

**REPORT ON
ANTI-LGBTI HATE CRIMES
AND INCIDENTS IN
BULGARIA
IN 2017**

GLAS Foundation
December 2017

GLAS
GAYS AND LESBIANS ACCEPTED IN SOCIETY

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INTRODUCTION

INTRODUCTION

*The present report is a follow-up of **Step up reporting on homophobic and transphobic violence**, a project supported by ILGA-Europe, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. The objective of the project was to empower European LGBTI civil society organisations to more consistently monitor and report homophobic and transphobic hate crimes and incidents.*

*To prepare this work, ILGA-Europe developed a harmonised data collection methodology in 2012. The methodology builds on international standards and on the expertise gained in different past activities, such as the elaboration of European-wide submissions to the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) in view of its Annual Report on Hate Crime, or ILGA-Europe's participation in the **Facing Facts! Making hate crime visible project**.*

***Step up reporting on homophobic and transphobic violence** was launched in 2013. In 2013, a first call for proposals within the ILGA-Europe's Documentation and Advocacy Fund was launched, supporting 12 member organisations in Europe to do hate crime reporting.*

In 2017 the Fund, with the support of the Government of the Netherlands, provided dedicated resources to 6 national and local NGOs in Armenia, Bulgaria, Poland, and Serbia. These NGOs were trained on the methodology previously developed by ILGA-Europe, and committed to apply it in order to produce comparable data.

Data collection and publication is expected to be developed on a more sustainable and professional basis in the future, thanks to the capacity-building aspect of the current project. Through this initiative, ILGA-Europe's methodology is being made available to a greater number of European LGBTI civil society organisations. Reliable reporting continues to be an essential tool for convincing authorities of the need to criminalise hate crimes and to develop policies and trainings for police and judicial bodies to deal with hate crimes effectively.

This report is based on data collection by GLAS Foundation – Bulgaria, conducted in the period May – October 2017 (6 months) via an online reporting tool accessible at the platform <wearetolerant.com>. The reports made in this period concern only incidents, which have occurred in the year 2017. The online reporting system was initially launched by GLAS in 2015 and upgraded in 2017 with the financial and methodological support of ILGA-Europe. The platform was popularized through mix media campaign in two major Bulgarian cities. It allowed for the timely documentation of new evidence, helped to sustain in the long term the monitoring process, and increased the visibility of the issue with anti-LGBTI hate crimes at national level. The report, printed in Bulgarian language, will be disseminated to all public institutions dealing with hate crimes and used to advocate for criminalizing LGBTI-phobic hate crimes in the Bulgarian Penal Code.

METHODOLOGY

METHODOLOGY

We selected the methodology of online reporting for several reasons. First, it is easily accessible for reporters from all over Bulgaria. Second, it guarantees the anonymity of the reporter. Third, the data provided via a structured reporting form is easy to classify and analyze. Last, but not least, GLAS Foundation had some experience of collecting data on anti-LGBTI hate crimes by means of online reporting, and was interested to upgrade the reporting tool and make it more reliable for collecting data that can be used for further investigation by the law-enforcement mechanisms.

One of the purposes of the upgrading the online reporting platform was to try to track trends in the occurrence of anti-LGBTI hate crime incidents, and to provide a more detailed reporting tool, which provides information about the self-identification of the victim, on one hand, and the place of the incidents, the relationship between the victim and the perpetrator, and the possible role of intersectionality as a factor for the incident, on the other.

The reporting form was consulted with ILGA Europe before being disseminated online. It was designed in a way to guarantee the collection of reliable and comparable data from different European countries, in a consistent way, taking into account the standards required by national, European and international organizations. The classification and analysis of the collected data was also done on the basis of the Guidelines provided by ILGA-Europe at the beginning of the project implementation.

KEY FINDINGS

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The online platform **wearetolerant.com** collects information about the region, place of the attack, gender, how the victims self-identifies with respect to sexual orientation or gender identity and age. The same data is collected for the perpetrator. The victims can remain anonymous, but they can also leave contacts if they are willing to. In the police stations, the gender of the victim is being registered, but not the sexual orientation, or gender identity and self-identification. The online platform allows for collecting this additional information.

