge that a hate crime is a criminal act committed with a bias motive.<sup>31</sup> Thus, every hate crime has two elements. The first element is that an act is committed that constitutes a criminal offence under ordinary criminal law. The second element is that the offender intentionally chose a victim or target with a “protected characteristic”. A protected characteristic is a characteristic shared by a group, such as race, religion, ethnicity, nationality or any other similar common factor. For example, if a person is assaulted because of her or his real or perceived ethnicity, this constitutes a hate crime.

Adopting a **common, comprehensive** and **simple** definition of hate crimes to be used by police, prosecutors and the courts is the first step to collecting more consistent data across the criminal justice system. It allows for better tracking and comparisons, both nationally and internationally. These three components of an effective hate crime definition are explained in more detail below.

**Common:** Adopting a single definition of hate crimes across criminal justice agencies allows for tracking of hate crime cases at each stage of the criminal justice system, and for policymakers and the wider public to understand better the criminal justice response to hate crimes overall. Data gathered based on this shared definition can be used to identify strengths and weaknesses in policy and performance across the criminal justice system, as well as strategies for improvement.

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31 OSCE Ministerial Council, Decision No. 9/09; See also for further information on what constitutes a hate crime, see the ODIHR publication *Hate Crime Laws – A Practical Guide* (Warsaw: ODIHR, 2009), especially p.16. The full guide is available online at <<http://www.osce.org/odihr/36426>>.

**Comprehensive:** A hate crime definition for monitoring purposes should include the necessary data categories (i.e., criminal offences and bias motivations) to obtain a sufficiently detailed picture of hate crimes for use at the national and international levels. Any legal definitions of hate crimes, criminal offences and sentencing provisions already contained within the criminal code should be included. In addition, for data-collection purposes a definition may need to go beyond general legal provisions. For example, data could be collected on anti-Semitic and anti-Muslim crimes, even if the law lists only “religion” as a protected characteristic.

**Simple:** A monitoring definition should be understandable to victims, law-enforcement agencies and the general public. As referred to at the beginning of this section, “a criminal act committed with a bias motivation”, sets out a useful and easy-to-understand starting point.

### Box 2: Croatia’s definition of hate crimes

Croatia’s hate crime definition is contained in its criminal code: “a criminal offence committed because of the race, different colour, religion, national or ethnic origin, disability, sex, sexual orientation or gender identity of another person. Such behaviour shall be taken as an aggravating circumstance if the law does not expressly prescribe a more severe punishment.”<sup>32</sup> This definition is shared across criminal justice agencies, covers a comprehensive range of bias motivations and is simple to understand.

### Box 3: Germany’s monitoring definition of hate crimes

Although Germany does not have a legal definition of hate crimes, data are collected based on a definition developed for monitoring purposes, implemented at the national policy level: “Politically motivated criminal offences are regarded as hate crimes if, in view of the circumstances and/or the perpetrator’s attitude, there are indications that these offences are directed at other persons because of their:

- Nationality, ethnic origin;
- Race, skin colour;
- Religion, origin;
- Outward appearance;
- Handicaps;
- Sexual orientation; or
- Social status.

There must also be a causal connection between these aspects and the offence, or the institution, object or building at which the offence is targeted.”<sup>33</sup>

<sup>32</sup> Information received from Croatia, May 2012.

<sup>33</sup> “Nationaler Aktionsplan der Bundesrepublik Deutschland zur Bekämpfung von Rassismus, Fremdenfeindlichkeit, Antisemitismus und darauf bezogene Intoleranz”, Federal Ministry of the Interior, Germany, 2008, available at <[http://www.bmi.bund.de/cae/servlet/contentblob/150674/publicationFile/18318/Nationaler\\_Akti%20onsplan\\_gegen\\_Rassismus.pdf](http://www.bmi.bund.de/cae/servlet/contentblob/150674/publicationFile/18318/Nationaler_Akti%20onsplan_gegen_Rassismus.pdf)>.

## Recommendation 1

- ➔ **Adopt a common, comprehensive and simple definition of hate crimes for use by all elements of the justice system for data-collection and recording purposes.**

## POLICY ISSUE 2

### What hate crime data should police recording mechanisms capture?

#### Which bias motivations?

Participating States have repeatedly acknowledged both the specificity and commonalities of different bias motivations.<sup>34</sup> Hate crime victims from all backgrounds share the damaging emotional experience of being targeted for their membership or perceived membership of a particular group. However, different groups are also likely to experience different crime patterns and varying levels of confidence in reporting offences. It is, therefore, useful to collect and analyse data on different bias motivations as separate categories so that each can be addressed most effectively in terms of law enforcement and allocation of resources for support and prevention.

OSCE participating States have recognized a range of bias motivations that may form the basis of hate crimes. These include specifically: racism and xenophobia, anti-Semitism, bias against Roma and Sinti, bias against Muslims, and bias against Christians and members of other religions.<sup>35</sup> As presented in ODIHR's annual report *Hate Crimes in the OSCE Region: Incidents and Responses*, other bias motivations are also currently recorded by many participating States including bias against LGBT persons and bias against people with disabilities, among others.<sup>36</sup>

Some of the above-mentioned bias motivations may not currently be contained within legal provisions in some countries; however, they can still be included in a monitoring definition, as explained above. Capturing a range of bias motivations, including those that are not currently included in the criminal code, can provide the necessary evidence for lawmakers to consider expanding the protected characteristics in their hate crime laws.

Where a range of bias motivations is captured within a single legal provision, it can be difficult to separate information about specific bias motivations. Adopting a detailed monitoring definition can allow different bias motivations to be recorded separately for the same base offence. For example, information about a robbery motivated by racism can be recorded separately from information about a robbery motivated by bias against Muslims.

<sup>34</sup> OSCE Ministerial Council, Decision No. 10/07.

<sup>35</sup> OSCE Ministerial Council, Decision No. 10/07, para 1; see also OSCE Ministerial Council Decision No. 4/13, Kiev, 5-6 December 2013, para 2.5.

<sup>36</sup> See <[www.hatecrime.osce.org](http://www.hatecrime.osce.org)>

## Recommendation 2

### ➔ Monitor the bias motivations recognized in OSCE commitments and others that are evidenced in specific jurisdictions.

#### Determining motivation

After establishing a monitoring definition, it is necessary to determine which incidents will reach the threshold for inclusion in official figures. In most OSCE participating States, law-enforcement agencies make the initial determination whether or not to classify a crime as a hate crime. To make this decision, any “bias indicators” that may provide evidence that the crime was committed with a bias motive should be taken into account. Bias indicators are objective facts, circumstances or patterns connected to a criminal act that, alone or in conjunction with other indicators, suggest that the offender’s actions were motivated in whole or in part by bias, prejudice or hostility. For example, if a perpetrator uses racial slurs while attacking a member of a racial minority, this could indicate a bias motive and be sufficient for the responding officer to classify a crime as a likely hate crime. By the same token, the desecration of a cemetery or an attack on a gay pride parade may be bias indicators of anti-religious or anti-LGBT motivation.

However, evidence of bias motivation is not always immediately apparent and may not be sufficient for an investigator to classify an incident as a hate crime until later in the investigation. This can be addressed in a number of ways. For example, introducing the category of “potential hate crime”, would enable the police to make a preliminary assessment that a crime may be a hate crime. Police can then search for corroborating evidence of the bias element of the crime, which can be added to the recording system at a later stage.

Another option is simply to use victim perception as the main basis for whether to classify a crime as a hate crime. In other words, if the victim perceives a crime to be motivated by bias based on agreed protected characteristics, the police automatically register it as a hate crime, as described in Box 4 below.

Introducing the option to review evidence of bias motivation throughout the investigation, and taking victim perception into account, ensures that the widest possible net is used to capture offences that are potentially bias motivated. Bearing in mind the severe under-reporting of hate crimes, this is the most comprehensive way to capture potential hate crime offences and encourage victims to state if they perceive an offence to be bias motivated.

It is important to note that the effect of this approach is that the volume of offences assessed as hate crimes will be relatively high, which can undermine feelings of safety and security in the community. However, this can be countered in part by comparing hate crime figures with overall figures, demonstrating that hate crimes remain a small fraction of overall crimes.

#### Box 4: Victim-based perception of hate crimes

The United Kingdom takes a broad approach to using perception as a basis to record hate crimes at the policy level. If any offence is perceived by the victim or any other person as a hate crime with a specified bias motivation, it will be recorded by police as a hate crime.<sup>37</sup> The following definition is used as a basis for recording.

Hate crimes are any crimes that are targeted at a person because of hostility or prejudice towards that person's:

- disability
- race or ethnicity
- religion or belief
- sexual orientation
- transgender identity

#### Recommendation 3

→ **Adopt the widest possible approach to making an initial determination of whether a crime may be identified and recorded as a hate crime.**<sup>38</sup>

#### Criminal offence categories

Hate crime data should be captured and grouped as a sub-element of the criminal offence categories already used in existing crime-recording mechanisms. This allows for easy comparison among crime categories and saves resources. In addition, where possible, particular attention should be paid to specific types of crimes that can be common base offences of hate crimes. Information gathered for ODIHR's annual report *Hate Crimes in the OSCE Region: Incidents and Responses* indicates that countries across the OSCE region commonly collect statistics on hate crimes associated with the following categories:

- ▶ Homicide, including murder and manslaughter;
- ▶ Physical assault, usually defined in criminal codes as a physical attack, resulting in varying degrees of injury to the victim;
- ▶ Vandalism, including damage to property, owned, for example, by religious organizations or human rights organizations supporting the rights of minority groups; the personal property of a victim, such as their car or house; or a social venue frequented by specific minority groups;

37 "What is hate crime?", True Vision, <[http://www.report-it.org.uk/what\\_is\\_hate\\_crime](http://www.report-it.org.uk/what_is_hate_crime)>.

38 This is also the approach recommended in ECRI policy recommendation No. 11 on combating racism and racial discrimination in policing, adopted 29 June 2007, in relation to racist offences: "To ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account;... To these ends, to adopt a broad definition of racist incident. For the purposes of this Recommendation, a racist incident shall be: 'any incident which is perceived to be racist by the victim or any other person'". <[http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N11/e-RPG%2011%20-%20A4.pdf](http://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N11/e-RPG%2011%20-%20A4.pdf)>.

- ▶ Threats, such as threats to kill or assault, whether in person or by e-mail, social media, telephone, or other means;
- ▶ Attacks on places of worship, specifically synagogues, mosques, churches; and
- ▶ Grave desecrations, specifically graffiti or damage to graves of any religious denomination.

Some of the above crimes may not be included within current hate crime laws. For example, a criminal code may contain the offence of racially aggravated assault but not racially aggravated murder. As set out in recommendation one, a comprehensive hate crime monitoring definition should be implemented that captures a full range of offences, whether or not they are recognized in legislation. This will help ensure policymakers have a fuller picture and are able to make decisions about the possible need for legislative amendments.

#### Recommendation 4

→ **Collect hate crime data using the same categories as existing crime data-recording mechanisms. Disaggregate data on each bias motivation for each type of crime.**

#### Other information to collect

Hate crime recording mechanisms can capture many types of information that will greatly improve law enforcement and policymakers' understanding of hate crimes help strengthen their responses to them, and provide rich sources of intelligence for investigation. To comply with OSCE commitments, information should be collected on the number of cases reported to law enforcement, the number prosecuted and the sentences imposed.<sup>39</sup> Where resources allow, the categories outlined in the paragraphs below should also be included:

**Victim and perpetrator demographics:** Recording information, such as gender, age and ethnicity can help identify victims' needs and can be used to develop strategies for prevention. However, especially in relation to ethnicity, it is important to make a distinction between information based on the perception of the police, and information based on the direct confirmation of the victim or perpetrator. Demographic information that is based on police perception should only be used for internal intelligence purposes. It is important to recognize that this type of data may be inaccurate and may use categories that are not accepted by minority groups. Therefore, it would be inappropriate to publish these data, or to use them as a basis for policy-making. On the other hand, demographic data that is confirmed directly with victims and perpetrators, and which are based on categories that are accepted

<sup>39</sup> OSCE Ministerial Council, Decision No. 9/09.

by minority groups, for example national census categories, can provide useful information about the patterns of victimization and offending, which can in turn be used for resource planning and prevention.

### Box 5: Data protection

Some states have strict data-protection laws that prohibit the gathering and publishing of demographic information relating to victims and suspects. While in many jurisdictions this protection is accepted as an important component of efforts to uphold civil liberties, it can also be a barrier to collecting hate crime data. For example, data-protection laws may restrict authorities' powers to record the ethnicity or religious affiliation of a victim, thus apparently preventing them from recording the basis of a hate crime. However, it is important to note that data-protection laws need not restrict efforts to record key hate crime data. Even in states with strict data-protection laws, police can record the bias motivation of the offender(s) without having to record the background of the victim or perpetrator. Recording hate crimes according to bias motivation instead of victim or perpetrator characteristics also has the advantage that a fuller spectrum of hate crimes can be recorded. For example, hate crimes based on mistaken identity (for example, a Sikh man wearing a turban who is misidentified as being Muslim) or hate crimes by association (for example, an attack on a non-Roma member of an organization protecting Roma rights) can also be recorded using this method.

**Multiple biases:** Hate crimes can have more than one motivation. For example, anti-Semitic or anti-Muslim bias crimes can have both a racist and an anti-religious element to them. When recording multiple biases of hate crimes, a distinction should be made between counting the crimes themselves and counting their different motivations. The number of crimes by motivation is, therefore, usually higher than the number of actual hate crimes committed.

**Location of offence:** This information is useful in identifying hate crime hotspots at the local level, as well as trends at the regional or state levels. Such information can also support better communication between police and communities, providing reassurance that the police take hate crimes seriously. Better communication and trust, in turn, can lead to increased reporting of hate crimes, better witness co-operation, and better prevention.

### Recommendation 5

→ **Where resources and legal systems allow, collect information about victim and perpetrator demographics, the location of the offence, police response, and multiple biases to aid in policy formulation and resource allocation for hate crime prevention and response.**

## Collecting data under related concepts: extremism, hate speech and discrimination

Some states collect hate crime data under the rubric of “extremism” and/or “politically motivated crime”.<sup>40</sup> There is a clear connection between these concepts – hate crimes can be committed by members of extremist groups or people ascribing to a specific political ideology. However, important data can be missed if a case is recorded as a hate crime only when a perpetrator is a member of an extremist group or holds identifiable political beliefs. For example, offences committed by individuals with no affiliation to an extremist group or ideology will not be necessarily be recognized as hate crimes, and therefore no data are recorded.

There is no consensus across the OSCE region about categorizing incidents of hate speech or discrimination as hate crimes. Incidents of hate speech and discrimination do not include a base criminal offence in most countries – since the speech or discrimination would not be a crime if it did not have a bias motive – and, therefore, fall outside the hate crime monitoring definition set out in this guide.<sup>41</sup> As a result, including discrimination or hate speech within hate crime data and without disaggregation distorts the statistics and hinders accurate international comparisons. Moreover, these types of offences often require different responses from authorities in terms of victim support and prevention, as well as different legal approaches.

### Recommendation 6

→ **Separate statistics on “extremist crimes”, “politically motivated crimes”, “hate speech” and “discrimination” from statistics on hate crimes within data-collection mechanisms.**

## POLICY ISSUE 3

### Implementing hate crime data-collection and monitoring mechanisms

Effective implementation of hate crime data-collection mechanisms requires:

- ▶ Developing clear reporting and review structures, with supporting guidance and documentation;
- ▶ Training police to recognize hate crimes effectively and to complete hate crime recording forms accurately;
- ▶ Reviewing the system regularly to assess and address any barriers to implementation;

40 For example, Austria, Czech Republic, Germany, Slovakia, Switzerland and the Russian Federation all have such laws, although of differing scopes. In Germany, for example, data collection under the rubric “extremism” corresponds to politically motivated crimes (*politisch motivierte Kriminalität*), including right-wing or left-wing crimes, crimes committed by “foreigners” and other politically motivated crimes.