For the web platform **wearetolerant.com** there is no registration needed; anyone can directly fill out the form with information about the crime without registering.

The new reporting form was launched on May 1st, 2017 and in the period of 6 months there were 47 received reports in total. The reports concerned incidents that have taken place only in the year 2017. Out of the total number of 47 reports, only 33 reports were complete, i.e. providing answers to all questions in the reporting form. Our analysis is based on the number of completed reports, because the other did not provide sufficient information which could be classified and analysed. None of the completed reports had been registered at the police. Only 6 of the victims have left contacts and can be contacted for additional information in case that their report is further investigated. The collected data is generally insufficient to track trends in terms of place of occurrence, and relationship between the victim and the perpetrator, but it shows trends in terms of the most common types of anti-LGBTI hate crimes and the interrelation between sexual orientation and age of the victims for certain types of crimes.

Homophobic and transphobic incidents remain almost completely underreported in Bulgaria. Our research clearly showed that none of the 33 people who have reported anti-LGBTI hate crimes via the web platform **wearetolerant.com** in the period May-October 2017, had filed a report in the Police. The main reason for not reporting the incidents was stated to be mistrust in the institution, or lack of belief that they could do anything. In the absence of adequate legal framework for prevention and sanctioning of anti-LGBTI hate crimes in Bulgaria, the law-enforcing institutions, the Police and the Prosecution do not have the responsibility to record, archive, classify, analyse and report anti-LGBTI hate crimes. As a result, there is no official statistics on the actual scope of these types of crimes, and the state does not take responsibility in sanctioning the perpetrators.

The lack of easily accessible and trusted reporting centers is another reason for having very little data on the scope of anti-LGBTI hate crimes in Bulgaria. The online reporting system **wearetolerant.com** is the only reporting service accessible by victims of anti-LGBTI hate crimes from across Bulgaria. The quantitative data, collected by this web platform, is by no means representative of the actual number and types of anti-LGBTI hate crimes in the country, but it is the only piece of quantitative data available on this topic.

Contrary to our expectations that most of the hate crimes would be committed by radicalized members of organized hate groups, the information reported about the perpetrators shows that these are mostly people acting alone, and not as part of an organized attack. In many cases, the victim had previously known the perpetrators, and even has had some sort of relationship with them, for example: relative, schoolmate, someone from work, or a person frequenting the same bar.

The collected data showed that most anti-LGBTI incidents in Bulgaria are taking place at school, followed by incidents in the street and at home. A smaller number of incidents also take place at a bar. Details about the most common types of incidents are presented in the sections following the description of the legal framework.

The data collection period was too short for capturing trends in anti-LGBTI hate crimes. The online reporting system would allow for tracking trends when used consistently for several years. Additional dissemination work needs to be done inside the community in order to motivate all LGBTI people who have experienced hate crimes incidents to file reports, and to provide as many details as possible when describing the case.

The structure of the Reporting Form used in the online system can be seen in Annex 1.

THE LEGAL SITUATION OF ANTI-LGBTI HATE CRIME IN BULGARIA

The Bulgarian Penal Code treats hate crimes in its Chapter III: Crimes against the Rights of the Citizens, Articles 162 to 165. Article 162 sanctions the incitement and proselytizing of discrimination, violence and hate, based on race, nationality or ethnicity, by means of speech, print or other mass media. Paragraph 2 of Article 162 sanctions any deeds of violence or damage to the property of someone, based on the race, nationality, ethnicity, religion or political belief. Paragraph 3 of Article 162 also criminalizes those who create or lead organizations or groups that engage in activities describe in paragraph 1 and 2. The membership in organizations or groups that instigate hatred and crimes base on hate is also criminalized in paragraph 4 of Article 162, but the sentence is lighter compared to paragraph 3.

Article 163 criminalizes the participation in crowds that attack other groups of the population, based on their race, nationality or ethnicity. Articles 164 to 166 criminalize actions against the religious freedoms and actions, which incite hatred on the basis of religion.

The Bulgarian Penal Code does not consider homophobic, biphobic and transphobic crimes as hate crimes and homophobic, biphobic and transphobic motives are not aggravating circumstances unlike motives related to race, ethnicity or religion. For this reason, there is no official information on the dimensions of the problem with anti-LGBTI hate crimes, the number of hate crimes committed each year, or if LGBTI victims report them.