41 ODIHR’s *Hate Crime Laws - A Practical Guide*, p. 25, provides further elaboration on the relationship among discrimination, hate speech and hate crimes.

- ▶ Liaising transparently with CSOs to increase reporting of crimes; and
- ▶ Sharing data with affected communities and the wider public.

The sub-sections below address each of these elements.

### Implementing reporting and review structures

The first stage of implementation is to set up a system that ensures data on hate crimes or possible hate crimes are collected and recorded as comprehensively as possible. The standardized forms used by police to report crimes should be designed to reflect an agreed hate crime monitoring definition and include discrete spaces or boxes in which the officer making the first report of the crime should indicate:

- ▶ Whether the crime is a hate crime or a possible hate crime;
- ▶ The protected group or characteristic of the victim (race, religion, disability, gender, etc.);
- ▶ Any bias indicators; and
- ▶ Whether the victim or any witnesses perceived the crime as bias motivated.

Developing standardized forms with clear crime and bias-motivation categories will help ensure that consistent and comparable data are collected and reported.

A system should also be put in place to ensure that the data recorded by the police are entered into a database, ideally at the national level. There are a number of ways this can be done. A computerized reporting system could be designed so that the hate crime information recorded in the initial police report is automatically transferred to a statistical database. Alternatively, the information might be reviewed by a higher level officer before it is entered into the data-collection system. Another method is for a special unit to review the information in police crime reports in order to record and produce statistical data on hate crimes. The latter procedure is more resource intensive, but adds a layer of quality control and helps ensure consistency in the types of information recorded. The database should be flexible and searchable, enabling users to disaggregate and combine information easily. For example, it should be able to produce statistics on the number of racially based assaults in a particular city, or on the number of desecrations of Jewish or Muslim cemeteries.

To the extent that resources permit, the information on hate crimes included in police reports can be reviewed and analysed for a variety of purposes. For example, the data could identify particular victim groups that may need further protection or pinpoint “hotspots” for hate crimes that might merit more intensive police patrols. The data could thus provide an important tool for police planning and crime prevention.

Forms and processes are best implemented when underpinned by clear policy and guidance, which transparently set out roles and responsibilities at each stage of the hate crime data-collection and recording process. Issued at the national or regional levels, policy and guidance can help improve consistency and standardization of data, especially in federal systems, where police services are autonomous. Furthermore, consultation with civil society ensures that forms and guidance reflect up-to-date bias indicators and sources of support for victims.

#### Recommendation 7

- **Develop standardized crime-reporting forms for use by police officers that reflect agreed crime and bias motivation categories.**

#### Recommendation 8

- **Establish detailed guidance on recording, reviewing and compiling information on hate crimes, including clearly designating responsibilities at each level.**

#### Box 6: Sweden's approach to collecting data on hate crimes

In Sweden, hate crime data are initially captured by regular police recording mechanisms. Police prepare a written report on all incidents in their digital crime-recording system, where they can be marked as “suspected hate crime”. The incidents recorded can encompass a victim reporting to the police, online reports, anonymous telephone calls or police reporting at the scene of a crime. After crime reports are entered into the system, the Swedish National Council for Crime Prevention uses a key word search (e.g., “racist”, “homophobic”, etc.) in the narrative for all police reports regarding specific crime categories to identify possible hate crime cases for inclusion in official figures. This method can yield information that can be analysed to understand the types of criminal offences that are being committed and related bias motives, and to review the accuracy of police flagging. Other information, such as location and relation between offender and victim, is also gathered and analysed.

### **Box 7: Germany's approach to reviewing hate crime data**

The German government has implemented policy directives on hate crime data collection applicable to all police services across the country.<sup>42</sup> Fourteen types of data are collected in relation to hate crimes, using standardized incident reports. Local police initially record and classify the offence and submit completed incident reports to a central unit. This statistical information is submitted to the state police, which confirm the classification. Finally, the national police review all data to ensure a standard approach across the country. The resulting detailed database is used to provide strategic analysis of large volumes of hate crimes. For example, data can be sorted according to motivation, type of crime and type of weapon used. This rapid recording and reporting system allows users to respond to ongoing cases and to analyse longer-term patterns of hate crimes.

### **Training to support accurate police recording of hate crime data**

Training for police officers on recognizing and recording hate crimes and for data analysts on categorizing and standardizing data is essential for implementing data-collection mechanisms successfully. This section provides examples of different approaches, emphasizing the role of civil society, and outlines an ODIHR programme that can be of assistance in this area.

### **Box 8: The United States Federal Bureau of Investigation (FBI)**

The FBI combines policy guidance and training materials in its most recent data-collection manual. The training materials aim to ensure that those responsible for recording hate crime data are able to define the monitored bias motivations (including gender-based hate crimes); explain the process for reporting hate crimes; list the types of criteria used to make a determination of whether a crime was bias motivated; evaluate a hypothetical case and classify the offences involved in the incident as “Not a Bias-Motivated Crime” or a “Suspected Bias-Motivated Crime,” and give the reasons for his or her decision. The United States National Hate Crime Coalition worked with the FBI to ensure that information about bias indicators and examples of hate crime scenarios are realistic and reflect current experiences of targeted communities, especially in relation to newly introduced protected characteristics, such as gender.<sup>43</sup>

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42 “Verfahrensregeln zur Erhebung von Fallzahlen im Bereich der Politisch motivierten Kriminalität” and “Ausfüllanleitung zur Kriminaltaktischen Anfrage in Fällen Politisch motivierter Kriminalität”. Not publicly available.

43 *Hate Crime Data Collection Guidelines and Training Manual*, Criminal Justice Information Services Division, Uniform Crime Reporting Program, Federal Bureau of Investigation, US Department of Justice, <<http://www.fbi.gov/about-us/cjis/ucr/hate-crime/data-collection-manual>>.

### ODIHR's training packages

OSCE participating States have tasked ODIHR with the development of programmes to assist them in combating hate crimes. To this end, ODIHR has developed the Training against Hate Crimes for Law Enforcement (TAHCLE) programme. TAHCLE has been implemented in a number of countries and is customized to meet the needs of each country.<sup>44</sup>

It is available to all OSCE participating States, upon request, and aims to help police forces in:

- ▶ Ensuring the effective investigation and prosecution of hate crimes;
- ▶ Understanding the basis, context and special attributes of hate crimes;
- ▶ Solidifying knowledge of domestic legislation related to hate crimes;
- ▶ Contributing to crime prevention; encouraging public co-operation with and respect for police forces;
- ▶ Building constructive ties with marginalized or threatened groups in society; and
- ▶ Ensuring that police practices serve to protect and promote human rights and non-discrimination.

### Working with CSOs on training

CSOs dealing with hate crimes are likely to have stronger relationships with victim groups than the police have. As a result, they are likely to gather information regularly about barriers to reporting hate crimes, common bias indicators, and the specific impact of these kinds of offences on individual victims, as well as the communities that they come from. Many countries have recognized the added value that CSOs can bring to training and have incorporated them into their training activities.

#### Box 9: Poland's police training programme

Following initial support and training from ODIHR, the Polish Ministry of Interior led a programme that trained over 50,000 officers throughout the country on recognizing and responding to hate crimes. Local CSO representatives are also involved in training as co-trainers on community policing, hate crime victims and hate symbols. This involvement has led to further co-operation between the police and affected communities. One result has been an improvement in the quality of information submitted by the police to the Ministry of Interior about specific hate crime cases.

<sup>44</sup> Further information on TAHCLE, and where it has been implemented is available at: <<http://www.osce.org/odihr/94898>>.

## Recommendation 9

- ➔ **Train police involved in data collection on how to recognize hate crimes and effectively record them, drawing on available expertise from ODIHR and CSOs.**

### Regular review to assess and address any barriers to implementation

Regular review by key stakeholders, including frontline police, data analysts, senior police and policymakers, with input from civil society, can help identify gaps and areas for improvement in hate crime data-collection mechanisms. These reviews can touch on the following areas:

- ▶ Design of hate crime reporting forms – are they easy to use? Do they capture the right information? Do they reflect the latest changes to law and procedure? Are there new data points that need to be captured such as demographic data to reflect changes in local populations?
- ▶ Methods of submitting data – is the clearance process effective? Do the submission cycles give sufficient time for analysis and publication? Are they useful for police investigation?
- ▶ Quality of data – are there improvements or challenges? Are there significant regional differences in quality or in the number of hate crimes recorded?

## Recommendation 10

- ➔ **Procedures to review the data captured by hate crime reporting mechanisms should be established in order to identify gaps and ways in which the system might be improved. CSOs should be involved in this process to the largest extent possible.**

### Increasing reporting of hate crimes

In order to increase victim and community reporting of hate crimes, police forces and other civil authorities may need to develop strategies to encourage victims to report. As long as victims under-report hate crimes, any official system for identifying and recording them will fall short.

The amount and quality of outreach conducted by the police and the extent of police training often correlates with the number of crimes reported. Increases in reported crimes in the early stages of measuring hate crimes are most likely to reflect an increase in reporting by victims, not an increase in actual offences. In this sense, increases in the number of reported hate crimes can be a positive sign that police training and community outreach are working and victims have more confidence to report hate crimes to the police.

Police co-ordination with civil society groups providing services to victims or their communities can be a good way to gather more information on hate crimes, build community confidence and increase official reporting. In some cases, close co-ordination can allow police to verify specific incidents with community groups and be made aware of incidents that have not been reported to them. This provides the opportunity to better understand under-reporting, victims' needs and how resources should be allocated. For example, the Jewish Community Security Service (SPCJ) in France works closely with the French Ministry of Interior's Victims Unit to verify specific cases on a monthly basis, with the aim of enabling detailed and reliable monitoring. SPCJ's annual reports list anti-Semitic acts that were reported to the police and SPCJ, which are crosschecked with reports from various police precincts and centralized at the Ministry of Interior.<sup>45</sup>

Another approach to increasing reporting of hate crimes is to establish an online anonymous hate crime reporting system. This was done in the United Kingdom, where an online system called True Vision was set up following concerns about under-reporting expressed by CSOs and officials involved in addressing hate crimes. Anyone can report a hate crime on the system by selecting the local police force and completing a form detailing the incident including the perceived bias motivation and details about the victim and offender. The website also explains what will happen to the information and how the police should be expected to respond.<sup>46</sup>

Issues relating to how to measure unreported hate crimes are addressed in more detail in Section Three.

### Recommendation 11

→ **Adopt specific awareness-raising and victim-outreach strategies to address the problem of under-reporting of hate crimes by victims.**

#### **Sharing data with affected communities and the wider public**

Communities will want to know how many hate crimes the police are dealing with and to understand how successful the police are in addressing the problem. OSCE participating States have committed themselves to make hate crime data public in recognition of the need to be transparent about the nature and scope of reported hate crimes.<sup>47</sup> Information can be shared in a number of ways, including press releases, newsletters, speeches, publication on the Internet and in hard copy. Such reports can build trust by reassuring communities that combating hate crimes remains a priority for law-enforcement agencies.

45 See *Report on Anti-Semitism in France*, 2012, Jewish Community Security Service, <<http://dl.antisemitisme.org/REPORT%202012.pdf>>. For a similar example, see the UK Community Security Trust reports, *Anti-Semitic Incidents Report*, 2013, <<https://www.thecst.org.uk/docs/Incidents%20Report%202013.pdf>>.

46 "Reporting online", Stop Hate Crime website, True Vision, <[http://report-it.org.uk/your\\_police\\_force](http://report-it.org.uk/your_police_force)>.

47 OSCE Ministerial Council, Decision No. 9/09.

Public reports should aim to present simple, clear statistics in as much detail as possible. The data should be disaggregated to include different types of crimes and which bias motivations were present in each. Reports should also detail how many of the crimes were prosecuted and present information about sentencing outcomes. Release of reports can be planned to coincide with internal data-release and review cycles.

#### Recommendation 12

- ➔ **Publish simple and comprehensive hate crime statistics in a format that is fully accessible to the public and affected communities.**

#### Box 10: Czech Republic's public reports on hate crimes

The Czech Republic publishes annual reports containing statistics on hate crimes. The reports include information about trends in membership of “extremist” groups, and quantitative data on hate crimes from the police, prosecution and courts services. In 2011, partly in response to requests from CSOs, a section on hate crimes against Roma was introduced.

Methodological issues are explained in the report to help the reader understand the data that is being presented. For example, it is made clear that, due to differences in hate crime definitions and the fact that a single case may take more than a year to progress from the investigation to the prosecution stage, it isn't possible to compare the police, prosecution and court data that is contained in the report. The report is published on the home page of the Ministry of Interior website.

## SECTION TWO

# Collecting data on prosecution and sentencing of hate crimes: measuring the criminal justice response

### *Introduction*

Participating States have committed themselves to collect hate crime data from the investigation to the sentencing stages of the criminal justice process.<sup>48</sup> This section considers what data should be captured at the prosecution and sentencing stages, and how such data can be used.

Data about prosecution and sentencing of hate crimes provides a full picture of the extent to which hate crime laws are being used by prosecutors, reveals strengths and gaps in legislative and policy implementation and can help policymakers make informed decisions about resource allocation. Victims and affected communities will want to know about the outcome of cases: Did the prosecutor decide that there was sufficient evidence for a hate crime prosecution? Was a conviction secured? Did the court enhance the penalty? Where cases are high profile, the media and elected representatives will also have an interest.

### **POLICY ISSUE 4**

#### **What prosecution data should be captured?**

As set out in Section One, adopting a common, simple and comprehensive definition of hate crimes for use by all agencies of the justice system for monitoring and recording purposes allows for clearer tracking of cases across the system, comparable data, and more transparent information for affected communities and elected representatives. Information captured on hate crime prosecutions and sentencing

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<sup>48</sup> OSCE Ministerial Council, Decision No. 9/09.

decisions should similarly reflect the two key elements of hate crimes: the criminal offence and the bias motivation.

If the police have classified an offence as a bias crime, prosecutors should accept this initial assessment for monitoring purposes and for recording further action, if any, in prosecution statistics. Having done so, it is for the prosecutor to determine if the evidence is sufficiently robust for prosecution. Any decision taken to pursue the case or to drop it should be recorded. This information is important for assessing the strengths and weaknesses of police and prosecution training, guidance, practice and co-operation.

Consideration should be given as to whether prosecutors require training to recognize bias motivations and to build robust cases. ODIHR has developed guidelines for prosecuting hate crimes as well as the *Prosecutors and Hate Crimes Training* (PAHCT) package, which can be used by participating States to build prosecution skills.<sup>49</sup>

Specifically, at the prosecutorial level, hate crime data-collection mechanisms should capture the following information:

- ▶ The number of offences referred by the police to the prosecution service for a charging decision. This figure indicates whether the police are improving their recognition and handling of these cases;
- ▶ The number of cases selected for prosecution. This figure indicates whether the police are referring strong evidence and the extent to which prosecutors are able to pursue cases;
- ▶ The number of successful prosecutions. This figure indicates whether case preparation and prosecution is improving over time, as well as the court's attitude to hate crime cases; and
- ▶ Information about the final decision of the court, for example, whether a sentence enhancement was applied by the court. This information completes the picture for the ultimate outcome of the case.

In each of these instances, data will be most useful if it is disaggregated by specific bias motivation and specific type of crime.

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<sup>49</sup> See <<http://www.osce.org/odihr/pahct>>.

### Recommendation 13

- ➔ **Based on a common, comprehensive and simple definition, prosecution services should record detailed, disaggregated data on hate crime prosecutions that reflects types of crimes, specific bias motivations, the number of cases prosecuted and their results.**

### Recommendation 14

- ➔ **Prosecutors should be trained to recognize hate crimes and to conduct effective prosecutions. Where appropriate, ODIHR's prosecutor training resource, the PAHCT programme, can be a helpful training resource.<sup>50</sup>**

## POLICY ISSUE 5

### Implementation and analysis

Capturing the maximum amount of high quality information about hate crime prosecutions and sentencing decisions requires a concerted approach. Appropriate forms and guidance must be developed. Prosecutors must be trained on what information to record and how and when to record it. Finally, a review processes should be put in place.