The lack of legal sanctions for homophobic, biphobic and transphobic hate crimes in the Penal Code leads to lack of recognition, registration, classifying and analysing of such crimes by the main public institutions dealing with crimes against the person: the police and the prosecution. As part of research on the existing system for reporting and investigation of anti-LGBTI hate crimes and service-provision to the victims, conducted by Bilitis Resource Center in 2017¹, official information was requested by the Minister of Interior, the Chief Prosecutor, and the Director of Sofia Directory of Internal Affairs, based on the existing Law for Access to Public Information. The public bodies were asked to provide information on the number and type of hate crimes against LGBTI people, which has been registered and processed in the last 2 years. The official letters received by the Minister of Interior and the Chief Prosecutor stated that these institutions are not obliged to collect, analyse, classify and disclose such information under the Bulgarian legal framework. The letter received from Sofia Directory of Internal Affairs stated that the number of cases of anti-LGBTI hate crimes, registered by them in the last 2 years, is 0 (zero).

¹The research is part of the EU-funded project "Come Forward: Supporting and Empowering Victims of Anti-LGBT Hate Crimes", JUST/2015/RRAC/AG/8957, in which Bilitis Resource Center and GLAS Foundation are partners.

THE LEGAL
STATE OF
HATE CRIME
IN

The lack of legal recognition of anti-LGBTI hate crimes also leads to inadequate number of reporting centres that LGBTI people can turn to in cases when they experience hate crimes. The only online reporting service for anti-LGBTI hate crimes, which is currently accessible for people from all over is the one managed by GLAS Foundation. Some support centres, managed by NGOs that provide services to victims of trafficking, domestic violence, or to people with drug addictions and sex workers, are open to providing support to victims of anti-LGBTI hate crimes, however, the latter rarely turn to them.

In theory, anyone can go and report a crime at the police, but in practice, many people from the LGBTI community still fear going to the police since they expect to meet homophobic, biphobic and transphobic attitudes. These fears have their roots in many cases when the police officers have actually behaved in homophobic way. For example, the participants at Sofia Pride have heard some of the police officers to make homophobic comments. In 2015-2016, Bilitis Resource Center Foundation conducted a research on domestic and dating violence against LBT women, and in the report of the research called “Love is not Abuse” we see examples of how police officers are not protecting, but abusing trans women.

According to the respondents in the research conducted by Bilitis Resource Center within the “Come Forward” project (2017), there is a huge need of training among professionals in reporting centres, but also, there is a need of awareness campaign in the community to motivate LGBTI people to report the attacks.

In the police, any police officer can register a crime and statement-taking can happen in the police station, but also at the place of the crime, or another place if the victim does not have the opportunity to go to the police station. The statement-taking involves a police officer, the victim and/or the witness. It is not necessary that a lawyer is present, but if the victim wants to have a lawyer with them, it is allowed. Witnesses can also report attacks on other people, but later in the process, the victim will be called to testify.

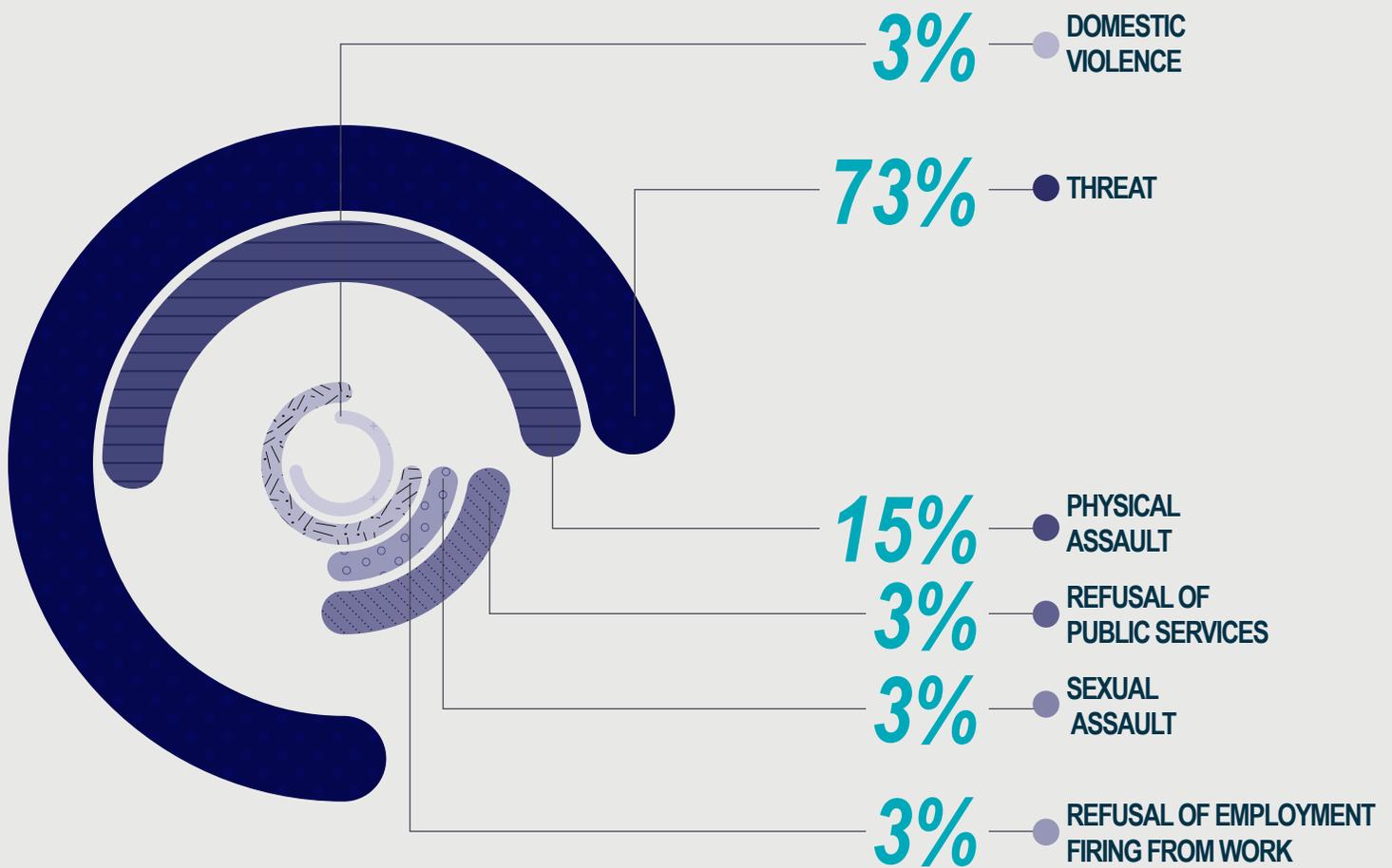
The officer who registers the report informs the victims, who report a crime at a police department, about their rights. The lack of legal framework, which criminalizes anti-LGBT hate crimes makes all existing policies for avoiding secondary victimization inadequate for victims of such crimes. The Bulgarian police does not collect information on the gender identity and sexual orientation of the victim, hence, the intersectional aspects of any given crime against a person are as a rule not discussed.

In the national chapter of the electronic book, which will be published in 2018 within the “Come Forward” project, Bilitis Resource Center presents a case in which a woman-victim of anti-LGBT hate crimes has been discouraged to use a lawyer when she reported to the police. Here is a short description of the case: a participant in Sofia Pride 2016 was attacked by 2 men on her way home after leaving the pride area. She was arrested for using a spray against the attackers, and brought to the police department together with the attackers. The lawyer from the Sofia Pride organizing committee, who went to the police department to help the victim, was not allowed to talk to the woman, and in the meantime, the woman was forced by the officer on duty to sign a declaration that she would not need a lawyer. The attack was not further investigated.

TYPES OF REPORTED INCIDENTS

TYPES OF REPORTED INCIDENTS VIA THE WEB PLATFORM WEARETOLERANT.COM

The types of incidents reported via the online reporting form in the period May – October 2017 included:



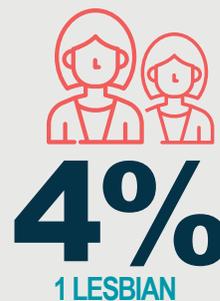
PLACE OF OCCURRING OF THE INCIDENTS?