Prosecution hate crime recording mechanisms can capture information beyond simple statistics on the types of cases handled and their results. For example, where resources allow, consideration should be given to recording the following categories of information:

**Number of guilty pleas.** An increase indicates that stronger cases are being prepared and fewer cases had to incur the expense and stress of a trial.

**Demographics of defendants.** This information assists in understanding more broadly where resources for crime prevention should be directed.

**Victim and witness demographic characteristics.** This assists in better understanding which groups are most frequently victimized and their needs.

Analysis of these and other issues can yield valuable information and lessons that can be used to improve the effectiveness of both police and prosecutors, as well as to develop more strategic and effective national policies to address hate crimes.

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<sup>50</sup> See <<http://www.osce.org/odihr/pahct>>.

Different methodologies can be used to capture prosecution and sentencing data. In countries where police and prosecution services have adopted a common definition for recording purposes, data can be captured electronically within a standardized and consolidated monitoring system. In Croatia, for example, the State Attorney's Office uses a standardized monitoring form designed to coincide with police and court statistics. Results are reviewed every six months by a government working group that includes police, prosecutors, a CSO representative and other government officials.

### Box 11: Prosecution data in Poland

In countries where the criminal code or the data-collection system does not separate bias motivations, or where police and prosecutors do not use the same definition for data recording, detailed data on hate crimes can still be obtained through retrospective analysis. In Poland, for instance, data on hate crime prosecutions are captured according to provisions of the criminal code that combine a number of bias motivations. As a result, further work is needed to determine what bias motivation was involved in which prosecutions. To achieve this, all criminal proceedings concerning hate crimes based on racism, xenophobia, nationality, ethnicity, religion or lack of religious affiliation are monitored. Specialist advisors from the General Prosecutor's Office examine cases that were discontinued or not initiated in order to establish which bias motivations were involved and whether any lessons can be identified from how the case was handled. Reports distilling key findings are available on the General Prosecutor's Office website.<sup>51</sup>

In France, prosecutors are required to report racist, xenophobic and anti-Semitic cases immediately to the Ministry of Interior, in order to allow for the accurate preparation of statistics in "real time". These figures are used by the Ministry of Justice to produce monthly statistics and to enable a better understanding of these offences and the criminal justice response to them.

### Recommendation 15

➔ **When designing a data-collection system for prosecutors and courts include data-collection categories that can help identify the strengths and weaknesses in the prosecution of cases, such as the number of guilty pleas.**

51 See the General Prosecutor's Office website, <<http://www.pg.gov.pl/bip/index.php?0,813,1>>.

## POLICY ISSUE 6

### Understanding and sharing prosecution and sentencing data

Data on prosecution and sentencing of hate crimes can indicate whether policy guidance and training programmes have made a positive impact on performance. In addition, this information can be compared with prosecutions of other types of cases to identify the areas that need to be prioritized for improvement and resource allocation.

The percentage of hate crime prosecutions will be significantly lower than the number of crimes reported to and recorded by the police, as is the case with all crimes. However, it is useful to compare whether police and prosecution data reflect similar trends across hate crime types and bias motivations. For example, where the volume of prosecuted hate crimes is increasing at a similar rate to police recorded hate crimes, this probably indicates good co-ordination and may point to improved confidence of victim groups in the criminal justice system as a whole. Such increases imply more attention being devoted to the issue, stronger investigation and better preparation of cases. It may also signal that better support for victims is keeping them engaged in the criminal justice process and has increased their willingness to testify. If there are differences in police and prosecution data trends, however, this might suggest poor co-ordination between the two agencies or a difference in the public's confidence in relation to one service compared to another.

It is important to share prosecution and sentencing data and analysis with victims, affected communities and the wider public, as is the case with police data. This can be done in a variety of ways, including annual reports, press activities and responses to high profile cases.

#### Recommendation 16

➔ **Prosecutor offices should conduct comparative analyses of their data on hate crimes with police data, to identify any areas in need of special attention or improvement.**

#### Recommendation 17

➔ **Conviction and sentencing data should be disaggregated and published regularly.**

#### Strategic frameworks for hate crime data collection and monitoring

One method of ensuring better information-sharing and a more co-ordinated approach to addressing hate crimes, including data collection and monitoring, is to establish official governmental working groups with the participation of all agencies involved in any aspect of combating hate crimes. A number of countries have established such working groups.

To expand the reach and effectiveness of these working groups, it can be useful to include representatives of CSOs dealing with hate crimes, including organizations representing groups that are frequent victims of hate crimes. For example, in the United States, a broad coalition of civil rights, religious, educational, law-enforcement, professional and civic organizations have come together to advocate for improved federal and state response to hate violence.

The work of interagency groups should be publicized, including information about any action plans, strategies or conclusions. Doing so can increase public attention to the importance of combating hate crimes, reassure victim groups that the issue is being addressed, and spark increased public discussion that might produce further useful proposals or actions to address various aspects of hate crimes.

#### **Box 12: United Kingdom government strategy on responding to hate crimes**

The United Kingdom government published its “Challenge it, Report it, Stop it” strategy, which aims to prevent hate crimes by: challenging the attitudes and behaviours that foster hatred; encouraging early intervention to reduce the risk of incidents escalating; increasing the reporting of hate crimes by building victims’ confidence to come forward and seek justice; and working with partners at national and local levels to ensure the right support is available when they do.

To achieve these aims, a wide range of United Kingdom government departments have been brought together at the national level to co-ordinate the efforts of local agencies and voluntary organizations, as well as criminal justice agencies to improve the operational response to hate crimes. Overall, the inter-agency effort seeks a more effective end-to-end process, with agencies identifying hate crimes early, managing cases jointly and dealing with offenders robustly.<sup>52</sup>

#### **Recommendation 18**

➔ **Establish official governmental working groups on addressing hate crimes to improve data collection, enhance information-sharing and develop a more co-ordinated and strategic national approach to addressing hate crimes. Aim to include all government agencies or departments dealing with any aspect of hate crimes, as well as civil society representatives.**

#### **Recommendation 19**

➔ **Publicize the work and output of governmental working groups on hate crimes.**

<sup>52</sup> The initiative is described and the full text of the action plan is available at <<http://www.homeoffice.gov.uk/publications/crime/hate-crime-action-plan>>.

## SECTION THREE

# Capturing the victim experience – measuring the scale and impact of hate crimes

### *Introduction*

Police and criminal justice data-collection mechanisms rarely capture the full picture of hate crime victimization. This is because they rely primarily on victim reporting and, as mentioned previously in this guide, hate crimes are significantly under-reported. For example, the 2012 United States National Crime Victimization Survey (NCVS)<sup>53</sup>, which surveyed a large sample of households, found that only 45 per cent of people who believed they were victims of hate crimes reported the offence to the police.

This section presents two main tools that can be used to help determine the prevalence and impact of hate crimes: national and local level victimization surveys conducted by authorities, and CSO or IGO monitoring activities.

Tools that measure unreported hate crimes and their impact on victims can provide a better indication of the true volume of hate crimes, as well as valuable information about the impact of hate crimes on victims. They can identify specific communities at risk and provide information about changing patterns of violence. They can help assess the level of community confidence in the police and other criminal justice agencies. All of this knowledge can help improve planning, preventive action and response.

### **POLICY ISSUE 7**

#### **What data should hate crime victim surveys capture?**

Victimization surveys present the victim's perception of whether an offence was bias motivated. While this has the disadvantage of being subjective, it is a perspective

<sup>53</sup> See <<http://www.bjs.gov/index.cfm?ty=dcdetail&iid=245>>.

that often provides a rich source of comparison with official figures, both in terms of the true volume of hate crimes and their impact on individuals and communities.