THREAT

THREAT

The most common type of incident reported via the online reporting form is threat: 24 out of 33 incidents. This type of incident has been reported mainly by young men, 15 to 24 years old, who self-identify as gay and live in larger cities. 75% of all reported threats were reported by the mentioned category of victims. Only one of the victims who reported threat comes from a small town; the rest come from medium and large cities. 22% of the victims of threats who were gay men in the 15 to 24 age range reported that the incidents had happened at school; the others had not specified. 4% of all threats were reported by lesbians from the same age range, 15 to 24. Two of the reports of threats (8%) were made by trans people, one of whom was from the 15 to 24 range, and the other – 25 to 34. 13% of the threats were reported by bisexual men also from the 15 to 24 age range.



**THREAT –
24 IN TOTAL**

PHYSICAL ASSAULT

PHYSICAL ASSAULT

Physical assault was reported by 15% of all victims, all of whom identified as men, 80% as gay, and 20% - as bisexual. The age range of the victims was 60% from the 25 to 34 age range and 40% from the 15 to 24 age range. The incidents with the men in the 25 to 34 age range had taken place 1/3 in local bars in large cities, 1/3 - in the street after Sofia Pride, and 1/3 - had not specified the location. The incident with the gay men in the 15 to 24 age range had taken place at school, one of them in a small town, and the other one - in a large city.



LOCATIONS OF THE INCIDENTS:



1/3
not specified



1/3
in local bars



1/3
after Sofia Pride

SEXUAL ASSAULT

Sexual assault was reported by only 1 victim. The incident had taken place in the victim's home. The victim self-identifies as a bisexual man in the 15 to 24 age range. The victim had not provided information if the perpetrator was someone from his relatives or a different person. The case was not reported to the police.

DOMESTIC VIOLENCE

Domestic violence was reported by 1 victim who self-identifies as gay man and is in the 15 to 24 age range. In this case, the perpetrators were the relatives of the victim. The case was not reported to the police. We can assume that the victim did not report because he was reluctant to reveal the situation within his family, or because of the fear that the incidents might be aggravated in case of reporting.

REFUSAL OF PUBLIC SERVICES

Refusal of public services was reported by 1 victim who self-identifies as gay man in the 15 to 24 age range and also self-identifies as Roma. In this case, the intersectionality between sexual orientation and ethnicity can be assumed to play a role for the occurrence of the incident. Many cases of Roma being refused to enter bars and restaurants have recently been reported by mainstream media. Roma are the most segregated minority in Bulgaria. Being Roma and gay is inevitably a factor which can lead to increased chances of becoming a victim of hatred and hate-based violence.

REFUSAL OF EMPLOYMENT / FIRING FROM WORK

Refusal of employment/firing from work was reported by 1 victim who self-identifies as a trans man in the 25 to 34 age range. The victim also self-identifies as bisexual. In this case the intersectionality between sexual orientation and gender identity can be assumed to play a role for the occurrence of the incident. In the last few years, we have been informed of many cases of firing from work of trans people who have come out and began transition. The case reported in the online platform is not an isolated case.

RELATIONSHIP BETWEEN THE VICTIM AND THE PERPETRATOR

Most victims had not provided information whether they knew the perpetrators at the time of the incident. In the cases of physical assault and sexual assault, which had happened in the victims' homes, we can assume that the victims knew the perpetrators and had some relationship with them. The same can be assumed for the cases of domestic violence. In all other cases, the information about the relationship between the victim and the perpetrator is insufficient.

INTERSECTIONALITY

Intersectionality is defined as the interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage. Intersectionality was revealed to play a role in two of the reported cases: in the first case, the victim self-identified as Roma, and in the second case – as a trans person. Although our research has identified only 2 cases of intersection between different marginal identities in the same victim, we can assume that the interplay between the factors contributing to marginalization has inevitably instigated the hate. Numerous other research studies show that intersectionality is inevitably a factor increasing the chances of incidents of anti-LGBTI hate crimes.