Where possible, victim surveys should address the same bias motivations and types of crimes captured by official statistics. This allows for meaningful comparisons between the surveys and data recorded by criminal justice agencies. Respondents should be asked whether they reported the offence to the police, which enables analysts to establish the extent of any gaps between reported and unreported crimes. Survey data can also be designed to yield information on which bias motivations are most unreported and, where possible, in which areas of the country.

Survey results can reveal the extent to which hate crimes have more impact on victims than the same offences committed without a bias motivation. For example, the Crime Survey of England and Wales found that victims of hate crimes were more likely than other crime victims to say they experienced fear and anxiety following the incident.<sup>54</sup>

Victimization surveys can provide rich information about victims' perceptions of many aspects of hate crimes. If resources allow, the following are among the types of information that can be gathered:

- ▶ The level of victim satisfaction with the police response;<sup>55</sup>
- ▶ The level of concern about hate crimes in general. For example, respondents can be asked if they think that hate crimes are a significant problem, and how worried they are about being victims;<sup>56</sup>
- ▶ Reasons for reporting or not reporting to the police. For instance, victims may report offences in order to stop re-offending, or may not report because they believe that the police would not take action against the offender;<sup>57</sup>
- ▶ The location of the crime. This information can be used to determine if hate crimes are more under-reported in some local areas than in others; this may point to weaknesses in particular police administrations or prosecution services. Localized data are especially valuable where policy-making powers are devolved to the regional and local levels;
- ▶ Whether the respondent has witnessed a hate crime or if a family member has been a victim. This information further widens the net to capture information about unreported hate crimes; and

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54 <<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb0612/hosb0612?view=Binary>>.

55 <<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11635-eng.htm#a13>>.

56 <<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb0612/hosb0612?view=Binary>>.

57 <<http://bjs.ojp.usdoj.gov/content/pub/pdf/hcrvp.pdf>>.

- ▶ Victim demographics, including ethnicity, age and gender. As victim surveys are anonymous, this approach will allow policymakers to ascertain if victim experiences are affected by other dimensions of their identity. For example, questions on demographics can reveal whether men or women are more likely to report crimes, or if older victims of hate crimes experience a more significant psychological impact than younger victims.

### Recommendation 20

- ➔ **Design and carry out victimization surveys that address the same bias motivations and types of crimes captured by official statistics, in order to provide for simple and meaningful comparisons of data and to assess the extent to which hate crimes may be under-reported, and why.**

## POLICY ISSUE 8

### Conducting victimization surveys

A range of approaches can be taken to capturing the extent of hate crimes and their impact on victims. Large-scale surveys of the general population can give a broad picture of the problem and draw reliable conclusions about the number of hate crimes, the level of under-reporting and the impact on victims. In countries that already conduct official victimization surveys among a sample of the general public, it requires few resources to add specific questions on hate crimes to the surveys, resulting in a substantial base of information. Where there are no national surveys already in place, authorities can consider the benefits of developing and conducting such surveys. The UN has published detailed guidance on developing victimization surveys in its *Manual on Victimization Surveys*.<sup>58</sup>

In addition, local and targeted surveys can be conducted to boost information on particular bias motivations, victim groups or local areas. Where appropriate, CSOs can be partners in conducting targeted surveys.

#### Large-scale victimization surveys

Victimization surveys are usually large-scale, national surveys that are focused on obtaining victim's perspectives of crimes, and on capturing offences that are not reported to the police. As pointed out in the UN's *Manual on Victimization Surveys*, "Administrative sources (such as police or judicial statistics) cannot provide a sufficiently reliable and comprehensive analysis of crimes on their own. Victimization

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<sup>58</sup> *Manual on Victimization Surveys*, UN Office on Drugs and Crime and UN Economic Commission for Europe, (Geneva: UN, 2010), <<http://www.scribd.com/doc/41169741/Manual-on-Victimization-Surveys>>.

surveys are now a recognized tool that help governments and their publics understand their crime problems and how better to address them.”<sup>59</sup>

### Box 13: The National Crime Victimization Survey, United States

The United States is an example of a country that conducts comprehensive victimization surveys, which include questions on hate crimes. The National Crime Victimization Survey, administered by the Department of Justice, involves 135,000 interviews and is designed to obtain a representative sample spread across the country.

The first interview is conducted in person. Interviewers return to the same household every six months over 3.5 years. The survey uses an incident-based form and gathers information about each incident’s characteristics from the victim’s perspective. These are then centrally analysed to identify and accurately register the crime. For example, a victim may report that they were “robbed” when, in fact, the details provided may show that they were the victim of a burglary. The registration of the incident is amended to reflect agreed crime categories. Victims are asked whether they perceive the offence to be motivated by bias against listed categories. If the answer is yes, then this perception needs to be corroborated by at least one further piece of evidence, such as the use of hate language or symbols.

The findings are published in a separate publication every three years. The data are used by the Department of Justice’s Office for Victims of Crime to determine resource allocation, and by CSOs as an advocacy tool to raise awareness and improve services.

In some cases, the volume of data on hate crimes accumulated in a victimization survey will be insufficient for meaningful comparisons and it will be necessary to bring together several years of data. In addition, there may be insufficient information about specific bias motivations, particularly in relation to emerging bias motivations or harder-to-reach groups, such as some ethnic minorities or people with disabilities. These gaps can be filled by conducting booster samples that are focused on particular groups, motivations or areas where data are limited.<sup>60</sup> The findings generated by these surveys supplement the findings of broader victimization surveys.<sup>61</sup>

No victimization survey is perfect. For example, if institutional settings such as schools or care homes are not included in a sample, this may have a disproportionate

<sup>59</sup> Ibid, p. 12.

<sup>60</sup> FRA defines a booster sample in the following way: “when a survey over-samples a group or groups in a population which would normally not be captured in sufficient numbers through random sampling. For example, ‘rare’ populations that would need to be captured through a booster sample in a general population survey include certain ethnic minorities.” From “EU MIDIS Data in Focus Report 6: Minorities as Victims of Crime”, FRA, op. cit., note 12, p. 7.

<sup>61</sup> For more information about designing booster surveys, see *Manual on Victimization Surveys*, UN Office on Drugs and Crime and UN Economic Commission for Europe, (Geneva: UN, 2010), <<http://www.scribd.com/doc/41169741/Manual-on-Victimization-Surveys>>.

impact on the quality of data available on disability or age-related hate crimes. Household surveys that return to the same household may negatively impact on the data available about the victimization of younger people, who tend to move more regularly. Telephone surveys often rely on landlines rather than mobile numbers. As a result, those who exclusively use mobile telephones will be missed. Limiting the languages that are used during interviews may mean that recent immigrants cannot be interviewed. In some cases, steps can be taken to address these limitations by, for example, seeking booster samples of under-represented groups. However, where limitations cannot be addressed it is important to be clear about their impact on the quality of the data.

It is not always necessary to conduct a special *crime* victimization survey to obtain the desired data on hate crimes. Another alternative, implemented by Canada, is to include questions about hate crime victimization in existing *social* surveys (see Box 15).

Where there is no victimization survey in place, policymakers may draw on the findings of European-wide surveys such as EU Minorities and Discrimination Survey (MIDIS) and the EU International Crime Victims Survey (ICVS) both to understand existing trends and for guidance on the methodological issues involved in setting up these surveys. For example, as the extract from the FRA's *Making Hate Crimes Visible* demonstrates (see Box 15 below), the EU ICVS highlights important information about the victimization rate across different minority groups in several EU countries.

#### Box 14: The EU International Crime Victims Survey<sup>62</sup>

The 2005 EU International Crime Victims Survey asked questions for the first time relating specifically to hate crimes. The results of this survey indicate that in 2004 about 3 per cent of respondents “experienced hate crimes against themselves or their immediate families”. Immigrants – who represented 15 per cent of the respondents to the survey – were found to be the most likely to have been the victims of hate crimes, with a 10 per cent victimization rate against 2 per cent among non-immigrants. Victimization rates were found to be consistently higher among immigrants for all forms of crimes, leading to the conclusion that immigrant status enhances the risk of being criminally victimized by any of the ten crime types surveyed, independent of other known risk factors, such as young age and urban residence. The phenomenon of crimes motivated by racism seems a factor propelling levels of common crimes, especially threats and assaults in some European countries.