REASONS FOR NOT REPORTING TO THE POLICE

Based on the provided information we can conclude that the LGBTI victims of hate crimes who have reported via the online platform felt generally uncomfortable to report to the police, either because they did not believe the incident would be taken seriously and effectively investigated, or because they feared from additional harassment on behalf of the police officers.

POLICE AND OTHER LAW ENFORCEMENT AUTHORITIES

The crimes against the person in Bulgaria are being registered by the police. Local police departments are the primary contact points for reporting such crimes. The latter are not adequately prepared to understand the needs of LGBTI victims of hate crimes. Police officers that took part in an event dedicated to the reporting and investigation of anti-LGBTI hate crimes, organized by GLAS Foundation in June 2016, with support from the Embassy of the Netherlands in Sofia and participation of the Roze in Blau Police Unit from Amsterdam, the Netherlands, shared that they are not able to record the homophobic and transphobic motives, because the Bulgarian reporting system does not allow for recording such information. They also shared that even if the motif of the anti-LGBTI hate crime is obvious, the crime is usually recorded as hooliganism.

The same conclusion was reached in the research conducted by Bilitis Resource Center in 2017 on reporting of anti-LGBTI hate crimes. There is a general problem when it comes to hate crimes registration, because very often they are classified as acts of hooliganism. The police recording system fails to recognize the hateful motive.

The investigation of anti-LGBTI hate crimes takes very long, as the case of the murder of the 25-year old student of medical science, Mihail Stoyanov, clearly shows. The victim was killed on 30.09.2008 in the public park Borisova Garden in Sofia. Two years after the murder there were still no people detained for the crime, and in September 2010 the police finally arrested 2 of the alleged perpetrators. During the investigation, the defendants openly shared that they were part of a group of 5 young men, whose aim was to clean the public park from gays. On May 4th, 2012, a civic protest was organized by the LGBTI organizations and other human rights defenders in Sofia against the very slow investigation of the case, because the 2-year term for detention without indictment was about to end. In September 2012, the Bulgarian Helsinki Committee and Amnesty International started an international campaign against the slow jurisdiction on the case of Mihail Stoyanov. In December 2012, the Sofia City Prosecution finally raised accusation against the 2 detained people, 4 and a half years after the crime was committed. The defendants were found guilty in a court case, which took 3 more years, and finally received sentences in June 2015, 7 years after the crime was committed. The mother of the victim appealed the decision, requesting maximum sentences. The appeal was finally reviewed in July 2017 and the verdicts increased.

The findings from the online reporting platform reinforce the conclusion that victims of anti-LGBTI hate crimes feel reluctant to report to the Police. None of the 33 victims who completed online reports had reported the incidents to the law enforcement institutions. The fact that anti-LGBTI hate crimes are not sanctioned by the law is well-known in the LGBTI communities. The ineffective and very slow investigation of the most serious cases, such as the murder of Mihail Stoyanov that is described above, additionally discourages the victims of anti-LGBTI hate crimes to report and seek justice.

ANNEX 1

STRUCTURE OF THE REPORTING FORM

The types of anti-LGBTI hate crimes and incidents that the online reporting form collects are the following::

- *Threat / thunderbolt*
- *Physical assault (kicking, hitting, etc.)*
- *Sexual assault*
- *Blackmail*
- *Threat via social media/internet*
- *Domestic violence*
- *Damage to property/ including graffiti*
- *Attempt for murder*
- *Wounding with a weapon (knife, gun, etc.)*
- *Rape*
- *Other sexual assault*
- *Sexual harassment (without assault)*
- *Detained/locked without consent*
- *Persecution*
- *Refusal of medical/health services*
- *Refusal of employment / firing from work*
- *Refusal of public services (asked to leave a restaurant, bar, taxi, etc.)*
- *Arresting without reason*
- *Other (specify – space provided)*

The form allows for reporting crimes/incidents that have affected the person who is reporting, someone else, or accidents that the reporter has heard of.

Then the reporter provides information about the time and place of the incidents, and the geographical location.