62 Extracts from FRA's *Making Hate Crime Visible in the European Union: acknowledging victims' rights*, (Vienna: FRA, 2012), <<http://fra.europa.eu/en/publication/2012/making-hate-crime-visible-european-union-acknowledging-victims-rights>>.

### Recommendation 21

- ➔ **When victimization surveys do not reveal sufficient information about particular groups, locations or bias motivations, design and implement booster samples focused on these groups, issues or locations to provide supplementary information.**

### Recommendation 22

- ➔ **When it is not possible to conduct extensive victimization surveys, the same information might be gathered more economically by including questions about hate crimes in existing social surveys.**

#### **Local and targeted monitoring activities, with CSO involvement**

Many victims of hate crimes may have more confidence in CSOs than in the police. As a result, CSOs may be in a better position to monitor and gather information about the impact of hate crimes on victims and communities, specific features of different types of hate crimes, and information about the barriers to justice that victims may experience.

CSO contacts with and monitoring of groups known to under-report crimes can thus provide an important source of supplementary information for policymakers. As noted above, CSOs can be key partners in conducting specially designed surveys or booster samples. The paragraphs below describe other ways in which CSOs can assist in gathering information and data.

#### **Designing and commissioning a survey by a CSO or researcher**

When working with a CSO to develop a local or regional survey on hate crimes, it is important to be clear about the definition of hate crimes that will be used, the information that will be collected and the methods used. This will help ensure that policymakers have confidence in the findings and can use them as a reliable source of information about hate crimes. It will also help ensure that the information collected by CSOs uses the same data categories used for national statistics.

#### **Ongoing monitoring by CSOs**

As successive ODIHR annual hate crime reports show, many CSOs across the OSCE region collect and publish data on hate crimes or hate incidents. For example, the SOVA Centre for Information and Analysis researches a wide range of sources, including mass media, blogs, ultra-right wing media and correspondence from other CSOs in its network, to gather data on hate incidents in the Russian Federation.<sup>63</sup> Where possible, incidents are cross-referenced with law-enforcement agencies. The types of violent acts are broken down into murder, attempted murder and physical

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63 See <<http://www.sova-center.ru/en>>.

assaults. The ethnicities of the victims are also broken down into the most common groups.

### Focus groups with CSOs

A focus group is a form of qualitative research in which people are asked about their experiences and perceptions. This approach can be a very useful way to gain more detailed knowledge about particular groups' experiences of hate crimes and responses to them by the authorities. It can point to areas for further exploration through, for example, a quantitative survey or other forms of data collection.

### IGO surveys

Drawing on the findings of IGO surveys can be particularly useful for monitoring attacks against migrants and refugees at the local and national levels. Some IGOs have the mandate and resources to monitor incidents against target communities, and can share this information with policymakers for a co-ordinated response to hate incidents and hate crimes. For example, in 2011, the UNHCR and the National Commission for Human Rights in Greece set up the Network for Recording Incidents of Racist Violence, with the participation of a range of CSOs. Recognizing the need to use a common and reliable recording tool, a racist incident record form was drafted and adopted by the members of the Network. The monitoring exercise focused on central Athens. In three months, 63 incidents of racist violence were recorded. This was recognized as a useful indicator of the prevalence of hate incidents in the area. The information collected included demographic information about the gender and national origin of victims, types of offences, whether an attack was against persons or property, and reasons for not reporting incidents to the police. A common reason for not reporting was lack of trust in the police.<sup>64</sup>

### Recommendation 23

➔ **Enlist CSOs as partners in collecting data on hate crimes through victimization surveys, booster surveys, more targeted surveys or focus groups. Draw on data collected by IGOs, where available.**

## POLICY ISSUE 9

### How can victimization data be used?

#### Understanding and sharing victimization data

The data produced by victimization surveys can be used to establish key comparison points and draw useful conclusions, provided the impact of different methodologies is acknowledged and understood. Such conclusions could include, for

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64 Racist Violence Recording Network website, <<http://www.unhcr.gr/1againstracism/category/racist-violence-recording-network>>.

example, the reasons for and the extent of under-reporting to the authorities, trends in victimization, and the most prevalent type of bias motivations.

More broadly, the data from victimization surveys can help authorities to analyse weaknesses in law enforcement or prosecution. Together with police and prosecution data, survey data can help government offices to identify problems and focus resources more effectively. They may reveal the need for greater public outreach by law-enforcement agencies, better training or improved services for victims.

Publishing the data from victimization surveys together with official data on reported crimes provides the opportunity to analyse and explain difference between the two. Several countries do this as a matter of good practice.

#### **Box 15: Canada's victimization survey**

The Canadian General Social Survey includes questions about hate crime victimization every five years. The survey asks a sample of Canadians, aged 15 years and older, if they have been a victim in the previous 12 months of any of the following offences: sexual assault, robbery, physical assault, break and enter, theft of motor vehicles or parts, theft of household property, theft of personal property and vandalism. If respondents indicate that they have been victimized, they are asked if they believed that the incident had been motivated by hate and, if so, to state the motivation(s). Hate crime victimization data gathered from the survey are published alongside official police figures to allow for easy comparison between unreported hate crimes and official police recorded data.<sup>65</sup>

#### **Recommendation 24**

➔ **Publish official data on hate crimes and data from victimization surveys together, to allow for comparisons between reported and unreported hate crimes.**

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65 "Police-reported hate crime in Canada", Statistics Canada, 2009, <<http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11469-eng.pdf>>.

## ANNEX A

# Ten practical steps to establish a data-collection and monitoring system on hate crimes

This annex summarizes a step-by-step approach of best practices to establish a national system to collect data on hate crimes. The steps are described in more detail in the text of this guide.

### 1. Enact legislation

- ▶ Enact legislation that is specifically tailored to address hate crimes and establishes them as specific offences, and/or ensures that there is provision for all crimes committed with a bias motivation to be subject to enhanced sentencing. Legislators should consider requiring the collection of data by law enforcement and the annual public dissemination of hate crime data.
- ▶ Keep in mind any hate crime data collected will be comparable internationally only if definitions make clear that a hate crime is a criminal offence committed with a bias motivation.

### 2. Create a national co-ordination structure

- ▶ Create a national working group or other co-ordination mechanism on hate crimes or on hate crime data collection, including representatives or focal points from every government ministry or agency that addresses any aspect of hate crimes, as well as representatives of any prominent civil society organizations dealing with hate crimes and vulnerable populations.
- ▶ Use the working group to develop a common approach to data collection and to ensure that all data relevant to any government agency's work to address hate crimes is collected and shared.
- ▶ Publicize the formation, work and output of the working group.

### 3. Adopt a definition of hate crimes for data-collection purposes, including the specific categories of information on which to collect data

- ▶ Establish an agreed list of bias motivations on which to collect data. The list should include, at a minimum, all bias motivations mentioned in national law.
- ▶ Be as specific as possible; for example, include not just "crimes targeted at members of religious denominations", but more specifically "anti-Semitic crimes", "anti-Muslim crimes", and others as appropriate. Consider

including bias categories that may not be in the law, such as crimes against people with disabilities or crimes against transgender persons, since this can help assess if there are emerging patterns of crimes.

- ▶ Establish an agreed list of broad categories of criminal offences on which to collect data. To the extent possible, use the same categories as existing crime-data recording mechanisms. A typical list might include: homicide, physical assault, damage to property, grave desecrations, vandalism, threats and attacks on places of worship.
- ▶ If the legal code includes “extremist crimes”, “hate speech” and “discrimination” as categories of criminal offences, any data on these should be collected separately from data on hate crimes.
- ▶ Ensure that consistent data-collection procedures are established across state or provincial jurisdictions and administrative functions.

#### **4. Establish a system to record data**

- ▶ Create a standard database that includes the agreed bias motivations, criminal offences and administrative units on which hate crime data are to be collected. The system should enable users to track cases from the time they are reported as possible hate crimes through the court system.
- ▶ Each ministry involved should issue detailed guidance on recording, reviewing and compiling information on hate crimes, ensuring the general guidance is consistent across all ministries, and should clearly designate responsibilities at each level.
- ▶ Share the data with the public annually.

#### **5. Develop and implement a training programme**

- ▶ Develop a broad programme of training to ensure that police officers, prosecutors, judges, court officials and all others expected to use the system have the knowledge and skills to use it correctly. Different agencies and different types of personnel will require different training, depending on their role.
- ▶ Invite civil society organizations to contribute to training, recognizing that they may be able to provide valuable perspectives and examples from the local community, as well as suggestions for steps to build community confidence and to encourage members of victim groups to increase their reporting of hate crimes.

#### **6. Collect and record data**

- ▶ Develop standardized crime-reporting forms for use by police officers that reflect the categories of bias motivations and criminal offences on which to collect hate crime data.
- ▶ Adopt the widest possible approach when making an initial determination of whether a crime may be a hate crime, and for recording it as a hate crime.

- ▶ Collect as many details as possible about hate crimes to include in statistics.
- ▶ Use the same detailed, disaggregated categories for recording hate crime data at all levels of the justice system, including police, prosecutors and courts.

## **7. Use victimization surveys to collect further data**

- ▶ Design and carry out broad-based victimization surveys to assess the extent to which hate crimes may be under-reported, and why. Use the same bias motivations, types of crimes and administrative divisions captured by law-enforcement statistics, in order to provide for simple and meaningful comparisons.
- ▶ When it is not possible to conduct extensive victimization surveys, consider including questions on hate crimes in existing social surveys.
- ▶ When victimization or social surveys do not reveal sufficient information about particular groups, locations or bias motivations, consider designing and implementing more focused “booster surveys” of under-represented victim groups to supplement the information.
- ▶ Remember that civil society groups may be able to provide information through their own victimization surveys or other studies.

## **8. Review and analyse data to develop improved policy responses**

- ▶ Analyse the data collected to draw conclusions and learn lessons about the extent and nature of hate crimes, the effectiveness of policing, the success of prosecutions, the quality of services to victims and other issues.
- ▶ Review the data collected to identify gaps and any special needs – for example, improved techniques for investigation or prosecution, protection for particular groups, better services or increased attention in schools.
- ▶ Review the system for collecting data to identify any procedural gaps or ways in which the collection system might be improved to provide more useful data.
- ▶ Use the data collected as a basis for developing improved policies to address hate crimes and their consequences. The governmental working group or another body can take the lead in making policy recommendations to national leadership and in developing a more co-ordinated and strategic national approach. Civil society representatives should be invited to participate.

## **9. Publicize information**

- ▶ Publicize the data collected to the greatest extent possible, drawing attention to them through such means as publications, media outreach

and posting on the Internet. Include analysis as well as statistics in the information published.

- ▶ Publish official data on hate crimes and data from victimization surveys together, to allow for comparisons between reported and unreported crimes.
- ▶ Publicize any government actions or plans to address any aspect of hate crimes.

#### **10. Mainstream gender throughout planning and implementation**

- ▶ Mainstream a consideration of gender throughout the planning, development and implementation of hate crime data-collection mechanisms.
- ▶ Use available data to assess how men and women are affected as victims of hate crimes and plan support and prevention resources accordingly.
- ▶ Share information about the nature of gender-based hate crimes and their impact, with the public.

## ANNEX B

# Relevant Ministerial Council Decisions

### **Ministerial Council Decisions on participating States' commitments relating to hate crimes:**

- “Building the capacity of law enforcement agencies and personnel to identify, collect data, investigate and prosecute hate crimes against Roma and Sinti” (MC Decision No. 4/13);
- “collect, maintain and make public, reliable data and statistics in sufficient detail on hate crimes and violent manifestations of intolerance, including the numbers of cases reported to law enforcement, the numbers prosecuted and the sentences imposed. Where data-protection laws restrict collection of data on victims, States should consider methods for collecting data in compliance with such laws” (MC Decision No. 9/09);
- “enact, where appropriate, specific, tailored legislation to combat hate crimes, providing for effective penalties that take into account the gravity of such crimes” (MC Decision No. 9/09);
- “take appropriate measures to encourage victims to report hate crimes, recognizing that under-reporting of hate crimes prevents States from devising efficient policies. In this regard, explore, as complementary measures, methods for facilitating the contribution of civil society to combat hate crimes” (MC Decision No. 9/09);
- “introduce or further develop professional training and capacity-building activities for law-enforcement, prosecution and judicial officials dealing with hate crimes” (MC Decision No. 9/09);
- “in co-operation with relevant actors, explore ways to provide victims of hate crimes with access to counselling, legal and consular assistance as well as effective access to justice” (MC Decision No. 9/09);
- “promptly investigate hate crimes and ensure that the motives of those convicted of hate crimes are acknowledged and publicly condemned by the relevant authorities and by the political leadership” (MC Decision No. 9/09);
- “ensure co-operation, where appropriate, at the national and international levels, including with relevant international bodies and between police forces, to combat violent organized hate crime” (MC Decision No. 9/09);

- “conduct awareness raising and education efforts, particularly with law enforcement authorities, directed towards communities and civil society groups that assist victims of hate crimes” (MC Decision No. 9/09);
- “nominate, if they have not yet done so, a national point of contact on hate crimes to periodically report to the ODIHR reliable information and statistics on hate crimes” (MC Decision No. 9/09);
- “collect and maintain reliable data and statistics on hate crimes and incidents, to train relevant law enforcement officers and to strengthen co-operation with civil society” (MC Decision No. 10/07);
- “facilitate the capacity development of civil society to contribute in monitoring and reporting hate-motivated incidents and to assist victims of hate crime” (MC Decision No. 13/06);
- “collect and maintain reliable data and statistics on hate crimes which are essential for effective policy formulation and appropriate resource allocation in countering hate motivated incidents and, in this context, also invites the participating States to facilitate the capacity development of civil society to contribute in monitoring and reporting hate motivated incidents and to assist victims of hate crimes” (MC Decision No. 13/06);
- “promote capacity-building of law enforcement authorities through training and the development of guidelines on the most effective and appropriate way to respond to bias-motivated crime, to increase a positive interaction between police and victims and to encourage reporting by victims of hate crime, i.e., training for front-line officers, implementation of outreach programmes to improve relations between police and the public and training in providing referrals for victim assistance and protection” (MC Decision No. 13/06);
- “[s]trengthen efforts to collect and maintain reliable information and statistics on hate crimes and legislation, to report such information periodically to the ODIHR, and to make this information available to the public and to consider drawing on ODIHR assistance in this field, and in this regard, to consider nominating national points of contact on hate crimes to the ODIHR” (MC Decision No. 10/05);
- “[s]trengthen efforts to provide public officials, and in particular law enforcement officers, with appropriate training on responding to and preventing hate crimes, and in this regard, to consider setting up programmes that provide such training, and to consider drawing on ODIHR expertise in this field and to share best practices” (MC Decision No. 10/05);
- “consistently and unequivocally [speak] out against acts and manifestations of hate, particularly in political discourse” (MC Decision No. 10/05);

- “[c]ombat hate crimes which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet, and appropriately denounce such crimes publicly when they occur” (MC Decision No. 12/04);
- “Collect and maintain reliable information and statistics about anti-Semitic crimes, and other hate crimes, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and make this information available to the public” (MC Decision No. 12/04);
- “condemn publicly, at the appropriate level and in the appropriate manner, violent acts motivated by discrimination and intolerance” (MC Decision No. 4/03).

**Ministerial Council Decisions relating to hate crimes tasked ODIHR to:**

- “continue its close co-operation with other relevant inter-governmental agencies and civil society working in the field of promoting mutual respect and understanding and combating intolerance and discrimination, including through hate crime data collection” (MC Decision No. 13/06);
- “continue to serve as a collection point for information and statistics on hate crimes and relevant legislation provided by participating States and to make this information publicly available through its Tolerance and Non-Discrimination Information System and its report on Challenges and Responses to Hate-Motivated Incidents in the OSCE Region” (MC Decision No. 13/06).