The place of the incident is further specified as:

- *At home*
- *Near home*
- *At school*
- *At the workplace*
- *In public place*
- *In a bar/club/restaurant/café*
- *Near or at an LGBTI place*
- *At a police station*
- *In a prison*
- *At a centre for immigrants*
- *At a public service centre*
- *Online*
- *Other (specify – space provided)*

The form allows for providing additional details about the incident/crime in free text format.

The form also allows the reporter to provide details about the presumed motif for the incident/crime. It asks the reporters to state whether the incident was related to their:

- *Sexual orientation*
- *Gender identity*
- *Gender expression*
- *Gender*
- *Race*
- *Religion*
- *Age*
- *Underprivileged status*
- *Nationality*
- *Other (specify – space provided)*

If the reporter cannot estimate the reason for the incident, the latter can also report “I don’t know”.

The reporters are further asked to provide information on why they think that the incident/crime has been related to any of the characteristics mentioned above. The reporter is asked to select among:

- *Because of the used hate speech*
- *Because of traces left at the place of the incident*
- *Because the perpetrator had known or assumed that the victim is an LGBTI person*
- *Because of former threats/thunderbolts or other incidents*
- *Because of the place where the incident occurred*
- *I don’t know*
- *Other (specify- provided space)*

The reporter can select more than one option.

Then the reporters are asked to provide more information about the victim. They are asked to specify the victim’s gender and gender identity and has the following options to choose from:

- *Man*
- *Woman*
- *FTM*
- *MTF*
- *Transgender*
- *Intersex*
- *I don’t know*
- *I am not sure*
- *Other (specify – provided space)*

The reporter is also asked to provide information about the victim's self-identification with respect to sexual orientation and to choose from:

- *Lesbian*
- *Gay*
- *Bisexual*
- *Transgender*
- *Heterosexual*
- *I don't know*
- *I am not sure*
- *Other (specify – space provided)*

The reporter is also able to provide information about the age of the victim and to select among several age ranges: 15 to 24; 25 to 34; 35 to 44; 45 to 54 and over 55.

The reporters are asked to describe how the incident has made them feel and whether they have received help. Then the reporters are asked to share information about the perpetrator. First, about the number of the perpetrators, the age of the perpetrators, and if the perpetrators knew the victim.

A very important part of the reporting form is collecting information if the case has been reported to the police, and if not, why.

The reporter can choose from a number of options in order to explain why the case has not been reported to the police:

- *Because I do not think the incident is serious enough in order to be reported*
- *Because I do not think the police would do anything about it*
- *Because I do not think the police would take the case seriously*
- *Because the police officers are homophobes / transphobes*
- *Because I am not satisfied with the work of the police on other previous cases*
- *Because I was not / I am not out*
- *Other (specify – space provided)*

In the end of the report the reporters are asked to provide contact information if they do not like to remain anonymous, but they are able to remain anonymous.

ANNEX 2

GLOSSARY

Advocacy

The deliberate process of influencing those who make or have responsibility for implementing policy decisions. As such, the word 'advocacy' is quite pliable and is used variously to suit organisational agendas. It is understood in terms of the work an organisation does and the fundamental mission of the organisation.

Bias indicators

Criteria that can assist law enforcement professionals in determining whether a particular crime should be classified as a bias/hate crime. These criteria are not all-inclusive, and each case must be examined on its own facts and circumstances.

Bias motivation

A bias or hate crime or hate-motivated incident can be based on one of the following motivations: race/ethnicity, religion/faith, nationality, age, disability, sex, sexual orientation, gender identity, or other grounds.

Data collection

Data collection implies determining what information is needed and establishing means for acquiring it. Fact finding and monitoring are part of this process. Methods use a wide range of tools including surveys, interviews, questionnaire, etc.

Documentation

The term documentation can have different meanings, depending on the geographical context or the field in which it is employed. It is important to stress that documenting is a process that includes different steps, which can vary depending on the goal of the documentation. Generally, documentation is the process of organising and classifying the collected data in a way that it is accessible in the short and long term. It implies categorising the collected data according to certain criteria (such as the profile of victims/perpetrators; categories of incidents; bias indicators). This makes the data accessible and creates possibilities for analysis. Analysing data includes elaborating statistics, charts and graphs to make findings more visible. Good documentation is the basis for good reporting and dissemination to actors (government authorities, European/international institutions, human rights institutions, etc.) who can take action. Good documentation can also be used to create effective advocacy tools which support changing attitudes, education, articles, posters etc.

Hate crime (or bias crime)

Hate crime are criminal acts motivated by bias or prejudice towards particular groups of people. This could be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability.

A hate crime comprises two distinct elements:

- *It is an act that constitutes an offence under criminal law, irrespective of the perpetrator's motivation; and*
- *In committing the crime, the perpetrator acts on the basis of prejudice or bias.*

Thus, the perpetrator of a hate crime selects the victim based on the victim's membership or perceived membership of a particular group. Where the crime involves damage to property, the property is chosen because of its association with a victim group and can include such targets as places of worship, community centres, vehicles or family homes.

Hate-motivated incidents

An act that involves prejudice and bias of the sort described above but does not amount to a crime is described as a "hate-motivated incident". The term describes acts motivated by prejudice ranging from those that are merely offensive to those constituting criminal acts in which the crime has not been proven. Although hate-motivated incidents do not always involve crimes, such incidents often precede, accompany or provide the context of hate crimes.

Hate speech

Forms of expression that are motivated by, demonstrate or encourage hostility towards a group or a person because of their membership of that group. Since hate speech may encourage or accompany hate crimes, the two concepts are interlinked. States differ considerably as to which forms of expression can be limited or prohibited because of their hateful nature.

Monitoring

A broad term describing the active collection, verification and use of information to address human rights problems over time. Human rights monitoring includes observing and gathering information about incidents and events (elections, trials, demonstrations, etc); it has a temporal quality as it generally takes place over an extended period of time. In the specific context of hate crime, the purpose of monitoring is to document violence motivated by hatred and to draw the attention of national authorities or international organisations to the violation of recognised human rights. Monitoring ultimately aims to collect sufficient evidence of hate crimes to convince authorities and the public that something has to be done to improve the situation. Monitoring is also done to ensure that the authorities are adhering to the law, guidelines or agreements. It can also show trends over time.

Recording of hate incidents

In the context of hate incidents recording means the police or NGOs are keeping a log, or record, of all hate crimes/ incidents that have been experienced and reported by people. It involves taking down key information that relates to these incidents, such as when they occurred and a description of what happened.

Third Party Reporting

The aims of having third party reporting is to increase reporting of hate crime and to increase the flow of intelligence from the different communities whose members suffer from hate motivated incidents/crime. These are achieved by providing members of the public with an alternative point of contact, which is different from the police. There are a number of initiatives that encourage and assist victims and witnesses to report hate-motivated incidents and crime, these include:

- *Self-reporting schemes, allowing victims to make direct reports of incidents/crimes without having to speak to the police.*
- *Assisted reporting scheme, involving a third party such as a voluntary organisation, who take details of a incident or crime and pass the report to the police.*

Victim perception

The perception of the victim (or of a witness) is the defining factor in determining that an incident should be investigated as a hate incident. No assumption regarding the lack of motivation as a cause of an incident should prevent reporting it as a hate incident if the victim or a witness indicate such a perception. A victim of a homophobic or transphobic hate crime or incident does not have to be a member of LGBTI communities. For example, a heterosexual man who is verbally abused leaving a gay bar may well perceive that it is motivated by homophobia although he himself is not gay. The deciding factor lies in the perception of the victim or a witness.

Repeat Victimization

A person, who becomes the victim of a hate crime or incident, may already have been the victim on a number of occasions. Previous incidents may not have been reported to the police for a variety of reasons and as such, when an incident is reported, it may be the culmination of a lengthy course of victimisation.

Secondary Victimization

When a person is the victim of a hate crime and they perceive a lack of commitment or understanding in the response from the police, this can have the effect of victimising them for a second time. Whether they are in fact receiving such a level of response is immaterial, as the victims personal reaction is based on their immediate perception.

Victim of a homophobic or transphobic hate crime/ incident

A victim of a hate incident/ crime is a person that has suffered of any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate based upon his/her sexual orientation, gender identity or gender expression. The perception of the victim or any other person is the defining factor in determining a homophobic or transphobic hate incident.

